

Public Law 107–137
107th Congress

An Act

To authorize the Secretary of the Interior to establish the Ronald Reagan Boyhood Home National Historic Site, and for other purposes.

Feb. 6, 2002
[H.R. 400]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Illinois.
16 USC 461 note.

SECTION 1. RONALD REAGAN BOYHOOD HOME NATIONAL HISTORIC SITE.

(a) **ACQUISITION OF PROPERTY.**—As soon as practicable after the date of the enactment of this Act, the Secretary shall purchase with donated or appropriated funds, at fair market value and from a willing owner only, fee simple, unencumbered title to the Property and to any personal property related to the Property which the Secretary determines to be appropriate for the purposes of this Act.

(b) **ESTABLISHMENT OF HISTORIC SITE.**—After the Property is acquired by the Secretary, the Secretary shall designate the Property as the Ronald Reagan Boyhood Home National Historic Site.

(c) **LAND DESCRIPTION.**—The Secretary shall ensure that a copy of the land description referred to in section 2(2) is on file and available for public inspection in the appropriate offices of the National Park Service.

(d) **MANAGEMENT OF HISTORIC SITE.**—

(1) **COOPERATIVE AGREEMENT.**—The Secretary shall enter into a cooperative agreement with the Ronald Reagan Boyhood Home Foundation for the management, operation, and use of the Historic Site. The cooperative agreement shall provide for the preservation of the Property in a manner that preserves the historical significance thereof and upon such terms and conditions as the Secretary considers necessary to protect the interests of the United States.

(2) **GENERAL MANAGEMENT PLAN.**—Not later than 2 years after the date of the enactment of this Act, the Secretary, in consultation with the Ronald Reagan Boyhood Home Foundation, shall complete a general management plan for the Historic Site that defines the role and responsibility of the Secretary with regard to the interpretation and the preservation of the Historic Site.

Deadline.

(e) **APPLICABILITY OF OTHER LAWS.**—The Secretary shall administer the Historic Site in accordance with the provisions of this Act and the provisions of laws generally applicable to national historic sites, including the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1–4), and the Act entitled “An Act to provide for the preservation of historic American sites, buildings, objects

and antiquities of national significance, and for other purposes”, approved August 21, 1935 (16 U.S.C. 461 et seq.).

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) The term “Historic Site” means the Ronald Reagan Boyhood Home National Historic Site.

(2) The term “Property” means the property commonly known as the Ronald Reagan Boyhood Complex located in Dixon, Illinois, (including any structures thereon), further described as follows:

The North Half (N $\frac{1}{2}$) of Lot Three (3), Block One Hundred and Three (103), of the original Town (now City) of Dixon, Lee County, Illinois, and more commonly known as 816 South Hennepin Avenue, Dixon, Illinois. (Reagan Boyhood Home)

The South Half (S $\frac{1}{2}$) of Lot Two (2), Block One Hundred and Three (103), of the original Town (now City) of Dixon, Lee County, Illinois, and more commonly known as 810 South Hennepin Avenue, Dixon, Illinois. (Visitors Center)

The South two-thirds (S $\frac{2}{3}$ rds) of Lot Four (4) in Block One Hundred Three (103) in the original Town (now City) of Dixon, Lee County, Illinois, and more commonly known as 821 South Galena Avenue, Dixon, Illinois. (Parking Lot)

The Westerly Ninety feet of the Southerly One half (S $\frac{1}{2}$) of Lot 3 in Block 103 in the Town (now City) of Dixon, Lee County, Illinois. (Park with statue of President Reagan)

Legal title to all of the foregoing is: Fifth Third Bank, as successor trustee to First Bank/Dixon (later known as Grand Premier Trust) as trustee under Trust Agreement dated August 15, 1980 and known as Trust No. 440.

Said property is also located within an historical district created by the City of Dixon pursuant to Ordinance No. 1329 dated June 16, 1986 as amended. The historical district was created pursuant to Title VI, Chapter 16 of the City Code of the City of Dixon.

(3) The term “Secretary” means the Secretary of the Interior.

Approved February 6, 2002.

LEGISLATIVE HISTORY—H.R. 400:

HOUSE REPORTS: No. 107–268 (Comm. on Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 13, considered and passed House.

Vol. 148 (2002): Jan. 29, considered and passed Senate.



Public Law 107–138
107th Congress

An Act

Feb. 6, 2002
[H.R. 1913]

To require the valuation of nontribal interest ownership of subsurface rights within the boundaries of the Acoma Indian Reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

New Mexico.

SECTION 1. PUEBLO OF ACOMA LAND AND MINERAL CONSOLIDATION.

Deadline.

(a) **VALUATION.**—Not later than 6 months after the date of the enactment of this Act, the Secretary of the Interior shall determine the extent and the value of the nontribal interest ownership of the subsurface rights, including mineral rights, within the boundaries of the Acoma Indian Reservation.

(b) **LAND EXCHANGES.**—Upon completion of the valuation required by subsection (a), the Secretary shall, unless the Secretary exercises an option under subsection (c), negotiate an exchange with any willing sellers of interests in nontribal land (including interests in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation for interests in Federal land that is—

(1) located within the boundaries of the State of New Mexico;

(2) identified by the Bureau of Land Management as available for disposal; and

(3) of approximately the same value as the interest in land for which it is being exchanged.

(c) **PURCHASE OPTION.**—At the discretion of the Secretary, instead of a land exchange under subsection (b), the Secretary may acquire interests in nontribal land (including interests in mineral or other surface or subsurface rights) within the boundaries of the Acoma Indian Reservation through—

(1) direct cash purchase of the interests in nontribal land for the fair market value determined under subsection (a); and

(2) issuance to any owner of the interests in nontribal land of a Certificate of Bidding Rights in such form and manner as provided for under regulations promulgated by the Secretary under provisions of the Act of February 25, 1920 (commonly known as the Mineral Leasing Act (30 U.S.C. 181 et seq.)) or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) for mineral leasing and bidding rights equal to the fair market value determined under subsection (a).

(d) **COST SHARING.**—The costs of the valuation required under subsection (a) and any land exchange under subsection (b) shall be equally shared between the owners of the interests in nontribal land and the Secretary. This subsection shall apply to the cost

Applicability.

of the valuation under subsection (a) even if the Secretary elects to exercise the options for acquisition under subsection (c).

SEC. 2. TIMELINE; LAND TAKEN INTO TRUST.

The Secretary shall complete such negotiations and exchanges not later than 3 years after the date of the enactment of this Act and shall place interests in land within the boundaries of the Acoma Indian Reservation that are acquired under this Act into trust for the Pueblo of Acoma. Deadline.

Approved February 6, 2002.

LEGISLATIVE HISTORY—H.R. 1913:

HOUSE REPORTS: No. 107–285 (Comm. on Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 27, considered and passed House.

Vol. 148 (2002): Jan. 28, considered and passed Senate.



Public Law 107–139
107th Congress

An Act

Feb. 8, 2002

[S. 1762]

To amend the Higher Education Act of 1965 to establish fixed interest rates for student and parent borrowers, to extend current law with respect to special allowances for lenders, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTEREST RATE PROVISIONS.

(a) FFEL FIXED INTEREST RATES.—

(1) AMENDMENT.—Section 427A of the Higher Education Act of 1965 (20 U.S.C. 1077a) is amended—

(A) by redesignating subsections (l) and (m) as subsections (m) and (n), respectively; and

(B) by inserting after subsection (k) the following new subsection:

“(l) INTEREST RATES FOR NEW LOANS ON OR AFTER JULY 1, 2006.—

“(1) IN GENERAL.—Notwithstanding subsection (h), with respect to any loan made, insured, or guaranteed under this part (other than a loan made pursuant to section 428B or 428C) for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

“(2) PLUS LOANS.—Notwithstanding subsection (h), with respect to any loan under section 428B for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

“(3) CONSOLIDATION LOANS.—With respect to any consolidation loan under section 428C for which the application is received by an eligible lender on or after July 1, 2006, the applicable rate of interest shall be at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

“(A) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of 1 percent; or

“(B) 8.25 percent.”.

(2) CONFORMING AMENDMENT.—Section 428C(c)(1)(A) of such Act (20 U.S.C. 1078–3(c)(1)(A)) is amended to read as follows:

“(1) INTEREST RATE.—(A) Notwithstanding subparagraphs (B) and (C), with respect to any loan made under this section for which the application is received by an eligible lender—

“(i) on or after October 1, 1998, and before July 1, 2006, the applicable interest rate shall be determined under section 427A(k)(4); or

“(ii) on or after July 1, 2006, the applicable interest rate shall be determined under section 427A(l)(3).”.

(b) DIRECT LOANS FIXED INTEREST RATES.—

(1) TECHNICAL CORRECTION.—Paragraph (6) of section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)), as redesignated by section 8301(c)(1) of the Transportation Equity Act for the 21st Century (Public Law 105-178; 112 Stat. 498) is redesignated as paragraph (9) and is transferred to follow paragraph (7) of section 455(b) of the Higher Education Act of 1965.

(2) AMENDMENTS.—Section 455(b) of the Higher Education Act of 1965 (20 U.S.C. 1087e(b)) is amended—

(A) by redesignating paragraph (7) as paragraph (8); and

(B) by inserting after paragraph (6) the following new paragraph:

“(7) INTEREST RATE PROVISION FOR NEW LOANS ON OR AFTER JULY 1, 2006.—

“(A) RATES FOR FDSL AND FDUSL.—Notwithstanding the preceding paragraphs of this subsection, for Federal Direct Stafford Loans and Federal Direct Unsubsidized Stafford Loans for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 6.8 percent on the unpaid principal balance of the loan.

“(B) PLUS LOANS.—Notwithstanding the preceding paragraphs of this subsection, with respect to any Federal Direct PLUS loan for which the first disbursement is made on or after July 1, 2006, the applicable rate of interest shall be 7.9 percent on the unpaid principal balance of the loan.

“(C) CONSOLIDATION LOANS.—Notwithstanding the preceding paragraphs of this subsection, any Federal Direct Consolidation loan for which the application is received on or after July 1, 2006, shall bear interest at an annual rate on the unpaid principal balance of the loan that is equal to the lesser of—

“(i) the weighted average of the interest rates on the loans consolidated, rounded to the nearest higher one-eighth of one percent; or

“(ii) 8.25 percent.”.

(c) EXTENSION OF CURRENT INTEREST RATE PROVISIONS FOR THREE YEARS.—Sections 427A(k) and 455(b)(6) of the Higher Education Act of 1965 (20 U.S.C. 1077a(k), 1087e(b)(6)) are each amended—

(1) by striking “2003” in the heading and inserting “2006”; and

(2) by striking “July 1, 2003,” each place it appears and inserting “July 1, 2006,”.

SEC. 2. EXTENSION OF SPECIAL ALLOWANCE PROVISION.

Section 438(b)(2)(I) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)(I)) is amended—

- (1) by striking “, AND BEFORE JULY 1, 2003” in the heading;
- (2) by striking “and before July 1, 2003,” each place it appears, other than in clauses (ii) and (v);
- (3) by striking clause (ii) and inserting the following:

“(ii) IN SCHOOL AND GRACE PERIOD.—In the case of any loan—

“(I) for which the first disbursement is made on or after January 1, 2000, and before July 1, 2006, and for which the applicable rate of interest is described in section 427A(k)(2); or

“(II) for which the first disbursement is made on or after July 1, 2006, and for which the applicable rate of interest is described in section 427A(l)(1), but only with respect to (aa) periods prior to the beginning of the repayment period of the loan; or (bb) during the periods in which principal need not be paid (whether or not such principal is in fact paid) by reason of a provision described in section 427(a)(2)(C) or 428(b)(1)(M);

clause (i)(III) of this subparagraph shall be applied by substituting ‘1.74 percent’ for ‘2.34 percent.’”;

- (4) in clause (iii), by inserting “or (l)(2)” after “427A(k)(3)”;
- (5) in clause (iv), by inserting “or (l)(3)” after “427A(k)(4)”;
- (6) in clause (v)—

(A) in the heading, by inserting “BEFORE JULY 1, 2006” after “PLUS LOANS”; and

(B) by striking “July 1, 2003,” and inserting “July 1, 2006.”;

(7) in clause (vi)—

(A) by inserting “or (l)(3)” after “427A(k)(4)” the first place it appears; and

(B) by inserting “or (l)(3), whichever is applicable” after “427A(k)(4)” the second place it appears; and

(8) by adding at the end the following new clause:

“(vii) LIMITATION ON SPECIAL ALLOWANCES FOR PLUS LOANS ON OR AFTER JULY 1, 2006.—In the case of PLUS loans made under section 428B and first disbursed on or after July 1, 2006, for which the interest rate is determined under section 427A(l)(2), a special allowance shall not be paid for such loan during any 12-month period beginning on July 1 and ending on June 30 unless—

“(I) the average of the bond equivalent rates of the quotes of the 3-month commercial paper (financial), as published by the Board of Governors of the Federal Reserve System in Publication H-15 (or its successor), for the last calendar week ending on or before such July 1; plus

“(II) 2.64 percent,
exceeds 9.0 percent.”.

Approved February 8, 2002.

LEGISLATIVE HISTORY—S. 1762:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 14, considered and passed Senate.

Dec. 19, 20, considered and rejected in House.

Vol. 148 (2002): Jan. 24, considered and passed House.



Public Law 107–140
107th Congress

An Act

Feb. 8, 2002
[S. 1888]

To amend title 18 of the United States Code to correct a technical error in the codification of title 36 of the United States Code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION OF ERROR IN THE CODIFICATION OF TITLE 36.

Section 2320(e)(1)(B) of title 18, United States Code, is amended by striking “section 220706 of title 36” and inserting “section 220506 of title 36”.

Approved February 8, 2002.

LEGISLATIVE HISTORY—S. 1888:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 20, considered and passed Senate.

Vol. 148 (2002): Feb. 5, 6, considered and passed House.



Public Law 107–141
107th Congress

An Act

To reauthorize the Asian Elephant Conservation Act of 1997.

Feb. 12, 2002

[H.R. 700]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Asian Elephant Conservation Reauthorization Act of 2002”.

Asian Elephant
Conservation
Reauthorization
Act of 2002.
16 USC 4261
note.

SEC. 2. REAUTHORIZATION OF ASIAN ELEPHANT CONSERVATION ACT OF 1997.

Section 7 of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4266) is amended by striking “1998” and all that follows through “2002” and inserting “2001, 2002, 2003, 2004, 2005, 2006, and 2007”.

SEC. 3. LIMITATION ON ADMINISTRATIVE EXPENSES.

Section 7 of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4266) is further amended—

(1) by striking “There are authorized” and inserting “(a)

IN GENERAL.—There is authorized”; and

(2) by adding at the end the following:

“(b) ADMINISTRATIVE EXPENSES.—Of amounts available each fiscal year to carry out this Act, the Secretary may expend not more than 3 percent or \$80,000, whichever is greater, to pay the administrative expenses necessary to carry out this Act.”.

SEC. 4. COOPERATION.

The Asian Elephant Conservation Act of 1997 is further amended by redesignating section 7 (16 U.S.C. 4266) as section 8, and by inserting after section 6 the following:

“SEC. 7. ADVISORY GROUP.

16 USC 4265a.

“(a) IN GENERAL.—To assist in carrying out this Act, the Secretary may convene an advisory group consisting of individuals representing public and private organizations actively involved in the conservation of Asian elephants.

“(b) PUBLIC PARTICIPATION.—

“(1) MEETINGS.—The Advisory Group shall—

“(A) ensure that each meeting of the advisory group is open to the public; and

“(B) provide, at each meeting, an opportunity for interested persons to present oral or written statements concerning items on the agenda.

“(2) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory group.

“(3) MINUTES.—Minutes of each meeting of the advisory group shall be kept by the Secretary and shall be made available to the public.

“(c) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory group.”.

SEC. 5. TECHNICAL AND CONFORMING AMENDMENTS.

(a) CONFORMING AMENDMENTS.—The Asian Elephant Conservation Act of 1997 is amended as follows:

(1) Section 4(3) (16 U.S.C. 4263(3)) is amended by striking “the Asian Elephant Conservation Fund established under section 6(a)” and inserting “the account established by division A, section 101(e), title I of Public Law 105-277 under the heading ‘MULTINATIONAL SPECIES CONSERVATION FUND’”.

(2) Section 6 (16 U.S.C. 4265) is amended by striking the section heading and all that follows through “(d) ACCEPTANCE AND USE OF DONATIONS.—” and inserting the following:

“SEC. 6. ACCEPTANCE AND USE OF DONATIONS.”.

(b) TECHNICAL CORRECTIONS.—

(1) The matter under the heading “MULTINATIONAL SPECIES CONSERVATION FUND” in title I of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 4246; 112 Stat. 2681-237), is amended—

(A) by striking “section 5304 of” and all that follows through “section 6 of the Asian Elephant Conservation Act of 1997” and inserting “section 5 of the Rhinoceros and Tiger Conservation Act of 1994 (16 U.S.C. 5304), part I of the African Elephant Conservation Act (16 U.S.C. 4211 et seq.), and section 5 of the Asian Elephant Conservation Act of 1997 (16 U.S.C. 4264)”;

(B) by striking “16 U.S.C. 4224” and inserting “section 2204 of the African Elephant Conservation Act (16 U.S.C. 4224)”;

(C) by striking “16 U.S.C. 4225” and inserting “section 2205 of the African Elephant Conservation Act (16 U.S.C. 4225)”;

(D) by striking “16 U.S.C. 4211” and inserting “section 2101 of the African Elephant Conservation Act (16 U.S.C. 4211)”.

Effective date.

(2) Effective on the day after the date of enactment of the African Elephant Conservation Reauthorization Act of 2001 (107th Congress)—

16 USC 4214.

(A) section 2104(a) of the African Elephant Conservation Act is amended by striking “this Act” and inserting “this title”; and

(B) section 2306(b) of the African Elephant Conservation Act (16 U.S.C. 4245(b)) is amended by striking “this Act” each place it appears and inserting “this title”.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL FISH AND WILDLIFE FOUNDATION.

Section 10(a)(1) of the National Fish and Wildlife Foundation Establishment Act (16 U.S.C. 3709(a)(1)) is amended—

(1) by striking “2003” and inserting “2005”; and

(2) in subparagraph (A), by striking “\$20,000,000” and inserting “\$25,000,000”.

Approved February 12, 2002.

LEGISLATIVE HISTORY—H.R. 700:

HOUSE REPORTS: No. 107–94 (Comm. on Resources).

SENATE REPORTS: No. 107–113 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 147 (2001): June 12, considered and passed House.

Dec. 18, considered and passed Senate, amended.

Vol. 148 (2002): Jan. 23, House concurred in Senate amendment.



Public Law 107–142
107th Congress

An Act

Feb. 12, 2002
[H.R. 1937]

To authorize the Secretary of the Interior to engage in certain feasibility studies of water resource projects in the State of Washington.

Pacific Northwest
Feasibility
Studies Act of
2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pacific Northwest Feasibility Studies Act of 2002”.

SEC. 2. AUTHORIZATION OF FEASIBILITY STUDIES.

(a) IN GENERAL.—The Secretary of the Interior may engage in the following feasibility studies:

(1) The Tulalip Tribes Water Quality Feasibility Study, to identify ways to meet future domestic and commercial water distribution needs of the Tulalip Indian Reservation on the Eastern Shore of Puget Sound, Washington.

(2) The Lower Elwha Klallam Rural Water Supply Feasibility Study, to identify additional rural water supply sources for the Lower Elwha Indian Reservation on the Olympic Peninsula, Washington.

(3) The Makah Community Water Source Project Feasibility Study, to identify ways to meet the current and future domestic and commercial water supply and distribution needs of the Makah Indian Tribe on the Olympic Peninsula, Washington.

Federal Register,
publication.

(b) PUBLIC AVAILABILITY OF RESULTS.—The Secretary of the Interior shall make available to the public, upon request, the results of each feasibility study authorized under subsection (a), and shall promptly publish in the Federal Register a notice of the availability of those results.

Approved February 12, 2002.

LEGISLATIVE HISTORY—H.R. 1937:

HOUSE REPORTS: No. 107–155 (Comm. on Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Sept. 10, considered and passed House.

Vol. 148 (2002): Jan. 28, considered and passed Senate.



Public Law 107–143
107th Congress

Joint Resolution

Recognizing the 91st birthday of Ronald Reagan.

Feb. 14, 2002

[H.J. Res. 82]

Whereas February 6, 2002, is the 91st birthday of Ronald Wilson Reagan;

Whereas Ronald Reagan is the first former President ever to attain the age of 91;

Whereas both Ronald Reagan and his wife Nancy Reagan have distinguished records of public service to the United States, the American people, and the international community;

Whereas Ronald Reagan was twice elected by overwhelming margins as President of the United States;

Whereas Ronald Reagan fulfilled his pledge to help restore “the great, confident roar of American progress, growth, and optimism” and ensure renewed economic prosperity;

Whereas Ronald Reagan’s leadership was instrumental in extending freedom and democracy around the globe and uniting a world divided by the Cold War;

Whereas Ronald Reagan is loved and admired by millions of Americans, and by countless others around the world;

Whereas Ronald Reagan’s eloquence united Americans in times of triumph and tragedy;

Whereas Nancy Reagan not only served as a gracious First Lady but also led a national crusade against illegal drug use;

Whereas, together Ronald and Nancy Reagan dedicated their lives to promoting national pride and to bettering the quality of life in the United States and throughout the world; and

Whereas the thoughts and prayers of the Congress and the country are with Ronald Reagan in his courageous battle with Alzheimer’s disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress, on behalf of the American people, extends its birthday greetings and best wishes to Ronald Reagan on his 91st birthday.

Approved February 14, 2002.

LEGISLATIVE HISTORY—H.J. Res. 82:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Feb. 6, considered and passed House and Senate.



Public Law 107–144
107th Congress

An Act

Feb. 14, 2002
[S. 737]

To designate the facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, as the “Joseph E. Dini, Jr. Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JOSEPH E. DINI, JR. POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 811 South Main Street in Yerington, Nevada, shall be known and designated as the “Joseph E. Dini, Jr. Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Joseph E. Dini, Jr. Post Office.

Approved February 14, 2002.

LEGISLATIVE HISTORY—S. 737:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Aug. 3, considered and passed Senate.
Vol. 148 (2002): Feb. 5, considered and passed House.



Public Law 107–145
107th Congress

An Act

To designate the facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, as the “Horatio King Post Office Building”.

Feb. 14, 2002
[S. 970]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HORATIO KING POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 39 Tremont Street, Paris Hill, Maine, shall be known as the “Horatio King Post Office Building”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Horatio King Post Office Building.

Approved February 14, 2002.

LEGISLATIVE HISTORY—S. 970:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Aug. 3, considered and passed Senate.
Vol. 148 (2002): Feb. 5, considered and passed House.



Public Law 107–146
107th Congress

An Act

Feb. 14, 2002
[S. 1026]

To designate the United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, as the “Pat King Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF PAT KING POST OFFICE BUILDING.

The United States Post Office located at 60 Third Avenue in Long Branch, New Jersey, shall be known and designated as the “Pat King Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States Post Office referred to in section 1 shall be deemed to be a reference to the Pat King Post Office Building.

Approved February 14, 2002.

LEGISLATIVE HISTORY—S. 1026:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Aug. 3, considered and passed Senate.
Vol. 148 (2002): Feb. 6, considered and passed House.



Public Law 107–147
107th Congress

An Act

To provide tax incentives for economic recovery.

Mar. 9, 2002

[H.R. 3090]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; ETC.

(a) **SHORT TITLE.**—This Act may be cited as the “Job Creation and Worker Assistance Act of 2002”.

(b) **REFERENCES TO INTERNAL REVENUE CODE OF 1986.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

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- Sec. 411. Amendments related to Economic Growth and Tax Relief Reconciliation Act of 2001.
- Sec. 412. Amendments related to Community Renewal Tax Relief Act of 2000.
- Sec. 413. Amendments related to the Tax Relief Extension Act of 1999.
- Sec. 414. Amendments related to the Taxpayer Relief Act of 1997.
- Sec. 415. Amendment related to the Balanced Budget Act of 1997.
- Sec. 416. Other technical corrections.
- Sec. 417. Clerical amendments.
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TITLE V—SOCIAL SECURITY HELD HARMLESS; BUDGETARY TREATMENT OF ACT

- Sec. 501. No impact on social security trust funds.
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TITLE VI—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

- Sec. 601. Allowance of nonrefundable personal credits against regular and minimum tax liability.
- Sec. 602. Credit for qualified electric vehicles.
- Sec. 603. Credit for electricity produced from certain renewable resources.
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- Sec. 607. Taxable income limit on percentage depletion for oil and natural gas produced from marginal properties.
- Sec. 608. Qualified zone academy bonds.
- Sec. 609. Cover over of tax on distilled spirits.
- Sec. 610. Parity in the application of certain limits to mental health benefits.
- Sec. 611. Temporary special rules for taxation of life insurance companies.
- Sec. 612. Availability of medical savings accounts.
- Sec. 613. Incentives for Indian employment and property on Indian reservations.
- Sec. 614. Subpart F exemption for active financing.
- Sec. 615. Repeal of requirement for approved diesel or kerosene terminals.
- Sec. 616. Reauthorization of TANF supplemental grants for population increases for fiscal year 2002.
- Sec. 617. 1-year extension of contingency fund under the TANF program.

TITLE I—BUSINESS PROVISIONS

SEC. 101. SPECIAL DEPRECIATION ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.

26 USC 168.

(a) IN GENERAL.—Section 168 (relating to accelerated cost recovery system) is amended by adding at the end the following new subsection:

“(k) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE SEPTEMBER 11, 2004.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of the qualified property, and

“(B) the adjusted basis of the qualified property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified property’ means property—

“(i)(I) to which this section applies which has a recovery period of 20 years or less,

“(II) which is computer software (as defined in section 167(f)(1)(B)) for which a deduction is allowable under section 167(a) without regard to this subsection,

“(III) which is water utility property, or

“(IV) which is qualified leasehold improvement property,

“(ii) the original use of which commences with the taxpayer after September 10, 2001,

“(iii) which is—

“(I) acquired by the taxpayer after September 10, 2001, and before September 11, 2004, but only if no written binding contract for the acquisition was in effect before September 11, 2001, or

“(II) acquired by the taxpayer pursuant to a written binding contract which was entered into after September 10, 2001, and before September 11, 2004, and

“(iv) which is placed in service by the taxpayer before January 1, 2005, or, in the case of property described in subparagraph (B), before January 1, 2006.

“(B) CERTAIN PROPERTY HAVING LONGER PRODUCTION PERIODS TREATED AS QUALIFIED PROPERTY.—

“(i) IN GENERAL.—The term ‘qualified property’ includes property—

“(I) which meets the requirements of clauses (i), (ii), and (iii) of subparagraph (A),

“(II) which has a recovery period of at least 10 years or is transportation property, and

“(III) which is subject to section 263A by reason of clause (ii) or (iii) of subsection (f)(1)(B) thereof.

“(ii) ONLY PRE-SEPTEMBER 11, 2004, BASIS ELIGIBLE FOR ADDITIONAL ALLOWANCE.—In the case of property which is qualified property solely by reason of clause (i), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before September 11, 2004.

“(iii) TRANSPORTATION PROPERTY.—For purposes of this subparagraph, the term ‘transportation property’ means tangible personal property used in the trade or business of transporting persons or property.

“(C) EXCEPTIONS.—

“(i) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified property’ shall not include any property to which the alternative depreciation system under subsection (g) applies, determined—

“(I) without regard to paragraph (7) of subsection (g) (relating to election to have system apply), and

“(II) after application of section 280F(b) (relating to listed property with limited business use).

“(ii) QUALIFIED NEW YORK LIBERTY ZONE LEASEHOLD IMPROVEMENT PROPERTY.—The term ‘qualified property’ shall not include any qualified New York

Applicability.

Liberty Zone leasehold improvement property (as defined in section 1400L(c)(2)).

“(iii) ELECTION OUT.—If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

“(D) SPECIAL RULES.—

“(i) SELF-CONSTRUCTED PROPERTY.—In the case of a taxpayer manufacturing, constructing, or producing property for the taxpayer’s own use, the requirements of clause (iii) of subparagraph (A) shall be treated as met if the taxpayer begins manufacturing, constructing, or producing the property after September 10, 2001, and before September 11, 2004.

“(ii) SALE-LEASEBACKS.—For purposes of subparagraph (A)(ii), if property—

“(I) is originally placed in service after September 10, 2001, by a person, and

“(II) sold and leased back by such person within 3 months after the date such property was originally placed in service,

such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in subclause (II).

“(E) COORDINATION WITH SECTION 280F.—For purposes of section 280F—

“(i) AUTOMOBILES.—In the case of a passenger automobile (as defined in section 280F(d)(5)) which is qualified property, the Secretary shall increase the limitation under section 280F(a)(1)(A)(i) by \$4,600.

“(ii) LISTED PROPERTY.—The deduction allowable under paragraph (1) shall be taken into account in computing any recapture amount under section 280F(b)(2).

“(F) DEDUCTION ALLOWED IN COMPUTING MINIMUM TAX.—For purposes of determining alternative minimum taxable income under section 55, the deduction under subsection (a) for qualified property shall be determined under this section without regard to any adjustment under section 56.

“(3) QUALIFIED LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified leasehold improvement property’ means any improvement to an interior portion of a building which is nonresidential real property if—

“(i) such improvement is made under or pursuant to a lease (as defined in subsection (h)(7))—

“(I) by the lessee (or any sublessee) of such portion, or

“(II) by the lessor of such portion,

“(ii) such portion is to be occupied exclusively by the lessee (or any sublessee) of such portion, and

“(iii) such improvement is placed in service more than 3 years after the date the building was first placed in service.

“(B) CERTAIN IMPROVEMENTS NOT INCLUDED.—Such term shall not include any improvement for which the expenditure is attributable to—

“(i) the enlargement of the building,

“(ii) any elevator or escalator,

“(iii) any structural component benefiting a common area, and

“(iv) the internal structural framework of the building.

“(C) DEFINITIONS AND SPECIAL RULES.—For purposes of this paragraph—

“(i) COMMITMENT TO LEASE TREATED AS LEASE.—

A commitment to enter into a lease shall be treated as a lease, and the parties to such commitment shall be treated as lessor and lessee, respectively.

“(ii) RELATED PERSONS.—A lease between related persons shall not be considered a lease. For purposes of the preceding sentence, the term ‘related persons’ means—

“(I) members of an affiliated group (as defined in section 1504), and

“(II) persons having a relationship described in subsection (b) of section 267; except that, for purposes of this clause, the phrase ‘80 percent or more’ shall be substituted for the phrase ‘more than 50 percent’ each place it appears in such subsection.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after September 10, 2001, in taxable years ending after such date.

Applicability.
26 USC 168 note.

SEC. 102. CARRYBACK OF CERTAIN NET OPERATING LOSSES ALLOWED FOR 5 YEARS; TEMPORARY SUSPENSION OF 90 PERCENT AMT LIMIT.

(a) IN GENERAL.—Paragraph (1) of section 172(b) (relating to years to which loss may be carried) is amended by adding at the end the following new subparagraph:

26 USC 172.

“(H) In the case of a taxpayer which has a net operating loss for any taxable year ending during 2001 or 2002, subparagraph (A)(i) shall be applied by substituting ‘5’ for ‘2’ and subparagraph (F) shall not apply.”.

(b) ELECTION TO DISREGARD 5-YEAR CARRYBACK.—Section 172 (relating to net operating loss deduction) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

“(j) ELECTION TO DISREGARD 5-YEAR CARRYBACK FOR CERTAIN NET OPERATING LOSSES.—Any taxpayer entitled to a 5-year carryback under subsection (b)(1)(H) from any loss year may elect to have the carryback period with respect to such loss year determined without regard to subsection (b)(1)(H). Such election shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the net

operating loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.”.

(c) TEMPORARY SUSPENSION OF 90 PERCENT LIMIT ON CERTAIN NOL CARRYOVERS.—

26 USC 56.

(1) IN GENERAL.—Subparagraph (A) of section 56(d)(1) (relating to general rule defining alternative tax net operating loss deduction) is amended to read as follows:

“(A) the amount of such deduction shall not exceed the sum of—

“(i) the lesser of—

“(I) the amount of such deduction attributable to net operating losses (other than the deduction attributable to carryovers described in clause (ii)(I)), or

“(II) 90 percent of alternative minimum taxable income determined without regard to such deduction, plus

“(ii) the lesser of—

“(I) the amount of such deduction attributable to the sum of carrybacks of net operating losses for taxable years ending during 2001 or 2002 and carryforwards of net operating losses to taxable years ending during 2001 and 2002, or

“(II) alternative minimum taxable income determined without regard to such deduction reduced by the amount determined under clause (i), and”.

Applicability.
26 USC 56 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years ending before January 1, 2003.

Applicability.
26 USC 172 note.

(d) EFFECTIVE DATE.—Except as provided in subsection (c), the amendments made by this section shall apply to net operating losses for taxable years ending after December 31, 2000.

Temporary
Extended
Unemployment
Compensation
Act of 2002.
Inter-
governmental
relations.
26 USC 3304
note.

TITLE II—UNEMPLOYMENT ASSISTANCE

SEC. 201. SHORT TITLE.

This title may be cited as the “Temporary Extended Unemployment Compensation Act of 2002”.

SEC. 202. FEDERAL-STATE AGREEMENTS.

(a) IN GENERAL.—Any State which desires to do so may enter into and participate in an agreement under this title with the Secretary of Labor (in this title referred to as the “Secretary”). Any State which is a party to an agreement under this title may, upon providing 30 days’ written notice to the Secretary, terminate such agreement.

(b) PROVISIONS OF AGREEMENT.—Any agreement under subsection (a) shall provide that the State agency of the State will make payments of temporary extended unemployment compensation to individuals who—

(1) have exhausted all rights to regular compensation under the State law or under Federal law with respect to a benefit year (excluding any benefit year that ended before March 15, 2001);

(2) have no rights to regular compensation or extended compensation with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law;

(3) are not receiving compensation with respect to such week under the unemployment compensation law of Canada; and

(4) filed an initial claim for regular compensation on or after March 15, 2001.

(c) EXHAUSTION OF BENEFITS.—For purposes of subsection (b)(1), an individual shall be deemed to have exhausted such individual's rights to regular compensation under a State law when—

(1) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to such individual based on employment or wages during such individual's base period; or

(2) such individual's rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(d) WEEKLY BENEFIT AMOUNT, ETC.—For purposes of any agreement under this title—

(1) the amount of temporary extended unemployment compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to such individual during such individual's benefit year under the State law for a week of total unemployment;

(2) the terms and conditions of the State law which apply to claims for regular compensation and to the payment thereof shall apply to claims for temporary extended unemployment compensation and the payment thereof, except—

(A) that an individual shall not be eligible for temporary extended unemployment compensation under this title unless, in the base period with respect to which the individual exhausted all rights to regular compensation under the State law, the individual had 20 weeks of full-time insured employment or the equivalent in insured wages, as determined under the provisions of the State law implementing section 202(a)(5) of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note); and

(B) where otherwise inconsistent with the provisions of this title or with the regulations or operating instructions of the Secretary promulgated to carry out this title; and

(3) the maximum amount of temporary extended unemployment compensation payable to any individual for whom a temporary extended unemployment compensation account is established under section 203 shall not exceed the amount established in such account for such individual.

(e) ELECTION BY STATES.—Notwithstanding any other provision of Federal law (and if State law permits), the Governor of a State that is in an extended benefit period may provide for the payment of temporary extended unemployment compensation in lieu of extended compensation to individuals who otherwise meet the requirements of this section. Such an election shall not require a State to trigger off an extended benefit period.

SEC. 203. TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION ACCOUNT.

(a) **IN GENERAL.**—Any agreement under this title shall provide that the State will establish, for each eligible individual who files an application for temporary extended unemployment compensation, a temporary extended unemployment compensation account with respect to such individual's benefit year.

(b) **AMOUNT IN ACCOUNT.**—

(1) **IN GENERAL.**—The amount established in an account under subsection (a) shall be equal to the lesser of—

(A) 50 percent of the total amount of regular compensation (including dependents' allowances) payable to the individual during the individual's benefit year under such law, or

(B) 13 times the individual's average weekly benefit amount for the benefit year.

(2) **WEEKLY BENEFIT AMOUNT.**—For purposes of this subsection, an individual's weekly benefit amount for any week is the amount of regular compensation (including dependents' allowances) under the State law payable to such individual for such week for total unemployment.

(c) **SPECIAL RULE.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of this section, if, at the time that the individual's account is exhausted, such individual's State is in an extended benefit period (as determined under paragraph (2)), then, such account shall be augmented by an amount equal to the amount originally established in such account (as determined under subsection (b)(1)).

(2) **EXTENDED BENEFIT PERIOD.**—For purposes of paragraph (1), a State shall be considered to be in an extended benefit period if, at the time of exhaustion (as described in paragraph (1))—

(A) such a period is then in effect for such State under the Federal-State Extended Unemployment Compensation Act of 1970; or

(B) such a period would then be in effect for such State under such Act if section 203(d) of such Act were applied as if it had been amended by striking "5" each place it appears and inserting "4".

SEC. 204. PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF TEMPORARY EXTENDED UNEMPLOYMENT COMPENSATION.

(a) **GENERAL RULE.**—There shall be paid to each State that has entered into an agreement under this title an amount equal to 100 percent of the temporary extended unemployment compensation paid to individuals by the State pursuant to such agreement.

(b) **TREATMENT OF REIMBURSABLE COMPENSATION.**—No payment shall be made to any State under this section in respect of any compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this title or chapter 85 of title 5, United States Code. A State shall not be entitled to any reimbursement under such chapter 85 in respect of any compensation to the extent the State is entitled to reimbursement under this title in respect of such compensation.

(c) DETERMINATION OF AMOUNT.—Sums payable to any State by reason of such State having an agreement under this title shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this title for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that the Secretary's estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical, sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

SEC. 205. FINANCING PROVISIONS.

(a) IN GENERAL.—Funds in the extended unemployment compensation account (as established by section 905(a) of the Social Security Act (42 U.S.C. 1105(a)) of the Unemployment Trust Fund (as established by section 904(a) of such Act (42 U.S.C. 1104(a))) shall be used for the making of payments to States having agreements entered into under this title.

(b) CERTIFICATION.—The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this title. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the extended unemployment compensation account (as so established) to the account of such State in the Unemployment Trust Fund (as so established).

(c) ASSISTANCE TO STATES.—There are appropriated out of the employment security administration account (as established by section 901(a) of the Social Security Act (42 U.S.C. 1101(a)) of the Unemployment Trust Fund, without fiscal year limitation, such funds as may be necessary for purposes of assisting States (as provided in title III of the Social Security Act (42 U.S.C. 501 et seq.)) in meeting the costs of administration of agreements under this title.

(d) APPROPRIATIONS FOR CERTAIN PAYMENTS.—There are appropriated from the general fund of the Treasury, without fiscal year limitation, to the extended unemployment compensation account (as so established) of the Unemployment Trust Fund (as so established) such sums as the Secretary estimates to be necessary to make the payments under this section in respect of—

(1) compensation payable under chapter 85 of title 5, United States Code; and

(2) compensation payable on the basis of services to which section 3309(a)(1) of the Internal Revenue Code of 1986 applies. Amounts appropriated pursuant to the preceding sentence shall not be required to be repaid.

SEC. 206. FRAUD AND OVERPAYMENTS.

(a) IN GENERAL.—If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of temporary extended unemployment compensation under this title to which he was not entitled, such individual—

(1) shall be ineligible for further temporary extended unemployment compensation under this title in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(2) shall be subject to prosecution under section 1001 of title 18, United States Code.

(b) REPAYMENT.—In the case of individuals who have received amounts of temporary extended unemployment compensation under this title to which they were not entitled, the State shall require such individuals to repay the amounts of such temporary extended unemployment compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(1) the payment of such temporary extended unemployment compensation was without fault on the part of any such individual; and

(2) such repayment would be contrary to equity and good conscience.

(c) RECOVERY BY STATE AGENCY.—

(1) IN GENERAL.—The State agency may recover the amount to be repaid, or any part thereof, by deductions from any temporary extended unemployment compensation payable to such individual under this title or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the 3-year period after the date such individuals received the payment of the temporary extended unemployment compensation to which they were not entitled, except that no single deduction may exceed 50 percent of the weekly benefit amount from which such deduction is made.

(2) OPPORTUNITY FOR HEARING.—No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(d) REVIEW.—Any determination by a State agency under this section shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 207. DEFINITIONS.

In this title, the terms “compensation”, “regular compensation”, “extended compensation”, “additional compensation”, “benefit year”, “base period”, “State”, “State agency”, “State law”, and “week” have the respective meanings given such terms under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970 (26 U.S.C. 3304 note).

SEC. 208. APPLICABILITY.

An agreement entered into under this title shall apply to weeks of unemployment—

(1) beginning after the date on which such agreement is entered into; and

(2) ending before January 1, 2003.

SEC. 209. SPECIAL REED ACT TRANSFER IN FISCAL YEAR 2002.

(a) **REPEAL OF CERTAIN PROVISIONS ADDED BY THE BALANCED BUDGET ACT OF 1997.**—

(1) **IN GENERAL.**—The following provisions of section 903 of the Social Security Act (42 U.S.C. 1103) are repealed:

(A) Paragraph (3) of subsection (a).

(B) The last sentence of subsection (c)(2).

(2) **SAVINGS PROVISION.**—Any amounts transferred before the date of enactment of this Act under the provision repealed by paragraph (1)(A) shall remain subject to section 903 of the Social Security Act, as last in effect before such date of enactment.

(b) **SPECIAL TRANSFER IN FISCAL YEAR 2002.**—Section 903 of the Social Security Act is amended by adding at the end the following:

“Special Transfer in Fiscal Year 2002

“(d)(1) The Secretary of the Treasury shall transfer (as of the date determined under paragraph (5)) from the Federal unemployment account to the account of each State in the Unemployment Trust Fund the amount determined with respect to such State under paragraph (2).

“(2)(A) The amount to be transferred under this subsection to a State account shall (as determined by the Secretary of Labor and certified by such Secretary to the Secretary of the Treasury) be equal to—

“(i) the amount which would have been required to have been transferred under this section to such account at the beginning of fiscal year 2002 if—

“(I) section 209(a)(1) of the Temporary Extended Unemployment Compensation Act of 2002 had been enacted before the close of fiscal year 2001, and

“(II) section 5402 of Public Law 105-33 (relating to increase in Federal unemployment account ceiling) had not been enacted,

minus

“(ii) the amount which was in fact transferred under this section to such account at the beginning of fiscal year 2002.

“(B) Notwithstanding the provisions of subparagraph (A)—

“(i) the aggregate amount transferred to the States under this subsection may not exceed a total of \$8,000,000,000; and

“(ii) all amounts determined under subparagraph (A) shall be reduced ratably, if and to the extent necessary in order to comply with the limitation under clause (i).

“(3)(A) Except as provided in paragraph (4), amounts transferred to a State account pursuant to this subsection may be used only in the payment of cash benefits—

“(i) to individuals with respect to their unemployment, and

“(ii) which are allowable under subparagraph (B) or (C).

“(B)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable as—

“(I) regular compensation, or

“(II) additional compensation, upon the exhaustion of any temporary extended unemployment compensation (if such State has entered into an agreement under the Temporary Extended

Unemployment Compensation Act of 2002), for individuals eligible for regular compensation under the unemployment compensation law of such State.

“(ii) Any additional compensation under clause (i) may not be taken into account for purposes of any determination relating to the amount of any extended compensation for which an individual might be eligible.

“(C)(i) At the option of the State, cash benefits under this paragraph may include amounts which shall be payable to 1 or more categories of individuals not otherwise eligible for regular compensation under the unemployment compensation law of such State, including those described in clause (iii).

“(ii) The benefits paid under this subparagraph to any individual may not, for any period of unemployment, exceed the maximum amount of regular compensation authorized under the unemployment compensation law of such State for that same period, plus any additional compensation (described in subparagraph (B)(i)) which could have been paid with respect to that amount.

“(iii) The categories of individuals described in this clause include the following:

“(I) Individuals who are seeking, or available for, only part-time (and not full-time) work.

“(II) Individuals who would be eligible for regular compensation under the unemployment compensation law of such State under an alternative base period.

“(D) Amounts transferred to a State account under this subsection may be used in the payment of cash benefits to individuals only for weeks of unemployment beginning after the date of enactment of this subsection.

“(4) Amounts transferred to a State account under this subsection may be used for the administration of its unemployment compensation law and public employment offices (including in connection with benefits described in paragraph (3) and any recipients thereof), subject to the same conditions as set forth in subsection (c)(2) (excluding subparagraph (B) thereof, and deeming the reference to ‘subsections (a) and (b)’ in subparagraph (D) thereof to include this subsection).

“(5) Transfers under this subsection shall be made within 10 days after the date of enactment of this paragraph.”.

Deadline.

Applicability.

42 USC 1103.

(c) LIMITATIONS ON TRANSFERS.—Section 903(b) of the Social Security Act shall apply to transfers under section 903(d) of such Act (as amended by this section). For purposes of the preceding sentence, such section 903(b) shall be deemed to be amended as follows:

(1) By substituting “the transfer date described in subsection (d)(5)” for “October 1 of any fiscal year”.

(2) By substituting “remain in the Federal unemployment account” for “be transferred to the Federal unemployment account as of the beginning of such October 1”.

(3) By substituting “fiscal year 2002 (after the transfer date described in subsection (d)(5))” for “the fiscal year beginning on such October 1”.

(4) By substituting “under subsection (d)” for “as of October 1 of such fiscal year”.

(5) By substituting “(as of the close of fiscal year 2002)” for “(as of the close of such fiscal year)”.

(d) TECHNICAL AMENDMENTS.—(1) Sections 3304(a)(4)(B) and 3306(f)(2) of the Internal Revenue Code of 1986 are amended by inserting “or 903(d)(4)” before “of the Social Security Act”. 26 USC 3304, 3306.

(2) Section 303(a)(5) of the Social Security Act is amended in the second proviso by inserting “or 903(d)(4)” after “903(c)(2)”. 42 USC 503.

(e) REGULATIONS.—The Secretary of Labor may prescribe any operating instructions or regulations necessary to carry out this section and the amendments made by this section.

TITLE III—TAX INCENTIVES FOR NEW YORK CITY AND DISTRESSED AREAS

SEC. 301. TAX BENEFITS FOR AREA OF NEW YORK CITY DAMAGED IN TERRORIST ATTACKS ON SEPTEMBER 11, 2001.

(a) IN GENERAL.—Chapter 1 is amended by adding at the end the following new subchapter:

“Subchapter Y—New York Liberty Zone Benefits

“Sec. 1400L. Tax benefits for New York Liberty Zone.

“SEC. 1400L. TAX BENEFITS FOR NEW YORK LIBERTY ZONE.

“(a) EXPANSION OF WORK OPPORTUNITY TAX CREDIT.—

“(1) IN GENERAL.—For purposes of section 51, a New York Liberty Zone business employee shall be treated as a member of a targeted group.

“(2) NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘New York Liberty Zone business employee’ means, with respect to any period, any employee of a New York Liberty Zone business if substantially all the services performed during such period by such employee for such business are performed in the New York Liberty Zone.

“(B) INCLUSION OF CERTAIN EMPLOYEES OUTSIDE THE NEW YORK LIBERTY ZONE.—

“(i) IN GENERAL.—In the case of a New York Liberty Zone business described in subclause (II) of subparagraph (C)(i), the term ‘New York Liberty Zone business employee’ includes any employee of such business (not described in subparagraph (A)) if substantially all the services performed during such period by such employee for such business are performed in the City of New York, New York.

“(ii) LIMITATION.—The number of employees of such a business that are treated as New York Liberty Zone business employees on any day by reason of clause (i) shall not exceed the excess of—

“(I) the number of employees of such business on September 11, 2001, in the New York Liberty Zone, over

“(II) the number of New York Liberty Zone business employees (determined without regard to this subparagraph) of such business on the day to which the limitation is being applied.

The Secretary may require any trade or business to have the number determined under subclause (I) verified by the New York State Department of Labor.

“(C) NEW YORK LIBERTY ZONE BUSINESS.—

“(i) IN GENERAL.—The term ‘New York Liberty Zone business’ means any trade or business which is—

“(I) located in the New York Liberty Zone, or

“(II) located in the City of New York, New York, outside the New York Liberty Zone, as a result of the physical destruction or damage of such place of business by the September 11, 2001, terrorist attack.

“(ii) CREDIT NOT ALLOWED FOR LARGE BUSINESSES.—The term ‘New York Liberty Zone business’ shall not include any trade or business for any taxable year if such trade or business employed an average of more than 200 employees on business days during the taxable year.

“(D) SPECIAL RULES FOR DETERMINING AMOUNT OF CREDIT.—For purposes of applying subpart F of part IV of subchapter B of this chapter to wages paid or incurred to any New York Liberty Zone business employee—

“(i) section 51(a) shall be applied by substituting ‘qualified wages’ for ‘qualified first-year wages’,

“(ii) the rules of section 52 shall apply for purposes of determining the number of employees under subparagraph (B),

“(iii) subsections (c)(4) and (i)(2) of section 51 shall not apply, and

“(iv) in determining qualified wages, the following shall apply in lieu of section 51(b):

“(I) QUALIFIED WAGES.—The term ‘qualified wages’ means wages paid or incurred by the employer to individuals who are New York Liberty Zone business employees of such employer for work performed during calendar year 2002 or 2003.

“(II) ONLY FIRST \$6,000 OF WAGES PER CALENDAR YEAR TAKEN INTO ACCOUNT.—The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000 per calendar year.

“(b) SPECIAL ALLOWANCE FOR CERTAIN PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001.—

“(1) ADDITIONAL ALLOWANCE.—In the case of any qualified New York Liberty Zone property—

“(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

“(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

“(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified New York Liberty Zone property’ means property—

“(i)(I) which is described in section 168(k)(2)(A)(i), or

“(II) which is nonresidential real property, or residential rental property, which is described in subparagraph (B),

“(ii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

“(iii) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001,

“(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 10, 2001, but only if no written binding contract for the acquisition was in effect before September 11, 2001, and

“(v) which is placed in service by the taxpayer on or before the termination date.

The term ‘termination date’ means December 31, 2006 (December 31, 2009, in the case of nonresidential real property and residential rental property).

“(B) ELIGIBLE REAL PROPERTY.—Nonresidential real property or residential rental property is described in this subparagraph only to the extent it rehabilitates real property damaged, or replaces real property destroyed or condemned, as a result of the September 11, 2001, terrorist attack. For purposes of the preceding sentence, property shall be treated as replacing real property destroyed or condemned if, as part of an integrated plan, such property replaces real property which is included in a continuous area which includes real property destroyed or condemned.

“(C) EXCEPTIONS.—

“(i) 30 PERCENT ADDITIONAL ALLOWANCE PROPERTY.—Such term shall not include property to which section 168(k) applies.

“(ii) ALTERNATIVE DEPRECIATION PROPERTY.—The term ‘qualified New York Liberty Zone property’ shall not include any property described in section 168(k)(2)(C)(i).

“(iii) QUALIFIED NEW YORK LIBERTY ZONE LEASEHOLD IMPROVEMENT PROPERTY.—Such term shall not include any qualified New York Liberty Zone leasehold improvement property.

“(iv) ELECTION OUT.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(C)(iii) shall apply.

Applicability.

“(D) SPECIAL RULES.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D) shall apply, except that clause (i) thereof shall be applied without regard to ‘and before September 11, 2004’.

Applicability.

“(E) ALLOWANCE AGAINST ALTERNATIVE MINIMUM TAX.—For purposes of this subsection, rules similar to the rules of section 168(k)(2)(F) shall apply.

Applicability.

“(c) 5-YEAR RECOVERY PERIOD FOR DEPRECIATION OF CERTAIN LEASEHOLD IMPROVEMENTS.—

“(1) IN GENERAL.—For purposes of section 168, the term ‘5-year property’ includes any qualified New York Liberty Zone leasehold improvement property.

“(2) QUALIFIED NEW YORK LIBERTY ZONE LEASEHOLD IMPROVEMENT PROPERTY.—For purposes of this section, the term ‘qualified New York Liberty Zone leasehold improvement property’ means qualified leasehold improvement property (as defined in section 168(k)(3)) if—

“(A) such building is located in the New York Liberty Zone,

“(B) such improvement is placed in service after September 10, 2001, and before January 1, 2007, and

“(C) no written binding contract for such improvement was in effect before September 11, 2001.

“(3) REQUIREMENT TO USE STRAIGHT LINE METHOD.—The applicable depreciation method under section 168 shall be the straight line method in the case of qualified New York Liberty Zone leasehold improvement property.

“(4) 9-YEAR RECOVERY PERIOD UNDER ALTERNATIVE SYSTEM.—For purposes of section 168(g), the class life of qualified New York Liberty Zone leasehold improvement property shall be 9 years.

“(d) TAX-EXEMPT BOND FINANCING.—

“(1) IN GENERAL.—For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

“(2) QUALIFIED NEW YORK LIBERTY BOND.—For purposes of this subsection, the term ‘qualified New York Liberty Bond’ means any bond issued as part of an issue if—

“(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

“(B) such bond is issued by the State of New York or any political subdivision thereof,

“(C) the Governor or the Mayor designates such bond for purposes of this section, and

“(D) such bond is issued after the date of the enactment of this section and before January 1, 2005.

“(3) LIMITATIONS ON AMOUNT OF BONDS.—

“(A) AGGREGATE AMOUNT DESIGNATED.—The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed \$8,000,000,000, of which not to exceed \$4,000,000,000 may be designated by the Governor and not to exceed \$4,000,000,000 may be designated by the Mayor.

“(B) SPECIFIC LIMITATIONS.—The aggregate face amount of bonds issued which are to be used for—

“(i) costs for property located outside the New York Liberty Zone shall not exceed \$2,000,000,000,

“(ii) residential rental property shall not exceed \$1,600,000,000, and

“(iii) costs with respect to property used for retail sales of tangible property and functionally related and subordinate property shall not exceed \$800,000,000.

The limitations under clauses (i), (ii), and (iii) shall be allocated proportionately between the bonds designated by the Governor and the bonds designated by the Mayor in proportion to the respective amounts of bonds designated by each.

“(C) MOVABLE PROPERTY.—No bonds shall be issued which are to be used for movable fixtures and equipment.

“(4) QUALIFIED PROJECT COSTS.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘qualified project costs’ means the cost of acquisition, construction, reconstruction, and renovation of—

“(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

“(ii) public utility property (as defined in section 168(i)(10)) located in the New York Liberty Zone.

“(B) COSTS FOR CERTAIN PROPERTY OUTSIDE ZONE INCLUDED.—Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings.

“(5) SPECIAL RULES.—In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

“(A) Section 146 (relating to volume cap) shall not apply.

“(B) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting ‘50 percent’ for ‘15 percent’ each place it appears.

Applicability.

“(C) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds issued under this section.

Applicability.

“(D) Repayments of principal on financing provided by the issue—

“(i) may not be used to provide financing, and

“(ii) must be used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of a refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

“(E) Section 57(a)(5) shall not apply.

“(6) SEPARATE ISSUE TREATMENT OF PORTIONS OF AN ISSUE.—This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity

bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

“(e) ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.—

“(1) IN GENERAL.—With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(C)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the City of New York, New York (or property which is functionally related and subordinate to facilities located within the City of New York for the furnishing of water), one additional advanced refunding after the date of the enactment of this section and before January 1, 2005, shall be allowed under the applicable rules of section 149(d) if—

“(A) the Governor or the Mayor designates the advance refunding bond for purposes of this subsection, and

“(B) the requirements of paragraph (4) are met.

“(2) BONDS DESCRIBED.—A bond is described in this paragraph if such bond was outstanding on September 11, 2001, and is—

“(A) a State or local bond (as defined in section 103(c)(1)) which is a general obligation of the City of New York, New York,

“(B) a State or local bond (as so defined) other than a private activity bond (as defined in section 141(a)) issued by the New York Municipal Water Finance Authority or the Metropolitan Transportation Authority of the State of New York, or

“(C) a qualified 501(c)(3) bond (as defined in section 145(a)) which is a qualified hospital bond (as defined in section 145(c)) issued by or on behalf of the State of New York or the City of New York, New York.

“(3) AGGREGATE LIMIT.—For purposes of paragraph (1), the maximum aggregate face amount of bonds which may be designated under this subsection by the Governor shall not exceed \$4,500,000,000 and the maximum aggregate face amount of bonds which may be designated under this subsection by the Mayor shall not exceed \$4,500,000,000.

“(4) ADDITIONAL REQUIREMENTS.—The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (2) if—

“(A) no advance refundings of such bond would be allowed under any provision of law after September 11, 2001,

“(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

“(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

“(f) INCREASE IN EXPENSING UNDER SECTION 179.—

“(1) IN GENERAL.—For purposes of section 179—

“(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

“(i) \$35,000, or

“(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

“(B) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

“(2) QUALIFIED NEW YORK LIBERTY ZONE PROPERTY.—For purposes of this subsection, the term ‘qualified New York Liberty Zone property’ has the meaning given such term by subsection (b)(2).

“(3) RECAPTURE.—Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

Applicability.

“(g) EXTENSION OF REPLACEMENT PERIOD FOR NONRECOGNITION OF GAIN.—Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting ‘5 years’ for ‘2 years’ with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

Applicability.

“(h) NEW YORK LIBERTY ZONE.—For purposes of this section, the term ‘New York Liberty Zone’ means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

“(i) REFERENCES TO GOVERNOR AND MAYOR.—For purposes of this section, the terms ‘Governor’ and ‘Mayor’ mean the Governor of the State of New York and the Mayor of the City of New York, New York, respectively.”.

(b) CREDIT ALLOWED AGAINST REGULAR AND MINIMUM TAX.—

(1) IN GENERAL.—Subsection (c) of section 38 (relating to limitation based on amount of tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

26 USC 38.

“(3) SPECIAL RULES FOR NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE CREDIT.—

“(A) IN GENERAL.—In the case of the New York Liberty Zone business employee credit—

“(i) this section and section 39 shall be applied separately with respect to such credit, and

Applicability.

“(ii) in applying paragraph (1) to such credit—

“(I) the tentative minimum tax shall be treated as being zero, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the New York Liberty Zone business employee credit).

“(B) NEW YORK LIBERTY ZONE BUSINESS EMPLOYEE CREDIT.—For purposes of this subsection, the term ‘New York Liberty Zone business employee credit’ means the portion of work opportunity credit under section 51 determined under section 1400L(a).”.

(2) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) is amended by inserting “or the New York Liberty Zone business employee credit” after “employment credit”.

Applicability.
26 USC 38 note.

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to taxable years ending after December 31, 2001.

(c) **CLERICAL AMENDMENT.**—The table of subchapters for chapter 1 is amended by adding at the end the following new item:

“Subchapter Y—New York Liberty Zone Benefits.”.

TITLE IV—MISCELLANEOUS AND TECHNICAL PROVISIONS

Subtitle A—General Miscellaneous Provisions

26 USC 6041
note.

SEC. 401. ALLOWANCE OF ELECTRONIC 1099'S.

Any person required to furnish a statement under any section of subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 for any taxable year ending after the date of the enactment of this Act, may electronically furnish such statement (without regard to any first class mailing requirement) to any recipient who has consented to the electronic provision of the statement in a manner similar to the one permitted under regulations issued under section 6051 of such Code or in such other manner as provided by the Secretary.

SEC. 402. EXCLUDED CANCELLATION OF INDEBTEDNESS INCOME OF S CORPORATION NOT TO RESULT IN ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS.

26 USC 108.

(a) **IN GENERAL.**—Subparagraph (A) of section 108(d)(7) (relating to certain provisions to be applied at corporate level) is amended by inserting before the period “, including by not taking into account under section 1366(a) any amount excluded under subsection (a) of this section”.

26 USC 108 note.
Applicability.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendment made by this section shall apply to discharges of indebtedness after October 11, 2001, in taxable years ending after such date.

(2) **EXCEPTION.**—The amendment made by this section shall not apply to any discharge of indebtedness before March 1, 2002, pursuant to a plan of reorganization filed with a bankruptcy court on or before October 11, 2001.

SEC. 403. LIMITATION ON USE OF NONACCRUAL EXPERIENCE METHOD OF ACCOUNTING.

(a) **IN GENERAL.**—Paragraph (5) of section 448(d) is amended to read as follows:

“(5) **SPECIAL RULE FOR CERTAIN SERVICES.**—

“(A) **IN GENERAL.**—In the case of any person using an accrual method of accounting with respect to amounts to be received for the performance of services by such person, such person shall not be required to accrue any portion of such amounts which (on the basis of such person’s experience) will not be collected if—

“(i) such services are in fields referred to in paragraph (2)(A), or

“(ii) such person meets the gross receipts test of subsection (c) for all prior taxable years.

“(B) EXCEPTION.—This paragraph shall not apply to any amount if interest is required to be paid on such amount or there is any penalty for failure to timely pay such amount.

“(C) REGULATIONS.—The Secretary shall prescribe regulations to permit taxpayers to determine amounts referred to in subparagraph (A) using computations or formulas which, based on experience, accurately reflect the amount of income that will not be collected by such person. A taxpayer may adopt, or request consent of the Secretary to change to, a computation or formula that clearly reflects the taxpayer’s experience. A request under the preceding sentence shall be approved if such computation or formula clearly reflects the taxpayer’s experience.”

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

(A) such change shall be treated as initiated by the taxpayer,

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period of 4 years (or if less, the number of taxable years that the taxpayer used the method permitted under section 448(d)(5) of such Code as in effect before the date of the enactment of this Act) beginning with such first taxable year.

26 USC 448 note.

Applicability.

SEC. 404. EXCLUSION FOR FOSTER CARE PAYMENTS TO APPLY TO PAYMENTS BY QUALIFIED PLACEMENT AGENCIES.

(a) IN GENERAL.—The matter preceding subparagraph (B) of section 131(b)(1) (defining qualified foster care payment) is amended to read as follows:

26 USC 131.

“(1) IN GENERAL.—The term ‘qualified foster care payment’ means any payment made pursuant to a foster care program of a State or political subdivision thereof—

“(A) which is paid by—

“(i) a State or political subdivision thereof, or

“(ii) a qualified foster care placement agency, and”.

(b) QUALIFIED FOSTER INDIVIDUALS TO INCLUDE INDIVIDUALS PLACED BY QUALIFIED PLACEMENT AGENCIES.—Subparagraph (B) of section 131(b)(2) (defining qualified foster individual) is amended to read as follows:

“(B) a qualified foster care placement agency.”.

(c) QUALIFIED FOSTER CARE PLACEMENT AGENCY DEFINED.—Subsection (b) of section 131 is amended by redesignating paragraph

(3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

“(3) QUALIFIED FOSTER CARE PLACEMENT AGENCY.—The term ‘qualified foster care placement agency’ means any placement agency which is licensed or certified by—

“(A) a State or political subdivision thereof, or

“(B) an entity designated by a State or political subdivision thereof,

for the foster care program of such State or political subdivision to make foster care payments to providers of foster care.”.

Applicability.
26 USC 131 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 405. INTEREST RATE RANGE FOR ADDITIONAL FUNDING REQUIREMENTS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

26 USC 412.

(1) SPECIAL RULE.—Clause (i) of section 412(l)(7)(C) (relating to interest rate) is amended by adding at the end the following new subclause:

“(III) SPECIAL RULE FOR 2002 AND 2003.—For a plan year beginning in 2002 or 2003, notwithstanding subclause (I), in the case that the rate of interest used under subsection (b)(5) exceeds the highest rate permitted under subclause (I), the rate of interest used to determine current liability under this subsection may exceed the rate of interest otherwise permitted under subclause (I); except that such rate of interest shall not exceed 120 percent of the weighted average referred to in subsection (b)(5)(B)(ii).”.

(2) QUARTERLY CONTRIBUTIONS.—Subsection (m) of section 412 is amended by adding at the end the following new paragraph:

“(7) SPECIAL RULES FOR 2002 AND 2004.—In any case in which the interest rate used to determine current liability is determined under subsection (l)(7)(C)(i)(III)—

“(A) 2002.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).

“(B) 2004.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2004, the current liability for the preceding plan year shall be redetermined using 105 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).”.

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) SPECIAL RULE.—Clause (i) of section 302(d)(7)(C) of such Act (29 U.S.C. 1082(d)(7)(C)) is amended by adding at the end the following new subclause:

“(III) SPECIAL RULE FOR 2002 AND 2003.—For a plan year beginning in 2002 or 2003, notwithstanding subclause (I), in the case that the rate of interest used under subsection (b)(5) exceeds the highest rate permitted under subclause (I), the rate of interest used to determine current

liability under this subsection may exceed the rate of interest otherwise permitted under subclause (I); except that such rate of interest shall not exceed 120 percent of the weighted average referred to in subsection (b)(5)(B)(ii).”.

(2) QUARTERLY CONTRIBUTIONS.—Subsection (e) of section 302 of such Act (29 U.S.C. 1082) is amended by adding at the end the following new paragraph:

“(7) SPECIAL RULES FOR 2002 AND 2004.—In any case in which the interest rate used to determine current liability is determined under subsection (d)(7)(C)(i)(III)—

“(A) 2002.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II).

“(B) 2004.—For purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2004, the current liability for the preceding plan year shall be redetermined using 105 percent as the specified percentage determined under subsection (d)(7)(C)(i)(II).”.

(c) PBGC.—Clause (iii) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by adding at the end the following new subclause:

“(IV) In the case of plan years beginning after December 31, 2001, and before January 1, 2004, subclause (II) shall be applied by substituting ‘100 percent’ for ‘85 percent’. Subclause (III) shall be applied for such years without regard to the preceding sentence. Any reference to this clause by any other sections or subsections shall be treated as a reference to this clause without regard to this subclause.”.

Applicability.

SEC. 406. ADJUSTED GROSS INCOME DETERMINED BY TAKING INTO ACCOUNT CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.

(a) IN GENERAL.—Section 62(a)(2) (relating to certain trade and business deductions of employees) is amended by adding at the end the following:

26 USC 62.

“(D) CERTAIN EXPENSES OF ELEMENTARY AND SECONDARY SCHOOL TEACHERS.—In the case of taxable years beginning during 2002 or 2003, the deductions allowed by section 162 which consist of expenses, not in excess of \$250, paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment (including related software and services) and other equipment, and supplementary materials used by the eligible educator in the classroom.”.

(b) ELIGIBLE EDUCATOR.—Section 62 is amended by adding at the end the following:

“(d) DEFINITION; SPECIAL RULES.—

“(1) ELIGIBLE EDUCATOR.—

“(A) IN GENERAL.—For purposes of subsection (a)(2)(D), the term ‘eligible educator’ means, with respect to any taxable year, an individual who is a kindergarten through grade 12 teacher, instructor, counselor, principal, or aide in a school for at least 900 hours during a school year.

“(B) SCHOOL.—The term ‘school’ means any school which provides elementary education or secondary education (kindergarten through grade 12), as determined under State law.

“(2) COORDINATION WITH EXCLUSIONS.—A deduction shall be allowed under subsection (a)(2)(D) for expenses only to the extent the amount of such expenses exceeds the amount excludable under section 135, 529(c)(1), or 530(d)(2) for the taxable year.”.

Applicability.
26 USC 62 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

Subtitle B—Technical Corrections

SEC. 411. AMENDMENTS RELATED TO ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.

(a) AMENDMENTS RELATED TO SECTION 101 OF THE ACT.—

26 USC 6428.

(1) IN GENERAL.—Subsection (b) of section 6428 is amended to read as follows:

“(b) CREDIT TREATED AS NONREFUNDABLE PERSONAL CREDIT.—For purposes of this title, the credit allowed under this section shall be treated as a credit allowable under subpart A of part IV of subchapter A of chapter 1.”.

(2) CONFORMING AMENDMENTS.—

(A) Subsection (d) of section 6428 is amended to read as follows:

“(d) COORDINATION WITH ADVANCE REFUNDS OF CREDIT.—

“(1) IN GENERAL.—The amount of credit which would (but for this paragraph) be allowable under this section shall be reduced (but not below zero) by the aggregate refunds and credits made or allowed to the taxpayer under subsection (e). Any failure to so reduce the credit shall be treated as arising out of a mathematical or clerical error and assessed according to section 6213(b)(1).

“(2) JOINT RETURNS.—In the case of a refund or credit made or allowed under subsection (e) with respect to a joint return, half of such refund or credit shall be treated as having been made or allowed to each individual filing such return.”.

(B) Paragraph (2) of section 6428(e) is amended to read as follows:

“(2) ADVANCE REFUND AMOUNT.—For purposes of paragraph (1), the advance refund amount is the amount that would have been allowed as a credit under this section for such first taxable year if—

“(A) this section (other than subsections (b) and (d) and this subsection) had applied to such taxable year, and

“(B) the credit for such taxable year were not allowed to exceed the excess (if any) of—

“(i) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

“(ii) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits).”.

(b) AMENDMENT RELATED TO SECTION 201 OF THE ACT.— Subparagraph (B) of section 24(d)(1) is amended by striking “amount of credit allowed by this section” and inserting “aggregate amount of credits allowed by this subpart”. 26 USC 24.

(c) AMENDMENTS RELATED TO SECTION 202 OF THE ACT.—

(1) CORRECTIONS TO CREDIT FOR ADOPTION EXPENSES.—

(A) Paragraph (1) of section 23(a) is amended to read as follows:

“(1) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter the amount of the qualified adoption expenses paid or incurred by the taxpayer.”.

(B) Subsection (a) of section 23 is amended by adding at the end the following new paragraph:

“(3) \$10,000 CREDIT FOR ADOPTION OF CHILD WITH SPECIAL NEEDS REGARDLESS OF EXPENSES.—In the case of an adoption of a child with special needs which becomes final during a taxable year, the taxpayer shall be treated as having paid during such year qualified adoption expenses with respect to such adoption in an amount equal to the excess (if any) of \$10,000 over the aggregate qualified adoption expenses actually paid or incurred by the taxpayer with respect to such adoption during such taxable year and all prior taxable years.”.

(C) Paragraph (2) of section 23(a) is amended by striking the last sentence.

(D) Paragraph (1) of section 23(b) is amended by striking “subsection (a)(1)(A)” and inserting “subsection (a)”.

(E) Subsection (i) of section 23 is amended by striking “the dollar limitation in subsection (b)(1)” and inserting “the dollar amounts in subsections (a)(3) and (b)(1)”.

(F) Expenses paid or incurred during any taxable year beginning before January 1, 2002, may be taken into account in determining the credit under section 23 of the Internal Revenue Code of 1986 only to the extent the aggregate of such expenses does not exceed the applicable limitation under section 23(b)(1) of such Code as in effect on the day before the date of the enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001. 26 USC 23 note.

(2) CORRECTIONS TO EXCLUSION FOR EMPLOYER-PROVIDED ADOPTION ASSISTANCE.—

(A) Subsection (a) of section 137 is amended to read as follows:

“(a) EXCLUSION.—

“(1) IN GENERAL.—Gross income of an employee does not include amounts paid or expenses incurred by the employer for qualified adoption expenses in connection with the adoption of a child by an employee if such amounts are furnished pursuant to an adoption assistance program.

“(2) \$10,000 EXCLUSION FOR ADOPTION OF CHILD WITH SPECIAL NEEDS REGARDLESS OF EXPENSES.—In the case of an adoption of a child with special needs which becomes final during a taxable year, the qualified adoption expenses with respect to such adoption for such year shall be increased by an amount equal to the excess (if any) of \$10,000 over the actual aggregate qualified adoption expenses with respect to such adoption during such taxable year and all prior taxable years.”.

26 USC 137.

Applicability.
26 USC 23 note.

(B) Paragraph (2) of section 137(b) is amended by striking “subsection (a)(1)” and inserting “subsection (a)”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 2002; except that the amendments made by paragraphs (1)(C), (1)(D), and (2)(B) shall apply to taxable years beginning after December 31, 2001.

(d) AMENDMENTS RELATED TO SECTION 205 OF THE ACT.—

(1) Section 45F(d)(4)(B) is amended by striking “subpart A, B, or D of this part” and inserting “this chapter or for purposes of section 55”.

(2) Section 38(b)(15) is amended by striking “45F” and inserting “45F(a)”.

(e) AMENDMENTS RELATED TO SECTION 301 OF THE ACT.—

(1) Section 63(c)(2) is amended—

(A) in subparagraph (A), by striking “subparagraph (C)” and inserting “subparagraph (D)”,

(B) by striking “or” at the end of subparagraph (B),

(C) by redesignating subparagraph (C) as subparagraph (D),

(D) by inserting after subparagraph (B) the following new subparagraph:

“(C) one-half of the amount in effect under subparagraph (A) in the case of a married individual filing a separate return, or”, and

(E) by inserting the following flush sentence at the end:

“If any amount determined under subparagraph (A) is not a multiple of \$50, such amount shall be rounded to the next lowest multiple of \$50.”.

(2)(A) Section 63(c)(4) is amended by striking “paragraph (2) or (5)” and inserting “paragraph (2)(B), (2)(D), or (5)”.

(B) Section 63(c)(4)(B)(i) is amended by striking “paragraph (2)” and inserting “paragraph (2)(B), (2)(D),”.

(C) Section 63(c)(4) is amended by striking the flush sentence at the end (as added by section 301(c)(2) of Public Law 107-17).

(f) AMENDMENT RELATED TO SECTION 401 OF THE ACT.—Section 530(d)(4)(B)(iv) is amended by striking “because the taxpayer elected under paragraph (2)(C) to waive the application of paragraph (2)” and inserting “by application of paragraph (2)(C)(i)(II)”.

(g) AMENDMENTS RELATED TO SECTION 511 OF THE ACT.—

(1) Section 2511(c) is amended by striking “taxable gift under section 2503,” and inserting “transfer of property by gift,”.

(2) Section 2101(b) is amended by striking the last sentence.

(h) AMENDMENT RELATED TO SECTION 532 OF THE ACT.—Section 2016 is amended by striking “any State, any possession of the United States, or the District of Columbia,”.

(i) AMENDMENTS RELATING TO SECTION 602 OF THE ACT.—

(1) Subparagraph (A) of section 408(q)(3) is amended to read as follows:

“(A) QUALIFIED EMPLOYER PLAN.—The term ‘qualified employer plan’ has the meaning given such term by section 72(p)(4)(A)(i); except that such term shall also include an eligible deferred compensation plan (as defined in section

457(b)) of an eligible employer described in section 457(e)(1)(A).”.

(2) Section 4(c) of Employee Retirement Income Security Act of 1974 is amended—

29 USC 1003.

(A) by inserting “and part 5 (relating to administration and enforcement)” before the period at the end, and

(B) by adding at the end the following new sentence: “Such provisions shall apply to such accounts and annuities in a manner similar to their application to a simplified employee pension under section 408(k) of the Internal Revenue Code of 1986.”.

Applicability.

(j) AMENDMENTS RELATING TO SECTION 611 OF THE ACT.—
(1) Section 408(k) is amended—

26 USC 408.

(A) in paragraph (2)(C) by striking “\$300” and inserting “\$450”, and

(B) in paragraph (8) by striking “\$300” both places it appears and inserting “\$450”.

(2) Section 409(o)(1)(C)(ii) is amended—

(A) by striking “\$500,000” both places it appears and inserting “\$800,000”, and

(B) by striking “\$100,000” and inserting “\$160,000”.

(3) Section 611(i) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new paragraph:

26 USC 415 note.

“(3) SPECIAL RULE.—In the case of plan that, on June 7, 2001, incorporated by reference the limitation of section 415(b)(1)(A) of the Internal Revenue Code of 1986, section 411(d)(6) of such Code and section 204(g)(1) of the Employee Retirement Income Security Act of 1974 do not apply to a plan amendment that—

“(A) is adopted on or before June 30, 2002,

“(B) reduces benefits to the level that would have applied without regard to the amendments made by subsection (a) of this section, and

“(C) is effective no earlier than the years described in paragraph (2).”.

(k) AMENDMENTS RELATING TO SECTION 613 OF THE ACT.—

(1) Section 416(c)(1)(C)(iii) is amended by striking “EXCEPTION FOR FROZEN PLAN” and inserting “EXCEPTION FOR PLAN UNDER WHICH NO KEY EMPLOYEE (OR FORMER KEY EMPLOYEE) BENEFITS FOR PLAN YEAR”.

(2) Section 416(g)(3)(B) is amended by striking “separation from service” and inserting “severance from employment”.

(l) AMENDMENTS RELATING TO SECTIONS 614 and 616 OF THE ACT.—

(1) Section 404(a)(12) is amended by striking “(9),” and inserting “(9) and subsection (h)(1)(C),”.

(2) Section 404(n) is amended by striking “subsection (a),” and inserting “subsection (a) or paragraph (1)(C) of subsection (h)”.

(3) Section 402(h)(2)(A) is amended by striking “15 percent” and inserting “25 percent”.

(4) Section 404(a)(7)(C) is amended to read as follows:

“(C) PARAGRAPH NOT TO APPLY IN CERTAIN CASES.—

“(i) BENEFICIARY TEST.—This paragraph shall not have the effect of reducing the amount otherwise deductible under paragraphs (1), (2), and (3), if no

employee is a beneficiary under more than 1 trust or under a trust and an annuity plan.

“(ii) ELECTIVE DEFERRALS.—If, in connection with 1 or more defined contribution plans and 1 or more defined benefit plans, no amounts (other than elective deferrals (as defined in section 402(g)(3))) are contributed to any of the defined contribution plans for the taxable year, then subparagraph (A) shall not apply with respect to any of such defined contribution plans and defined benefit plans.”.

26 USC 25B. (m) AMENDMENT RELATING TO SECTION 618 OF THE ACT.—Section 25B(d)(2)(A) is amended to read as follows:

“(A) IN GENERAL.—The qualified retirement savings contributions determined under paragraph (1) shall be reduced (but not below zero) by the aggregate distributions received by the individual during the testing period from any entity of a type to which contributions under paragraph (1) may be made. The preceding sentence shall not apply to the portion of any distribution which is not includible in gross income by reason of a trustee-to-trustee transfer or a rollover distribution.”.

(n) AMENDMENTS RELATING TO SECTION 619 OF THE ACT.—

(1) Section 45E(e)(1) is amended by striking “(n)” and inserting “(m)”.

26 USC 38 note.

(2) Section 619(d) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “established” and inserting “first effective”.

(o) AMENDMENTS RELATING TO SECTION 631 OF THE ACT.—

(1) Section 402(g)(1) is amended by adding at the end the following:

“(C) CATCH-UP CONTRIBUTIONS.—In addition to subparagraph (A), in the case of an eligible participant (as defined in section 414(v)), gross income shall not include elective deferrals in excess of the applicable dollar amount under subparagraph (B) to the extent that the amount of such elective deferrals does not exceed the applicable dollar amount under section 414(v)(2)(B)(i) for the taxable year (without regard to the treatment of the elective deferrals by an applicable employer plan under section 414(v)).”.

(2) Section 401(a)(30) is amended by striking “402(g)(1)” and inserting “402(g)(1)(A)”.

(3) Section 414(v)(2) is amended by adding at the end the following:

“(D) AGGREGATION OF PLANS.—For purposes of this paragraph, plans described in clauses (i), (ii), and (iv) of paragraph (6)(A) that are maintained by the same employer (as determined under subsection (b), (c), (m) or (o)) shall be treated as a single plan, and plans described in clause (iii) of paragraph (6)(A) that are maintained by the same employer shall be treated as a single plan.”.

(4) Section 414(v)(3)(A)(i) is amended by striking “section 402(g), 402(h), 403(b), 404(a), 404(h), 408(k), 408(p), 415, or 457” and inserting “sections 401(a)(30), 402(h), 403(b), 408, 415(c), and 457(b)(2) (determined without regard to section 457(b)(3))”.

(5) Section 414(v)(3)(B) is amended by striking “section 401(a)(4), 401(a)(26), 401(k)(3), 401(k)(11), 401(k)(12),

403(b)(12), 408(k), 408(p), 408B, 410(b), or 416” and inserting “section 401(a)(4), 401(k)(3), 401(k)(11), 403(b)(12), 408(k), 410(b), or 416”.

(6) Section 414(v)(4)(B) is amended by inserting before the period at the end the following: “, except that a plan described in clause (i) of section 410(b)(6)(C) shall not be treated as a plan of the employer until the expiration of the transition period with respect to such plan (as determined under clause (ii) of such section)”. 26 USC 414.

(7) Section 414(v)(5) is amended—

(A) by striking “, with respect to any plan year,” in the matter preceding subparagraph (A),

(B) by amending subparagraph (A) to read as follows:

“(A) who would attain age 50 by the end of the taxable year,” and

(C) in subparagraph (B) by striking “plan year” and inserting “plan (or other applicable) year”.

(8) Section 414(v)(6)(C) is amended to read as follows:

“(C) EXCEPTION FOR SECTION 457 PLANS.—This subsection shall not apply to a participant for any year for which a higher limitation applies to the participant under section 457(b)(3).”.

(9) Section 457(e) is amended by adding at the end the following new paragraph:

“(18) COORDINATION WITH CATCH-UP CONTRIBUTIONS FOR INDIVIDUALS AGE 50 OR OLDER.—In the case of an individual who is an eligible participant (as defined by section 414(v)) and who is a participant in an eligible deferred compensation plan of an employer described in paragraph (1)(A), subsections (b)(3) and (c) shall be applied by substituting for the amount otherwise determined under the applicable subsection the greater of—

“(A) the sum of—

“(i) the plan ceiling established for purposes of subsection (b)(2) (without regard to subsection (b)(3)), plus

“(ii) the applicable dollar amount for the taxable year determined under section 414(v)(2)(B)(i), or

“(B) the amount determined under the applicable subsection (without regard to this paragraph).”.

(p) AMENDMENTS RELATING TO SECTION 632 OF THE ACT.—

(1) Section 403(b)(1) is amended in the matter following subparagraph (E) by striking “then amounts contributed” and all that follows and inserting the following:

“then contributions and other additions by such employer for such annuity contract shall be excluded from the gross income of the employee for the taxable year to the extent that the aggregate of such contributions and additions (when expressed as an annual addition (within the meaning of section 415(c)(2))) does not exceed the applicable limit under section 415. The amount actually distributed to any distributee under such contract shall be taxable to the distributee (in the year in which so distributed) under section 72 (relating to annuities). For purposes of applying the rules of this subsection to contributions and other additions by an employer for a taxable year, amounts transferred to a contract described in this paragraph by reason of a rollover contribution described in paragraph

26 USC 403.

(8) of this subsection or section 408(d)(3)(A)(ii) shall not be considered contributed by such employer.”.

(2) Section 403(b) is amended by striking paragraph (6).

(3) Section 403(b)(3) is amended—

(A) in the first sentence by inserting the following before the period at the end: “, and which precedes the taxable year by no more than five years”, and

(B) in the second sentence by striking “or any amount received by a former employee after the fifth taxable year following the taxable year in which such employee was terminated”.

(4) Section 415(c)(7) is amended to read as follows:

“(7) SPECIAL RULES RELATING TO CHURCH PLANS.—

“(A) ALTERNATIVE CONTRIBUTION LIMITATION.—

“(i) IN GENERAL.—Notwithstanding any other provision of this subsection, at the election of a participant who is an employee of a church or a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such participant, when expressed as an annual addition to such participant’s account, shall be treated as not exceeding the limitation of paragraph (1) if such annual addition is not in excess of \$10,000.

“(ii) \$40,000 AGGREGATE LIMITATION.—The total amount of additions with respect to any participant which may be taken into account for purposes of this subparagraph for all years may not exceed \$40,000.

“(B) NUMBER OF YEARS OF SERVICE FOR DULY ORDAINED, COMMISSIONED, OR LICENSED MINISTERS OR LAY EMPLOYEES.—For purposes of this paragraph—

“(i) all years of service by—

“(I) a duly ordained, commissioned, or licensed minister of a church, or

“(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414(e)(3)(B)(ii), shall be considered as years of service for 1 employer, and

“(ii) all amounts contributed for annuity contracts by each such church (or convention or association of churches) or such organization during such years for such minister or lay person shall be considered to have been contributed by 1 employer.

“(C) FOREIGN MISSIONARIES.—In the case of any individual described in subparagraph (D) performing services outside the United States, contributions and other additions for an annuity contract or retirement income account described in section 403(b) with respect to such employee, when expressed as an annual addition to such employee’s account, shall not be treated as exceeding the limitation of paragraph (1) if such annual addition is not in excess of the greater of \$3,000 or the employee’s includible compensation determined under section 403(b)(3).

“(D) ANNUAL ADDITION.—For purposes of this paragraph, the term ‘annual addition’ has the meaning given such term by paragraph (2).

“(E) CHURCH, CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this paragraph, the terms ‘church’ and ‘convention or association of churches’ have the same meaning as when used in section 414(e).”.

(5) Section 457(e)(5) is amended to read as follows:

26 USC 457.

“(5) INCLUDIBLE COMPENSATION.—The term ‘includible compensation’ has the meaning given to the term ‘participant’s compensation’ by section 415(c)(3).”.

(6) Section 402(g)(7)(B) is amended by striking “2001.” and inserting “2001).”.

(q) AMENDMENTS RELATING TO SECTION 643 OF THE ACT.—

(1) Section 401(a)(31)(C)(i) is amended by inserting “is a qualified trust which is part of a plan which is a defined contribution plan and” before “agrees”.

(2) Section 402(c)(2) is amended by adding at the end the following flush sentence:

“In the case of a transfer described in subparagraph (A) or (B), the amount transferred shall be treated as consisting first of the portion of such distribution that is includible in gross income (determined without regard to paragraph (1)).”.

(r) AMENDMENTS RELATING TO SECTION 648 OF THE ACT.—

(1) Section 417(e) is amended—

(A) in paragraph (1) by striking “exceed the dollar limit under section 411(a)(11)(A)” and inserting “exceed the amount that can be distributed without the participant’s consent under section 411(a)(11)”, and

(B) in paragraph (2)(A) by striking “exceeds the dollar limit under section 411(a)(11)(A)” and inserting “exceeds the amount that can be distributed without the participant’s consent under section 411(a)(11)”.

(2) Section 205(g) of the Employee Retirement Income Security Act of 1974 is amended—

29 USC 1055.

(A) in paragraph (1) by striking “exceed the dollar limit under section 203(e)(1)” and inserting “exceed the amount that can be distributed without the participant’s consent under section 203(e)”, and

(B) in paragraph (2)(A) by striking “exceeds the dollar limit under section 203(e)(1)” and inserting “exceeds the amount that can be distributed without the participant’s consent under section 203(e)”.

(s) AMENDMENT RELATING TO SECTION 652 OF THE ACT.—Section 404(a)(1)(D)(iv) is amended by striking “PLANS MAINTAINED BY PROFESSIONAL SERVICE EMPLOYERS” and inserting “SPECIAL RULE FOR TERMINATING PLANS”.

(t) AMENDMENTS RELATING TO SECTION 657 OF THE ACT.—Section 404(c)(3) of the Employee Retirement Income Security Act of 1974 is amended—

29 USC 1104.

(1) by striking “the earlier of” in subparagraph (A) the second place it appears, and

(2) by striking “if the transfer” and inserting “a transfer that”.

(u) AMENDMENTS RELATING TO SECTION 659 OF THE ACT.—

(1) Section 4980F is amended—

(A) in subsection (e)(1) by striking “written notice” and inserting “the notice described in paragraph (2)”;

(B) by amending subsection (f)(2)(A) to read as follows:

“(A) any defined benefit plan described in section 401(a) which includes a trust exempt from tax under section 501(a), or”, and

(C) in subsection (f)(3) by striking “significantly” both places it appears.

29 USC 1054.

(2) Section 204(h)(9) of the Employee Retirement Income Security Act of 1974 is amended by striking “significantly” both places it appears.

26 USC 4980F
note.

(3) Section 659(c)(3)(B) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by striking “(or” and inserting “(and”.

26 USC 412.

(v) AMENDMENTS RELATING TO SECTION 661 OF THE ACT.—

(1) Section 412(c)(9)(B) is amended—

(A) in clause (ii) by striking “125 percent” and inserting “100 percent”, and

(B) by adding at the end the following new clause:

“(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan’s current liability (as defined in paragraph (7)(B)).”.

29 USC 1082.

(2) Section 302(c)(9)(B) of the Employee Retirement Income Security Act of 1974 is amended—

(A) in clause (ii) by striking “125 percent” and inserting “100 percent”, and

(B) by adding at the end the following new clause:

“(iv) A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan’s current liability (as defined in paragraph (7)(B)).”.

(w) AMENDMENTS RELATING TO SECTION 662 OF THE ACT.—

(1) Section 404(k) is amended—

(A) in paragraph (1) by striking “during the taxable year”;

(B) in paragraph (2)(B) by striking “(A)(iii)” and inserting “(A)(iv)”,

(C) in paragraph (4)(B) by striking “(iii)” and inserting “(iv)”, and

(D) by redesignating subparagraph (B) of paragraph (4) (as amended by subparagraph (C)) as subparagraph (C) of paragraph (4) and by inserting after subparagraph (A) the following new subparagraph:

“(B) REINVESTMENT DIVIDENDS.—For purposes of subparagraph (A), an applicable dividend reinvested pursuant to clause (iii)(II) of paragraph (2)(A) shall be treated as paid in the taxable year of the corporation in which such dividend is reinvested in qualifying employer securities or in which the election under clause (iii) of paragraph (2)(A) is made, whichever is later.”.

(2) Section 404(k) is amended by adding at the end the following new paragraph:

“(7) FULL VESTING.—In accordance with section 411, an applicable dividend described in clause (iii)(II) of paragraph (2)(A) shall be subject to the requirements of section 411(a)(1).”.

(x) EFFECTIVE DATE.—Except as provided in subsection (c), the amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate. 26 USC 25B note.

SEC. 412. AMENDMENTS RELATED TO COMMUNITY RENEWAL TAX RELIEF ACT OF 2000.

(a) AMENDMENT RELATED TO SECTION 101 OF THE ACT.—Section 469(i)(3)(E) is amended by striking clauses (ii), (iii), and (iv) and inserting the following: 26 USC 469.

“(ii) second to the portion of such loss to which subparagraph (C) applies,

“(iii) third to the portion of the passive activity credit to which subparagraph (B) or (D) does not apply,

“(iv) fourth to the portion of such credit to which subparagraph (B) applies, and”.

(b) AMENDMENT RELATED TO SECTION 306 OF THE ACT.—Section 151(c)(6)(C) is amended—

(1) by striking “FOR EARNED INCOME CREDIT.—For purposes of section 32, an” and inserting “FOR PRINCIPAL PLACE OF ABODE REQUIREMENTS.—An”, and

(2) by striking “requirement of section 32(c)(3)(A)(ii)” and inserting “principal place of abode requirements of section 2(a)(1)(B), section 2(b)(1)(A), and section 32(c)(3)(A)(ii)”.

(c) AMENDMENT RELATED TO SECTION 309 OF THE ACT.—Subparagraph (A) of section 358(h)(1) is amended to read as follows:

“(A) which is assumed by another person as part of the exchange, and”.

(d) AMENDMENTS RELATED TO SECTION 401 OF THE ACT.—

(1)(A) Section 1234A is amended by inserting “or” after the comma at the end of paragraph (1), by striking “or” at the end of paragraph (2), and by striking paragraph (3).

(B)(i) Section 1234B is amended in subsection (a)(1) and in subsection (b) by striking “sale or exchange” the first place it appears in each subsection and inserting “sale, exchange, or termination”.

(ii) Section 1234B is amended by adding at the end the following new subsection:

“(f) CROSS REFERENCE.—

“For special rules relating to dealer securities futures contracts, see section 1256.”.

(2) Section 1091(e) is amended—

(A) in the heading, by striking “SECURITIES.—” and inserting “SECURITIES AND SECURITIES FUTURES CONTRACTS TO SELL.—”,

(B) by inserting after “closing of a short sale of” the following: “(or the sale, exchange, or termination of a securities futures contract to sell)”,

(C) in paragraph (2), by inserting after “short sale of” the following: “(or securities futures contracts to sell)”, and

(D) by adding at the end the following:

“For purposes of this subsection, the term ‘securities futures contract’ has the meaning provided by section 1234B(c).”.

26 USC 1233.

(3)(A) Section 1233(e)(2) is amended by striking “and” at the end of subparagraph (C), by striking the period and inserting “; and” at the end of subparagraph (D), and inserting after subparagraph (D) the following:

“(E) entering into a securities futures contract (as so defined) to sell shall be considered to be a short sale, and the settlement of such contract shall be considered to be the closing of such short sale.”.

(B) Section 1234B(b) is amended by inserting after “or this section,” the following: “or in section 1233,”.

26 USC 151 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Community Renewal Tax Relief Act of 2000 to which they relate.

SEC. 413. AMENDMENTS RELATED TO THE TAX RELIEF EXTENSION ACT OF 1999.

(a) AMENDMENTS RELATED TO SECTION 545 OF THE ACT.—Section 857(b)(7) is amended—

(1) in clause (i) of subparagraph (B), by striking “the amount of which” and inserting “to the extent the amount of the rents”, and

(2) in subparagraph (C), by striking “if the amount” and inserting “to the extent the amount”.

26 USC 857 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 545 of the Tax Relief Extension Act of 1999.

SEC. 414. AMENDMENTS RELATED TO THE TAXPAYER RELIEF ACT OF 1997.

26 USC 1 note.

(a) AMENDMENTS RELATED TO SECTION 311 OF THE ACT.—Section 311(e) of the Taxpayer Relief Act of 1997 (Public Law 105-34; 111 Stat. 836) is amended—

(1) in paragraph (2)(A), by striking “recognized” and inserting “included in gross income”, and

(2) by adding at the end the following new paragraph:

“(5) DISPOSITION OF INTEREST IN PASSIVE ACTIVITY.—Section 469(g)(1)(A) of the Internal Revenue Code of 1986 shall not apply by reason of an election made under paragraph (1).”.

26 USC 1 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 311 of the Taxpayer Relief Act of 1997.

SEC. 415. AMENDMENT RELATED TO THE BALANCED BUDGET ACT OF 1997.

(a) AMENDMENT RELATED TO SECTION 4006 OF THE ACT.—Section 26(b)(2) is amended by striking “and” at the end of subparagraph (P), by striking the period and inserting “, and” at the end of subparagraph (Q), and by adding at the end the following new subparagraph:

“(R) section 138(c)(2) (relating to penalty for distributions from Medicare+Choice MSA not used for qualified medical expenses if minimum balance not maintained).”.

26 USC 26 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in section 4006 of the Balanced Budget Act of 1997.

SEC. 416. OTHER TECHNICAL CORRECTIONS.**(a) COORDINATION OF ADVANCED PAYMENTS OF EARNED INCOME CREDIT.—**

(1) Section 32(g)(2) is amended by striking “subpart” and inserting “part”. 26 USC 32.

(2) The amendment made by this subsection shall take effect as if included in section 474 of the Tax Reform Act of 1984. Effective date.
26 USC 32 note.

(b) SPECIAL RULE RELATED TO WASH SALE LOSSES.—

(1) Section 1256(f) is amended by adding at the end the following new paragraph:

“(5) SPECIAL RULE RELATED TO LOSSES.—Section 1091 (relating to loss from wash sales of stock or securities) shall not apply to any loss taken into account by reason of paragraph (1) of subsection (a).”

(2) The amendment made by this subsection shall take effect as if included in section 5075 of the Technical and Miscellaneous Revenue Act of 1988. Effective date.
26 USC 1256 note.

(c) DISCLOSURE BY SOCIAL SECURITY ADMINISTRATION TO FEDERAL CHILD SUPPORT AGENCIES.—

(1) Section 6103(l)(8) is amended—

(A) in the heading, by striking “STATE AND LOCAL” and inserting “FEDERAL, STATE, AND LOCAL”, and

(B) in subparagraph (A), by inserting “Federal or” before “State or local”.

(2) The amendments made by this subsection shall take effect on the date of the enactment of this Act. Effective date.
26 USC 6103 note.

(d) TREATMENT OF SETTLEMENTS UNDER PARTNERSHIP AUDIT RULES.—

(1) The following provisions are each amended by inserting “or the Attorney General (or his delegate)” after “Secretary” each place it appears:

(A) Paragraphs (1) and (2) of section 6224(c).

(B) Section 6229(f)(2).

(C) Section 6231(b)(1)(C).

(D) Section 6234(g)(4)(A).

(2) The amendments made by this subsection shall apply with respect to settlement agreements entered into after the date of the enactment of this Act. Applicability.
26 USC 6224 note.

(e) AMENDMENT RELATED TO PROCEDURE AND ADMINISTRATION.—

(1) Section 6331(k)(3) (relating to no levy while certain offers pending or installment agreement pending or in effect) is amended to read as follows:

“(3) CERTAIN RULES TO APPLY.—Rules similar to the rules of—

“(A) paragraphs (3) and (4) of subsection (i), and

“(B) except in the case of paragraph (2)(C), paragraph

(5) of subsection (i), shall apply for purposes of this subsection.”

(2) The amendment made by this subsection shall take effect on the date of the enactment of this Act. Effective date.
26 USC 6331 note.

(f) MODIFIED ENDOWMENT CONTRACTS.—Paragraph (2) of section 318(a) of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A-645) is repealed, and clause (ii) of section 7702A(c)(3)(A) shall read and be applied as if the amendment made by such paragraph had not been enacted. Applicability.
26 USC 7702A and note.

SEC. 417. CLERICAL AMENDMENTS.

26 USC 25B.

(1) The subsection (g) of section 25B that relates to termination is redesignated as subsection (h).

(2) The second sentence of section 42(h)(3)(C) is amended by striking “the amounts described in” and all that follows through the period and inserting “the amounts described in clauses (ii) through (iv) over the aggregate housing credit dollar amount allocated for such year.”.

(3) Clause (ii) of section 42(m)(1)(B) is amended by striking the second “and” at the end of subclause (II) and by inserting “and” at the end of subclause (III).

(4) Section 51A(c)(1) is amended by striking “51(d)(10)” and inserting “51(d)(11)”.

(5) The flush sentence at the end of clause (ii) of section 56(a)(1)(A) is amended by striking “such 1250” and inserting “such section 1250”.

(6) Section 151(c)(6)(B)(iii) is amended by inserting “as” before “such terms”.

(7) Section 170(e)(6)(B)(i)(III) is amended by striking “2000,” and inserting “2000,”.

(8) Section 172(b)(1)(F)(i) is amended—

(A) by striking “3 years” and inserting “3 taxable years”, and

(B) by striking “2 years” and inserting “2 taxable years”.

(9) Section 351(h)(1) is amended by inserting a comma after “liability”.

(10) Section 475(g)(3) is amended by striking “sections” and inserting “section”.

(11) Section 529(e)(3)(B)(i) is amended by striking “subsection (b)(7)” and inserting “subsection (b)(6)”.

(12) Section 741 is amended by striking “which have appreciated substantially in value”.

(13) Section 857(b)(7)(B)(i) is amended by striking “subsection 856(d)” and inserting “section 856(d)”.

(14) Subparagraph (B) of section 943(e)(4) is amended by aligning the left margin of the flush language with subparagraph (A).

(15) Subparagraph (B) of section 995(b)(3) is amended by striking “International Security Assistance and Arms Export Control Act of 1976” and inserting “Arms Export Control Act”.

(16) Section 1394(c)(2) is amended by striking “subparagraph (A)” and inserting “paragraph (1)”.

(17)(A) The section heading for section 4980E is amended to read as follows:

**“SEC. 4980E. FAILURE OF EMPLOYER TO MAKE COMPARABLE ARCHER
MSA CONTRIBUTIONS.”.**

(B) The item relating to section 4980E in the table of sections for chapter 43 is amended to read as follows:

“Sec. 4980E. Failure of employer to make comparable Archer MSA contributions.”.

(18) Section 6105(c)(1) is amended by striking “any” in subparagraphs (C) and (E).

(19)(A) Section 6227(d) is amended by striking “subsection (b)” and inserting “subsection (c)”.

(B) Section 6228 is amended—

(i) in subsection (a)(1), by striking “subsection (b) of section 6227” and inserting “subsection (c) of section 6227”,

(ii) in subsection (a)(3)(A), by striking “subsection (b) of”, and

(iii) in subsections (b)(1) and (b)(2)(A), by striking “subsection (c) of section 6227” and inserting “subsection (d) of section 6227”.

(C) Section 6231(b)(2)(B)(i) is amended by striking “section 6227(c)” and inserting “section 6227(d)”. 26 USC 6231.

(20) Section 1221(b)(1)(B)(i) is amended by striking “1256(b))” and inserting “1256(b))”. 26 USC 1221.

(21) Section 159 of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A-624) is amended by striking “fuctions” and inserting “functions”. 26 USC 1400E note.

(22) The amendment to section 170(e)(6)(B)(iv) made by section 165(b)(1) of the Community Renewal Tax Relief Act of 2000 (114 Stat. 2763A-626) shall be applied as if it struck “in any of the grades K-12”. Applicability. 26 USC 170.

(23) Section 618(b)(2) of the Economic Growth and Tax Relief Reconciliation Act of 2001 (Public Law 107-16; 115 Stat. 108) is amended—

(A) in subparagraph (A) by striking “203(d)” and inserting “202(f)”, and 26 USC 24.

(B) in subparagraphs (C), (D), and (E) by striking “203” and inserting “202(f)”. 26 USC 26, 904, 1400C.

(24)(A) Section 525 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170; 113 Stat. 1928) is amended by striking “7200” and inserting “7201”. 7 USC 7212 note.

(B) Section 532(c)(2) of such Act (113 Stat. 1930) is amended—

(i) in subparagraph (D), by striking “341(d)(3)” and inserting “341(d)”, and 26 USC 341.

(ii) in subparagraph (Q), by striking “954(c)(1)(B)(iii)” and inserting “954(c)(1)(B)”. 26 USC 954.

SEC. 418. ADDITIONAL CORRECTIONS.

(a) AMENDMENTS RELATED TO SECTION 202 OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.—

(1) Subsection (h) of section 23 is amended—

(A) by striking “subsection (a)(1)(B)” and inserting “subsection (a)(3)”, and

(B) by adding at the end the following new flush sentence:

“If any amount as increased under the preceding sentence is not a multiple of \$10, such amount shall be rounded to the nearest multiple of \$10.”.

(2) Subsection (f) of section 137 is amended by adding at the end the following new flush sentence:

“If any amount as increased under the preceding sentence is not a multiple of \$10, such amount shall be rounded to the nearest multiple of \$10.”.

(b) AMENDMENTS RELATED TO SECTION 204 OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001.—Section 21(d)(2) is amended—

(1) in subparagraph (A) by striking “\$200” and inserting “\$250”, and

(2) in subparagraph (B) by striking “\$400” and inserting “\$500”.

26 USC 21 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 to which they relate.

TITLE V—SOCIAL SECURITY HELD HARMLESS; BUDGETARY TREATMENT OF ACT

42 USC 401 note.

SEC. 501. NO IMPACT ON SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Nothing in this Act (or an amendment made by this Act) shall be construed to alter or amend title II of the Social Security Act (or any regulation promulgated under that Act).

(b) TRANSFERS.—

(1) ESTIMATE OF SECRETARY.—The Secretary of the Treasury shall annually estimate the impact that the enactment of this Act has on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401).

(2) TRANSFER OF FUNDS.—If, under paragraph (1), the Secretary of the Treasury estimates that the enactment of this Act has a negative impact on the income and balances of the trust funds established under section 201 of the Social Security Act (42 U.S.C. 401), the Secretary shall transfer, not less frequently than quarterly, from the general revenues of the Federal Government an amount sufficient so as to ensure that the income and balances of such trust funds are not reduced as a result of the enactment of this Act.

SEC. 502. EMERGENCY DESIGNATION.

Congress designates as emergency requirements pursuant to section 252(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 the following amounts:

(1) An amount equal to the amount by which revenues are reduced by this Act below the recommended levels of Federal revenues for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011, provided in the conference report accompanying H. Con. Res. 83, the concurrent resolution on the budget for fiscal year 2002.

(2) Amounts equal to the amounts of new budget authority and outlays provided in this Act in excess of the allocations under section 302(a) of the Congressional Budget Act of 1974 to the Committee on Finance of the Senate for fiscal year 2002, the total of fiscal years 2002 through 2006, and the total of fiscal years 2002 through 2011.

TITLE VI—EXTENSIONS OF CERTAIN EXPIRING PROVISIONS

SEC. 601. ALLOWANCE OF NONREFUNDABLE PERSONAL CREDITS AGAINST REGULAR AND MINIMUM TAX LIABILITY.

- (a) IN GENERAL.—Paragraph (2) of section 26(a) is amended—
- (1) by striking “RULE FOR 2000 AND 2001.—” and inserting “RULE FOR 2000, 2001, 2002, AND 2003.—”, and
- (2) by striking “during 2000 or 2001,” and inserting “during 2000, 2001, 2002, or 2003,”.
- (b) CONFORMING AMENDMENTS.—
- (1) Section 904(h) is amended by striking “during 2000 or 2001” and inserting “during 2000, 2001, 2002, or 2003”.
- (2) The amendments made by sections 201(b), 202(f), and 618(b) of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to taxable years beginning during 2002 and 2003.
- (c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

26 USC 26.

26 USC 23 note.

Applicability.
26 USC 26 note.

SEC. 602. CREDIT FOR QUALIFIED ELECTRIC VEHICLES.

- (a) IN GENERAL.—Section 30 is amended—
- (1) in subsection (b)(2)—
- (A) by striking “December 31, 2001,” and inserting “December 31, 2003,” and
- (B) in subparagraphs (A), (B), and (C), by striking “2002”, “2003”, and “2004”, respectively, and inserting “2004”, “2005”, and “2006”, respectively, and
- (2) in subsection (e), by striking “December 31, 2004” and inserting “December 31, 2006”.
- (b) CONFORMING AMENDMENTS.—
- (1) Subparagraph (C) of section 280F(a)(1) is amended by adding at the end the following new clause:
- “(iii) APPLICATION OF SUBPARAGRAPH.—This subparagraph shall apply to property placed in service after August 5, 1997, and before January 1, 2007.”.
- (2) Subsection (b) of section 971 of the Taxpayer Relief Act of 1997 is amended by striking “and before January 1, 2005”.
- (c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2001.

26 USC 280F
note.Applicability.
26 USC 30 note.

SEC. 603. CREDIT FOR ELECTRICITY PRODUCED FROM CERTAIN RENEWABLE RESOURCES.

- (a) IN GENERAL.—Subparagraphs (A), (B), and (C) of section 45(c)(3) are both amended by striking “2002” and inserting “2004”.
- (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to facilities placed in service after December 31, 2001.

Applicability.
26 USC 45 note.

SEC. 604. WORK OPPORTUNITY CREDIT.

- (a) IN GENERAL.—Subparagraph (B) of section 51(c)(4) is amended by striking “2001” and inserting “2003”.
- (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

Applicability.
26 USC 51 note.

SEC. 605. WELFARE-TO-WORK CREDIT.

26 USC 51A.

(a) IN GENERAL.—Subsection (f) of section 51A is amended by striking “2001” and inserting “2003”.

Applicability.

26 USC 51A note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to individuals who begin work for the employer after December 31, 2001.

SEC. 606. DEDUCTION FOR CLEAN-FUEL VEHICLES AND CERTAIN REFUELING PROPERTY.

(a) IN GENERAL.—Section 179A is amended—

(1) in subsection (b)(1)(B)—

(A) by striking “December 31, 2001,” and inserting “December 31, 2003,” and

(B) in clauses (i), (ii), and (iii), by striking “2002”, “2003”, and “2004”, respectively, and inserting “2004”, “2005”, and “2006”, respectively, and

(2) in subsection (f), by striking “December 31, 2004” and inserting “December 31, 2006”.

Applicability.

26 USC 179A
note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to property placed in service after December 31, 2001.

SEC. 607. TAXABLE INCOME LIMIT ON PERCENTAGE DEPLETION FOR OIL AND NATURAL GAS PRODUCED FROM MARGINAL PROPERTIES.

(a) IN GENERAL.—Subparagraph (H) of section 613A(c)(6) is amended by striking “2002” and inserting “2004”.

Applicability.

26 USC 613A
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2001.

SEC. 608. QUALIFIED ZONE ACADEMY BONDS.

(a) IN GENERAL.—Paragraph (1) of section 1397E(e) is amended by striking “2000, and 2001” and inserting “2000, 2001, 2002, and 2003”.

Applicability.

26 USC 1397E
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to obligations issued after the date of the enactment of this Act.

SEC. 609. COVER OVER OF TAX ON DISTILLED SPIRITS.

(a) IN GENERAL.—Paragraph (1) of section 7652(f) is amended by striking “January 1, 2002” and inserting “January 1, 2004”.

Applicability.

26 USC 7652
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to articles brought into the United States after December 31, 2001.

SEC. 610. PARITY IN THE APPLICATION OF CERTAIN LIMITS TO MENTAL HEALTH BENEFITS.

(a) IN GENERAL.—Subsection (f) of section 9812, as amended by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002, is amended to read as follows:

“(f) APPLICATION OF SECTION.—This section shall not apply to benefits for services furnished—

“(1) on or after September 30, 2001, and before January 10, 2002, and

“(2) after December 31, 2003.”.

26 USC 9812
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to plan years beginning after December 31, 2000.

SEC. 611. TEMPORARY SPECIAL RULES FOR TAXATION OF LIFE INSURANCE COMPANIES.

(a) REDUCTION IN MUTUAL LIFE INSURANCE COMPANY DEDUCTIONS NOT TO APPLY IN CERTAIN YEARS.—Section 809 (relating to reduction in certain deductions of material life insurance companies) is amended by adding at the end the following:

“(j) DIFFERENTIAL EARNINGS RATE TREATED AS ZERO FOR CERTAIN YEARS.—Notwithstanding subsection (c) or (f), the differential earnings rate shall be treated as zero for purposes of computing both the differential earnings amount and the recomputed differential earnings amount for a mutual life insurance company’s taxable years beginning in 2001, 2002, or 2003.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2000.

Applicability.
26 USC 809 note.

SEC. 612. AVAILABILITY OF MEDICAL SAVINGS ACCOUNTS.

(a) IN GENERAL.—Paragraphs (2) and (3)(B) of section 220(i) (defining cut-off year) are each amended by striking “2002” each place it appears and inserting “2003”.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 220(j) is amended by striking “1998, 1999, or 2001” each place it appears and inserting “1998, 1999, 2001, or 2002”.

(2) Subparagraph (A) of section 220(j)(4) is amended by striking “and 2001” and inserting “2001, and 2002”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2002.

26 USC 220 note.

SEC. 613. INCENTIVES FOR INDIAN EMPLOYMENT AND PROPERTY ON INDIAN RESERVATIONS.

(a) EMPLOYMENT.—Subsection (f) of section 45A is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

(b) PROPERTY.—Paragraph (8) of section 168(j) is amended by striking “December 31, 2003” and inserting “December 31, 2004”.

SEC. 614. SUBPART F EXEMPTION FOR ACTIVE FINANCING.

(a) IN GENERAL.—

(1) Section 953(e)(10) is amended—

(A) by striking “January 1, 2002” and inserting “January 1, 2007”, and

(B) by striking “December 31, 2001” and inserting “December 31, 2006”.

(2) Section 954(h)(9) is amended by striking “January 1, 2002” and inserting “January 1, 2007”.

(b) LIFE INSURANCE AND ANNUITY CONTRACTS.—

(1) IN GENERAL.—Subparagraph (B) of section 954(i)(4) is amended to read as follows:

“(B) LIFE INSURANCE AND ANNUITY CONTRACTS.—

“(i) IN GENERAL.—Except as provided in clause (ii), the amount of the reserve of a qualifying insurance company or qualifying insurance company branch for any life insurance or annuity contract shall be equal to the greater of—

“(I) the net surrender value of such contract (as defined in section 807(e)(1)(A)), or

“(II) the reserve determined under paragraph (5).

“(ii) RULING REQUEST, ETC.—The amount of the reserve under clause (i) shall be the foreign statement reserve for the contract (less any catastrophe, deficiency, equalization, or similar reserves), if, pursuant to a ruling request submitted by the taxpayer or as provided in published guidance, the Secretary determines that the factors taken into account in determining the foreign statement reserve provide an appropriate means of measuring income.”.

Applicability.
26 USC 953 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2001.

SEC. 615. REPEAL OF REQUIREMENT FOR APPROVED DIESEL OR KEROSENE TERMINALS.

26 USC 4101.

(a) IN GENERAL.—Subsection (e) of section 4101 is hereby repealed.

26 USC 4101
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2002.

SEC. 616. REAUTHORIZATION OF TANF SUPPLEMENTAL GRANTS FOR POPULATION INCREASES FOR FISCAL YEAR 2002.

Section 403(a)(3) of the Social Security Act (42 U.S.C. 603(a)(3)) is amended by adding at the end the following:

“(H) REAUTHORIZATION OF GRANTS FOR FISCAL YEAR 2002.—Notwithstanding any other provision of this paragraph—

“(i) any State that was a qualifying State under this paragraph for fiscal year 2001 or any prior fiscal year shall be entitled to receive from the Secretary for fiscal year 2002 a grant in an amount equal to the amount required to be paid to the State under this paragraph for the most recent fiscal year in which the State was a qualifying State;

Applicability.

“(ii) subparagraph (G) shall be applied as if ‘2002’ were substituted for ‘2001’; and

“(iii) out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated for fiscal year 2002 such sums as are necessary for grants under this subparagraph.”.

SEC. 617. 1-YEAR EXTENSION OF CONTINGENCY FUND UNDER THE TANF PROGRAM.

Section 403(b) of the Social Security Act (42 U.S.C. 603(b)) is amended—

(1) in paragraph (2), by striking “and 2001” and inserting “2001, and 2002”; and

(2) in paragraph (3)(C)(ii), by striking “2001” and inserting “2002”.

Approved March 9, 2002.

LEGISLATIVE HISTORY—H.R. 3090:

HOUSE REPORTS: No. 107-251 (Comm. on Ways and Means).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 24, considered and passed House.

Nov. 13, 14, considered in Senate.

Vol. 148 (2002): Feb. 14, considered and passed Senate, amended.

Mar. 7, House concurred in Senate amendment with an amendment. House amendment considered in Senate.

Mar. 8, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Mar. 9, Presidential remarks.



Public Law 107–148
107th Congress

An Act

Mar. 11, 2002
[H.R. 2998]

To authorize the establishment of Radio Free Afghanistan.

Radio Free
Afghanistan Act.
22 USC 6201
note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Radio Free Afghanistan Act”.

22 USC 6215.

SEC. 2. ESTABLISHMENT OF RADIO FREE AFGHANISTAN.

Deadline.
Reports.

(a) **REQUIREMENT OF A DETAILED PLAN.**—Not later than 15 days after the date of enactment of this Act, RFE/RL, Incorporated, shall submit to the Broadcasting Board of Governors a report setting forth a detailed plan for the provision by RFE/RL, Incorporated, of surrogate broadcasting services in the Dari and Pashto languages to Afghanistan. Such broadcasting services shall be known as “Radio Free Afghanistan”.

(b) **GRANT AUTHORITY.**—

Effective date.

(1) **IN GENERAL.**—Effective 15 days after the date of enactment of this Act, or the date on which the report required by subsection (a) is submitted, whichever is later, the Broadcasting Board of Governors is authorized to make grants to support Radio Free Afghanistan.

(2) **SUPERSEDES EXISTING LIMITATION ON TOTAL ANNUAL GRANT AMOUNTS.**—Grants made to RFE/RL, Incorporated, during the fiscal year 2002 for support of Radio Free Afghanistan may be made without regard to section 308(c) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(c)).

(c) **AVAILABLE AUTHORITIES.**—In addition to the authorities in this Act, the authorities applicable to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948, the United States International Broadcasting Act of 1994, the Foreign Affairs Reform and Restructuring Act of 1998, and other provisions of law consistent with such purpose may be used to carry out the grant authority of subsection (b).

(d) **STANDARDS; OVERSIGHT.**—Radio Free Afghanistan shall adhere to the same standards of professionalism and accountability, and shall be subject to the same oversight mechanisms, as other services of RFE/RL, Incorporated.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—In addition to such amounts as are otherwise available for such purposes, the following amounts are authorized

to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948, the United States International Broadcasting Act of 1994, the Foreign Affairs Reform and Restructuring Act of 1998, and this Act, and to carry out other authorities in law consistent with such purposes:

(1) For “International Broadcasting Operations”, \$8,000,000 for the fiscal year 2002.

(2) For “Broadcasting Capital Improvements”, \$9,000,000 for the fiscal year 2002.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to subsection (a) are authorized to remain available until expended.

SEC. 4. REPEAL OF BAN ON UNITED STATES TRANSMITTER IN KUWAIT.

Section 226 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236; 108 Stat. 423), is repealed.

Approved Mar. 11, 2002.

LEGISLATIVE HISTORY—H.R. 2998 (S. 1779):

SENATE REPORTS: No. 107-125 accompanying S. 1779 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 6, 7, considered and passed House.

Vol. 148 (2002): Feb. 7, considered and passed Senate, amended, in lieu of S. 1779.

Feb. 12, House concurred in Senate amendment.



Public Law 107–149
107th Congress

An Act

Mar. 12, 2002
[S. 1206]

To reauthorize the Appalachian Regional Development Act of 1965, and for other purposes.

Appalachian
Regional
Development Act
Amendments of
2002.
40 USC app. 1
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Appalachian Regional Development Act Amendments of 2002”.

SEC. 2. PURPOSES.

40 USC app. 2
note.

(a) THIS ACT.—The purposes of this Act are—

(1) to reauthorize the Appalachian Regional Development Act of 1965 (40 U.S.C. App.); and

(2) to ensure that the people and businesses of the Appalachian region have the knowledge, skills, and access to telecommunication and technology services necessary to compete in the knowledge-based economy of the United States.

40 USC app. 2.

(b) APPALACHIAN REGIONAL DEVELOPMENT ACT OF 1965.—Section 2 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in subsection (b), by inserting after the third sentence the following: “Consistent with the goal described in the preceding sentence, the Appalachian region should be able to take advantage of eco-industrial development, which promotes both employment and economic growth and the preservation of natural resources.”; and

(2) in subsection (c)(2)(B)(ii), by inserting “, including eco-industrial development technologies” before the semicolon.

SEC. 3. FUNCTIONS OF THE COMMISSION.

40 USC app. 102.

Section 102(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in paragraph (5), by inserting “, and support,” after “formation of”;

(2) in paragraph (7), by striking “and” at the end;

(3) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(9) encourage the use of eco-industrial development technologies and approaches; and

“(10) seek to coordinate the economic development activities of, and the use of economic development resources by, Federal agencies in the region.”.

SEC. 4. INTERAGENCY COORDINATING COUNCIL ON APPALACHIA.

Section 104 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

40 USC app. 104.

(1) by striking “The President” and inserting “(a) IN GENERAL.—The President”; and

(2) by adding at the end the following:

“(b) INTERAGENCY COORDINATING COUNCIL ON APPALACHIA.—

“(1) ESTABLISHMENT.—In carrying out subsection (a), the President shall establish an interagency council to be known as the ‘Interagency Coordinating Council on Appalachia’.

“(2) MEMBERSHIP.—The Council shall be composed of—

“(A) the Federal Cochairman, who shall serve as Chairperson of the Council; and

“(B) representatives of Federal agencies that carry out economic development programs in the region.”.

SEC. 5. TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.

Title II of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by inserting after section 202 the following:

“SEC. 203. TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.

40 USC app. 203.

“(a) IN GENERAL.—The Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide funds to persons or entities in the region for projects—

“(1) to increase affordable access to advanced telecommunications, entrepreneurship, and management technologies or applications in the region;

“(2) to provide education and training in the use of telecommunications and technology;

“(3) to develop programs to increase the readiness of industry groups and businesses in the region to engage in electronic commerce; or

“(4) to support entrepreneurial opportunities for businesses in the information technology sector.

“(b) SOURCE OF FUNDING.—

“(1) IN GENERAL.—Assistance under this section may be provided—

“(A) exclusively from amounts made available to carry out this section; or

“(B) from amounts made available to carry out this section in combination with amounts made available under any other Federal program or from any other source.

“(2) FEDERAL SHARE REQUIREMENTS SPECIFIED IN OTHER LAWS.—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission determines to be appropriate.

“(c) COST SHARING FOR GRANTS.—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of the costs of any activity eligible for a grant under this section may be provided from funds appropriated to carry out this section.”.

SEC. 6. ENTREPRENEURSHIP INITIATIVE.

Title II of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by inserting after section 203 (as added by section 5) the following:

40 USC app. 204. **“SEC. 204. ENTREPRENEURSHIP INITIATIVE.**

“(a) **DEFINITION OF BUSINESS INCUBATOR SERVICE.**—In this section, the term ‘business incubator service’ means a professional or technical service necessary for the initiation and initial sustainment of the operations of a newly established business, including a service such as—

“(1) a legal service, including aid in preparing a corporate charter, partnership agreement, or basic contract;

“(2) a service in support of the protection of intellectual property through a patent, a trademark, or any other means;

“(3) a service in support of the acquisition and use of advanced technology, including the use of Internet services and Web-based services; and

“(4) consultation on strategic planning, marketing, or advertising.

“(b) **PROJECTS TO BE ASSISTED.**—The Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide funds to persons or entities in the region for projects—

“(1) to support the advancement of, and provide, entrepreneurial training and education for youths, students, and businesspersons;

“(2) to improve access to debt and equity capital by such means as facilitating the establishment of development venture capital funds;

“(3) to aid communities in identifying, developing, and implementing development strategies for various sectors of the economy; and

“(4)(A) to develop a working network of business incubators; and

“(B) to support entities that provide business incubator services.

“(c) **SOURCE OF FUNDING.**—

“(1) **IN GENERAL.**—Assistance under this section may be provided—

“(A) exclusively from amounts made available to carry out this section; or

“(B) from amounts made available to carry out this section in combination with amounts made available under any other Federal program or from any other source.

“(2) **FEDERAL SHARE REQUIREMENTS SPECIFIED IN OTHER LAWS.**—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission determines to be appropriate.

“(d) **COST SHARING FOR GRANTS.**—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of the costs of any activity eligible for a grant under this section may be provided from funds appropriated to carry out this section.”.

SEC. 7. REGIONAL SKILLS PARTNERSHIPS.

Title II of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by inserting after section 204 (as added by section 6) the following:

“SEC. 205. REGIONAL SKILLS PARTNERSHIPS.

40 USC app. 205.

“(a) **DEFINITION OF ELIGIBLE ENTITY.**—In this section, the term ‘eligible entity’ means a consortium that—

“(1) is established to serve 1 or more industries in a specified geographic area; and

“(2) consists of representatives of—

“(A) businesses (or a nonprofit organization that represents businesses);

“(B) labor organizations;

“(C) State and local governments; or

“(D) educational institutions.

“(b) **PROJECTS TO BE ASSISTED.**—The Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide funds to eligible entities in the region for projects to improve the job skills of workers for a specified industry, including projects for—

“(1) the assessment of training and job skill needs for the industry;

“(2) the development of curricula and training methods, including, in appropriate cases, electronic learning or technology-based training;

“(3)(A) the identification of training providers; and

“(B) the development of partnerships between the industry and educational institutions, including community colleges;

“(4) the development of apprenticeship programs;

“(5) the development of training programs for workers, including dislocated workers; and

“(6) the development of training plans for businesses.

“(c) **ADMINISTRATIVE COSTS.**—An eligible entity may use not more than 10 percent of the funds made available to the eligible entity under subsection (b) to pay administrative costs associated with the projects described in subsection (b).

“(d) **SOURCE OF FUNDING.**—

“(1) **IN GENERAL.**—Assistance under this section may be provided—

“(A) exclusively from amounts made available to carry out this section; or

“(B) from amounts made available to carry out this section in combination with amounts made available under any other Federal program or from any other source.

“(2) **FEDERAL SHARE REQUIREMENTS SPECIFIED IN OTHER LAWS.**—Notwithstanding any provision of law limiting the Federal share under any other Federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission determines to be appropriate.

“(e) **COST SHARING FOR GRANTS.**—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 226) of the costs of any activity eligible for a grant under this section may be provided from funds appropriated to carry out this section.”.

SEC. 8. PROGRAM DEVELOPMENT CRITERIA.

(a) **ELIMINATION OF GROWTH CENTER CRITERIA.**—Section 224(a)(1) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “in an area determined by the State have a significant potential for growth or”.

(b) **ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.**—Section 224 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by adding at the end the following:

“(d) **ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.**—For fiscal year 2003 and each fiscal year thereafter, not less than 50 percent of the amount of grant expenditures approved by the Commission shall support activities or projects that benefit severely and persistently distressed counties and areas.”.

SEC. 9. GRANTS FOR ADMINISTRATIVE EXPENSES OF LOCAL DEVELOPMENT DISTRICTS.

Section 302(a)(1)(A)(i) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by inserting “(or, at the discretion of the Commission, 75 percent of such expenses in the case of a local development district that has a charter or authority that includes the economic development of a county or part of a county for which a distressed county designation is in effect under section 226)” after “such expenses”.

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

Section 401 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended to read as follows:

“SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

“(a) **IN GENERAL.**—In addition to amounts authorized by section 201 and other amounts made available for the Appalachian development highway system program, there are authorized to be appropriated to the Commission to carry out this Act—

“(1) \$88,000,000 for each of fiscal years 2002 through 2004;

“(2) \$90,000,000 for fiscal year 2005; and

“(3) \$92,000,000 for fiscal year 2006.

“(b) **TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.**—Of the amounts made available under subsection (a), the following amounts may be made available to carry out section 203:

“(1) \$10,000,000 for fiscal year 2002.

“(2) \$8,000,000 for fiscal year 2003.

“(3) \$5,000,000 for each of fiscal years 2004 through 2006.

“(c) **AVAILABILITY.**—Sums made available under subsection (a) shall remain available until expended.”.

SEC. 11. ADDITION OF COUNTIES TO APPALACHIAN REGION.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the third undesignated paragraph (relating to Kentucky)—

(A) by inserting “Edmonson,” after “Cumberland,”;

(B) by inserting “Hart,” after “Harlan,”; and

(C) by striking “Montgomery,” and inserting “Montgomery,”; and

(2) in the fifth undesignated paragraph (relating to Mississippi)—

(A) by inserting “Montgomery,” after “Monroe,”; and

(B) by inserting “Panola,” after “Oktibbeha,”.

SEC. 12. TERMINATION.

Section 405 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “2001” and inserting “2006”. 40 USC app. 405.

SEC. 13. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 101(b) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the third sentence by striking “implementing investment program” and inserting “strategy statement”. 40 USC app. 101.

(b) Section 106(7) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “expiring no later than September 30, 2001”. 40 USC app. 106.

(c) Sections 202, 214, and 302(a)(1)(C) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) are amended by striking “grant-in-aid programs” each place it appears and inserting “grant programs”. 40 USC app. 202, 214, 302.

(d) Section 202(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the second sentence by striking “title VI of the Public Health Service Act (42 U.S.C. 291–291o), the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (77 Stat. 282),” and inserting “title VI of the Public Health Service Act (42 U.S.C. 291 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.)”. 40 USC app. 202.

(e) Section 207(a) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “section 221 of the National Housing Act, section 8 of the United States Housing Act of 1937, section 515 of the Housing Act of 1949,” and inserting “section 221 of the National Housing Act (12 U.S.C. 1715l), section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), section 515 of the Housing Act of 1949 (42 U.S.C. 1485),”. 40 USC app. 207.

(f) Section 214 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended— 40 USC app. 214.

(1) in the section heading, by striking “GRANT-IN-AID” and inserting “GRANT”;

(2) in subsection (a)—

(A) by striking “grant-in-aid Act” each place it appears and inserting “Act”;

(B) in the first sentence, by striking “grant-in-aid Acts” and inserting “Acts”;

(C) by striking “grant-in-aid program” each place it appears and inserting “grant program”; and

(D) by striking the third sentence;

(3) by striking subsection (c) and inserting the following:

“(c) DEFINITION OF FEDERAL GRANT PROGRAM.—

“(1) IN GENERAL.—In this section, the term ‘Federal grant program’ means any Federal grant program authorized by this Act or any other Act that provides assistance for—

“(A) the acquisition or development of land;

“(B) the construction or equipment of facilities; or

“(C) any other community or economic development or economic adjustment activity.

“(2) INCLUSIONS.—In this section, the term ‘Federal grant program’ includes a Federal grant program such as a Federal grant program authorized by—

“(A) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

“(B) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.);

“(C) the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.);

“(D) the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.);

“(E) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

“(F) title VI of the Public Health Service Act (42 U.S.C. 291 et seq.);

“(G) sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141, 3149);

“(H) title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); or

“(I) part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.).

“(3) EXCLUSIONS.—In this section, the term ‘Federal grant program’ does not include—

“(A) the program for construction of the Appalachian development highway system authorized by section 201;

“(B) any program relating to highway or road construction authorized by title 23, United States Code; or

“(C) any other program under this Act or any other Act to the extent that a form of financial assistance other than a grant is authorized.”; and

(4) by striking subsection (d).

40 USC app. 224. (g) Section 224(a)(2) of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended by striking “relative per capita income” and inserting “per capita market income”.

40 USC app. 225. (h) Section 225 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.)—

(1) in subsection (a)(3), by striking “development program” and inserting “development strategies”; and

(2) in subsection (c)(2), by striking “development programs” and inserting “development strategies”.

40 USC app. 303. (i) Section 303 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended—

(1) in the section heading, by striking “INVESTMENT PROGRAMS” and inserting “STRATEGY STATEMENTS”;

(2) in the first sentence, by striking “implementing investments programs” and inserting “strategy statements”; and

(3) by striking “implementing investment program” each place it appears and inserting “strategy statement”.

(j) Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App.) is amended in the next-to-last undesignated paragraph by striking “Committee on Public Works and Transportation” and inserting “Committee on Transportation and Infrastructure”. 40 USC app. 403.

Approved March 12, 2002.

LEGISLATIVE HISTORY—S. 1206 (H.R. 2501):

HOUSE REPORTS: No. 107-180 accompanying H.R. 2501 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 107-132 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Feb. 8, considered and passed Senate.

Feb. 26, considered and passed House.



Public Law 107–150
107th Congress

An Act

Mar. 13, 2002
[H.R. 1892]

Family Sponsor
Immigration Act
of 2002.
8 USC 1101 note.

To amend the Immigration and Nationality Act to provide for the acceptance of an affidavit of support from another eligible sponsor if the original sponsor has died and the Attorney General has determined for humanitarian reasons that the original sponsor's classification petition should not be revoked.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Family Sponsor Immigration Act of 2002”.

SEC. 2. SUBSTITUTION OF ALTERNATIVE SPONSOR IF ORIGINAL SPONSOR HAS DIED.

(a) PERMITTING SUBSTITUTION OF ALTERNATIVE CLOSE FAMILY SPONSOR IN CASE OF DEATH OF PETITIONER.—

(1) RECOGNITION OF ALTERNATIVE SPONSOR.—Section 213A(f)(5) of the Immigration and Nationality Act (8 U.S.C. 1183a(f)(5)) is amended to read as follows:

“(5) NON-PETITIONING CASES.—Such term also includes an individual who does not meet the requirement of paragraph (1)(D) but who—

“(A) accepts joint and several liability with a petitioning sponsor under paragraph (2) or relative of an employment-based immigrant under paragraph (4) and who demonstrates (as provided under paragraph (6)) the means to maintain an annual income equal to at least 125 percent of the Federal poverty line; or

“(B) is a spouse, parent, mother-in-law, father-in-law, sibling, child (if at least 18 years of age), son, daughter, son-in-law, daughter-in-law, sister-in-law, brother-in-law, grandparent, or grandchild of a sponsored alien or a legal guardian of a sponsored alien, meets the requirements of paragraph (1) (other than subparagraph (D)), and executes an affidavit of support with respect to such alien in a case in which—

“(i) the individual petitioning under section 204 for the classification of such alien died after the approval of such petition; and

“(ii) the Attorney General has determined for humanitarian reasons that revocation of such petition under section 205 would be inappropriate.”.

(2) CONFORMING AMENDMENT PERMITTING SUBSTITUTION.—Section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) is amended by striking “(including any additional sponsor

required under section 213A(f)” and inserting “(and any additional sponsor required under section 213A(f) or any alternative sponsor permitted under paragraph (5)(B) of such section)”.

(3) ADDITIONAL CONFORMING AMENDMENTS.—Section 213A(f) of such Act (8 U.S.C. 1183a(f)) is amended, in each of paragraphs (2) and (4)(B)(ii), by striking “(5).” and inserting “(5)(A).”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to deaths occurring before, on, or after the date of the enactment of this Act, except that, in the case of a death occurring before such date, such amendments shall apply only if—

Applicability.
8 USC 1182 note.

(1) the sponsored alien—

(A) requests the Attorney General to reinstate the classification petition that was filed with respect to the alien by the deceased and approved under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) before such death; and

(B) demonstrates that he or she is able to satisfy the requirement of section 212(a)(4)(C)(ii) of such Act (8 U.S.C. 1182(a)(4)(C)(ii)) by reason of such amendments; and

(2) the Attorney General reinstates such petition after making the determination described in section 213A(f)(5)(B)(ii) of such Act (as amended by subsection (a)(1) of this Act).

Approved March 13, 2002.

LEGISLATIVE HISTORY—H.R. 1892:

HOUSE REPORTS: No. 107–127 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): July 23, considered and passed House.

Dec. 20, considered and passed Senate, amended.

Vol. 148 (2002): Feb. 26, House concurred in Senate amendment.



Public Law 107-151
107th Congress

An Act

Mar. 13, 2002
[H.R. 3699]

To revise certain grants for continuum of care assistance for homeless individual and families.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Liberty Center
for the Homeless
Incorporated.
Florida.

SECTION 1. TREATMENT OF CERTAIN HOMELESS ASSISTANCE GRANTS.

Notwithstanding any other provision of law, the Notice of Funding Availability for Continuum of Care Homeless Assistance Programs for fiscal year 2001, or any action taken in furtherance of such Notice, the Secretary of Housing and Urban Development shall not award a grant pursuant to such Notice to Liberty Center for the Homeless Incorporated in excess of \$459,600. If an award has been made to such Center in excess of such amount before the date of the enactment of this Act, the Secretary shall modify the award and distribute the amounts in excess of \$459,600 to other applicants from the Jacksonville, Florida, Continuum of Care in the order listed in the project priority chart contained in their application.

Approved March 13, 2002.

LEGISLATIVE HISTORY—H.R. 3699:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Feb. 12, considered and passed House.

Feb. 25, considered and passed Senate.



Public Law 107–152
107th Congress

Joint Resolution

Congratulating the United States Military Academy at West Point on its bicentennial anniversary, and commending its outstanding contributions to the Nation.

Mar. 14, 2002
[S.J. Res. 32]

- Whereas establishing a military academy to teach the technical arts of war was a desire of many of our founding fathers, particularly George Washington;
- Whereas Congress passed legislation on March 16, 1802, to establish such a military academy to be located at West Point, New York, a site that Washington called the key to the continent because of its strategic importance during the Revolution;
- Whereas President Thomas Jefferson signed the legislation establishing the United States Military Academy at West Point, an institution dedicated to promoting scientific education to benefit the Nation and to attracting a diverse array of young citizens to the Nation's military leadership;
- Whereas Sylvanus Thayer, who served as Superintendent of the Academy from 1817 to 1833, established the foundation of the Academy's strong academic program, strict adherence to discipline, and emphasis on moral and ethical conduct;
- Whereas under Douglas MacArthur's leadership as Superintendent from 1919 to 1922, the Academy was modernized to prepare its graduates for the challenges of the 20th century;
- Whereas the Academy, the first school in America to teach engineering, produced graduates who were responsible for the construction of the Nation's first railroad lines and many of its early harbor improvements, bridges, roads, and canals;
- Whereas Academy graduates introduced engineering education to numerous colleges and universities, and carried out such monumental engineering projects as the construction of the Panama Canal project;
- Whereas Academy graduates have also distinguished themselves in the leadership of such innovative scientific research and development projects as the development of atomic bombs in the Manhattan Project during World War II;
- Whereas Academy graduates have served with character and distinction in all of America's wars and military actions since the War of 1812;
- Whereas 74 Academy graduates have earned the Nation's highest military honor, the Medal of Honor;
- Whereas 2 Academy graduates, Ulysses S. Grant and Dwight D. Eisenhower, served both as distinguished general officers and as the President of the United States, and many other graduates have served in all levels of government;

Whereas dozens of Academy graduates have been astronauts, including the Academy graduate who is the first American to walk in space and 2 Academy graduates who walked on the moon;

Whereas hundreds of Academy graduates have utilized their talents in the private sector, to provide managerial and technical expertise that is responsible, in part, for nurturing and sustaining a system of enterprise that is admired around the world;

Whereas the Academy has provided an opportunity for men and women of all races, religions, and cultures to receive a college education and to begin a life of service to the Army and the Nation; and

Whereas the motto of the Academy, “Duty, Honor, Country”, exemplifies the spirit of this Republic: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress congratulates the United States Military Academy on its bicentennial anniversary, recognizes it as an outstanding leadership development institution that upholds and promotes the highest virtues of American society, and commends all those who have led and taught at the Academy for inculcating its 58,000 graduates with moral, ethical, and intellectual values and skills that are the foundations for the dedicated service so honorably given by those graduates to the Army, the Nation, and friends of freedom and liberty around the world for 200 years.

Approved March 14, 2002.

LEGISLATIVE HISTORY—S.J. Res. 32:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Feb. 25, considered and passed Senate.

Mar. 6, considered and passed House.



Public Law 107–153
107th Congress

An Act

To encourage the negotiated settlement of tribal claims.

Mar. 19, 2002

[S. 1857]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SETTLEMENT OF TRIBAL CLAIMS.

25 USC 4044
note.

(a) IN GENERAL.—Notwithstanding any other provision of law, for purposes of determining the date on which an Indian tribe received a reconciliation report for purposes of applying a statute of limitations, any such report provided to or received by an Indian tribe in response to section 304 of the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4044) shall be deemed to have been received by the Indian tribe on December 31, 1999.

(b) STATEMENT OF PURPOSE.—Subsection (a) is solely intended to provide recipients of reconciliation reports with the opportunity to postpone the filing of claims, or to facilitate the voluntary dismissal of claims, to encourage settlement negotiations with the United States.

Approved March 19, 2002.

LEGISLATIVE HISTORY—S. 1857:

SENATE REPORTS: No. 107–138 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Feb. 26, considered and passed Senate.

Mar. 6, considered and passed House.



Public Law 107–154
107th Congress

An Act

Mar. 25, 2002
[H.R. 3986]

To extend the period of availability of unemployment assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in the case of victims of the terrorist attacks of September 11, 2001.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

President.

SECTION 1. EXTENSION OF UNEMPLOYMENT ASSISTANCE.

Notwithstanding section 410(a) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5177(a)), in the case of any individual eligible to receive unemployment assistance under section 410(a) of that Act as a result of the terrorist attacks of September 11, 2001, the President shall make such assistance available for 39 weeks after the major disaster is declared.

Approved March 25, 2002.

LEGISLATIVE HISTORY—H.R. 3986:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 19, considered and passed House.

Mar. 20, considered and passed Senate.



Public Law 107–155
107th Congress

An Act

To amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Mar. 27, 2002
[H.R. 2356]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Bipartisan Campaign Reform Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Bipartisan
Campaign
Reform Act of
2002.
2 USC 431 note.

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.

Sec. 102. Increased contribution limit for State committees of political parties.

Sec. 103. Reporting requirements.

TITLE II—NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A—Electioneering Communications

Sec. 201. Disclosure of electioneering communications.

Sec. 202. Coordinated communications as contributions.

Sec. 203. Prohibition of corporate and labor disbursements for electioneering communications.

Sec. 204. Rules relating to certain targeted electioneering communications.

Subtitle B—Independent and Coordinated Expenditures

Sec. 211. Definition of independent expenditure.

Sec. 212. Reporting requirements for certain independent expenditures.

Sec. 213. Independent versus coordinated expenditures by party.

Sec. 214. Coordination with candidates or political parties.

TITLE III—MISCELLANEOUS

Sec. 301. Use of contributed amounts for certain purposes.

Sec. 302. Prohibition of fundraising on Federal property.

Sec. 303. Strengthening foreign money ban.

Sec. 304. Modification of individual contribution limits in response to expenditures from personal funds.

Sec. 305. Limitation on availability of lowest unit charge for Federal candidates attacking opposition.

Sec. 306. Software for filing reports and prompt disclosure of contributions.

Sec. 307. Modification of contribution limits.

Sec. 308. Donations to Presidential inaugural committee.

Sec. 309. Prohibition on fraudulent solicitation of funds.

Sec. 310. Study and report on clean money clean elections laws.

Sec. 311. Clarity standards for identification of sponsors of election-related advertising.

Sec. 312. Increase in penalties.

Sec. 313. Statute of limitations.

Sec. 314. Sentencing guidelines.

Sec. 315. Increase in penalties imposed for violations of conduit contribution ban.

- Sec. 316. Restriction on increased contribution limits by taking into account candidate's available funds.
- Sec. 317. Clarification of right of nationals of the United States to make political contributions.
- Sec. 318. Prohibition of contributions by minors.
- Sec. 319. Modification of individual contribution limits for House candidates in response to expenditures from personal funds.

TITLE IV—SEVERABILITY; EFFECTIVE DATE

- Sec. 401. Severability.
- Sec. 402. Effective dates and regulations.
- Sec. 403. Judicial review.

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

- Sec. 501. Internet access to records.
- Sec. 502. Maintenance of website of election reports.
- Sec. 503. Additional disclosure reports.
- Sec. 504. Public access to broadcasting records.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

2 USC 441i.

“SEC. 323. SOFT MONEY OF POLITICAL PARTIES.

“(a) NATIONAL COMMITTEES.—

“(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

“(2) APPLICABILITY.—The prohibition established by paragraph (1) applies to any such national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee.

“(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an association or similar group of candidates for State or local office or of individuals holding State or local office, shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

“(2) APPLICABILITY.—

“(A) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such

clause to the extent the amounts expended or disbursed for such activity are allocated (under regulations prescribed by the Commission) among amounts—

“(i) which consist solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act (other than amounts described in subparagraph (B)(iii)); and

“(ii) other amounts which are not subject to the limitations, prohibitions, and reporting requirements of this Act (other than any requirements of this subsection).

“(B) CONDITIONS.—Subparagraph (A) shall only apply if—

“(i) the activity does not refer to a clearly identified candidate for Federal office;

“(ii) the amounts expended or disbursed are not for the costs of any broadcasting, cable, or satellite communication, other than a communication which refers solely to a clearly identified candidate for State or local office;

“(iii) the amounts expended or disbursed which are described in subparagraph (A)(ii) are paid from amounts which are donated in accordance with State law and which meet the requirements of subparagraph (C), except that no person (including any person established, financed, maintained, or controlled by such person) may donate more than \$10,000 to a State, district, or local committee of a political party in a calendar year for such expenditures or disbursements; and

“(iv) the amounts expended or disbursed are made solely from funds raised by the State, local, or district committee which makes such expenditure or disbursement, and do not include any funds provided to such committee from—

“(I) any other State, local, or district committee of any State party,

“(II) the national committee of a political party (including a national congressional campaign committee of a political party),

“(III) any officer or agent acting on behalf of any committee described in subclause (I) or (II), or

“(IV) any entity directly or indirectly established, financed, maintained, or controlled by any committee described in subclause (I) or (II).

“(C) PROHIBITING INVOLVEMENT OF NATIONAL PARTIES, FEDERAL CANDIDATES AND OFFICEHOLDERS, AND STATE PARTIES ACTING JOINTLY.—Notwithstanding subsection (e) (other than subsection (e)(3)), amounts specifically authorized to be spent under subparagraph (B)(iii) meet the requirements of this subparagraph only if the amounts—

“(i) are not solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e); and

“(ii) are not solicited, received, or directed through fundraising activities conducted jointly by 2 or more State, local, or district committees of any political party

or their agents, or by a State, local, or district committee of a political party on behalf of the State, local, or district committee of a political party or its agent in one or more other States.

“(c) FUNDRAISING COSTS.—An amount spent by a person described in subsection (a) or (b) to raise funds that are used, in whole or in part, for expenditures and disbursements for a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

“(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to—

“(1) an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) and that makes expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity); or

“(2) an organization described in section 527 of such Code (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

“(e) FEDERAL CANDIDATES.—

“(1) IN GENERAL.—A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not—

“(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

“(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds—

“(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 315(a); and

“(ii) are not from sources prohibited by this Act from making contributions in connection with an election for Federal office.

“(2) STATE LAW.—Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State

or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

“(3) FUNDRAISING EVENTS.—Notwithstanding paragraph (1) or subsection (b)(2)(C), a candidate or an individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.

“(4) PERMITTING CERTAIN SOLICITATIONS.—

“(A) GENERAL SOLICITATIONS.—Notwithstanding any other provision of this subsection, an individual described in paragraph (1) may make a general solicitation of funds on behalf of any organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) (other than an entity whose principal purpose is to conduct activities described in clauses (i) and (ii) of section 301(20)(A)) where such solicitation does not specify how the funds will or should be spent.

“(B) CERTAIN SPECIFIC SOLICITATIONS.—In addition to the general solicitations permitted under subparagraph (A), an individual described in paragraph (1) may make a solicitation explicitly to obtain funds for carrying out the activities described in clauses (i) and (ii) of section 301(20)(A), or for an entity whose principal purpose is to conduct such activities, if—

“(i) the solicitation is made only to individuals;

and

“(ii) the amount solicited from any individual during any calendar year does not exceed \$20,000.

“(f) STATE CANDIDATES.—

“(1) IN GENERAL.—A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 301(20)(A)(iii) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

“(2) EXCEPTION FOR CERTAIN COMMUNICATIONS.—Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other candidate for the State or local office held or sought by such individual, or both.”.

(b) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end thereof the following:

“(20) FEDERAL ELECTION ACTIVITY.—

“(A) IN GENERAL.—The term ‘Federal election activity’ means—

“(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

“(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office

appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

“(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or

“(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual’s compensated time during that month on activities in connection with a Federal election.

“(B) EXCLUDED ACTIVITY.—The term ‘Federal election activity’ does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

“(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

“(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

“(iii) the costs of a State, district, or local political convention; and

“(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

“(21) GENERIC CAMPAIGN ACTIVITY.—The term ‘generic campaign activity’ means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

“(22) PUBLIC COMMUNICATION.—The term ‘public communication’ means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

“(23) MASS MAILING.—The term ‘mass mailing’ means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

“(24) TELEPHONE BANK.—The term ‘telephone bank’ means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.”.

SEC. 102. INCREASED CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking “or” at the end;

(2) in subparagraph (C)—

(A) by inserting “(other than a committee described in subparagraph (D))” after “committee”; and

(B) by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed \$10,000.”.

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

“(e) POLITICAL COMMITTEES.—

“(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

“(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—

“(A) IN GENERAL.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than \$5,000.

“(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NON-FEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY.—Each report by a political committee under subparagraph (A) of receipts and disbursements made for activities described in section 301(20)(A) shall include a disclosure of all receipts and disbursements described in section 323(b)(2)(A) and (B).

“(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of \$200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

“(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B).”.

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—

(1) IN GENERAL.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(A) by striking clause (viii); and

(B) by redesignating clauses (ix) through (xv) as clauses (viii) through (xiv), respectively.

(2) NONPREEMPTION OF STATE LAW.—Section 403 of such Act (2 U.S.C. 453) is amended—

(A) by striking “The provisions of this Act” and inserting “(a) IN GENERAL.—Subject to subsection (b), the provisions of this Act”; and

(B) by adding at the end the following:

“(b) STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES.—Notwithstanding any other provision of this Act, a State or local committee of a political party may, subject to State law, use exclusively funds that are not subject to the prohibitions, limitations, and reporting requirements of the Act for the purchase or construction of an office building for such State or local committee.”.

TITLE II—NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A—Electioneering Communications

SEC. 201. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 103, is amended by adding at the end the following new subsection:

“(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.—

“(1) STATEMENT REQUIRED.—Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of \$10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

“(2) CONTENTS OF STATEMENT.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

“(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

“(B) The principal place of business of the person making the disbursement, if not an individual.

“(C) The amount of each disbursement of more than \$200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

“(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

“(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of \$1,000 or more to that account during the period beginning on the first day of the preceding calendar year and

ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

“(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of \$1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

“(3) ELECTIONEERING COMMUNICATION.—For purposes of this subsection—

“(A) IN GENERAL.—(i) The term ‘electioneering communication’ means any broadcast, cable, or satellite communication which—

“(I) refers to a clearly identified candidate for Federal office;

“(II) is made within—

“(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

“(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

“(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

“(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term ‘electioneering communication’ means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

“(B) EXCEPTIONS.—The term ‘electioneering communication’ does not include—

“(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

“(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

“(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

“(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

“(C) TARGETING TO RELEVANT ELECTORATE.—For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is ‘targeted to the relevant electorate’ if the communication can be received by 50,000 or more persons—

“(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

“(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

“(4) DISCLOSURE DATE.—For purposes of this subsection, the term ‘disclosure date’ means—

“(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of \$10,000; and

“(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of \$10,000 since the most recent disclosure date for such calendar year.

“(5) CONTRACTS TO DISBURSE.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

“(6) COORDINATION WITH OTHER REQUIREMENTS.—Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

“(7) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986.”.

2 USC 434 note.

(b) RESPONSIBILITIES OF FEDERAL COMMUNICATIONS COMMISSION.—The Federal Communications Commission shall compile and maintain any information the Federal Election Commission may require to carry out section 304(f) of the Federal Election Campaign Act of 1971 (as added by subsection (a)), and shall make such information available to the public on the Federal Communication Commission’s website.

SEC. 202. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

“(C) if—

“(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

“(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee; such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate’s party and as an expenditure by that candidate or that candidate’s party; and”.

SEC. 203. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) **IN GENERAL.**—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting “or for any applicable electioneering communication” before “, but shall not include”.

(b) **APPLICABLE ELECTIONEERING COMMUNICATION.**—Section 316 of such Act is amended by adding at the end the following:

“(c) **RULES RELATING TO ELECTIONEERING COMMUNICATIONS.**—

“(1) **APPLICABLE ELECTIONEERING COMMUNICATION.**—For purposes of this section, the term ‘applicable electioneering communication’ means an electioneering communication (within the meaning of section 304(f)(3)) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by an entity described in subsection (a) of this section.

“(2) **EXCEPTION.**—Notwithstanding paragraph (1), the term ‘applicable electioneering communication’ does not include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) made under section 304(f)(2)(E) or (F) of this Act if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))). For purposes of the preceding sentence, the term ‘provided directly by individuals’ does not include funds the source of which is an entity described in subsection (a) of this section.

“(3) **SPECIAL OPERATING RULES.**—

“(A) **DEFINITION UNDER PARAGRAPH (1).**—An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

“(B) **EXCEPTION UNDER PARAGRAPH (2).**—A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account

to which only individuals can contribute, as described in section 304(f)(2)(E).

“(4) DEFINITIONS AND RULES.—For purposes of this subsection—

“(A) the term ‘section 501(c)(4) organization’ means—

“(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

“(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

“(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

“(5) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code.”.

SEC. 204. RULES RELATING TO CERTAIN TARGETED ELECTIONEERING COMMUNICATIONS.

Section 316(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as added by section 203, is amended by adding at the end the following:

“(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS.—

“(A) EXCEPTION DOES NOT APPLY.—Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

“(B) TARGETED COMMUNICATION.—For purposes of subparagraph (A), the term ‘targeted communication’ means an electioneering communication (as defined in section 304(f)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

“(C) DEFINITION.—For purposes of this paragraph, a communication is ‘targeted to the relevant electorate’ if it meets the requirements described in section 304(f)(3)(C).”.

Subtitle B—Independent and Coordinated Expenditures

SEC. 211. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

“(17) INDEPENDENT EXPENDITURE.—The term ‘independent expenditure’ means an expenditure by a person—

“(A) expressly advocating the election or defeat of a clearly identified candidate; and

“(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the

candidate's authorized political committee, or their agents, or a political party committee or its agents.”.

SEC. 212. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) **IN GENERAL.**—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

“(g) **TIME FOR REPORTING CERTAIN EXPENDITURES.**—

“(1) **EXPENDITURES AGGREGATING \$1,000.**—

“(A) **INITIAL REPORT.**—A person (including a political committee) that makes or contracts to make independent expenditures aggregating \$1,000 or more after the 20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

“(B) **ADDITIONAL REPORTS.**—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$1,000 with respect to the same election as that to which the initial report relates.

“(2) **EXPENDITURES AGGREGATING \$10,000.**—

“(A) **INITIAL REPORT.**—A person (including a political committee) that makes or contracts to make independent expenditures aggregating \$10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

“(B) **ADDITIONAL REPORTS.**—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional \$10,000 with respect to the same election as that to which the initial report relates.

“(3) **PLACE OF FILING; CONTENTS.**—A report under this subsection—

“(A) shall be filed with the Commission; and

“(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.”.

(b) **TIME OF FILING OF CERTAIN STATEMENTS.**—

(1) **IN GENERAL.**—Section 304(g) of such Act, as added by subsection (a), is amended by adding at the end the following:

“(4) **TIME OF FILING FOR EXPENDITURES AGGREGATING \$1,000.**—Notwithstanding subsection (a)(5), the time at which the statement under paragraph (1) is received by the Commission or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.”.

(2) **CONFORMING AMENDMENTS.**—(A) Section 304(a)(5) of such Act (2 U.S.C. 434(a)(5)) is amended by striking “the second sentence of subsection (c)(2)” and inserting “subsection (g)(1)”.

(B) Section 304(d)(1) of such Act (2 U.S.C. 434(d)(1)) is amended by inserting “or (g)” after “subsection (c)”.

SEC. 213. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking “and (3)” and inserting “, (3), and (4)”; and

(2) by adding at the end the following:

“(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

“(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, no committee of the political party may make—

“(i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle; or

“(ii) any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle at any time after it makes any coordinated expenditure under this subsection with respect to the candidate during the election cycle.

“(B) APPLICATION.—For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

“(C) TRANSFERS.—A committee of a political party that makes coordinated expenditures under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.”.

SEC. 214. COORDINATION WITH CANDIDATES OR POLITICAL PARTIES.

(a) IN GENERAL.—Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended—

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following new clause:

“(ii) expenditures made by any person (other than a candidate or candidate’s authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and”.

(b) REPEAL OF CURRENT REGULATIONS.—The regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees adopted by the Federal Election Commission and published in the Federal Register at page 76138 of volume 65, Federal Register, on December 6, 2000, are repealed as of the date by which the

Commission is required to promulgate new regulations under subsection (c) (as described in section 402(c)(1)).

(c) REGULATIONS BY THE FEDERAL ELECTION COMMISSION.— 2 USC 441a note.
The Federal Election Commission shall promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees. The regulations shall not require agreement or formal collaboration to establish coordination. In addition to any subject determined by the Commission, the regulations shall address—

- (1) payments for the republication of campaign materials;
- (2) payments for the use of a common vendor;
- (3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and
- (4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

(d) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking “shall include” and inserting “includes a contribution or expenditure, as those terms are defined in section 301, and also includes”.

TITLE III—MISCELLANEOUS

SEC. 301. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

“SEC. 313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES. 2 USC 439a.

“(a) PERMITTED USES.—A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

“(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

“(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

“(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

“(4) for transfers, without limitation, to a national, State, or local committee of a political party.

“(b) PROHIBITED USE.—

“(1) IN GENERAL.—A contribution or donation described in subsection (a) shall not be converted by any person to personal use.

“(2) CONVERSION.—For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate’s election campaign or individual’s duties as a holder of Federal office, including—

“(A) a home mortgage, rent, or utility payment;

“(B) a clothing purchase;

- “(C) a noncampaign-related automobile expense;
- “(D) a country club membership;
- “(E) a vacation or other noncampaign-related trip;
- “(F) a household food item;
- “(G) a tuition payment;
- “(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and
- “(I) dues, fees, and other payments to a health club or recreational facility.”.

SEC. 302. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:
“(a) PROHIBITION.—

“(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

“(2) PENALTY.—A person who violates this section shall be fined not more than \$5,000, imprisoned not more than 3 years, or both.”; and

(2) in subsection (b), by inserting “or Executive Office of the President” after “Congress”.

SEC. 303. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: “CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS”; and

(2) by striking subsection (a) and inserting the following:
“(a) PROHIBITION.—It shall be unlawful for—

“(1) a foreign national, directly or indirectly, to make—

“(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

“(B) a contribution or donation to a committee of a political party; or

“(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or

“(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national.”.

SEC. 304. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) **INCREASED LIMITS FOR INDIVIDUALS.**—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended—

(1) in subsection (a)(1), by striking “No person” and inserting “Except as provided in subsection (i), no person”; and

(2) by adding at the end the following:

“(i) **INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.**—

“(1) **INCREASE.**—

“(A) **IN GENERAL.**—Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the ‘applicable limit’) with respect to that candidate shall be the increased limit.

“(B) **THRESHOLD AMOUNT.**—

“(i) **STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA.**—In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of—

“(I) \$150,000; and

“(II) \$0.04 multiplied by the voting age population.

“(ii) **VOTING AGE POPULATION.**—In this subparagraph, the term ‘voting age population’ means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

“(C) **INCREASED LIMIT.**—Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over—

“(i) 2 times the threshold amount, but not over 4 times that amount—

“(I) the increased limit shall be 3 times the applicable limit; and

“(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

“(ii) 4 times the threshold amount, but not over 10 times that amount—

“(I) the increased limit shall be 6 times the applicable limit; and

“(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

“(iii) 10 times the threshold amount—

“(I) the increased limit shall be 6 times the applicable limit;

“(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

“(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

“(D) OPPOSITION PERSONAL FUNDS AMOUNT.—The opposition personal funds amount is an amount equal to the excess (if any) of—

“(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

“(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

“(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.—

“(A) IN GENERAL.—Subject to subparagraph (B), a candidate and the candidate’s authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

“(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

“(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

“(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE.—A candidate and a candidate’s authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

“(3) DISPOSAL OF EXCESS CONTRIBUTIONS.—

“(A) IN GENERAL.—The aggregate amount of contributions accepted by a candidate or a candidate’s authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

“(B) RETURN TO CONTRIBUTORS.—A candidate or a candidate’s authorized committee shall return the excess contribution to the person who made the contribution.

“(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans made after the effective date

Deadline.

of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed \$250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.”.

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS.—Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

“(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS.—

“(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this subparagraph, the term ‘expenditure from personal funds’ means—

“(I) an expenditure made by a candidate using personal funds; and

“(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

“(ii) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by-State competitive and fair campaign formula with—

“(I) the Commission; and

“(II) each candidate in the same election.

“(iii) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with—

“(I) the Commission; and

“(II) each candidate in the same election.

“(iv) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed \$10,000 with—

“(I) the Commission; and

“(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

“(v) CONTENTS.—A notification under clause (iii) or (iv) shall include—

“(I) the name of the candidate and the office sought by the candidate;

“(II) the date and amount of each expenditure; and

“(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

“(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after the date of the election

for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(i)) and the manner in which the candidate or the candidate's authorized committee used such funds.

“(D) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.”.

(c) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 101(b), is further amended by adding at the end the following:

“(25) ELECTION CYCLE.—For purposes of sections 315(i) and 315A and paragraph (26), the term ‘election cycle’ means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of the preceding sentence, a primary election and a general election shall be considered to be separate elections.

“(26) PERSONAL FUNDS.—The term ‘personal funds’ means an amount that is derived from—

“(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

“(i) legal and rightful title; or

“(ii) an equitable interest;

“(B) income received during the current election cycle of the candidate, including—

“(i) a salary and other earned income from bona fide employment;

“(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

“(iii) bequests to the candidate;

“(iv) income from trusts established before the beginning of the election cycle;

“(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

“(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

“(vii) proceeds from lotteries and similar legal games of chance; and

“(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of ½ of the property.”.

SEC. 305. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended—

(1) by striking “(b) The charges” and inserting the following:

“(b) CHARGES.—

“(1) IN GENERAL.—The charges”;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following:

“(2) CONTENT OF BROADCASTS.—

“(A) IN GENERAL.—In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

“(B) LIMITATION ON CHARGES.—If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

“(C) TELEVISION BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

“(i) a clearly identifiable photographic or similar image of the candidate; and

“(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate’s authorized committee paid for the broadcast.

“(D) RADIO BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

“(E) CERTIFICATION.—Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

“(F) DEFINITIONS.—For purposes of this paragraph, the terms ‘authorized committee’ and ‘Federal office’ have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).”.

(b) CONFORMING AMENDMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting “subject to paragraph (2),” before “during the forty-five days”.

47 USC 315 note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to broadcasts made after the effective date of this Act.

SEC. 306. SOFTWARE FOR FILING REPORTS AND PROMPT DISCLOSURE OF CONTRIBUTIONS.

Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

“(12) **SOFTWARE FOR FILING OF REPORTS.**—

“(A) **IN GENERAL.**—The Commission shall—

“(i) promulgate standards to be used by vendors to develop software that—

“(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

“(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

“(III) allows the Commission to post the information on the Internet immediately upon receipt; and

“(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

“(B) **ADDITIONAL INFORMATION.**—To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

“(C) **REQUIRED USE.**—Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate’s authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

“(D) **REQUIRED POSTING.**—The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph.”.

SEC. 307. MODIFICATION OF CONTRIBUTION LIMITS.

(a) **INCREASE IN INDIVIDUAL LIMITS FOR CERTAIN CONTRIBUTIONS.**—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A), by striking “\$1,000” and inserting “\$2,000”; and

(2) in subparagraph (B), by striking “\$20,000” and inserting “\$25,000”.

(b) **INCREASE IN ANNUAL AGGREGATE LIMIT ON INDIVIDUAL CONTRIBUTIONS.**—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

“(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than—

“(A) \$37,500, in the case of contributions to candidates and the authorized committees of candidates;

“(B) \$57,500, in the case of any other contributions, of which not more than \$37,500 may be attributable to contributions to political committees which are not political committees of national political parties.”.

(c) INCREASE IN SENATORIAL CAMPAIGN COMMITTEE LIMIT.—Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking “\$17,500” and inserting “\$35,000”.

(d) INDEXING OF CONTRIBUTION LIMITS.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1)—

(A) by striking the second and third sentences;

(B) by inserting “(A)” before “At the beginning”; and

(C) by adding at the end the following:

“(B) Except as provided in subparagraph (C), in any calendar year after 2002—

“(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

“(ii) each amount so increased shall remain in effect for the calendar year; and

“(iii) if any amount after adjustment under clause (i) is not a multiple of \$100, such amount shall be rounded to the nearest multiple of \$100.

“(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election.”; and

(2) in paragraph (2)(B), by striking “means the calendar year 1974” and inserting “means—

“(i) for purposes of subsections (b) and (d), calendar year 1974; and

“(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions made on or after January 1, 2003. 2 USC 441a note.

SEC. 308. DONATIONS TO PRESIDENTIAL INAUGURAL COMMITTEE.

(a) IN GENERAL.—Chapter 5 of title 36, United States Code, is amended by—

(1) redesignating section 510 as section 511; and

(2) inserting after section 509 the following:

“§ 510. Disclosure of and prohibition on certain donations

“(a) IN GENERAL.—A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

“(b) DISCLOSURE.—

Deadline.
Reports.

“(1) IN GENERAL.—Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything of value made to the committee in an aggregate amount equal to or greater than \$200.

“(2) CONTENTS OF REPORT.—A report filed under paragraph (1) shall contain—

“(A) the amount of the donation;

“(B) the date the donation is received; and

“(C) the name and address of the person making the donation.

“(c) LIMITATION.—The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b))).”.

(b) REPORTS MADE AVAILABLE BY FEC.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103, 201, and 212 is amended by adding at the end the following:

“(h) REPORTS FROM INAUGURAL COMMITTEES.—The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.”.

SEC. 309. PROHIBITION ON FRAUDULENT SOLICITATION OF FUNDS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting “(a) IN GENERAL.—” before “No person”; and

(2) by adding at the end the following:

“(b) FRAUDULENT SOLICITATION OF FUNDS.—No person shall—

“(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

“(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).”.

2 USC 431 note.

SEC. 310. STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS.

(a) CLEAN MONEY CLEAN ELECTIONS DEFINED.—In this section, the term “clean money clean elections” means funds received under State laws that provide in whole or in part for the public financing of election campaigns.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the clean money clean elections of Arizona and Maine.

(2) MATTERS STUDIED.—

(A) STATISTICS ON CLEAN MONEY CLEAN ELECTIONS CANDIDATES.—The Comptroller General shall determine—

(i) the number of candidates who have chosen to run for public office with clean money clean elections including—

(I) the office for which they were candidates;

(II) whether the candidate was an incumbent or a challenger; and

(III) whether the candidate was successful in the candidate's bid for public office; and

(ii) the number of races in which at least one candidate ran an election with clean money clean elections.

(B) EFFECTS OF CLEAN MONEY CLEAN ELECTIONS.—The Comptroller General of the United States shall describe the effects of public financing under the clean money clean elections laws on the 2000 elections in Arizona and Maine.

Arizona.
Maine.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Congress detailing the results of the study conducted under subsection (b).

Deadline.

SEC. 311. CLARITY STANDARDS FOR IDENTIFICATION OF SPONSORS OF ELECTION-RELATED ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking “Whenever” and inserting “Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever”;

(ii) by striking “an expenditure” and inserting “a disbursement”;

(iii) by striking “direct”; and

(iv) by inserting “or makes a disbursement for an electioneering communication (as defined in section 304(f)(3))” after “public political advertising”; and

(B) in paragraph (3), by inserting “and permanent street address, telephone number, or World Wide Web address” after “name”; and

(2) by adding at the end the following:

“(c) SPECIFICATION.—Any printed communication described in subsection (a) shall—

“(1) be of sufficient type size to be clearly readable by the recipient of the communication;

“(2) be contained in a printed box set apart from the other contents of the communication; and

“(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

“(d) ADDITIONAL REQUIREMENTS.—

“(1) COMMUNICATIONS BY CANDIDATES OR AUTHORIZED PERSONS.—

“(A) BY RADIO.—Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through radio shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

“(B) BY TELEVISION.—Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted

through television shall include, in addition to the requirements of that paragraph, a statement that identifies the candidate and states that the candidate has approved the communication. Such statement—

“(i) shall be conveyed by—

“(I) an unobscured, full-screen view of the candidate making the statement, or

“(II) the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

“(ii) shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

“(2) COMMUNICATIONS BY OTHERS.—Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include, in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: ‘_____ is responsible for the content of this advertising.’ (with the blank to be filled in with the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall be conveyed by an unobscured, full-screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.”.

SEC. 312. INCREASE IN PENALTIES.

(a) IN GENERAL.—Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

“(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

“(i) aggregating \$25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

“(ii) aggregating \$2,000 or more (but less than \$25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.”.

2 USC 437g note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 313. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking “3” and inserting “5”.

2 USC 455 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 314. SENTENCING GUIDELINES.

28 USC 994 note.

(a) **IN GENERAL.**—The United States Sentencing Commission shall—

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) **CONSIDERATIONS.**—The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves—

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Federal Government.

(3) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(4) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(5) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) **EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.**—

(1) **EFFECTIVE DATE.**—Notwithstanding section 402, the United States Sentencing Commission shall promulgate guidelines under this section not later than the later of—

(A) 90 days after the effective date of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) **EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.**—The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

**SEC. 315. INCREASE IN PENALTIES IMPOSED FOR VIOLATIONS OF CON-
DUIT CONTRIBUTION BAN.**

(a) INCREASE IN CIVIL MONEY PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)) is amended—

(1) in paragraph (5)(B), by inserting before the period at the end the following: “(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of \$50,000 or 1,000 percent of the amount involved in the violation)”; and

(2) in paragraph (6)(C), by inserting before the period at the end the following: “(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of \$50,000 or 1,000 percent of the amount involved in the violation)”.

(b) INCREASE IN CRIMINAL PENALTY.—Section 309(d)(1) of such Act (2 U.S.C. 437g(d)(1)) is amended by adding at the end the following new subparagraph:

“(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than \$10,000 during a calendar year shall be—

“(i) imprisoned for not more than 2 years if the amount is less than \$25,000 (and subject to imprisonment under subparagraph (A) if the amount is \$25,000 or more);

“(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of—

“(I) \$50,000; or

“(II) 1,000 percent of the amount involved in the violation; or

“(iii) both imprisoned under clause (i) and fined under clause (ii).”.

2 USC 437g note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to violations occurring on or after the effective date of this Act.

**SEC. 316. RESTRICTION ON INCREASED CONTRIBUTION LIMITS BY
TAKING INTO ACCOUNT CANDIDATE'S AVAILABLE
FUNDS.**

Section 315(i)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(i)(1)), as added by this Act, is amended by adding at the end the following:

“(E) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS.—

“(i) IN GENERAL.—For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

“(ii) GROSS RECEIPTS ADVANTAGE.—For purposes of clause (i), the term ‘gross receipts advantage’ means the excess, if any, of—

“(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate)

that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

“(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate’s authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.”.

SEC. 317. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after “United States” the following: “or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)”.

SEC. 318. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

“PROHIBITION OF CONTRIBUTIONS BY MINORS

“SEC. 324. An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.”. 2 USC 441k.

SEC. 319. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 315 the following new section:

“MODIFICATION OF CERTAIN LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO PERSONAL FUND EXPENDITURES OF OPPONENTS

“SEC. 315A. (a) AVAILABILITY OF INCREASED LIMIT.—

2 USC 441a-1.

“(1) IN GENERAL.—Subject to paragraph (3), if the opposition personal funds amount with respect to a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress exceeds \$350,000—

“(A) the limit under subsection (a)(1)(A) with respect to the candidate shall be tripled;

“(B) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to the candidate if the contribution is made under the increased limit allowed under subparagraph (A) during a period in which the candidate may accept such a contribution; and

“(C) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party on behalf of the candidate shall not apply.

“(2) DETERMINATION OF OPPOSITION PERSONAL FUNDS AMOUNT.—

“(A) IN GENERAL.—The opposition personal funds amount is an amount equal to the excess (if any) of—

“(i) the greatest aggregate amount of expenditures from personal funds (as defined in subsection (b)(1)) that an opposing candidate in the same election makes; over

“(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

“(B) SPECIAL RULE FOR CANDIDATE’S CAMPAIGN FUNDS.—

“(i) IN GENERAL.—For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (A), such amount shall include the gross receipts advantage of the candidate’s authorized committee.

“(ii) GROSS RECEIPTS ADVANTAGE.—For purposes of clause (i), the term ‘gross receipts advantage’ means the excess, if any, of—

“(I) the aggregate amount of 50 percent of gross receipts of a candidate’s authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

“(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate’s authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

“(3) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.—

“(A) IN GENERAL.—Subject to subparagraph (B), a candidate and the candidate’s authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

“(i) until the candidate has received notification of the opposition personal funds amount under subsection (b)(1); and

“(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 100 percent of the opposition personal funds amount.

“(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE.—A candidate and a candidate’s authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be

a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

“(4) DISPOSAL OF EXCESS CONTRIBUTIONS.—

“(A) IN GENERAL.—The aggregate amount of contributions accepted by a candidate or a candidate’s authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

“(B) RETURN TO CONTRIBUTORS.—A candidate or a candidate’s authorized committee shall return the excess contribution to the person who made the contribution.

“(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS.—

“(1) IN GENERAL.—

“(A) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this paragraph, the term ‘expenditure from personal funds’ means—

“(i) an expenditure made by a candidate using personal funds; and

“(ii) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate’s authorized committee.

“(B) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed \$350,000.

Deadline.

“(C) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in subparagraph (B) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of \$350,000 in connection with any election, the candidate shall file a notification.

Deadline.

“(D) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under subparagraph (C), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceeds \$10,000. Such notification shall be filed not later than 24 hours after the expenditure is made.

Deadline.

“(E) CONTENTS.—A notification under subparagraph (C) or (D) shall include—

“(i) the name of the candidate and the office sought by the candidate;

“(ii) the date and amount of each expenditure; and

“(iii) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

“(F) PLACE OF FILING.—Each declaration or notification required to be filed by a candidate under subparagraph (C), (D), or (E) shall be filed with—

“(i) the Commission; and

- “(ii) each candidate in the same election and the national party of each such candidate.
- Reports. “(2) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate’s authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under subsection (a)) and the manner in which the candidate or the candidate’s authorized committee used such funds.
- “(3) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this subsection, see section 309.”.
- (b) CONFORMING AMENDMENT.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 304(a), is amended by striking “subsection (i),” and inserting “subsection (i) and section 315A,”.

TITLE IV—SEVERABILITY; EFFECTIVE DATE

2 USC 454 note.

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

2 USC 431 note.

SEC. 402. EFFECTIVE DATES AND REGULATIONS.

(a) GENERAL EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in the succeeding provisions of this section, the effective date of this Act, and the amendments made by this Act, is November 6, 2002.

(2) MODIFICATION OF CONTRIBUTION LIMITS.—The amendments made by—

(A) section 102 shall apply with respect to contributions made on or after January 1, 2003; and

(B) section 307 shall take effect as provided in subsection (e) of such section.

(3) SEVERABILITY; EFFECTIVE DATES AND REGULATIONS; JUDICIAL REVIEW.—Title IV shall take effect on the date of enactment of this Act.

(4) PROVISIONS NOT TO APPLY TO RUNOFF ELECTIONS.—Section 323(b) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), section 103(a), title II, sections 304 (including section 315(j) of Federal Election Campaign Act of 1971, as added by section 304(a)(2)), 305 (notwithstanding subsection (c) of such section), 311, 316, 318, and 319, and title V (and the amendments made by such sections and titles) shall take effect on November 6, 2002, but shall not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to such date.

(b) SOFT MONEY OF NATIONAL POLITICAL PARTIES.—

(1) IN GENERAL.—Except for subsection (b) of such section, section 323 of the Federal Election Campaign Act of 1971 (as added by section 101(a)) shall take effect on November 6, 2002.

(2) TRANSITIONAL RULES FOR THE SPENDING OF SOFT MONEY OF NATIONAL POLITICAL PARTIES.—

(A) IN GENERAL.—Notwithstanding section 323(a) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), if a national committee of a political party described in such section (including any person who is subject to such section under paragraph (2) of such section), has received funds described in such section prior to November 6, 2002, the rules described in subparagraph (B) shall apply with respect to the spending of the amount of such funds in the possession of such committee as of such date.

(B) USE OF EXCESS SOFT MONEY FUNDS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the national committee of a political party may use the amount described in subparagraph (A) prior to January 1, 2003, solely for the purpose of—

(I) retiring outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or

(II) paying expenses or retiring outstanding debts or paying for obligations that were incurred solely in connection with any runoff election, recount, or election contest resulting from an election held prior to November 6, 2002.

(ii) PROHIBITION ON USING SOFT MONEY FOR HARD MONEY EXPENSES, DEBTS, AND OBLIGATIONS.—A national committee of a political party may not use the amount described in subparagraph (A) for any expenditure (as defined in section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9))) or for retiring outstanding debts or obligations that were incurred for such an expenditure.

(iii) PROHIBITION OF BUILDING FUND USES.—A national committee of a political party may not use the amount described in subparagraph (A) for activities to defray the costs of the construction or purchase of any office building or facility.

(c) REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal Election Commission shall promulgate regulations to carry out this Act and the amendments made by this Act that are under the Commission's jurisdiction not later than 270 days after the date of enactment of this Act. Deadline.

(2) SOFT MONEY OF POLITICAL PARTIES.—Not later than 90 days after the date of enactment of this Act, the Federal Election Commission shall promulgate regulations to carry out title I of this Act and the amendments made by such title. Deadline.

SEC. 403. JUDICIAL REVIEW.

2 USC 437h note.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this

Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) **INTERVENTION BY MEMBERS OF CONGRESS.**—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any member of the House of Representatives (including a Delegate or Resident Commissioner to the Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) **CHALLENGE BY MEMBERS OF CONGRESS.**—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) **APPLICABILITY.**—

(1) **INITIAL CLAIMS.**—With respect to any action initially filed on or before December 31, 2006, the provisions of subsection (a) shall apply with respect to each action described in such section.

(2) **SUBSEQUENT ACTIONS.**—With respect to any action initially filed after December 31, 2006, the provisions of subsection (a) shall not apply to any action described in such section unless the person filing such action elects such provisions to apply to the action.

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

“(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under

Deadline.

this Act available for inspection by the public in the offices of the Commission and accessible to the public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.”.

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

2 USC 438a.

(a) **IN GENERAL.**—The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) **ELECTION-RELATED REPORT.**—In this section, the term “election-related report” means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) **COORDINATION WITH OTHER AGENCIES.**—Any Federal executive agency receiving election-related information which that agency is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.

SEC. 503. ADDITIONAL DISCLOSURE REPORTS.

2 USC 434.

(a) **PRINCIPAL CAMPAIGN COMMITTEES.**—Section 304(a)(2)(B) of the Federal Election Campaign Act of 1971 is amended by striking “the following reports” and all that follows through the period and inserting “the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.”.

Deadlines.

(b) **NATIONAL COMMITTEE OF A POLITICAL PARTY.**—Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended by adding at the end the following flush sentence: “Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).”.

SEC. 504. PUBLIC ACCESS TO BROADCASTING RECORDS.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following:

“(e) **POLITICAL RECORD.**—

“(1) **IN GENERAL.**—A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that—

“(A) is made by or on behalf of a legally qualified candidate for public office; or

“(B) communicates a message relating to any political matter of national importance, including—

“(i) a legally qualified candidate;

“(ii) any election to Federal office; or

“(iii) a national legislative issue of public importance.

“(2) **CONTENTS OF RECORD.**—A record maintained under paragraph (1) shall contain information regarding—

“(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

“(B) the rate charged for the broadcast time;

“(C) the date and time on which the communication is aired;

“(D) the class of time that is purchased;

“(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

“(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

“(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

“(3) TIME TO MAINTAIN FILE.—The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.”.

Approved March 27, 2002.

LEGISLATIVE HISTORY—H.R. 2356 (S. 27):

HOUSE REPORTS: No. 107-131, Pt. 1 (Comm. on House Administration).
CONGRESSIONAL RECORD, Vol. 148 (2002):

Feb. 13, considered and passed House.

Mar. 18-20, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Mar. 27, Presidential statement.



Public Law 107–156
107th Congress

An Act

To extend the authority of the Export-Import Bank until April 30, 2002.

Mar. 31, 2002

[S. 2019]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. EXTENSION OF EXPORT-IMPORT BANK.

12 USC 635f
note.

Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103–428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through April 30, 2002.

Approved March 31, 2002.

LEGISLATIVE HISTORY—S. 2019:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 14, considered and passed Senate.

Mar. 19, considered and passed House.



Public Law 107–157
107th Congress

An Act

Apr. 4, 2002
[H.R. 1499]

To amend the District of Columbia College Access Act of 1999 to permit individuals who enroll in an institution of higher education more than 3 years after graduating from a secondary school and individuals who attend private historically black colleges and universities nationwide to participate in the tuition assistance programs under such Act, and for other purposes.

District of
Columbia College
Access
Improvement Act
of 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “District of Columbia College Access Improvement Act of 2002”.

SEC. 2. PUBLIC SCHOOL PROGRAM.

Section 3(c)(2) of the District of Columbia College Access Act of 1999 (sec. 38–2702(c)(2), D.C. Official Code) is amended by striking subparagraphs (A) through (C) and inserting the following:

“(A)(i) in the case of an individual who begins an undergraduate course of study within 3 calendar years (excluding any period of service on active duty in the armed forces, or service under the Peace Corps Act (22 U.S.C. 2501 et seq.) or subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.)) of graduation from a secondary school, or obtaining the recognized equivalent of a secondary school diploma, was domiciled in the District of Columbia for not less than the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education;

“(ii) in the case of an individual who graduated from a secondary school or received the recognized equivalent of a secondary school diploma before January 1, 1998, and is currently enrolled at an eligible institution as of the date of enactment of the District of Columbia College Access Improvement Act of 2002, was domiciled in the District of Columbia for not less than the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education; or

“(iii) in the case of any other individual and an individual re-enrolling after more than a 3-year break in the individual’s post-secondary education, has been domiciled in the District of Columbia for at least 5 consecutive years at the date of application;

“(B)(i) graduated from a secondary school or received the recognized equivalent of a secondary school diploma on or after January 1, 1998;

“(ii) in the case of an individual who did not graduate from a secondary school or receive a recognized equivalent of a secondary school diploma, is accepted for enrollment as a freshman at an eligible institution on or after January 1, 2002; or

“(iii) in the case of an individual who graduated from a secondary school or received the recognized equivalent of a secondary school diploma before January 1, 1998, is currently enrolled at an eligible institution as of the date of enactment of the District of Columbia College Access Improvement Act of 2002;

“(C) meets the citizenship and immigration status requirements described in section 484(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1091(a)(5));”.

SEC. 3. PRIVATE SCHOOL PROGRAM.

Section 5(c)(1)(B) of the District of Columbia College Access Act of 1999 (sec. 38-2704(c)(1)(B), D.C. Official Code) is amended by striking “the main campus of which is located in the State of Maryland or the Commonwealth of Virginia”.

SEC. 4. GENERAL REQUIREMENTS.

Section 6 of the District of Columbia College Access Act of 1999 (sec. 38-2705, D.C. Official Code) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) ADMINISTRATIVE EXPENSES.—

“(1) IN GENERAL.—The Mayor of the District of Columbia may not use more than 7 percent of the total amount of Federal funds appropriated for the program, retroactive to the date of enactment of this Act (the District of Columbia College Access Act of 1999), for the administrative expenses of the program.

“(2) DEFINITION.—In this subsection, the term ‘administrative expenses’ means any expenses that are not directly used to pay the cost of tuition and fees for eligible students to attend eligible institutions.”;

(2) by redesignating subsections (e) and (f) as subsections (f) and (g);

(3) by inserting after subsection (d) the following:

“(e) LOCAL FUNDS.—It is the sense of Congress that the District of Columbia may appropriate such local funds as necessary for the programs under sections 3 and 5.”; and

(4) by adding at the end the following:

“(h) DEDICATED ACCOUNT FOR PROGRAMS.—

“(1) ESTABLISHMENT.—The District of Columbia government shall establish a dedicated account for the programs under sections 3 and 5 consisting of the following amounts:

“(A) The Federal funds appropriated to carry out such programs under this Act or any other Act.

“(B) Any District of Columbia funds appropriated by the District of Columbia to carry out such programs.

“(C) Any unobligated balances in amounts made available for such programs in previous fiscal years.

“(D) Interest earned on balances of the dedicated account.

“(2) USE OF FUNDS.—Amounts in the dedicated account shall be used solely to carry out the programs under sections 3 and 5.”.

SEC. 5. CONTINUATION OF CURRENT AGGREGATE LEVEL OF AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—The District of Columbia College Access Act of 1999 (sec. 38–2701 et seq., D.C. Official Code) is amended by adding at the end the following new section:

“SEC. 7. LIMIT ON AGGREGATE AMOUNT OF FEDERAL FUNDS FOR PUBLIC SCHOOL AND PRIVATE SCHOOL PROGRAMS.

“The aggregate amount authorized to be appropriated to the District of Columbia for the programs under sections 3 and 5 for any fiscal year may not exceed—

“(1) \$17,000,000, in the case of the aggregate amount for fiscal year 2003;

“(2) \$17,000,000, in the case of the aggregate amount for fiscal year 2004; or

“(3) \$17,000,000, in the case of the aggregate amount for fiscal year 2005.”.

(b) CONFORMING AMENDMENTS.—

(1) PUBLIC SCHOOL PROGRAM.—Section 3(i) of such Act (sec. 38–2702(i), D.C. Official Code) is amended by striking “and such sums” and inserting “and (subject to section 7) such sums”.

(2) PRIVATE SCHOOL PROGRAM.—Section 5(f) of such Act (sec. 38–2704(f), D.C. Official Code) is amended by striking “and such sums” and inserting “and (subject to section 7) such sums”.

Approved April 4, 2002.

LEGISLATIVE HISTORY—H.R. 1499:

SENATE REPORTS: No. 107–101 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 147 (2001): June 30, considered and passed House.

Dec. 12, considered and passed Senate, amended.

Vol. 148 (2002): Mar. 12, House concurred in Senate amendments with an amendment pursuant to H. Res. 364.

Mar. 14, Senate concurred in House amendment.



Public Law 107–158
107th Congress

An Act

To amend Public Law 107–10 to authorize a United States plan to endorse and obtain observer status for Taiwan at the annual summit of the World Health Assembly in May 2002 in Geneva, Switzerland, and for other purposes.

Apr. 4, 2002
[H.R. 2739]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO PUBLIC LAW 107–10.

(a) FINDINGS.—Section 1(a) of Public Law 107–10 (115 Stat. 17) is amended by adding at the end the following:

“(12) On May 11, 2001, President Bush stated in his letter to Senator Murkowski that the United States ‘should find opportunities for Taiwan’s voice to be heard in international organizations in order to make a contribution, even if membership is not possible’, further stating that his Administration ‘has focused on finding concrete ways for Taiwan to benefit and contribute to the WHO.’”

“(13) On May 16, 2001, as part of the United States delegation to the World Health Assembly meeting in Geneva, Switzerland, Secretary of Health and Human Services Tommy Thompson announced to the American International Club the Administration’s support of Taiwan’s participation in the activities of the WHO.”

(b) PLAN.—Section 1(b)(1) of Public Law 107–10 (115 Stat. 17) is amended by striking “May 2001” and inserting “May 2002”.

115 Stat. 18.

Approved April 4, 2002.

LEGISLATIVE HISTORY—H.R. 2739:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 19, considered and passed House.

Vol. 148 (2002): Mar. 19, considered and passed Senate.



Public Law 107–159
107th Congress

An Act

Apr. 4, 2002
[H.R. 3985]

To amend the Act entitled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955, to provide for binding arbitration clauses in leases and contracts related to reservation lands of the Gila River Indian Community.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Act entitled “An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases”, approved August 9, 1955, (69 Stat. 539; 25 U.S.C. 415) is amended by adding at the end the following new subsection:

“(f) Any lease entered into under the Act of August 9, 1955 (69 Stat. 539), as amended, or any contract entered into under section 2103 of the Revised Statutes (25 U.S.C. 81), as amended, affecting land within the Gila River Indian Community Reservation may contain a provision for the binding arbitration of disputes arising out of such lease or contract. Such leases or contracts entered into pursuant to such Acts shall be considered within the meaning of ‘commerce’ as defined and subject to the provisions of section 1 of title 9, United States Code. Any refusal to submit to arbitration pursuant to a binding agreement for arbitration or the exercise of any right conferred by title 9 to abide by the outcome of arbitration pursuant to the provisions of chapter 1 of title 9, sections 1 through 14, United States Code, shall be deemed to be a civil action arising under the Constitution, laws or treaties of the United States within the meaning of section 1331 of title 28, United States Code.”.

Approved April 4, 2002.

LEGISLATIVE HISTORY—H.R. 3985:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 19, considered and passed House.

Mar. 21, considered and passed Senate.



Public Law 107–160
107th Congress

An Act

To designate the facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, as the “Major Lyn McIntosh Post Office Building”.

Apr. 18, 2002
[H.R. 1432]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 3698 Inner Perimeter Road in Valdosta, Georgia, shall be known and designated as the “Major Lyn McIntosh Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Major Lyn McIntosh Post Office Building”.

Approved April 18, 2002.

LEGISLATIVE HISTORY—H.R. 1432:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 19, 20, considered and passed House.
Vol. 148 (2002): Mar. 22, considered and passed Senate.



Public Law 107–161
107th Congress

An Act

Apr. 18, 2002
[H.R. 1748]

To designate the facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, as the “Tom Bliley Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 805 Glen Burnie Road in Richmond, Virginia, shall be known and designated as the “Tom Bliley Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Tom Bliley Post Office Building”.

Approved April 18, 2002.

LEGISLATIVE HISTORY—H.R. 1748:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Feb. 12, considered and passed House.

Mar. 22, considered and passed Senate.



Public Law 107–162
107th Congress

An Act

To designate the facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, as the “Herbert H. Bateman Post Office Building”.

Apr. 18, 2002
[H.R. 1749]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 685 Turnberry Road in Newport News, Virginia, shall be known and designated as the “Herbert H. Bateman Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Herbert H. Bateman Post Office Building”.

Approved April 18, 2002.

LEGISLATIVE HISTORY—H.R. 1749:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 9, considered and passed House.

Vol. 148 (2002): Mar. 22, considered and passed Senate.



Public Law 107–163
107th Congress

An Act

Apr. 18, 2002
[H.R. 2577]

To designate the facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, as the “Bob Davis Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 310 South State Street in St. Ignace, Michigan, shall be known and designated as the “Bob Davis Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Bob Davis Post Office Building”.

Approved April 18, 2002.

LEGISLATIVE HISTORY—H.R. 2577:

CONGRESSIONAL RECORD, Vol. 148 (2002):
Feb. 12, considered and passed House.
Mar. 22, considered and passed Senate.



Public Law 107–164
107th Congress

An Act

To designate the facility of the United States Postal Service located in Harlem, Montana, as the “Francis Bardanouve United States Post Office Building”.

Apr. 18, 2002
[H.R. 2876]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 216 2nd Street, S.W. in Harlem, Montana, shall be designated and known as the “Francis Bardanouve United States Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United State Post Office referred to in section 1 shall be deemed to be a reference to the “Francis Bardanouve United States Post Office Building”.

Approved April 18, 2002.

LEGISLATIVE HISTORY—H.R. 2876:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 16, considered and passed House.
Vol. 148 (2002): Mar. 22, considered and passed Senate.



Public Law 107–165
107th Congress

An Act

Apr. 18, 2002
[H.R. 2910]

To designate the facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, as the “Norman Sisisky Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 3131 South Crater Road in Petersburg, Virginia, shall be known and designated as the “Norman Sisisky Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Norman Sisisky Post Office Building”.

Approved April 18, 2002.

LEGISLATIVE HISTORY—H.R. 2910:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 30, considered and passed House.

Vol. 148 (2002): Mar. 22, considered and passed Senate.



Public Law 107–166
107th Congress

An Act

To designate the facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, as the “Vernon Tarlton Post Office Building”.

Apr. 18, 2002
[H.R. 3072]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 125 Main Street in Forest City, North Carolina, shall be known and designated as the “Vernon Tarlton Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Vernon Tarlton Post Office Building”.

Approved April 18, 2002.

LEGISLATIVE HISTORY—H.R. 3072:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 18, considered and passed House.
Vol. 148 (2002): Mar. 22, considered and passed Senate.



Public Law 107–167
107th Congress

An Act

Apr. 18, 2002
[H.R. 3379]

To designate the facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, as the “Raymond M. Downey Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 375 Carlls Path in Deer Park, New York, shall be known and designated as the “Raymond M. Downey Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Raymond M. Downey Post Office Building”.

Approved April 18, 2002.

LEGISLATIVE HISTORY—H.R. 3379:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 18, considered and passed House.

Vol. 148 (2002): Mar. 22, considered and passed Senate.



Public Law 107–168
107th Congress

An Act

To extend the authority of the Export-Import Bank until May 31, 2002.

May 1, 2002

[S. 2248]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. EXTENSION OF EXPORT-IMPORT BANK.

12 USC 635f
note.

Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103–428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through May 31, 2002.

Approved May 1, 2002.

LEGISLATIVE HISTORY—S. 2248:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 24, considered and passed Senate.

Apr. 30, considered and passed House.



Public Law 107–169
107th Congress

An Act

May 7, 2002
[H.R. 861]

To make technical amendments to section 10 of title 9, United States Code.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. VACATION OF AWARDS.

Section 10 of title 9, United States Code, is amended—

(1) by indenting the margin of paragraphs (1) through (4) of subsection (a) 2 ems;

(2) by striking “Where” in such paragraphs and inserting “where”;

(3) by striking the period at the end of paragraphs (1), (2), and (3) of subsection (a) and inserting a semicolon and by adding “or” at the end of paragraph (3);

(4) by redesignating subsection (b) as subsection (c); and

(5) in paragraph (5), by striking “Where an award” and inserting “If an award”, by inserting a comma after “expired”, and by redesignating the paragraph as subsection (b).

Approved May 7, 2002.

LEGISLATIVE HISTORY—H.R. 861:

HOUSE REPORTS: No. 107–16 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Mar. 14, considered and passed House.

Vol. 148 (2002): Apr. 18, considered and passed Senate.



Public Law 107–170
107th Congress

An Act

To extend for 8 additional months the period for which chapter 12 of title 11
of the United States Code is reenacted.

May 7, 2002
[H.R. 4167]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. AMENDMENTS.

Section 149 of title I of division C of Public Law 105–277,
as amended by Public Laws 106–5, 106–70, 107–8, and 107–17,
is amended—

11 USC
1201–1208,
1221–1231,
and 1201 note.

(1) by striking “October 1, 2001” each place it appears
and inserting “June 1, 2002”; and

(2) in subsection (a)—

(A) by striking “May 31, 2001” and inserting “Sep-
tember 30, 2001”; and

(B) by striking “June 1, 2001” and inserting “October
1, 2001”.

SEC. 2. EFFECTIVE DATE.

11 USC 1201
note.

The amendments made by section 1 shall take effect on October
1, 2001.

Approved May 7, 2002.

LEGISLATIVE HISTORY—H.R. 4167:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 16, considered and passed House.

Apr. 23, considered and passed Senate.



Public Law 107–171
107th Congress

An Act

May 13, 2002
[H.R. 2646]

To provide for the continuation of agricultural programs through fiscal year 2007,
and for other purposes.

Farm Security
and Rural
Investment Act
of 2002.
7 USC 7901 note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Farm Security
and Rural Investment Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act
is as follows:

Sec. 1. Short title; table of contents.

TITLE I—COMMODITY PROGRAMS

Sec. 1001. Definitions.

Subtitle A—Direct Payments and Counter-Cyclical Payments

Sec. 1101. Establishment of base acres and payment acres for a farm.

Sec. 1102. Establishment of payment yield.

Sec. 1103. Availability of direct payments.

Sec. 1104. Availability of counter-cyclical payments.

Sec. 1105. Producer agreement required as condition of provision of direct
payments and counter-cyclical payments.

Sec. 1106. Planting flexibility.

Sec. 1107. Relation to remaining payment authority under production flexibility
contracts.

Sec. 1108. Period of effectiveness.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

Sec. 1201. Availability of nonrecourse marketing assistance loans for loan commod-
ities.

Sec. 1202. Loan rates for nonrecourse marketing assistance loans.

Sec. 1203. Term of loans.

Sec. 1204. Repayment of loans.

Sec. 1205. Loan deficiency payments.

Sec. 1206. Payments in lieu of loan deficiency payments for grazed acreage.

Sec. 1207. Special marketing loan provisions for upland cotton.

Sec. 1208. Special competitive provisions for extra long staple cotton.

Sec. 1209. Availability of recourse loans for high moisture feed grains and seed
cotton.

Subtitle C—Peanuts

Sec. 1301. Definitions.

Sec. 1302. Establishment of payment yield and base acres for peanuts for a farm.

Sec. 1303. Availability of direct payments for peanuts.

Sec. 1304. Availability of counter-cyclical payments for peanuts.

Sec. 1305. Producer agreement required as condition on provision of direct
payments and counter-cyclical payments.

Sec. 1306. Planting flexibility.

Sec. 1307. Marketing assistance loans and loan deficiency payments for peanuts.

Sec. 1308. Miscellaneous provisions.

Sec. 1309. Termination of marketing quota programs for peanuts and compensation
to peanut quota holders for loss of quota asset value.

Sec. 1310. Repeal of superseded price support authority and effect of repeal.

Subtitle D—Sugar

Sec. 1401. Sugar program.

Sec. 1402. Storage facility loans.

Sec. 1403. Flexible marketing allotments for sugar.

Subtitle E—Dairy

Sec. 1501. Milk price support program.

Sec. 1502. National dairy market loss payments.

Sec. 1503. Dairy export incentive and dairy indemnity programs.

Sec. 1504. Dairy product mandatory reporting.

Sec. 1505. Funding of dairy promotion and research program.

Sec. 1506. Fluid milk promotion.

Sec. 1507. Study of national dairy policy.

Sec. 1508. Studies of effects of changes in approach to national dairy policy and fluid milk identity standards.

Subtitle F—Administration

Sec. 1601. Administration generally.

Sec. 1602. Suspension of permanent price support authority.

Sec. 1603. Payment limitations.

Sec. 1604. Adjusted gross income limitation.

Sec. 1605. Commission on application of payment limitations.

Sec. 1606. Adjustments of loans.

Sec. 1607. Personal liability of producers for deficiencies.

Sec. 1608. Extension of existing administrative authority regarding loans.

Sec. 1609. Commodity Credit Corporation Inventory.

Sec. 1610. Reserve stock level.

Sec. 1611. Farm reconstitutions.

Sec. 1612. Assignment of payments.

Sec. 1613. Equitable relief from ineligibility for loans, payments, or other benefits.

Sec. 1614. Tracking of benefits.

Sec. 1615. Estimates of net farm income.

Sec. 1616. Availability of incentive payments for certain producers.

Sec. 1617. Renewed availability of market loss assistance and certain emergency assistance to persons that failed to receive assistance under earlier authorities.

Sec. 1618. Producer retention of erroneously paid loan deficiency payments and marketing loan gains.

TITLE II—CONSERVATION

Subtitle A—Conservation Security

Sec. 2001. Conservation security program.

Sec. 2002. Conservation compliance.

Sec. 2003. Partnerships and cooperation.

Sec. 2004. Administrative requirements for conservation programs.

Sec. 2005. Reform and assessment of conservation programs.

Sec. 2006. Conforming amendments.

Subtitle B—Conservation Reserve

Sec. 2101. Conservation reserve program.

Subtitle C—Wetlands Reserve Program

Sec. 2201. Reauthorization.

Sec. 2202. Enrollment.

Sec. 2203. Easements and agreements.

Sec. 2204. Changes in ownership; agreement modification; termination.

Subtitle D—Environmental Quality Incentives

Sec. 2301. Environmental quality incentives program.

Subtitle E—Grassland Reserve

Sec. 2401. Grassland reserve program.

Subtitle F—Other Conservation Programs

Sec. 2501. Agricultural management assistance.

Sec. 2502. Grazing, wildlife habitat incentive, source water protection, and Great Lakes basin programs.

- Sec. 2503. Farmland protection program.
- Sec. 2504. Resource conservation and development program.
- Sec. 2505. Small watershed rehabilitation program.
- Sec. 2506. Use of symbols, slogans, and logos.
- Sec. 2507. Desert terminal lakes.

Subtitle G—Conservation Corridor Demonstration Program

- Sec. 2601. Definitions.
- Sec. 2602. Conservation corridor demonstration program.
- Sec. 2603. Implementation of conservation corridor plan.
- Sec. 2604. Funding requirements.

Subtitle H—Funding and Administration

- Sec. 2701. Funding and administration.
- Sec. 2702. Regulations.

TITLE III—TRADE

Subtitle A—Agricultural Trade Development and Assistance Act of 1954 and
Related Statutes

- Sec. 3001. United States policy.
- Sec. 3002. Provision of agricultural commodities.
- Sec. 3003. Generation and use of currencies by private voluntary organizations and cooperatives.
- Sec. 3004. Levels of assistance.
- Sec. 3005. Food Aid Consultative Group.
- Sec. 3006. Maximum level of expenditures.
- Sec. 3007. Administration.
- Sec. 3008. Assistance for stockpiling and rapid transportation, delivery, and distribution of shelf-stable prepackaged foods.
- Sec. 3009. Sale procedure.
- Sec. 3010. Prepositioning.
- Sec. 3011. Transportation and related costs.
- Sec. 3012. Expiration date.
- Sec. 3013. Micronutrient fortification programs.
- Sec. 3014. John Ogonowski Farmer-to-Farmer Program.

Subtitle B—Agricultural Trade Act of 1978

- Sec. 3101. Exporter assistance initiative.
- Sec. 3102. Export credit guarantee program.
- Sec. 3103. Market access program.
- Sec. 3104. Export enhancement program.
- Sec. 3105. Foreign market development cooperator program.
- Sec. 3106. Food for progress.
- Sec. 3107. McGovern-Dole International Food for Education and Child Nutrition Program.

Subtitle C—Miscellaneous

- Sec. 3201. Surplus commodities for developing or friendly countries.
- Sec. 3202. Bill Emerson Humanitarian Trust Act.
- Sec. 3203. Emerging markets.
- Sec. 3204. Biotechnology and agricultural trade program.
- Sec. 3205. Technical assistance for specialty crops.
- Sec. 3206. Global market strategy.
- Sec. 3207. Report on use of perishable commodities and live animals.
- Sec. 3208. Study on fee for services.
- Sec. 3209. Sense of Congress concerning foreign assistance programs.
- Sec. 3210. Sense of the Senate concerning agricultural trade.

TITLE IV—NUTRITION PROGRAMS

- Sec. 4001. Short title.

Subtitle A—Food Stamp Program

- Sec. 4101. Encouragement of payment of child support.
- Sec. 4102. Simplified definition of income.
- Sec. 4103. Standard deduction.
- Sec. 4104. Simplified utility allowance.
- Sec. 4105. Simplified determination of housing costs.
- Sec. 4106. Simplified determination of deductions.
- Sec. 4107. Simplified definition of resources.

- Sec. 4108. Alternative issuance systems in disasters.
- Sec. 4109. State option to reduce reporting requirements.
- Sec. 4110. Cost neutrality for electronic benefit transfer systems.
- Sec. 4111. Report on electronic benefit transfer systems.
- Sec. 4112. Alternative procedures for residents of certain group facilities.
- Sec. 4113. Redemption of benefits through group living arrangements.
- Sec. 4114. Availability of food stamp program applications on the Internet.
- Sec. 4115. Transitional food stamps for families moving from welfare.
- Sec. 4116. Grants for simple application and eligibility determination systems and improved access to benefits.
- Sec. 4117. Delivery to retailers of notices of adverse action.
- Sec. 4118. Reform of quality control system.
- Sec. 4119. Improvement of calculation of State performance measures.
- Sec. 4120. Bonuses for States that demonstrate high or most improved performance.
- Sec. 4121. Employment and training program.
- Sec. 4122. Reauthorization of food stamp program and food distribution program on Indian reservations.
- Sec. 4123. Expanded grant authority.
- Sec. 4124. Consolidated block grants for Puerto Rico and American Samoa.
- Sec. 4125. Assistance for community food projects.
- Sec. 4126. Availability of commodities for the emergency food assistance program.

Subtitle B—Commodity Distribution

- Sec. 4201. Commodity supplemental food program.
- Sec. 4202. Commodity donations.
- Sec. 4203. Distribution of surplus commodities to special nutrition projects.
- Sec. 4204. Emergency food assistance.

Subtitle C—Child Nutrition and Related Programs

- Sec. 4301. Commodities for school lunch program.
- Sec. 4302. Eligibility for free and reduced price meals.
- Sec. 4303. Purchases of locally produced foods.
- Sec. 4304. Applicability of Buy-American requirement to Puerto Rico.
- Sec. 4305. Fruit and vegetable pilot program.
- Sec. 4306. Eligibility for assistance under the special supplemental nutrition program for women, infants, and children.
- Sec. 4307. WIC farmers' market nutrition program.

Subtitle D—Miscellaneous

- Sec. 4401. Partial restoration of benefits to legal immigrants.
- Sec. 4402. Seniors farmers' market nutrition program.
- Sec. 4403. Nutrition information and awareness pilot program.
- Sec. 4404. Hunger fellowship program.
- Sec. 4405. General effective date.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

- Sec. 5001. Direct loans.
- Sec. 5002. Financing of bridge loans.
- Sec. 5003. Amount of guarantee of loans for farm operations on tribal lands.
- Sec. 5004. Guarantee of loans made under State beginning farmer or rancher programs.
- Sec. 5005. Down Payment Loan Program.
- Sec. 5006. Beginning farmer and rancher contract land sales program.

Subtitle B—Operating Loans

- Sec. 5101. Direct loans.
- Sec. 5102. Suspension of limitation on period for which borrowers are eligible for guaranteed assistance.

Subtitle C—Emergency Loans

- Sec. 5201. Emergency loans in response to an emergency resulting from quarantines.

Subtitle D—Administrative Provisions

- Sec. 5301. Evaluations of direct and guaranteed loan programs.
- Sec. 5302. Eligibility of trusts and limited liability companies for farm ownership loans, farm operating loans, and emergency loans.

- Sec. 5303. Debt settlement.
- Sec. 5304. Temporary authority to enter into contracts; private collection agencies.
- Sec. 5305. Interest rate options for loans in servicing.
- Sec. 5306. Elimination of requirement that Secretary require county committees to certify in writing that certain loan reviews have been conducted.
- Sec. 5307. Simplified loan guarantee application available for loans of greater amounts.
- Sec. 5308. Inventory property.
- Sec. 5309. Administration of certified lenders and preferred certified lenders programs.
- Sec. 5310. Definitions.
- Sec. 5311. Loan authorization levels.
- Sec. 5312. Reservation of funds for direct operating loans for beginning farmers and ranchers.
- Sec. 5313. Interest rate reduction program.
- Sec. 5314. Reamortization of recapture payments.
- Sec. 5315. Allocation of certain funds for socially disadvantaged farmers and ranchers.
- Sec. 5316. Waiver of borrower training certification requirement.
- Sec. 5317. Timing of loan assessments.
- Sec. 5318. Annual review of borrowers.
- Sec. 5319. Loan eligibility for borrowers with prior debt forgiveness.
- Sec. 5320. Making and servicing of loans by personnel of State, county, or area committees.
- Sec. 5321. Eligibility of employees of State, county, or area committee for loans and loan guarantees.

Subtitle E—Farm Credit

- Sec. 5401. Repeal of burdensome approval requirements.
- Sec. 5402. Banks for cooperatives.
- Sec. 5403. Insurance corporation premiums.

Subtitle F—General Provisions

- Sec. 5501. Technical amendments.

TITLE VI—RURAL DEVELOPMENT

Subtitle A—Consolidated Farm and Rural Development Act

- Sec. 6001. Eligibility of rural empowerment zones and rural enterprise communities for direct and guaranteed loans for essential community facilities.
- Sec. 6002. Water or waste disposal grants.
- Sec. 6003. Rural business opportunity grants.
- Sec. 6004. Child day care facilities.
- Sec. 6005. Rural water and wastewater circuit rider program.
- Sec. 6006. Multijurisdictional regional planning organizations.
- Sec. 6007. Loan guarantees for certain rural development loans.
- Sec. 6008. Tribal college and university essential community facilities.
- Sec. 6009. Emergency and imminent community water assistance grant program.
- Sec. 6010. Water and waste facility grants for Native American tribes.
- Sec. 6011. Grants for water systems for rural and native villages in Alaska.
- Sec. 6012. Grants to nonprofit organizations to finance the construction, refurbishing, and servicing of individually-owned household water well systems in rural areas for individuals with low or moderate incomes.
- Sec. 6013. Loans and loan guarantees for renewable energy systems.
- Sec. 6014. Rural business enterprise grants.
- Sec. 6015. Rural cooperative development grants.
- Sec. 6016. Grants to broadcasting systems.
- Sec. 6017. Business and industry loan modifications.
- Sec. 6018. Use of rural development loans and grants for other purposes.
- Sec. 6019. Simplified application forms for loan guarantees.
- Sec. 6020. Definition of rural and rural area.
- Sec. 6021. National Rural Development Partnership.
- Sec. 6022. Rural telework.
- Sec. 6023. Historic barn preservation.
- Sec. 6024. Grants for NOAA weather radio transmitters.
- Sec. 6025. Grants to train farm workers in new technologies and to train farm workers in specialized skills necessary for higher value crops.
- Sec. 6026. Rural community advancement program.
- Sec. 6027. Delta Regional Authority.
- Sec. 6028. Northern Great Plains Regional Authority.

- Sec. 6029. Rural business investment program.
- Sec. 6030. Rural strategic investment program.
- Sec. 6031. Funding of pending rural development loan and grant applications.

Subtitle B—Rural Electrification Act of 1936

- Sec. 6101. Guarantees for bonds and notes issued for electrification or telephone purposes.
- Sec. 6102. Expansion of 911 access.
- Sec. 6103. Enhancement of access to broadband service in rural areas.

Subtitle C—Food, Agriculture, Conservation, and Trade Act of 1990

- Sec. 6201. Alternative Agricultural Research and Commercialization Corporation.
- Sec. 6202. Rural electronic commerce extension program.
- Sec. 6203. Telemedicine and distance learning services in rural areas.

Subtitle D—SEARCH Grants for Small Communities

- Sec. 6301. Definitions.
- Sec. 6302. SEARCH grant program.
- Sec. 6303. Report.
- Sec. 6304. Funding.

Subtitle E—Miscellaneous

- Sec. 6401. Value-added agricultural product market development grants.
- Sec. 6402. Agriculture innovation center demonstration program.
- Sec. 6403. Fund for Rural America.
- Sec. 6404. Rural local television broadcast signal loan guarantees.
- Sec. 6405. Rural firefighters and emergency personnel grant program.
- Sec. 6406. Sense of Congress on rural policy coordination.

TITLE VII—RESEARCH AND RELATED MATTERS

Subtitle A—Extensions

- Sec. 7101. National rural information center clearinghouse.
- Sec. 7102. Grants and fellowships for food and agricultural sciences education.
- Sec. 7103. Policy research centers.
- Sec. 7104. Human nutrition intervention and health promotion research program.
- Sec. 7105. Pilot research program to combine medical and agricultural research.
- Sec. 7106. Nutrition education program.
- Sec. 7107. Continuing animal health and disease research programs.
- Sec. 7108. Appropriations for research on national or regional problems.
- Sec. 7109. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.
- Sec. 7110. National research and training virtual centers.
- Sec. 7111. Hispanic-serving institutions.
- Sec. 7112. Competitive grants for international agricultural science and education programs.
- Sec. 7113. University research.
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TITLE I—COMMODITY PROGRAMS

SEC. 1001. DEFINITIONS.

7 USC 7901.

In this title (other than subtitle C):

(1) AGRICULTURAL ACT OF 1949.—The term “Agricultural Act of 1949” means the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), as in effect prior to the suspensions under section 171 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301).

(2) BASE ACRES.—The term “base acres”, with respect to a covered commodity on a farm, means the number of acres established under section 1101 with respect to the covered commodity on the election made by the owner of the farm under subsection (a) of such section.

(3) COUNTER-CYCLICAL PAYMENT.—The term “counter-cyclical payment” means a payment made to producers on a farm under section 1104.

(4) COVERED COMMODITY.—The term “covered commodity” means wheat, corn, grain sorghum, barley, oats, upland cotton, rice, soybeans, and other oilseeds.

(5) DIRECT PAYMENT.—The term “direct payment” means a payment made to producers on a farm under section 1103.

(6) EFFECTIVE PRICE.—The term “effective price”, with respect to a covered commodity for a crop year, means the price calculated by the Secretary under section 1104 to determine whether counter-cyclical payments are required to be made for that crop year.

(7) EXTRA LONG STAPLE COTTON.—The term “extra long staple cotton” means cotton that—

(A) is produced from pure strain varieties of the Barbados species or any hybrid thereof, or other similar types of extra long staple cotton, designated by the Secretary, having characteristics needed for various end uses for which United States upland cotton is not suitable and grown in irrigated cotton-growing regions of the United States designated by the Secretary or other areas designated by the Secretary as suitable for the production of the varieties or types; and

(B) is ginned on a roller-type gin or, if authorized by the Secretary, ginned on another type gin for experimental purposes.

(8) LOAN COMMODITY.—The term ‘loan commodity’ means wheat, corn, grain sorghum, barley, oats, upland cotton, extra long staple cotton, rice, soybeans, other oilseeds, wool, mohair, honey, dry peas, lentils, and small chickpeas.

(9) OTHER OILSEED.—The term “other oilseed” means a crop of sunflower seed, rapeseed, canola, safflower, flaxseed, mustard seed, or, if designated by the Secretary, another oilseed.

(10) PAYMENT ACRES.—The term “payment acres” means 85 percent of the base acres of a covered commodity on a

farm, as established under section 1101, on which direct payments and counter-cyclical payments are made.

(11) PAYMENT YIELD.—

(A) IN GENERAL.—The term “payment yield” means the yield established under section 1102 for a farm for a covered commodity.

(B) UPDATED PAYMENT YIELD.—The term “updated payment yield” means the payment yield elected by the owner of a farm under section 1102(e) to be used in calculating the counter-cyclical payments for the farm.

(12) PRODUCER.—The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the risk of producing a crop and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this title.

(13) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(14) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(15) TARGET PRICE.—The term “target price” means the price per bushel (or other appropriate unit in the case of upland cotton, rice, and other oilseeds) of a covered commodity used to determine the payment rate for counter-cyclical payments.

(16) UNITED STATES.—The term “United States”, when used in a geographical sense, means all of the States.

Subtitle A—Direct Payments and Counter-Cyclical Payments

7 USC 7911.

SEC. 1101. ESTABLISHMENT OF BASE ACRES AND PAYMENT ACRES FOR A FARM.

(a) ELECTION BY OWNER OF BASE ACRES CALCULATION METHOD.—

(1) ALTERNATIVE CALCULATION METHODS.—For the purpose of making direct payments and counter-cyclical payments with respect to a farm, the Secretary shall give an owner of the farm an opportunity to elect 1 of the following as the method by which the base acres of all covered commodities on the farm are to be determined:

(A) Subject to paragraphs (3) and (4), the 4-year average of the following:

(i) Acreage planted on the farm to covered commodities for harvest, grazing, haying, silage, or other similar purposes for the 1998 through 2001 crop years.

(ii) Any acreage on the farm that the producers were prevented from planting during the 1998 through 2001 crop years to covered commodities because of

drought, flood, or other natural disaster, or other condition beyond the control of the producers, as determined by the Secretary.

(B) Subject to paragraph (3), the sum of the following:

(i) The contract acreage (as defined in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202)) used by the Secretary to calculate the fiscal year 2002 payment authorized under section 114 of such Act (7 U.S.C. 7214) for the covered commodities on the farm.

(ii) The 4-year average of eligible oilseed acreage on the farm for the 1998 through 2001 crop years, as determined by the Secretary under paragraph (2).

(2) ELIGIBLE OILSEED ACREAGE.—

(A) CALCULATION.—For purposes of paragraph (1)(B)(ii), the eligible acreage for each oilseed on a farm during each of the 1998 through 2001 crop years shall be determined in the manner provided in paragraph (1)(A), except that the total acreage for all oilseeds on the farm for a crop year may not exceed the difference between—

(i) the total acreage determined under paragraph (1)(A) for all covered commodities for that crop year; and

(ii) the total contract acreage determined under paragraph (1)(B)(i).

(B) EFFECT OF NEGATIVE NUMBER.—If the subtraction performed under subparagraph (A) results in a negative number, the eligible oilseed acreage on the farm for that crop year shall be zero for purposes of determining the 4-year average.

(C) OFFSET OF CONTRACT ACREAGE.—The owner of a farm may increase the eligible acreage for an oilseed on the farm by reducing the contract acreage determined under paragraph (1)(B)(i) for 1 or more covered commodities on an acre-for-acre basis, except that the total base acreage for each oilseed on the farm may not exceed the 4-year average of each oilseed determined under paragraph (1)(B)(ii).

(3) INCLUSION OF ALL 4 YEARS IN AVERAGE.—For the purpose of determining a 4-year acreage average under this subsection for a farm, the Secretary shall not exclude any crop year in which a covered commodity was not planted.

(4) TREATMENT OF MULTIPLE PLANTING OR PREVENTED PLANTING.—For the purpose of determining under paragraph (1)(A) the acreage on a farm that producers planted or were prevented from planting during the 1998 through 2001 crop years to covered commodities, if the acreage that was planted or prevented from being planted was devoted to another covered commodity in the same crop year (other than a covered commodity produced under an established practice of double cropping), the owner may elect the commodity to be used for that crop year in determining the 4-year average, but may not include both the initial commodity and the subsequent commodity.

(b) SINGLE ELECTION; TIME FOR ELECTION.—

(1) NOTICE OF ELECTION OPPORTUNITY.—As soon as practicable after the date of enactment of this Act, the Secretary

shall provide notice to owners of farms regarding their opportunity to make the election described in subsection (a). The notice shall include the following:

(A) Notice that the opportunity of an owner to make the election is being provided only once.

(B) Information regarding the manner in which the election must be made and the time periods and manner in which notice of the election must be submitted to the Secretary.

(2) ELECTION DEADLINE.—Within the time period and in the manner prescribed pursuant to paragraph (1), the owner of a farm shall submit to the Secretary notice of the election made by the owner under subsection (a).

(c) EFFECT OF FAILURE TO MAKE ELECTION.—If the owner of a farm fails to make the election under subsection (a) or fails to timely notify the Secretary of the election made, as required by subsection (b), the owner shall be deemed to have made the election described in subsection (a)(1)(B) to determine base acres for all covered commodities on the farm.

(d) APPLICATION OF ELECTION TO ALL COVERED COMMODITIES.—The election made under subparagraph (A) or (B) of subsection (a)(1), or deemed to be made under subsection (c), with respect to a farm shall apply to all of the covered commodities on the farm.

(e) TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.—

(1) IN GENERAL.—The Secretary shall provide for an adjustment, as appropriate, in the base acres for covered commodities for a farm whenever either of the following circumstances occurs:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

(2) SPECIAL PAYMENT RULES.—For the crop year in which a base acres adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(f) PAYMENT ACRES.—The payment acres for a covered commodity on a farm shall be equal to 85 percent of the base acres for the covered commodity.

(g) PREVENTION OF EXCESS BASE ACRES.—

(1) REQUIRED REDUCTION.—If the sum of the base acres for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for 1 or more covered commodities for the farm or the base acres for peanuts for the farm under subtitle C so that the sum of the base acres and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) OTHER ACREAGE.—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for peanuts for the farm under subtitle C.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) SELECTION OF ACRES.—The Secretary shall give the owner of the farm the opportunity to select the base acres or the base acres for peanuts for the farm under subtitle C against which the reduction required by paragraph (1) will be made.

(4) EXCEPTION FOR DOUBLE-CROPPED ACREAGE.—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1302(f) when applying the requirements of this subsection.

(h) PERMANENT REDUCTION IN BASE ACRES.—The owner of a farm may reduce, at any time, the base acres for any covered commodity for the farm. The reduction shall be permanent and made in the manner prescribed by the Secretary.

SEC. 1102. ESTABLISHMENT OF PAYMENT YIELD.

(a) ESTABLISHMENT AND PURPOSE.—For the purpose of making direct payments and counter-cyclical payments under this subtitle, the Secretary shall provide for the establishment of a payment yield for each farm for each covered commodity in accordance with this section.

(b) USE OF FARM PROGRAM PAYMENT YIELD.—Except as otherwise provided in this section, the payment yield for each of the 2002 through 2007 crops of a covered commodity for a farm shall be the farm program payment yield established for the 1995 crop of the covered commodity under section 505 of the Agricultural Act of 1949 (7 U.S.C. 1465), as adjusted by the Secretary to account for any additional yield payments made with respect to that crop under section 505(b)(2) of that Act.

(c) FARMS WITHOUT FARM PROGRAM PAYMENT YIELD.—In the case of a farm for which a farm program payment yield is unavailable for a covered commodity (other than soybeans or other oilseeds), the Secretary shall establish an appropriate payment yield for the covered commodity on the farm taking into consideration the farm program payment yields applicable to the commodity under subsection (b) for similar farms, but before the yields for the similar farms are updated as provided in subsection (e).

(d) PAYMENT YIELDS FOR OLSEEDS.—

(1) DETERMINATION OF AVERAGE YIELD.—In the case of soybeans and each other oilseed, the Secretary shall determine the average yield per planted acre for the oilseed on a farm for the 1998 through 2001 crop years, excluding any crop year in which the acreage planted to the oilseed was zero.

(2) ADJUSTMENT FOR PAYMENT YIELD.—The payment yield for a farm for an oilseed shall be equal to the product of the following:

(A) The average yield for the oilseed determined under paragraph (1).

(B) The ratio resulting from dividing the national average yield for the oilseed for the 1981 through 1985 crops by the national average yield for the oilseed for the 1998 through 2001 crops.

(3) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of an oilseed for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that oilseed, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average under paragraph (1).

(e) OPPORTUNITY TO PARTIALLY UPDATE YIELDS USED TO DETERMINE COUNTER-CYCLICAL PAYMENTS.—

(1) ELECTION TO UPDATE.—If the owner of a farm elects to use the base acres calculation method described in section 1101(a)(1)(A), the owner shall also have a 1-time opportunity to elect to use 1 of the methods described in paragraph (3) to partially update the payment yields that would otherwise be used in calculating any counter-cyclical payments for covered commodities on the farm.

(2) TIME FOR ELECTION.—The election under paragraph (1) shall be made at the same time and in the same manner as the Secretary prescribes for the election required under section 1101.

(3) METHODS OF UPDATING YIELDS.—If the owner of a farm elects to update yields under this subsection, the payment yield for a covered commodity on the farm, for the purpose of calculating counter-cyclical payments only, shall be equal to the yield determined using either of the following:

(A) The sum of the following:

(i) The payment yield applicable for direct payments for the covered commodity on the farm.

(ii) 70 percent of the difference between—

(I) the average yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero; and

(II) the payment yield applicable for direct payments for the covered commodity on the farm.

(B) 93.5 percent of the average of the yield per planted acre for the crop of the covered commodity on the farm for the 1998 through 2001 crop years, as determined by the Secretary, excluding any crop year in which the acreage planted to the crop of the covered commodity was zero.

(4) USE OF PARTIAL COUNTY AVERAGE YIELD.—If the yield per planted acre for a crop of the covered commodity for a farm for any of the 1998 through 2001 crop years was less than 75 percent of the county yield for that commodity, the Secretary shall assign a yield for that crop year equal to 75 percent of the county yield for the purpose of determining the average yield under paragraph (3).

(5) APPLICATION OF ELECTION AND METHOD TO ALL COVERED COMMODITIES.—The owner of a farm may not elect the method

described in paragraph (3)(A) for 1 covered commodity on the farm and the method described in paragraph (3)(B) for other covered commodities on the farm.

SEC. 1103. AVAILABILITY OF DIRECT PAYMENTS.

7 USC 7913.

(a) **PAYMENT REQUIRED.**—For each of the 2002 through 2007 crop years of each covered commodity, the Secretary shall make direct payments to producers on farms for which payment yields and base acres are established.

(b) **PAYMENT RATE.**—The payment rates used to make direct payments with respect to covered commodities for a crop year are as follows:

- (1) Wheat, \$0.52 per bushel.
- (2) Corn, \$0.28 per bushel.
- (3) Grain sorghum, \$0.35 per bushel.
- (4) Barley, \$0.24 per bushel.
- (5) Oats, \$0.024 per bushel.
- (6) Upland cotton, \$0.0667 per pound.
- (7) Rice, \$2.35 per hundredweight.
- (8) Soybeans, \$0.44 per bushel.
- (9) Other oilseeds, \$0.0080 per pound.

(c) **PAYMENT AMOUNT.**—The amount of the direct payment to be paid to the producers on a farm for a covered commodity for a crop year shall be equal to the product of the following:

- (1) The payment rate specified in subsection (b).
- (2) The payment acres of the covered commodity on the farm.
- (3) The payment yield for the covered commodity for the farm.

(d) **TIME FOR PAYMENT.**—

(1) **IN GENERAL.**—The Secretary shall make direct payments—

(A) in the case of the 2002 crop year, as soon as practicable after the date of enactment of this Act; and

(B) in the case of each of the 2003 through 2007 crop years, not before October 1 of the calendar year in which the crop of the covered commodity is harvested.

(2) **ADVANCE PAYMENTS.**—At the option of the producers on a farm, up to 50 percent of the direct payment for a covered commodity for any of the 2003 through 2007 crop years shall be paid to the producers in advance. The producers shall select the month within which the advance payment for a crop year will be made. The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop of the covered commodity is harvested through the month within which the direct payment would otherwise be made. The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) **REPAYMENT OF ADVANCE PAYMENTS.**—If a producer on a farm that receives an advance direct payment for a crop year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

7 USC 7914.

SEC. 1104. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS.

(a) **PAYMENT REQUIRED.**—For each of the 2002 through 2007 crop years for each covered commodity, the Secretary shall make counter-cyclical payments to producers on farms for which payment yields and base acres are established with respect to the covered commodity if the Secretary determines that the effective price for the covered commodity is less than the target price for the covered commodity.

(b) **EFFECTIVE PRICE.**—For purposes of subsection (a), the effective price for a covered commodity is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price received by producers during the 12-month marketing year for the covered commodity, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for the covered commodity in effect for the applicable period under subtitle B.

(2) The payment rate in effect for the covered commodity under section 1103 for the purpose of making direct payments with respect to the covered commodity.

(c) **TARGET PRICE.**—

(1) **2002 AND 2003 CROP YEARS.**—For purposes of the 2002 and 2003 crop years, the target prices for covered commodities shall be as follows:

(A) Wheat, \$3.86 per bushel.

(B) Corn, \$2.60 per bushel.

(C) Grain sorghum, \$2.54 per bushel.

(D) Barley, \$2.21 per bushel.

(E) Oats, \$1.40 per bushel.

(F) Upland cotton, \$0.7240 per pound.

(G) Rice, \$10.50 per hundredweight.

(H) Soybeans, \$5.80 per bushel.

(I) Other oilseeds, \$0.0980 per pound.

(2) **SUBSEQUENT CROP YEARS.**—For purposes of each of the 2004 through 2007 crop years, the target prices for covered commodities shall be as follows:

(A) Wheat, \$3.92 per bushel.

(B) Corn, \$2.63 per bushel.

(C) Grain sorghum, \$2.57 per bushel.

(D) Barley, \$2.24 per bushel.

(E) Oats, \$1.44 per bushel.

(F) Upland cotton, \$0.7240 per pound.

(G) Rice, \$10.50 per hundredweight.

(H) Soybeans, \$5.80 per bushel.

(I) Other oilseeds, \$0.1010 per pound.

(d) **PAYMENT RATE.**—The payment rate used to make counter-cyclical payments with respect to a covered commodity for a crop year shall be equal to the difference between—

(1) the target price for the covered commodity; and

(2) the effective price determined under subsection (b) for the covered commodity.

(e) **PAYMENT AMOUNT.**—If counter-cyclical payments are required to be paid for any of the 2002 through 2007 crop years of a covered commodity, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

- (1) The payment rate specified in subsection (d).
- (2) The payment acres of the covered commodity on the farm.
- (3) The payment yield or updated payment yield for the farm, depending on the election of the owner of the farm under section 1102.

(f) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—If the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for the crop of a covered commodity, the Secretary shall make the counter-cyclical payments for the crop as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—If, before the end of the 12-month marketing year for a covered commodity, the Secretary estimates that counter-cyclical payments will be required for the crop of the covered commodity, the Secretary shall give producers on a farm the option to receive partial payments of the counter-cyclical payment projected to be made for that crop of the covered commodity.

(3) TIME FOR PARTIAL PAYMENTS.—

(A) 2002 THROUGH 2006 CROP YEARS.—When the Secretary makes partial payments available under paragraph (2) for a covered commodity for any of the 2002 through 2006 crop years—

(i) the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop of the covered commodity is harvested;

(ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and

(iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(B) 2007 CROP YEAR.—When the Secretary makes partial payments available for a covered commodity for the 2007 crop year—

(i) the first partial payment shall be made after completion of the first 6 months of the marketing year for the covered commodity; and

(ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for the covered commodity.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) 2002 THROUGH 2006 CROP YEARS.—

(i) FIRST PARTIAL PAYMENT.—For each of the 2002 through 2006 crop years of a covered commodity, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment for a covered commodity for a crop year may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop of the covered commodity; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment for a covered commodity for a crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payments made to the producers under clauses (i) and (ii) for that crop year.

(B) 2007 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—For the 2007 crop year, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the covered commodity for the crop year, as determined by the Secretary.

(ii) FINAL PAYMENT.—The final payment for the 2007 crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for the covered commodity for that crop year; and

(II) the amount of the partial payment made to the producers under clause (i).

(5) REPAYMENT.—The producers on a farm that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for the covered commodity for that crop year.

7 USC 7915.

SEC. 1105. PRODUCER AGREEMENT REQUIRED AS CONDITION OF PROVISION OF DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1106;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for the farm and any base acres for peanuts for the farm under subtitle C for an

agricultural or conserving use, and not for a non-agricultural commercial or industrial use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in base acres for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to the base acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—As a condition on the receipt of any benefits under this subtitle or subtitle B, the Secretary shall require producers on a farm to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

SEC. 1106. PLANTING FLEXIBILITY.

7 USC 7916.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on base acres on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (3) shall be prohibited on base acres unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of covered commodities with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on base acres, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

(d) SPECIAL RULE FOR 2002 CROP YEAR.—For the 2002 crop year only, if the calculation of base acres under section 1101(a) results in total base acres for a farm in excess of the contract acreage (as defined in section 102 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7202)) for the farm used to calculate the fiscal year 2002 payment authorized under section 114 of such Act (7 U.S.C. 7214), paragraphs (1) and (2) of subsection (b) shall not limit the harvesting of an agricultural commodity specified in paragraph (3) of that subsection on the excess base acres, except that direct payments and counter-cyclical payments for the 2002 crop year shall be reduced by an acre for each acre of the excess base acres planted to such an agricultural commodity.

7 USC 7917.

SEC. 1107. RELATION TO REMAINING PAYMENT AUTHORITY UNDER PRODUCTION FLEXIBILITY CONTRACTS.

(a) TERMINATION OF SUPERSEDED PAYMENT AUTHORITY.—Notwithstanding section 113(a)(7) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7213(a)(7)) or any other provision of law, the Secretary shall not make payments for fiscal year 2002 after the date of enactment of this Act under a production flexibility contract entered into under section 111 of that Act (7 U.S.C. 7211) unless requested by the producer that is a party to the contract.

(b) CONTRACT PAYMENTS MADE BEFORE ENACTMENT.—If a producer receives all or any portion of the payment authorized for fiscal year 2002 under a production flexibility contract, the Secretary shall reduce the amount of the direct payment otherwise due the producer for the 2002 crop year under section 1103 by the amount of the fiscal year 2002 payment received by the producer under the production flexibility contract.

SEC. 1108. PERIOD OF EFFECTIVENESS.

7 USC 7918.

This subtitle shall be effective beginning with the 2002 crop year of each covered commodity through the 2007 crop year.

Subtitle B—Marketing Assistance Loans and Loan Deficiency Payments

**SEC. 1201. AVAILABILITY OF NONRECOURSE MARKETING ASSISTANCE
LOANS FOR LOAN COMMODITIES.** 7 USC 7931.**(a) NONRECOURSE LOANS AVAILABLE.—**

(1) **AVAILABILITY.**—For each of the 2002 through 2007 crops of each loan commodity, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for loan commodities produced on the farm.

(2) **TERMS AND CONDITIONS.**—The marketing assistance loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under section 1202 for the loan commodity.

(b) **ELIGIBLE PRODUCTION.**—The producers on a farm shall be eligible for a marketing assistance loan under subsection (a) for any quantity of a loan commodity produced on the farm.

(c) **TREATMENT OF CERTAIN COMMINGLED COMMODITIES.**—In carrying out this subtitle, the Secretary shall make loans to producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the loan commodity owned by the producers on the farm commingled with loan commodities of other producers in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producers obtaining the loan agree to immediately redeem the loan collateral in accordance with section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).

(d) **COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.**—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of the Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(e) **TERMINATION OF SUPERSEDED LOAN AUTHORITY.**—Notwithstanding section 131 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231), nonrecourse marketing assistance loans shall not be made for the 2002 crop of loan commodities under subtitle C of title I of such Act.

**SEC. 1202. LOAN RATES FOR NONRECOURSE MARKETING ASSISTANCE
LOANS.** 7 USC 7932.

(a) **2002 AND 2003 CROP YEARS.**—For purposes of the 2002 and 2003 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

- (1) In the case of wheat, \$2.80 per bushel.
- (2) In the case of corn, \$1.98 per bushel.
- (3) In the case of grain sorghum, \$1.98 per bushel.
- (4) In the case of barley, \$1.88 per bushel.
- (5) In the case of oats, \$1.35 per bushel.
- (6) In the case of upland cotton, \$0.52 per pound.

(7) In the case of extra long staple cotton, \$0.7977 per pound.

(8) In the case of rice, \$6.50 per hundredweight.

(9) In the case of soybeans, \$5.00 per bushel.

(10) In the case of other oilseeds, \$0.0960 per pound.

(11) In the case of graded wool, \$1.00 per pound.

(12) In the case of nongraded wool, \$0.40 per pound.

(13) In the case of mohair, \$4.20 per pound.

(14) In the case of honey, \$0.60 per pound.

(15) In the case of dry peas, \$6.33 per hundredweight.

(16) In the case of lentils, \$11.94 per hundredweight.

(17) In the case of small chickpeas, \$7.56 per hundredweight.

(b) 2004 THROUGH 2007 CROP YEARS.—For purposes of the 2004 through 2007 crop years, the loan rate for a marketing assistance loan under section 1201 for a loan commodity shall be equal to the following:

(1) In the case of wheat, \$2.75 per bushel.

(2) In the case of corn, \$1.95 per bushel.

(3) In the case of grain sorghum, \$1.95 per bushel.

(4) In the case of barley, \$1.85 per bushel.

(5) In the case of oats, \$1.33 per bushel.

(6) In the case of upland cotton, \$0.52 per pound.

(7) In the case of extra long staple cotton, \$0.7977 per pound.

(8) In the case of rice, \$6.50 per hundredweight.

(9) In the case of soybeans, \$5.00 per bushel.

(10) In the case of other oilseeds, \$0.0930 per pound.

(11) In the case of graded wool, \$1.00 per pound.

(12) In the case of nongraded wool, \$0.40 per pound.

(13) In the case of mohair, \$4.20 per pound.

(14) In the case of honey, \$0.60 per pound.

(15) In the case of dry peas, \$6.22 per hundredweight.

(16) In the case of lentils, \$11.72 per hundredweight.

(17) In the case of small chickpeas, \$7.43 per hundredweight.

7 USC 7933.

SEC. 1203. TERM OF LOANS.

(a) TERM OF LOAN.—In the case of each loan commodity, a marketing assistance loan under section 1201 shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(b) EXTENSIONS PROHIBITED.—The Secretary may not extend the term of a marketing assistance loan for any loan commodity.

7 USC 7934.

SEC. 1204. REPAYMENT OF LOANS.

(a) GENERAL RULE.—The Secretary shall permit the producers on a farm to repay a marketing assistance loan under section 1201 for a loan commodity (other than upland cotton, rice, and extra long staple cotton) at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) a rate that the Secretary determines will—

(A) minimize potential loan forfeitures;

(B) minimize the accumulation of stocks of the commodity by the Federal Government;

(C) minimize the cost incurred by the Federal Government in storing the commodity;

(D) allow the commodity produced in the United States to be marketed freely and competitively, both domestically and internationally; and

(E) minimize discrepancies in marketing loan benefits across State boundaries and across county boundaries.

(b) REPAYMENT RATES FOR UPLAND COTTON AND RICE.—The Secretary shall permit producers to repay a marketing assistance loan under section 1201 for upland cotton and rice at a rate that is the lesser of—

(1) the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(2) the prevailing world market price for the commodity (adjusted to United States quality and location), as determined by the Secretary.

(c) REPAYMENT RATES FOR EXTRA LONG STAPLE COTTON.—Repayment of a marketing assistance loan for extra long staple cotton shall be at the loan rate established for the commodity under section 1202, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

(d) PREVAILING WORLD MARKET PRICE.—For purposes of this section and section 1207, the Secretary shall prescribe by regulation—

Regulations.

(1) a formula to determine the prevailing world market price for upland cotton and rice, adjusted to United States quality and location; and

(2) a mechanism by which the Secretary shall announce periodically the prevailing world market price for upland cotton and rice.

(e) ADJUSTMENT OF PREVAILING WORLD MARKET PRICE FOR UPLAND COTTON.—

(1) IN GENERAL.—During the period beginning on the date of the enactment of this Act through July 31, 2008, the prevailing world market price for upland cotton (adjusted to United States quality and location) established under subsection (d) shall be further adjusted if—

(A) the adjusted prevailing world market price is less than 115 percent of the loan rate for upland cotton established under section 1202, as determined by the Secretary; and

(B) the Friday through Thursday average price quotation for the lowest-priced United States growth as quoted for Middling (M) 1³/₃₂-inch cotton delivered C.I.F. Northern Europe is greater than the Friday through Thursday average price of the 5 lowest-priced growths of upland cotton, as quoted for Middling (M) 1³/₃₂-inch cotton, delivered C.I.F. Northern Europe (referred to in this section as the “Northern Europe price”).

(2) FURTHER ADJUSTMENT.—Except as provided in paragraph (3), the adjusted prevailing world market price for upland cotton shall be further adjusted on the basis of some or all of the following data, as available:

(A) The United States share of world exports.

(B) The current level of cotton export sales and cotton export shipments.

(C) Other data determined by the Secretary to be relevant in establishing an accurate prevailing world market price for upland cotton (adjusted to United States quality and location).

(3) LIMITATION ON FURTHER ADJUSTMENT.—The adjustment under paragraph (2) may not exceed the difference between—

(A) the Friday through Thursday average price for the lowest-priced United States growth as quoted for Middling $1\frac{3}{32}$ -inch cotton delivered C.I.F. Northern Europe; and

(B) the Northern Europe price.

(f) GOOD FAITH EXCEPTION TO BENEFICIAL INTEREST REQUIREMENT.—For the 2001 crop year only, in the case of the producers on a farm that marketed or otherwise lost beneficial interest in a loan commodity for which a marketing assistance loan was made under section 131 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231) before repaying the loan, the Secretary shall permit the producers to repay the loan at the appropriate repayment rate that was in effect for the loan commodity under section 134 of that Act (7 U.S.C. 7234) on the date that the producers lost beneficial interest, as determined by the Secretary, if the Secretary determines the producers acted in good faith.

7 USC 7935.

SEC. 1205. LOAN DEFICIENCY PAYMENTS.

(a) AVAILABILITY OF LOAN DEFICIENCY PAYMENTS.—

(1) IN GENERAL.—Except as provided in subsection (d), the Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan under section 1201 with respect to a loan commodity, agree to forgo obtaining the loan for the commodity in return for loan deficiency payments under this section.

(2) UNSHORN PELTS, HAY, AND SILAGE.—Nongraded wool in the form of unshorn pelts and hay and silage derived from a loan commodity are not eligible for a marketing assistance loan under section 1201. However, effective for the 2002 through 2007 crop years, the Secretary may make loan deficiency payments available under this section to producers on a farm that produce unshorn pelts or hay and silage derived from a loan commodity.

(b) COMPUTATION.—A loan deficiency payment for a loan commodity or commodity referred to in subsection (a)(2) shall be computed by multiplying—

(1) the payment rate determined under subsection (c) for the commodity; by

(2) the quantity of the commodity produced by the eligible producers, excluding any quantity for which the producers obtain a marketing assistance loan under section 1201.

(c) PAYMENT RATE.—

(1) IN GENERAL.—In the case of a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(2) UNSHORN PELTS.—In the case of unshorn pelts, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for ungraded wool; exceeds

(B) the rate at which a marketing assistance loan for ungraded wool may be repaid under section 1204.

(3) HAY AND SILAGE.—In the case of hay or silage derived from a loan commodity, the payment rate shall be the amount by which—

(A) the loan rate established under section 1202 for the loan commodity from which the hay or silage is derived; exceeds

(B) the rate at which a marketing assistance loan for the loan commodity may be repaid under section 1204.

(d) EXCEPTION FOR EXTRA LONG STAPLE COTTON.—This section shall not apply with respect to extra long staple cotton.

(e) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—The Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity or commodity referred to in subsection (a)(2) using the payment rate in effect under subsection (c) as of the date the producers request the payment.

(f) SPECIAL LOAN DEFICIENCY PAYMENT RULES.—

(1) FIRST-TIME LOAN COMMODITIES.—For the 2002 crop of wool, mohair, honey, dry peas, lentils and small chickpeas, in the case of producers of such a crop that would be eligible for a loan deficiency payment under this section except for the fact that the producers lost beneficial interest in the crop prior to the date of publication of the regulations implementing this section, the producers shall be eligible for a loan deficiency payment as of the date producers marketed or otherwise lost beneficial interest in the crop, as determined by the Secretary.

(2) 2001 CROP YEAR.—Section 135 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7235) is amended—

(A) in subsection (a)(2), by striking “2000 crop year” and inserting “2000 and 2001 crop years”; and

(B) by adding at the end the following:

“(g) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—For the 2001 crop year, the Secretary shall determine the amount of the loan deficiency payment to be made under this section to the producers on a farm with respect to a quantity of a loan commodity using the payment rate in effect under subsection (c) as of the earlier of the following:

“(1) The date on which the producers marketed or otherwise lost beneficial interest in the crop of the loan commodity, as determined by the Secretary.

“(2) The date the producers requested the payment.”.

SEC. 1206. PAYMENTS IN LIEU OF LOAN DEFICIENCY PAYMENTS FOR GRAZED ACREAGE. 7 USC 7936.

(a) ELIGIBLE PRODUCERS.—

(1) IN GENERAL.—Effective for the 2002 through 2007 crop years, in the case of a producer that would be eligible for a loan deficiency payment under section 1205 for wheat, barley, or oats, but that elects to use acreage planted to the wheat,

barley, or oats for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of the wheat, barley, or oats on that acreage.

(2) **GRAZING OF TRITICALE ACREAGE.**—Effective for the 2002 through 2007 crop years, with respect to a producer on a farm that uses acreage planted to triticale for the grazing of livestock, the Secretary shall make a payment to the producer under this section if the producer enters into an agreement with the Secretary to forgo any other harvesting of triticale on that acreage.

(b) **PAYMENT AMOUNT.**—

(1) **IN GENERAL.**—The amount of a payment made under this section to a producer on a farm described in subsection (a)(1) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of wheat, barley, or oats; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to that loan commodity on the farm or, in the case of a farm without a payment yield for that loan commodity, an appropriate yield established by the Secretary in a manner consistent with section 1102(c).

(2) **GRAZING OF TRITICALE ACREAGE.**—The amount of a payment made under this section to a producer on a farm described in subsection (a)(2) shall be equal to the amount determined by multiplying—

(A) the loan deficiency payment rate determined under section 1205(c) in effect for wheat, as of the date of the agreement, for the county in which the farm is located; by

(B) the payment quantity determined by multiplying—

(i) the quantity of the grazed acreage on the farm with respect to which the producer elects to forgo harvesting of triticale; and

(ii) the payment yield in effect for the calculation of direct payments under subtitle A with respect to wheat on the farm or, in the case of a farm without a payment yield for wheat, an appropriate yield established by the Secretary in a manner consistent with section 1102(c).

(c) **TIME, MANNER, AND AVAILABILITY OF PAYMENT.**—

(1) **TIME AND MANNER.**—A payment under this section shall be made at the same time and in the same manner as loan deficiency payments are made under section 1205.

(2) **AVAILABILITY.**—The Secretary shall establish an availability period for the payments authorized by this section. In the case of wheat, barley, and oats, the availability period shall be consistent with the availability period for the commodity established by the Secretary for marketing assistance loans authorized by this subtitle.

(d) PROHIBITION ON CROP INSURANCE INDEMNITY OR NON-INSURED CROP ASSISTANCE.—A 2002 through 2007 crop of wheat, barley, oats, or triticale planted on acreage that a producer elects, in the agreement required by subsection (a), to use for the grazing of livestock in lieu of any other harvesting of the crop shall not be eligible for an indemnity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

SEC. 1207. SPECIAL MARKETING LOAN PROVISIONS FOR UPLAND COTTON. 7 USC 7937.

(a) COTTON USER MARKETING CERTIFICATES.—

(1) ISSUANCE.—During the period beginning on the date of the enactment of this Act through July 31, 2008, the Secretary shall issue marketing certificates or cash payments, at the option of the recipient, to domestic users and exporters for documented purchases by domestic users and sales for export by exporters made in the week following a consecutive 4-week period in which—

(A) the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe exceeds the Northern Europe price by more than 1.25 cents per pound; and

(B) the prevailing world market price for upland cotton (adjusted to United States quality and location) does not exceed 134 percent of the loan rate for upland cotton established under section 1202.

(2) VALUE OF CERTIFICATES OR PAYMENTS.—The value of the marketing certificates or cash payments shall be based on the amount of the difference (reduced by 1.25 cents per pound) in the prices during the fourth week of the consecutive 4-week period multiplied by the quantity of upland cotton included in the documented sales.

(3) ADMINISTRATION OF MARKETING CERTIFICATES.—

(A) REDEMPTION, MARKETING, OR EXCHANGE.—The Secretary shall establish procedures for redeeming marketing certificates for cash or marketing or exchange of the certificates for agricultural commodities owned by the Commodity Credit Corporation or pledged to the Commodity Credit Corporation as collateral for a loan in such manner, and at such price levels, as the Secretary determines will best effectuate the purposes of cotton user marketing certificates, including enhancing the competitiveness and marketability of United States cotton. Any price restrictions that would otherwise apply to the disposition of agricultural commodities by the Commodity Credit Corporation shall not apply to the redemption of certificates under this subsection.

(B) DESIGNATION OF COMMODITIES AND PRODUCTS.—To the extent practicable, the Secretary shall permit owners of certificates to designate the commodities and products, including storage sites, the owners would prefer to receive in exchange for certificates

(C) TRANSFERS.—Marketing certificates issued to domestic users and exporters of upland cotton may be

transferred to other persons in accordance with regulations issued by the Secretary.

(4) DELAYED APPLICATION OF THRESHOLD.—Through July 31, 2006, the Secretary shall make the calculations under paragraphs (1)(A) and (2) without regard to the 1.25 cent threshold provided under those paragraphs.

(b) SPECIAL IMPORT QUOTA.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—The President shall carry out an import quota program during the period beginning on the date of the enactment of this Act through July 31, 2008, as provided in this subsection.

(B) PROGRAM REQUIREMENTS.—Except as provided in subparagraph (C), whenever the Secretary determines and announces that for any consecutive 4-week period, the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe, adjusted for the value of any certificate issued under subsection (a), exceeds the Northern Europe price by more than 1.25 cents per pound, there shall immediately be in effect a special import quota.

(C) TIGHT DOMESTIC SUPPLY.—During any month for which the Secretary estimates the season-ending United States upland cotton stocks-to-use ratio, as determined under subparagraph (D), to be below 16 percent, the Secretary, in making the determination under subparagraph (B), shall not adjust the Friday through Thursday average price quotation for the lowest-priced United States growth, as quoted for Middling (M) $1\frac{3}{32}$ -inch cotton, delivered C.I.F. Northern Europe, for the value of any certificates issued under subsection (a).

(D) SEASON-ENDING UNITED STATES STOCKS-TO-USE RATIO.—For the purposes of making estimates under subparagraph (C), the Secretary shall, on a monthly basis, estimate and report the season-ending United States upland cotton stocks-to-use ratio, excluding projected raw cotton imports but including the quantity of raw cotton that has been imported into the United States during the marketing year.

(E) DELAYED APPLICATION OF THRESHOLD.—Through July 31, 2006, the Secretary shall make the calculation under subparagraph (B) without regard to the 1.25 cent threshold provided under that subparagraph.

(2) QUANTITY.—The quota shall be equal to one week's consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the most recent three months for which data are available.

(3) APPLICATION.—The quota shall apply to upland cotton purchased not later than 90 days after the date of the Secretary's announcement under paragraph (1) and entered into the United States not later than 180 days after the date.

(4) OVERLAP.—A special quota period may be established that overlaps any existing quota period if required by paragraph (1), except that a special quota period may not be established under this subsection if a quota period has been established under subsection (c).

Deadlines.

(5) **PREFERENTIAL TARIFF TREATMENT.**—The quantity under a special import quota shall be considered to be an in-quota quantity for purposes of—

(A) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(B) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(C) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(D) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(6) **DEFINITION.**—In this subsection, the term “special import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(7) **LIMITATION.**—The quantity of cotton entered into the United States during any marketing year under the special import quota established under this subsection may not exceed the equivalent of 5 week’s consumption of upland cotton by domestic mills at the seasonally adjusted average rate of the 3 months immediately preceding the first special import quota established in any marketing year.

(c) **LIMITED GLOBAL IMPORT QUOTA FOR UPLAND COTTON.**—

(1) **IN GENERAL.**—The President shall carry out an import quota program that provides that whenever the Secretary determines and announces that the average price of the base quality of upland cotton, as determined by the Secretary, in the designated spot markets for a month exceeded 130 percent of the average price of such quality of cotton in the markets for the preceding 36 months, notwithstanding any other provision of law, there shall immediately be in effect a limited global import quota subject to the following conditions:

(A) **QUANTITY.**—The quantity of the quota shall be equal to 21 days of domestic mill consumption of upland cotton at the seasonally adjusted average rate of the most recent 3 months for which data are available.

(B) **QUANTITY IF PRIOR QUOTA.**—If a quota has been established under this subsection during the preceding 12 months, the quantity of the quota next established under this subsection shall be the smaller of 21 days of domestic mill consumption calculated under subparagraph (A) or the quantity required to increase the supply to 130 percent of the demand.

(C) **PREFERENTIAL TARIFF TREATMENT.**—The quantity under a limited global import quota shall be considered to be an in-quota quantity for purposes of—

(i) section 213(d) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(d));

(ii) section 204 of the Andean Trade Preference Act (19 U.S.C. 3203);

(iii) section 503(d) of the Trade Act of 1974 (19 U.S.C. 2463(d)); and

(iv) General Note 3(a)(iv) to the Harmonized Tariff Schedule.

(D) **DEFINITIONS.**—In this subsection:

(i) **SUPPLY.**—The term “supply” means, using the latest official data of the Bureau of the Census, the

Department of Agriculture, and the Department of the Treasury—

(I) the carry-over of upland cotton at the beginning of the marketing year (adjusted to 480-pound bales) in which the quota is established;

(II) production of the current crop; and

(III) imports to the latest date available during the marketing year.

(ii) DEMAND.—The term “demand” means—

(I) the average seasonally adjusted annual rate of domestic mill consumption during the most recent 3 months for which data are available; and

(II) the larger of—

(aa) average exports of upland cotton during the preceding 6 marketing years; or

(bb) cumulative exports of upland cotton plus outstanding export sales for the marketing year in which the quota is established.

(iii) LIMITED GLOBAL IMPORT QUOTA.—The term “limited global import quota” means a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota.

(E) QUOTA ENTRY PERIOD.—When a quota is established under this subsection, cotton may be entered under the quota during the 90-day period beginning on the date the quota is established by the Secretary.

(2) NO OVERLAP.—Notwithstanding paragraph (1), a quota period may not be established that overlaps an existing quota period or a special quota period established under subsection (b).

7 USC 7938.

SEC. 1208. SPECIAL COMPETITIVE PROVISIONS FOR EXTRA LONG STAPLE COTTON.

(a) COMPETITIVENESS PROGRAM.—Notwithstanding any other provision of law, during the period beginning on the date of the enactment of this Act through July 31, 2008, the Secretary shall carry out a program—

(1) to maintain and expand the domestic use of extra long staple cotton produced in the United States;

(2) to increase exports of extra long staple cotton produced in the United States; and

(3) to ensure that extra long staple cotton produced in the United States remains competitive in world markets.

(b) PAYMENTS UNDER PROGRAM; TRIGGER.—Under the program, the Secretary shall make payments available under this section whenever—

(1) for a consecutive 4-week period, the world market price for the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton), as determined by the Secretary, is below the prevailing United States price for a competing growth of extra long staple cotton; and

(2) the lowest priced competing growth of extra long staple cotton (adjusted to United States quality and location and for other factors affecting the competitiveness of such cotton),

as determined by the Secretary, is less than 134 percent of the loan rate for extra long staple cotton.

(c) **ELIGIBLE RECIPIENTS.**—The Secretary shall make payments available under this section to domestic users of extra long staple cotton produced in the United States and exporters of extra long staple cotton produced in the United States that enter into an agreement with the Commodity Credit Corporation to participate in the program under this section.

(d) **PAYMENT AMOUNT.**—Payments under this section shall be based on the amount of the difference in the prices referred to in subsection (b)(1) during the fourth week of the consecutive 4-week period multiplied by the amount of documented purchases by domestic users and sales for export by exporters made in the week following such a consecutive 4-week period.

(e) **FORM OF PAYMENT.**—Payments under this section shall be made through the issuance of cash or marketing certificates, at the option of eligible recipients of the payments.

SEC. 1209. AVAILABILITY OF RECOURSE LOANS FOR HIGH MOISTURE FEED GRAINS AND SEED COTTON. 7 USC 7939.

(a) **HIGH MOISTURE FEED GRAINS.**—

(1) **RECOURSE LOANS AVAILABLE.**—For each of the 2002 through 2007 crops of corn and grain sorghum, the Secretary shall make available recourse loans, as determined by the Secretary, to producers on a farm that—

(A) normally harvest all or a portion of their crop of corn or grain sorghum in a high moisture state;

(B) present—

(i) certified scale tickets from an inspected, certified commercial scale, including a licensed warehouse, feedlot, feed mill, distillery, or other similar entity approved by the Secretary, pursuant to regulations issued by the Secretary; or

(ii) field or other physical measurements of the standing or stored crop in regions of the United States, as determined by the Secretary, that do not have certified commercial scales from which certified scale tickets may be obtained within reasonable proximity of harvest operation;

(C) certify that they were the owners of the feed grain at the time of delivery to, and that the quantity to be placed under loan under this subsection was in fact harvested on the farm and delivered to, a feedlot, feed mill, or commercial or on-farm high-moisture storage facility, or to a facility maintained by the users of corn and grain sorghum in a high moisture state; and

(D) comply with deadlines established by the Secretary for harvesting the corn or grain sorghum and submit applications for loans under this subsection within deadlines established by the Secretary.

(2) **ELIGIBILITY OF ACQUIRED FEED GRAINS.**—A loan under this subsection shall be made on a quantity of corn or grain sorghum of the same crop acquired by the producer equivalent to a quantity determined by multiplying—

(A) the acreage of the corn or grain sorghum in a high moisture state harvested on the producer's farm; by

(B) the lower of the farm program payment yield used to make counter-cyclical payments under subtitle A or the actual yield on a field, as determined by the Secretary, that is similar to the field from which the corn or grain sorghum was obtained.

(3) HIGH MOISTURE STATE DEFINED.—In this subsection, the term “high moisture state” means corn or grain sorghum having a moisture content in excess of Commodity Credit Corporation standards for marketing assistance loans made by the Secretary under section 1201.

(b) RECOURSE LOANS AVAILABLE FOR SEED COTTON.—For each of the 2002 through 2007 crops of upland cotton and extra long staple cotton, the Secretary shall make available recourse seed cotton loans, as determined by the Secretary, on any production.

(c) REPAYMENT RATES.—Repayment of a recourse loan made under this section shall be at the loan rate established for the commodity by the Secretary, plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)).

(d) TERMINATION OF SUPERSEDED LOAN AUTHORITY.—Notwithstanding section 137 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7237), recourse loans shall not be made for the 2002 crop of corn, grain sorghum, and seed cotton under such section.

Subtitle C—Peanuts

7 USC 7951.

SEC. 1301. DEFINITIONS.

In this subtitle:

(1) BASE ACRES FOR PEANUTS.—The term “base acres for peanuts” means the number of acres assigned to a farm by historic peanut producers pursuant to section 1302(b).

(2) COUNTER-CYCLICAL PAYMENT.—The term “counter-cyclical payment” means a payment made under section 1304.

(3) EFFECTIVE PRICE.—The term “effective price” means the price calculated by the Secretary under section 1304 for peanuts to determine whether counter-cyclical payments are required to be made under that section for a crop year.

(4) DIRECT PAYMENT.—The term “direct payment” means a payment made under section 1303.

(5) HISTORIC PEANUT PRODUCER.—The term “historic peanut producer” means a producer on a farm in the United States that produced or was prevented from planting peanuts during any or all of the 1998 through 2001 crop years.

(6) PAYMENT ACRES.—The term “payment acres” means—

(A) for the 2002 crop of peanuts, 85 percent of the average acreage determined under section 1302(a)(2) for an historic peanut producer; and

(B) for the 2003 through 2007 crops of peanuts, 85 percent of the base acres for peanuts assigned to a farm under section 1302(b).

(7) PAYMENT YIELD.—The term “payment yield” means the yield assigned to a farm by historic peanut producers pursuant to section 1302(b).

(8) PRODUCER.—The term “producer” means an owner, operator, landlord, tenant, or sharecropper that shares in the

risk of producing a crop on a farm and is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced. In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract and shall ensure that program requirements do not adversely affect the ability of the grower to receive a payment under this subtitle.

(9) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(10) STATE.—The term “State” means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other territory or possession of the United States.

(11) TARGET PRICE.—The term “target price” means the price per ton of peanuts used to determine the payment rate for counter-cyclical payments.

(12) UNITED STATES.—The term “United States”, when used in a geographical sense, means all of the States.

SEC. 1302. ESTABLISHMENT OF PAYMENT YIELD AND BASE ACRES FOR PEANUTS FOR A FARM. 7 USC 7952.

(a) AVERAGE YIELD AND ACREAGE AVERAGE FOR HISTORIC PEANUT PRODUCERS.—

(1) DETERMINATION OF AVERAGE YIELD.—

(A) IN GENERAL.—The Secretary shall determine, for each historic peanut producer, the average yield for peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years, excluding any crop year in which the producer did not plant or was prevented from planting peanuts.

(B) ASSIGNED YIELDS.—For the purposes of determining the 4-year average yield for an historic peanut producer under this paragraph, the historic peanut producer may elect to substitute for a farm, for not more than 3 of the 1998 through 2001 crop years in which the producer planted peanuts on the farm, the average yield for peanuts produced in the county in which the farm is located for the 1990 through 1997 crop years.

(2) DETERMINATION OF ACREAGE AVERAGE.—

(A) IN GENERAL.—The Secretary shall determine, for each historic peanut producer, the 4-year average of the following:

(i) Acreage planted to peanuts on each farm on which the historic peanut producer planted peanuts for harvest for the 1998 through 2001 crop years.

(ii) Any acreage on each farm that the historic peanut producer was prevented from planting to peanuts during the 1998 through 2001 crop years because of drought, flood, or other natural disaster, or other condition beyond the control of the historic peanut producer, as determined by the Secretary.

(B) INCLUSION OF ALL 4 YEARS IN AVERAGE.—For the purposes of determining the 4-year acreage average for an historic peanut producer under this paragraph, the Secretary shall not exclude any crop year in which the producer did not plant peanuts.

(C) PROPORTIONAL SHARES.—If more than 1 historic peanut producer shared in the risk of producing the crop on a farm, the historic peanut producers shall receive their proportional share of the number of acres planted (or prevented from being planted) to peanuts for harvest on the farm based on the sharing arrangement that was in effect among the producers for the crop.

(3) TIME FOR DETERMINATIONS.—The Secretary shall make the determinations required by this subsection as soon as practicable after the date of enactment of this Act.

(4) SPECIAL CONSIDERATIONS.—In making the determinations required by this subsection, the Secretary shall take into account changes in the number, identity, or interest of producers sharing in the risk of producing a peanut crop since the 1998 crop year, including providing a method for the assignment of average acres and average yield to a farm—

(A) when an historic peanut producer is no longer living;

(B) when an entity composed of historic peanut producers has been dissolved; or

(C) in other appropriate situations, as determined by the Secretary.

(b) ASSIGNMENT OF AVERAGE YIELDS AND AVERAGE ACREAGE TO FARMS.—

(1) ASSIGNMENT BY HISTORIC PEANUT PRODUCERS.—The Secretary shall give each historic peanut producer an opportunity to assign the average peanut yield and average acreage determined under subsection (a) for each farm of the historic peanut producer to cropland on that farm or another farm in the same State or a contiguous State.

(2) LIMITATION ON ACREAGE ASSIGNMENT.—Notwithstanding paragraph (1), the average acreage determined under subsection (a)(2) for a farm may not be assigned to a farm in a contiguous State unless—

(A) the historic peanut producer making the assignment produced peanuts in that State during at least 1 of the 1998 through 2001 crop years; or

(B) as of March 31, 2003, the historic peanut producer is a producer on a farm in that State.

(3) NOTICE OF ASSIGNMENT OPPORTUNITY.—The Secretary shall provide notice to historic peanut producers regarding their opportunity to assign average peanut yields and average acreages to farms under paragraph (1). The notice shall include the following:

(A) Notice that the opportunity to make the assignments is being provided only once.

(B) A description of the limitation in paragraph (2) on their ability to make the assignments.

(C) Information regarding the manner in which the assignments must be made and the time periods and manner in which notice of the assignments must be submitted to the Secretary.

(4) ASSIGNMENT DEADLINES.—Not later than March 31, 2003, an historic peanut producer shall submit to the Secretary notice of the assignments made by the producer under this subsection. If an historic peanut producer fails to submit the

notice by that date, the notice shall be submitted in such other manner as the Secretary may prescribe.

(c) **PAYMENT YIELD.**—The average of all of the yields assigned by historic peanut producers under subsection (b) to a farm shall be considered to be the payment yield for that farm for the purpose of making direct payments and counter-cyclical payments under this subtitle.

(d) **BASE ACRES FOR PEANUTS.**—Subject to subsection (e), the total number of acres assigned by historic peanut producers under subsection (b) to a farm shall be considered to be the farm's base acres for peanuts for the purpose of making direct payments and counter-cyclical payments under this subtitle.

(e) **TREATMENT OF CONSERVATION RESERVE CONTRACT ACREAGE.**—

(1) **IN GENERAL.**—The Secretary shall provide for an adjustment, as appropriate, in the base acres for peanuts for a farm whenever either of the following circumstances occur:

(A) A conservation reserve contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) with respect to the farm expires or is voluntarily terminated.

(B) Cropland is released from coverage under a conservation reserve contract by the Secretary.

(2) **SPECIAL PAYMENT RULES.**—For the crop year in which a base acres for peanuts adjustment under paragraph (1) is first made, the owner of the farm shall elect to receive either direct payments and counter-cyclical payments with respect to the acreage added to the farm under this subsection or a prorated payment under the conservation reserve contract, but not both.

(f) **PREVENTION OF EXCESS BASE ACRES FOR PEANUTS.**—

(1) **REQUIRED REDUCTION.**—If the sum of the base acres for peanuts for a farm, together with the acreage described in paragraph (2), exceeds the actual cropland acreage of the farm, the Secretary shall reduce the base acres for peanuts for the farm or the base acres for 1 or more covered commodities under subtitle A for the farm so that the sum of the base acres for peanuts and acreage described in paragraph (2) does not exceed the actual cropland acreage of the farm.

(2) **OTHER ACREAGE.**—For purposes of paragraph (1), the Secretary shall include the following:

(A) Any base acres for the farm under subtitle A.

(B) Any acreage on the farm enrolled in the conservation reserve program or wetlands reserve program under chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.).

(C) Any other acreage on the farm enrolled in a conservation program for which payments are made in exchange for not producing an agricultural commodity on the acreage.

(3) **SELECTION OF ACRES.**—The Secretary shall give the owner of the farm the opportunity to select the base acres for peanuts or the subtitle A base acres against which the reduction required by paragraph (1) will be made.

(4) **EXCEPTION FOR DOUBLE-CROPPED ACREAGE.**—In applying paragraph (1), the Secretary shall make an exception in the case of double cropping, as determined by the Secretary.

(5) COORDINATED APPLICATION OF REQUIREMENTS.—The Secretary shall take into account section 1101(g) when applying the requirements of this subsection.

(g) PERMANENT REDUCTION IN BASE ACRES FOR PEANUTS.—The owner of a farm may reduce, at any time, the base acres for peanuts assigned to the farm. The reduction shall be permanent and made in the manner prescribed by the Secretary.

7 USC 7953.

SEC. 1303. AVAILABILITY OF DIRECT PAYMENTS FOR PEANUTS.

(a) PAYMENT REQUIRED.—

(1) 2002 CROP YEAR.—For the 2002 crop year, the Secretary shall make direct payments under this section to historic peanut producers.

(2) SUBSEQUENT CROP YEARS.—For each of the 2003 through 2007 crop years for peanuts, the Secretary shall make direct payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

(b) PAYMENT RATE.—The payment rate used to make direct payments with respect to peanuts for a crop year shall be equal to \$36 per ton.

(c) PAYMENT AMOUNT FOR 2002 CROP YEAR.—The amount of the direct payment to be paid to an historic peanut producer for the 2002 crop of peanuts shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres of the historic peanut producer.

(3) The average peanut yield determined under section 1302(a)(1) for the historic peanut producer.

(d) PAYMENT AMOUNT FOR SUBSEQUENT CROP YEARS.—The amount of the direct payment to be paid to the producers on a farm for the 2003 through 2007 crops of peanuts shall be equal to the product of the following:

(1) The payment rate specified in subsection (b).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(e) TIME FOR PAYMENT.—

(1) IN GENERAL.—The Secretary shall make direct payments—

(A) in the case of the 2002 crop year, as soon as practicable after the date of enactment of this Act; and

(B) in the case of each of the 2003 through 2007 crop years, not later than September 30 of the calendar year in which the crop is harvested.

(2) ADVANCE PAYMENTS.—At the option of the producers on a farm, up to 50 percent of the direct payment for any of the 2003 through 2007 crop years shall be paid to the producers in advance. The producers shall select the month within which the advance payment for a crop year will be made. The month selected may be any month during the period beginning on December 1 of the calendar year before the calendar year in which the crop is harvested through the month within which the direct payment would otherwise be made. The producers may change the selected month for a subsequent advance payment by providing advance notice to the Secretary.

(3) REPAYMENT OF ADVANCE PAYMENTS.—If a producer on a farm that receives an advance direct payment for a crop

Deadline.

year ceases to be a producer on that farm, or the extent to which the producer shares in the risk of producing a crop changes, before the date the remainder of the direct payment is made, the producer shall be responsible for repaying the Secretary the applicable amount of the advance payment, as determined by the Secretary.

SEC. 1304. AVAILABILITY OF COUNTER-CYCLICAL PAYMENTS FOR PEANUTS. 7 USC 7954.

(a) **PAYMENT REQUIRED.**—

(1) **IN GENERAL.**—During the 2002 through 2007 crop years for peanuts, the Secretary shall make counter-cyclical payments under this section with respect to peanuts if the Secretary determines that the effective price for peanuts is less than the target price for peanuts.

(2) **2002 CROP YEAR.**—If counter-cyclical payments are required for the 2002 crop year, the Secretary shall make the payments to historic peanut producers.

(3) **SUBSEQUENT CROP YEARS.**—If counter-cyclical payments are required for any of the 2003 through 2007 crop years for peanuts, the Secretary shall make the payments to the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302.

(b) **EFFECTIVE PRICE.**—For purposes of subsection (a), the effective price for peanuts is equal to the sum of the following:

(1) The higher of the following:

(A) The national average market price for peanuts received by producers during the 12-month marketing year for peanuts, as determined by the Secretary.

(B) The national average loan rate for a marketing assistance loan for peanuts in effect for the applicable period under this subtitle.

(2) The payment rate in effect under section 1303 for the purpose of making direct payments.

(c) **TARGET PRICE.**—For purposes of subsection (a), the target price for peanuts shall be equal to \$495 per ton.

(d) **PAYMENT RATE.**—The payment rate used to make counter-cyclical payments for a crop year shall be equal to the difference between—

(1) the target price; and

(2) the effective price determined under subsection (b).

(e) **PAYMENT AMOUNT FOR 2002 CROP YEAR.**—If counter-cyclical payments are required to be paid for the 2002 crop of peanuts, the amount of the counter-cyclical payment to be paid to an historic peanut producer for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres of the historic peanut producer.

(3) The average peanut yield determined under section 1302(a)(1) for the historic peanut producer.

(f) **PAYMENT AMOUNT FOR SUBSEQUENT CROP YEARS.**—If counter-cyclical payments are required to be paid for any of the 2003 through 2007 crops of peanuts, the amount of the counter-cyclical payment to be paid to the producers on a farm for that crop year shall be equal to the product of the following:

(1) The payment rate specified in subsection (d).

(2) The payment acres on the farm.

(3) The payment yield for the farm.

(g) TIME FOR PAYMENTS.—

(1) GENERAL RULE.—If the Secretary determines under subsection (a) that counter-cyclical payments are required to be made under this section for a crop year, the Secretary shall make the counter-cyclical payments as soon as practicable after the end of the 12-month marketing year for the crop.

(2) AVAILABILITY OF PARTIAL PAYMENTS.—If, before the end of the 12-month marketing year, the Secretary estimates that counter-cyclical payments will be required under this section for a crop year, the Secretary shall give producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) the option to receive partial payments of the counter-cyclical payment projected to be made for that crop.

(3) TIME FOR PARTIAL PAYMENTS.—

(A) 2002 THROUGH 2006 CROP YEARS.—When the Secretary makes partial payments available under paragraph (2) for any of the 2002 through 2006 crop years—

(i) the first partial payment for the crop year shall be made not earlier than October 1, and, to the maximum extent practicable, not later than October 31, of the calendar year in which the crop is harvested;

(ii) the second partial payment shall be made not earlier than February 1 of the next calendar year; and

(iii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

(B) 2007 CROP YEAR.—When the Secretary makes partial payments available for the 2007 crop year—

(i) the first partial payment shall be made after completion of the first 6 months of the marketing year for that crop; and

(ii) the final partial payment shall be made as soon as practicable after the end of the 12-month marketing year for that crop.

(4) AMOUNT OF PARTIAL PAYMENTS.—

(A) 2002 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—In the case of the 2002 crop year, the first partial payment under paragraph (3) to an historic peanut producer may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the 2002 crop year; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the historic peanut producer; and

(II) the amount of the partial payments made to the historic peanut producer under clauses (i) and (ii).

(B) 2003 THROUGH 2006 CROP YEARS.—

(i) FIRST PARTIAL PAYMENT.—For each of the 2003 through 2006 crop years, the first partial payment under paragraph (3) to the producers on a farm may not exceed 35 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) SECOND PARTIAL PAYMENT.—The second partial payment for a crop year may not exceed the difference between—

(I) 70 percent of the projected counter-cyclical payment (including any revision thereof) for the crop year; and

(II) the amount of the payment made under clause (i).

(iii) FINAL PAYMENT.—The final payment for a crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for that crop year; and

(II) the amount of the partial payments made to the producers under clauses (i) and (ii) for that crop year.

(C) 2007 CROP YEAR.—

(i) FIRST PARTIAL PAYMENT.—For the 2007 crop year, the first partial payment under paragraph (3) to the producers on a farm may not exceed 40 percent of the projected counter-cyclical payment for the crop year, as determined by the Secretary.

(ii) FINAL PAYMENT.—The final payment for the 2007 crop year shall be equal to the difference between—

(I) the actual counter-cyclical payment to be made to the producers for that crop year; and

(II) the amount of the partial payment made to the producers under clause (i).

(5) REPAYMENT.—The producers on a farm (or, in the case of the 2002 crop year, historic peanut producers) that receive a partial payment under this subsection for a crop year shall repay to the Secretary the amount, if any, by which the total of the partial payments exceed the actual counter-cyclical payment to be made for that crop year.

SEC. 1305. PRODUCER AGREEMENT REQUIRED AS CONDITION ON PROVISION OF DIRECT PAYMENTS AND COUNTER-CYCLICAL PAYMENTS.

7 USC 7955.

(a) COMPLIANCE WITH CERTAIN REQUIREMENTS.—

(1) REQUIREMENTS.—Before the producers on a farm may receive direct payments or counter-cyclical payments under this subtitle with respect to the farm, the producers shall agree, during the crop year for which the payments are made and in exchange for the payments—

(A) to comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.);

(B) to comply with applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.);

(C) to comply with the planting flexibility requirements of section 1306;

(D) to use the land on the farm, in a quantity equal to the attributable base acres for peanuts and any base acres for the farm under subtitle A, for an agricultural or conserving use, and not for a nonagricultural commercial or industrial use, as determined by the Secretary; and

(E) to effectively control noxious weeds and otherwise maintain the land in accordance with sound agricultural practices, as determined by the Secretary, if the agricultural or conserving use involves the noncultivation of any portion of the land referred to in subparagraph (D).

(2) COMPLIANCE.—The Secretary may issue such rules as the Secretary considers necessary to ensure producer compliance with the requirements of paragraph (1).

(3) MODIFICATION.—At the request of the transferee or owner, the Secretary may modify the requirements of this subsection if the modifications are consistent with the objectives of this subsection, as determined by the Secretary.

(b) TRANSFER OR CHANGE OF INTEREST IN FARM.—

(1) TERMINATION.—Except as provided in paragraph (2), a transfer of (or change in) the interest of the producers on a farm in the base acres for peanuts for which direct payments or counter-cyclical payments are made shall result in the termination of the payments with respect to those acres, unless the transferee or owner of the acreage agrees to assume all obligations under subsection (a). The termination shall take effect on the date determined by the Secretary.

(2) EXCEPTION.—If a producer entitled to a direct payment or counter-cyclical payment dies, becomes incompetent, or is otherwise unable to receive the payment, the Secretary shall make the payment, in accordance with rules issued by the Secretary.

(c) ACREAGE REPORTS.—As a condition on the receipt of direct payments, counter-cyclical payments, marketing assistance loans, or loan deficiency payments under this subtitle, the Secretary shall require the producers on a farm to which a payment yield and base acres for peanuts are assigned under section 1302 to submit to the Secretary annual acreage reports with respect to all cropland on the farm.

(d) TENANTS AND SHARECROPPERS.—In carrying out this subtitle, the Secretary shall provide adequate safeguards to protect the interests of tenants and sharecroppers.

(e) SHARING OF PAYMENTS.—The Secretary shall provide for the sharing of direct payments and counter-cyclical payments among the producers on a farm on a fair and equitable basis.

7 USC 7956.

SEC. 1306. PLANTING FLEXIBILITY.

(a) PERMITTED CROPS.—Subject to subsection (b), any commodity or crop may be planted on the base acres for peanuts on a farm.

(b) LIMITATIONS REGARDING CERTAIN COMMODITIES.—

(1) GENERAL LIMITATION.—The planting of an agricultural commodity specified in paragraph (2) shall be prohibited on base acres for peanuts unless the commodity, if planted, is destroyed before harvest.

(2) TREATMENT OF TREES AND OTHER PERENNIALS.—The planting of an agricultural commodity specified in paragraph (3) that is produced on a tree or other perennial plant shall be prohibited on base acres for peanuts.

(3) COVERED AGRICULTURAL COMMODITIES.—Paragraphs (1) and (2) apply to the following agricultural commodities:

(A) Fruits.

(B) Vegetables (other than lentils, mung beans, and dry peas).

(C) Wild rice.

(c) EXCEPTIONS.—Paragraphs (1) and (2) of subsection (b) shall not limit the planting of an agricultural commodity specified in paragraph (3) of that subsection—

(1) in any region in which there is a history of double-cropping of peanuts with agricultural commodities specified in subsection (b)(3), as determined by the Secretary, in which case the double-cropping shall be permitted;

(2) on a farm that the Secretary determines has a history of planting agricultural commodities specified in subsection (b)(3) on the base acres for peanuts, except that direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such an agricultural commodity; or

(3) by the producers on a farm that the Secretary determines has an established planting history of a specific agricultural commodity specified in subsection (b)(3), except that—

(A) the quantity planted may not exceed the average annual planting history of such agricultural commodity by the producers on the farm in the 1991 through 1995 or 1998 through 2001 crop years (excluding any crop year in which no plantings were made), as determined by the Secretary; and

(B) direct payments and counter-cyclical payments shall be reduced by an acre for each acre planted to such agricultural commodity.

SEC. 1307. MARKETING ASSISTANCE LOANS AND LOAN DEFICIENCY PAYMENTS FOR PEANUTS. 7 USC 7957.

(a) NONRECOURSE LOANS AVAILABLE.—

(1) AVAILABILITY.—For each of the 2002 through 2007 crops of peanuts, the Secretary shall make available to producers on a farm nonrecourse marketing assistance loans for peanuts produced on the farm. The loans shall be made under terms and conditions that are prescribed by the Secretary and at the loan rate established under subsection (b).

(2) ELIGIBLE PRODUCTION.—The producers on a farm shall be eligible for a marketing assistance loan under this subsection for any quantity of peanuts produced on the farm.

(3) TREATMENT OF CERTAIN COMMINGLED COMMODITIES.—In carrying out this subsection, the Secretary shall make loans to producers on a farm that would be eligible to obtain a marketing assistance loan, but for the fact the peanuts owned by the producers on the farm are commingled with other peanuts in facilities unlicensed for the storage of agricultural commodities by the Secretary or a State licensing authority, if the producers obtaining the loan agree to immediately redeem the loan collateral in accordance with section 166 of the Federal

Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286).

(4) **OPTIONS FOR OBTAINING LOAN.**—A marketing assistance loan under this subsection, and loan deficiency payments under subsection (e), may be obtained at the option of the producers on a farm through—

(A) a designated marketing association or marketing cooperative of producers that is approved by the Secretary; or

(B) the Farm Service Agency.

(5) **STORAGE OF LOAN PEANUTS.**—As a condition on the Secretary's approval of an individual or entity to provide storage for peanuts for which a marketing assistance loan is made under this section, the individual or entity shall agree—

(A) to provide such storage on a nondiscriminatory basis; and

(B) to comply with such additional requirements as the Secretary considers appropriate to accomplish the purposes of this section and promote fairness in the administration of the benefits of this section.

(6) **PAYMENT OF PEANUT STORAGE COSTS.**—Effective for the 2002 through 2006 crops of peanuts, to ensure proper storage of peanuts for which a loan is made under this section, the Secretary shall use the funds of the Commodity Credit Corporation to pay storage, handling, and other associated costs. This authority terminates beginning with the 2007 crop of peanuts.

(7) **MARKETING.**—A marketing association or cooperative may market peanuts for which a loan is made under this section in any manner that conforms to consumer needs, including the separation of peanuts by type and quality.

(b) **LOAN RATE.**—The loan rate for a marketing assistance loan under for peanuts subsection (a) shall be equal to \$355 per ton.

(c) **TERM OF LOAN.**—

(1) **IN GENERAL.**—A marketing assistance loan for peanuts under subsection (a) shall have a term of 9 months beginning on the first day of the first month after the month in which the loan is made.

(2) **EXTENSIONS PROHIBITED.**—The Secretary may not extend the term of a marketing assistance loan for peanuts under subsection (a).

(d) **REPAYMENT RATE.**—

(1) **IN GENERAL.**—The Secretary shall permit producers on a farm to repay a marketing assistance loan for peanuts under subsection (a) at a rate that is the lesser of—

(A) the loan rate established for peanuts under subsection (b), plus interest (determined in accordance with section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283)); or

(B) a rate that the Secretary determines will—

(i) minimize potential loan forfeitures;

(ii) minimize the accumulation of stocks of peanuts by the Federal Government;

(iii) minimize the cost incurred by the Federal Government in storing peanuts; and

(iv) allow peanuts produced in the United States to be marketed freely and competitively, both domestically and internationally.

(2) GOOD FAITH EXCEPTION TO BENEFICIAL INTEREST REQUIREMENT.—For the 2002 crop year only, in the case of the producers on a farm that marketed or otherwise lost beneficial interest in the peanuts for which a marketing assistance loan was made under this section before repaying the loan, the Secretary shall permit the producers to repay the loan at the applicable repayment rate that was in effect for peanuts under this subsection on the date that the producers lost beneficial interest, as determined by the Secretary, if the Secretary determines the producers acted in good faith.

(e) LOAN DEFICIENCY PAYMENTS.—

(1) AVAILABILITY.—The Secretary may make loan deficiency payments available to producers on a farm that, although eligible to obtain a marketing assistance loan for peanuts under subsection (a), agree to forgo obtaining the loan for the peanuts in return for loan deficiency payments under this subsection.

(2) COMPUTATION.—A loan deficiency payment under this subsection shall be computed by multiplying—

(A) the payment rate determined under paragraph (3) for peanuts; by

(B) the quantity of the peanuts produced by the producers, excluding any quantity for which the producers obtain a marketing assistance loan under subsection (a).

(3) PAYMENT RATE.—For purposes of this subsection, the payment rate shall be the amount by which—

(A) the loan rate established under subsection (b); exceeds

(B) the rate at which a loan may be repaid under subsection (d).

(4) EFFECTIVE DATE FOR PAYMENT RATE DETERMINATION.—

(A) IN GENERAL.—The Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the date the producers request the payment.

(B) SPECIAL RULE FOR 2002 CROP YEAR.—For the 2002 crop year only, the Secretary shall determine the amount of the loan deficiency payment to be made under this subsection to the producers on a farm with respect to a quantity of peanuts using the payment rate in effect under paragraph (3) as of the earlier of the following:

(i) The date on which the producers marketed or otherwise lost beneficial interest in the crop, as determined by the Secretary.

(ii) The date the producers request the payment.

(f) COMPLIANCE WITH CONSERVATION AND WETLANDS REQUIREMENTS.—As a condition of the receipt of a marketing assistance loan under subsection (a), the producer shall comply with applicable conservation requirements under subtitle B of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.) and applicable wetland protection requirements under subtitle C of title XII of that Act (16 U.S.C. 3821 et seq.) during the term of the loan.

(g) REIMBURSABLE AGREEMENTS AND PAYMENT OF ADMINISTRATIVE EXPENSES.—The Secretary may implement any reimbursable agreements or provide for the payment of administrative expenses

under this subtitle only in a manner that is consistent with such activities in regard to other commodities.

7 USC 7958.

SEC. 1308. MISCELLANEOUS PROVISIONS.

(a) **MANDATORY INSPECTION.**—All peanuts marketed in the United States shall be officially inspected and graded by Federal or Federal-State inspectors.

(b) **TERMINATION OF PEANUT ADMINISTRATIVE COMMITTEE.**—The Peanut Administrative Committee established under Marketing Agreement No. 146 issued pursuant to the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is terminated.

(c) **PEANUT STANDARDS BOARD.**—

(1) **ESTABLISHMENT AND PURPOSE.**—The Secretary shall establish a Peanut Standards Board for the purpose of advising the Secretary regarding the establishment of quality and handling standards for domestically produced and imported peanuts.

(2) **MEMBERSHIP AND APPOINTMENT.**—

(A) **TOTAL MEMBERS.**—The Board shall consist of 18 members, with representation equally divided between peanut producers and peanut industry representatives.

(B) **APPOINTMENT PROCESS FOR PRODUCERS.**—The Secretary shall appoint—

(i) 3 producers from the Southeast (Alabama, Georgia, and Florida) peanut producing region;

(ii) 3 producers from the Southwest (Texas, Oklahoma, and New Mexico) peanut producing region; and

(iii) 3 producers from the Virginia/Carolina (Virginia and North Carolina) peanut producing region.

(C) **APPOINTMENT PROCESS FOR INDUSTRY REPRESENTATIVES.**—The Secretary shall appoint 3 peanut industry representatives from each of the 3 peanut producing regions in the United States.

(3) **TERMS.**—

(A) **IN GENERAL.**—A member of the Board shall serve a 3-year term.

(B) **INITIAL APPOINTMENT.**—In making the initial appointments to the Board, the Secretary shall stagger the terms of the members so that—

(i) 1 producer member and peanut industry member from each peanut producing region serves a 1-year term;

(ii) 1 producer member and peanut industry member from each peanut producing region serves a 2-year term; and

(iii) 1 producer member and peanut industry member from each peanut producing region serves a 3-year term.

(4) **CONSULTATION REQUIRED.**—The Secretary shall consult with the Board in advance whenever the Secretary establishes or changes, or considers the establishment of or a change to, quality and handling standards for peanuts.

(5) **FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Board.

(d) **PRIORITY.**—The Secretary shall make identifying and combating the presence of all quality concerns related to peanuts a priority in the development of quality and handling standards for peanuts and in the inspection of domestically produced and imported peanuts. The Secretary shall consult with appropriate Federal and State agencies to provide adequate safeguards against all quality concerns related to peanuts.

(e) **CONSISTENT STANDARDS.**—Imported peanuts shall be subject to the same quality and handling standards as apply to domestically produced peanuts.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—In addition to other funds that are available to carry out this section, there is authorized to be appropriated such sums as are necessary to carry out this section.

(2) **TREATMENT OF BOARD EXPENSES.**—The expenses of the Peanut Standards Board shall not be counted toward any general limitation on the expenses of advisory committees, panels, commissions, and task forces of the Department of Agriculture, whether enacted before, on, or after the date of enactment of this Act, unless the limitation specifically refers to this paragraph and specifically includes the Peanut Standards Board within the general limitation.

(g) **TRANSITION RULE.**—

(1) **TEMPORARY DESIGNATION OF PEANUT ADMINISTRATIVE COMMITTEE MEMBERS.**—Notwithstanding the appointment process specified in subsection (c) for the Peanut Standards Board, during the transition period, the Secretary may designate persons serving as members of the Peanut Administrative Committee on the day before the date of enactment of this Act to serve as members of the Peanut Standards Board for the purpose of carrying out the duties of the Board described in this section.

(2) **FUNDS.**—The Secretary may transfer any funds available to carry out the activities of the Peanut Administrative Committee to the Peanut Standards Board to carry out the duties of the Board described in this section.

(3) **TRANSITION PERIOD.**—In paragraph (1), the term “transition period” means the period beginning on the date of enactment of this Act and ending on the earlier of—

(A) the date the Secretary appoints the members of the Peanut Standards Board pursuant to subsection (c);
or

(B) 180 days after the date of enactment of this Act.

(h) **EFFECTIVE DATE.**—This section shall take effect with the 2002 crop of peanuts.

SEC. 1309. TERMINATION OF MARKETING QUOTA PROGRAMS FOR PEANUTS AND COMPENSATION TO PEANUT QUOTA HOLDERS FOR LOSS OF QUOTA ASSET VALUE.

7 USC 7959.

(a) **REPEAL OF MARKETING QUOTA.**—

(1) **REPEAL.**—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357–1359a), relating to peanuts, is repealed.

(2) **TREATMENT OF 2001 CROP.**—Part VI of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1357–1359a), as in effect on the day before the date of enactment of this Act, shall continue to apply with respect to the

2001 crop of peanuts notwithstanding the amendment made by paragraph (1). Section 1308(g)(2) shall also apply to the 2001 crop of peanuts.

(b) COMPENSATION CONTRACT REQUIRED.—

(1) IN GENERAL.—The Secretary shall offer to enter into a contract with each person that the Secretary determines is an eligible peanut quota holder under subsection (f) for the purpose of providing compensation for the lost value of the quota on account of the repeal of the marketing quota program for peanuts under subsection (a).

(2) PAYMENT PERIOD.—The Secretary shall make payments under the contracts during fiscal years 2002 through 2006.

(c) TIME FOR PAYMENT.—

(1) PAYMENT IN INSTALLMENTS.—The payments required under the contracts shall be provided in 5 equal installments not later than September 30 of each of fiscal years 2002 through 2006.

(2) SINGLE PAYMENT.—At the request of an eligible peanut quota holder entitled to payments under a contract, the Secretary shall provide the entire payment amount determined under subsection (d) with respect to the eligible peanut quota holder for the 5 fiscal years in a single lump sum during the fiscal year specified by the eligible peanut quota holder.

(d) PAYMENT AMOUNT.—The amount of the payment for a fiscal year to an eligible peanut quota holder under a contract shall be equal to the product obtained by multiplying—

(1) \$0.11 per pound; by

(2) the number of pounds of quota with respect to which the person qualifies as a peanut quota holder under subsection (f).

(e) ASSIGNMENT OF PAYMENTS.—The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to the payments made under the contracts. A person making an assignment of the payment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this subsection.

(f) ELIGIBLE PEANUT QUOTA HOLDER.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall consider a person to be an eligible peanut quota holder for the purposes of this section if the person, as of the date of enactment of this Act, owned a farm that, also as of that date, was eligible for a permanent peanut quota under section 358-1(b) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358-1(b)), irrespective of temporary leases, transfers of quotas for seed, or quotas for experimental purposes.

(2) EFFECT OF PURCHASE CONTRACT.—If there was a written contract for the purchase of all or a portion of a farm described in paragraph (1) as of the date of enactment of this Act and the parties to the sale are unable to agree to the disposition of eligibility for payments under this section, the Secretary, taking into account any incomplete permanent transfer of quota that has otherwise been agreed to, shall provide for the equitable division of the payments among the parties by adjusting the determination of who is the eligible peanut quota holder with respect to particular pounds of the quota.

(3) EFFECT OF AGREEMENT FOR PERMANENT QUOTA TRANSFER.—If the Secretary determines that there was in existence, as of the date of enactment of this Act, an agreement for the permanent transfer of quota, but that the transfer was not completed by that date, the Secretary shall consider the peanut quota holder to be the party to the agreement who, as of that date, was the owner of the farm to which the quota was to be transferred.

(4) PROTECTED BASES.—A person that owns a farm with a peanut poundage quota which is protected under a conservation reserve program contract entered into under section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) shall be considered to be an eligible quota holder with respect to the protected poundage.

(5) SECRETARIAL DISCRETION.—Notwithstanding the preceding paragraphs, the Secretary may declare a person to be the eligible peanut quota holder with respect to certain pounds of quota or otherwise for purposes of this section if the Secretary considers the declaration is needed to insure a fair and equitable administration of the payments provided for in this section, so long as the Secretary does not, in exercising this authority, effectively increase the total quota in excess of the quota that was available to all producers for the 2001 crop year for other than seed or experimental use.

(6) LIMITATION ON QUANTITY OF QUOTA HELD.—A person shall be considered an eligible peanut quota holder for purposes of this section only with respect to that number of permanent pounds that qualifies the person as a peanut quota holder under one of the preceding paragraphs. The determination of the peanut poundage amount for which the person qualifies shall be made based on the 2001 crop quota levels and shall take into account sales of the farm that occurred before the date of enactment of this Act and any permanent transfers of quota that took place before that date, consistent with the preceding paragraphs. The Secretary shall not take into account, or allow eligibility for, quotas for seed, granted as experimental quotas, or obtained by temporary lease or transfer.

(g) SUCCESSIONS IN PAYMENT ELIGIBILITY AND ATTACHMENT OF ELIGIBILITY TO PERSONS.—

(1) ELIGIBILITY ATTACHES TO PERSONS.—Once a person is eligible for payments under this section, as determined under subsection (f), the continued eligibility of the person for the payments does not run with a farm, but shall remain with the person for the term of this section irrespective of whether the person sells, or continues to have an interest in, the farm that had the quota that qualified the person as an eligible peanut quota holder under subsection (f) and irrespective of whether the person has a continuing interest in the production of peanuts.

(2) SUCCESSION.—If a person eligible for payments under this section dies, in the case of an individual, or ceases to exist, in the case of other persons, the payment eligibility of the person shall pass to the person's personal or organizational successor, as determined by the Secretary.

(h) CONFORMING AMENDMENTS.—

(1) ADMINISTRATIVE PROVISIONS.—Section 361 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1361) is amended by striking “peanuts,”.

(2) ADJUSTMENT OF QUOTAS.—Section 371 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1371) is amended—

(A) in the first sentence of subsection (a), by striking “peanuts,”; and

(B) in the first sentence of subsection (b), by striking “peanuts”.

(3) REPORTS AND RECORDS.—Section 373 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1373) is amended—

(A) in the first sentence of subsection (a)—

(i) by striking “peanuts,” each place it appears;

(ii) by inserting “and” after “from producers,”; and

(iii) by striking “for producers, all” and all that follows through the period at the end of the sentence and inserting “for producers,”; and

(B) in subsection (b), by striking “peanuts,”.

(4) EMINENT DOMAIN.—Section 378(c) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1378(c)) is amended in the first sentence—

(A) by striking “cotton,” and inserting “cotton and”; and

(B) by striking “and peanuts,”.

7 USC 7960.

SEC. 1310. REPEAL OF SUPERSEDED PRICE SUPPORT AUTHORITY AND EFFECT OF REPEAL.

(a) REPEAL OF PRICE SUPPORT AUTHORITY.—

(1) IN GENERAL.—Section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) is repealed.

(2) CONFORMING AMENDMENTS.—The Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) is amended—

(A) in section 101(b) (7 U.S.C. 1441(b)), by striking “and peanuts”; and

(B) in section 408(c) (7 U.S.C. 1428(c)), by striking “peanuts,”.

(3) TECHNICAL AMENDMENT.—The chapter heading of chapter 2 of subtitle D of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. prec. 7271) is amended by striking “PEANUTS AND”.

(b) DISPOSAL.—Notwithstanding any other provision of law or previous declaration made by the Secretary, the Secretary shall ensure that the disposal of all peanuts for which a loan for the 2001 crop of peanuts was made under section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271) before the date of enactment of this Act is carried out in a manner that prevents price disruptions in the domestic and international markets for peanuts.

(c) TREATMENT OF CROP INSURANCE POLICIES FOR 2002 CROP YEAR.—

(1) APPLICABILITY.—This subsection shall apply for the 2002 crop year only notwithstanding any other provision of law or crop insurance policy.

(2) PRICE ELECTION.—The nonquota price election for segregation I, II, and III peanuts shall be 17.75 cents per pound

and shall be used for all aspects of the policy relating to the calculations of premium, liability, and indemnities.

(3) **QUALITY ADJUSTMENT.**—For the purposes of quality adjustment only, the average support price per pound of peanuts shall be a price equal to 17.75 cents per pound. Quality under the crop insurance policy for peanuts shall be adjusted under procedures issued by the Federal Crop Insurance Corporation.

Subtitle D—Sugar

SEC. 1401. SUGAR PROGRAM.

(a) **EXTENSION AND MODIFICATION OF EXISTING SUGAR PROGRAM.**—Section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) is amended to read as follows:

“SEC. 156. SUGAR PROGRAM.

“(a) **SUGARCANE.**—The Secretary shall make loans available to processors of domestically grown sugarcane at a rate equal to 18 cents per pound for raw cane sugar.

“(b) **SUGAR BEETS.**—The Secretary shall make loans available to processors of domestically grown sugar beets at a rate equal to 22.9 cents per pound for refined beet sugar.

“(c) **LOAN RATE ADJUSTMENTS.**—

“(1) **IN GENERAL.**—The Secretary may reduce the loan rate specified in subsection (a) for domestically grown sugarcane and subsection (b) for domestically grown sugar beets if the Secretary determines that negotiated reductions in export subsidies and domestic subsidies provided for sugar of other major sugar growing, producing, and exporting countries in the aggregate exceed the commitments made as part of the Agreement on Agriculture.

“(2) **EXTENT OF REDUCTION.**—The Secretary shall not reduce the loan rate under subsection (a) or (b) below a rate that provides an equal measure of support to that provided by other major sugar growing, producing, and exporting countries, based on an examination of both domestic and export subsidies subject to reduction in the Agreement on Agriculture.

“(3) **ANNOUNCEMENT OF REDUCTION.**—The Secretary shall announce any loan rate reduction to be made under this subsection as far in advance as is practicable.

“(4) **DEFINITIONS.**—In this subsection:

“(A) **AGREEMENT ON AGRICULTURE.**—The term “Agreement on Agriculture” means the Agreement on Agriculture referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)), or any amendatory or successor agreement.

“(B) **MAJOR SUGAR COUNTRIES.**—The term “major sugar growing, producing, and exporting countries” means—

“(i) the countries of the European Union; and

“(ii) the 10 foreign countries not covered by subparagraph (A) that the Secretary determines produce the greatest quantity of sugar.

“(d) **TERM OF LOANS.**—

“(1) IN GENERAL.—A loan under this section during any fiscal year shall be made available not earlier than the beginning of the fiscal year and shall mature at the earlier of—

“(A) the end of the 9-month period beginning on the first day of the first month after the month in which the loan is made; or

“(B) the end of the fiscal year in which the loan is made.

“(2) SUPPLEMENTAL LOANS.—In the case of a loan made under this section in the last 3 months of a fiscal year, the processor may repledge the sugar as collateral for a second loan in the subsequent fiscal year, except that the second loan shall—

“(A) be made at the loan rate in effect at the time the second loan is made; and

“(B) mature in 9 months less the quantity of time that the first loan was in effect.

“(e) LOAN TYPE; PROCESSOR ASSURANCES.—

“(1) NONRECOURSE LOANS.—The Secretary shall carry out this section through the use of nonrecourse loans.

“(2) PROCESSOR ASSURANCES.—

“(A) IN GENERAL.—The Secretary shall obtain from each processor that receives a loan under this section such assurances as the Secretary considers adequate to ensure that the processor will provide payments to producers that are proportional to the value of the loan received by the processor for the sugar beets and sugarcane delivered by producers to the processor.

“(B) MINIMUM PAYMENTS.—

“(i) IN GENERAL.—Subject to clause (ii), the Secretary may establish appropriate minimum payments for purposes of this paragraph.

“(ii) LIMITATION.—In the case of sugar beets, the minimum payment established under clause (i) shall not exceed the rate of payment provided for under the applicable contract between a sugar beet producer and a sugar beet processor.

“(iii) EFFECT OF DISASTER.—The Secretary may not bar a beet sugar processor from eligibility to obtain a loan under this section because of the failure of the processor to provide the appropriate minimum payment established under this subsection if the failure—

“(I) occurred during a crop year prior to the date of enactment of the Farm Security and Rural Investment Act of 2002; and

“(II) was related, at least in part, to the effects of a natural disaster, including damage from freeze.

“(3) ADMINISTRATION.—The Secretary may not impose or enforce any prenotification requirement, or similar administrative requirement not otherwise in effect on the date of enactment of the Farm Security and Rural Investment Act of 2002, that has the effect of preventing a processor from electing to forfeit the loan collateral (of an acceptable grade and quality) on the maturity of the loan.

“(f) LOANS FOR IN-PROCESS SUGAR.—

“(1) DEFINITION OF IN-PROCESS SUGARS AND SYRUPS.—In this subsection, the term ‘in-process sugars and syrups’ does not include raw sugar, liquid sugar, invert sugar, invert syrup, or other finished product that is otherwise eligible for a loan under subsection (a) or (b).

“(2) AVAILABILITY.—The Secretary shall make nonrecourse loans available to processors of a crop of domestically grown sugarcane and sugar beets for in-process sugars and syrups derived from the crop.

“(3) LOAN RATE.—The loan rate shall be equal to 80 percent of the loan rate applicable to raw cane sugar or refined beet sugar, as determined by the Secretary on the basis of the source material for the in-process sugars and syrups.

“(4) FURTHER PROCESSING ON FORFEITURE.—

“(A) IN GENERAL.—As a condition of the forfeiture of in-process sugars and syrups serving as collateral for a loan under paragraph (2), the processor shall, within such reasonable time period as the Secretary may prescribe and at no cost to the Commodity Credit Corporation, convert the in-process sugars and syrups into raw cane sugar or refined beet sugar of acceptable grade and quality for sugars eligible for loans under subsection (a) or (b).

“(B) TRANSFER TO CORPORATION.—Once the in-process sugars and syrups are fully processed into raw cane sugar or refined beet sugar, the processor shall transfer the sugar to the Commodity Credit Corporation.

“(C) PAYMENT TO PROCESSOR.—On transfer of the sugar, the Secretary shall make a payment to the processor in an amount equal to the amount obtained by multiplying—

“(i) the difference between—

“(I) the loan rate for raw cane sugar or refined beet sugar, as appropriate; and

“(II) the loan rate the processor received under paragraph (3); by

“(ii) the quantity of sugar transferred to the Secretary.

“(5) LOAN CONVERSION.—If the processor does not forfeit the collateral as described in paragraph (4), but instead further processes the in-process sugars and syrups into raw cane sugar or refined beet sugar and repays the loan on the in-process sugars and syrups, the processor may obtain a loan under subsection (a) or (b) for the raw cane sugar or refined beet sugar, as appropriate.

“(6) TERM OF LOAN.—The term of a loan made under this subsection for a quantity of in-process sugars and syrups, when combined with the term of a loan made with respect to the raw cane sugar or refined beet sugar derived from the in-process sugars and syrups, may not exceed 9 months, consistent with subsection (d).

“(g) AVOIDING FORFEITURES; CORPORATION INVENTORY DISPOSITION.—

“(1) IN GENERAL.—Subject to subsection (e)(3), to the maximum extent practicable, the Secretary shall operate the program established under this section at no cost to the Federal Government by avoiding the forfeiture of sugar to the Commodity Credit Corporation.

“(2) INVENTORY DISPOSITION.—

“(A) IN GENERAL.—To carry out paragraph (1), the Commodity Credit Corporation may accept bids to obtain raw cane sugar or refined beet sugar in the inventory of the Commodity Credit Corporation from (or otherwise make available such commodities, on appropriate terms and conditions, to) processors of sugarcane and processors of sugar beets (acting in conjunction with the producers of the sugarcane or sugar beets processed by the processors) in return for the reduction of production of raw cane sugar or refined beet sugar, as appropriate.

“(B) ADDITIONAL AUTHORITY.—The authority provided under this paragraph is in addition to any authority of the Commodity Credit Corporation under any other law.

“(h) INFORMATION REPORTING.—

“(1) DUTY OF PROCESSORS AND REFINERS TO REPORT.—A sugarcane processor, cane sugar refiner, and sugar beet processor shall furnish the Secretary, on a monthly basis, such information as the Secretary may require to administer sugar programs, including the quantity of purchases of sugarcane, sugar beets, and sugar, and production, importation, distribution, and stock levels of sugar.

“(2) DUTY OF PRODUCERS TO REPORT.—

“(A) PROPORTIONATE SHARE STATES.—As a condition of a loan made to a processor for the benefit of a producer, the Secretary shall require each producer of sugarcane located in a State (other than the Commonwealth of Puerto Rico) in which there are in excess of 250 producers of sugarcane to report, in the manner prescribed by the Secretary, the sugarcane yields and acres planted to sugarcane of the producer.

“(B) OTHER STATES.—The Secretary may require each producer of sugarcane or sugar beets not covered by subparagraph (A) to report, in a manner prescribed by the Secretary, the yields of, and acres planted to, sugarcane or sugar beets, respectively, of the producer.

“(3) DUTY OF IMPORTERS TO REPORT.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the Secretary shall require an importer of sugars, syrups, or molasses to be used for human consumption or to be used for the extraction of sugar for human consumption to report, in the manner prescribed by the Secretary, the quantities of the products imported by the importer and the sugar content or equivalent of the products.

“(B) TARIFF-RATE QUOTAS.—Subparagraph (A) shall not apply to sugars, syrups, or molasses that are within the quantities of tariff-rate quotas that are subject to the lower rate of duties.

“(4) PENALTY.—Any person willfully failing or refusing to furnish the information, or furnishing willfully any false information, shall be subject to a civil penalty of not more than \$10,000 for each such violation.

“(5) MONTHLY REPORTS.—Taking into consideration the information received under this subsection, the Secretary shall publish on a monthly basis composite data on production, imports, distribution, and stock levels of sugar.

“(i) **SUBSTITUTION OF REFINED SUGAR.**—For purposes of Additional U.S. Note 6 to chapter 17 of the Harmonized Tariff Schedule of the United States and the reexport programs and polyhydric alcohol program administered by the Secretary, all refined sugars (whether derived from sugar beets or sugarcane) produced by cane sugar refineries and beet sugar processors shall be fully substitutable for the export of sugar and sugar-containing products under those programs.

“(j) **EFFECTIVE PERIOD.**—This section shall be effective only for the 1996 through 2007 crops of sugar beets and sugarcane.”.

(b) **EFFECTIVE DATE OF ASSESSMENT TERMINATION.**—Subsection (f) of section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(f)), as in effect immediately before the enactment of the Farm Security and Rural Investment Act of 2002, is deemed to have been repealed effective as of October 1, 2001.

7 USC 7272 note.

(c) **INTEREST RATE.**—Section 163 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7283) is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “Notwithstanding”; and

(2) by adding at the end the following:

“(b) **SUGAR.**—For purposes of this section, raw cane sugar, refined beet sugar, and in-process sugar eligible for a loan under section 156 shall not be considered an agricultural commodity.”.

SEC. 1402. STORAGE FACILITY LOANS.

7 USC 7971.

(a) **IN GENERAL.**—Notwithstanding any other provision of law and as soon as practicable after the date of enactment of this Act, the Commodity Credit Corporation shall amend part 1436 of title 7, Code of Federal Regulations, to establish a sugar storage facility loan program to provide financing for processors of domestically-produced sugarcane and sugar beets to construct or upgrade storage and handling facilities for raw sugars and refined sugars.

(b) **ELIGIBLE PROCESSORS.**—A storage facility loan described in subsection (a) shall be made available to any processor of domestically produced sugarcane or sugar beets that (as determined by the Secretary)—

(1) has a satisfactory credit history;

(2) has a need for increased storage capacity, taking into account the effects of marketing allotments; and

(3) demonstrates an ability to repay the loan.

(c) **TERM OF LOANS.**—A storage facility loan described in subsection (a) shall—

(1) have a minimum term of 7 years; and

(2) be in such amounts and on such terms and conditions (including terms and conditions relating to downpayments, collateral, and eligible facilities) as are normal, customary, and appropriate for the size and commercial nature of the borrower.

SEC. 1403. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.

Part VII of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 359aa et seq.) is amended to read as follows:

**“PART VII—FLEXIBLE MARKETING
ALLOTMENTS FOR SUGAR**

7 USC 1359aa.

“SEC. 359a. DEFINITIONS.

“In this part:

“**(1) MAINLAND STATE.**—The term ‘mainland State’ means a State other than an offshore State.“**(2) OFFSHORE STATE.**—The term ‘offshore State’ means a sugarcane producing State located outside of the continental United States.“**(3) STATE.**—Notwithstanding section 301, the term ‘State’ means—“**(A)** a State;“**(B)** the District of Columbia; and“**(C)** the Commonwealth of Puerto Rico.“**(4) UNITED STATES.**—The term ‘United States’, when used in a geographical sense, means all of the States.

7 USC 1359bb.

“SEC. 359b. FLEXIBLE MARKETING ALLOTMENTS FOR SUGAR.“**(a) SUGAR ESTIMATES.**—

Deadline.

“**(1) IN GENERAL.**—Not later than August 1 before the beginning of each of the 2002 through 2007 crop years, the Secretary shall estimate—“**(A)** the quantity of sugar that will be consumed in the United States during the crop year;“**(B)** the quantity of sugar that would provide for reasonable carryover stocks;“**(C)** the quantity of sugar that will be available from carry-in stocks for consumption in the United States during the crop year;“**(D)** the quantity of sugar that will be available from the domestic processing of sugarcane and sugar beets; and“**(E)** the quantity of sugars, syrups, and molasses that will be imported for human consumption or to be used for the extraction of sugar for human consumption in the United States during the crop year, whether such articles are under a tariff-rate quota or are in excess or outside of a tariff-rate quota.“**(2) EXCLUSION.**—The estimates under this subsection shall not apply to sugar imported for the production of polyhydric alcohol or to any sugar refined and reexported in refined form or in products containing sugar.“**(3) REESTIMATES.**—The Secretary shall make reestimates of sugar consumption, stocks, production, and imports for a crop year as necessary, but no later than the beginning of each of the second through fourth quarters of the crop year.“**(b) SUGAR ALLOTMENTS.**—“**(1) IN GENERAL.**—By the beginning of each crop year, the Secretary shall establish for that crop year appropriate allotments under section 359c for the marketing by processors of sugar processed from sugar beets and from domestically produced sugarcane at a level that the Secretary estimates will result in no forfeitures of sugar to the Commodity Credit Corporation under the loan program for sugar established under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272).

“(2) PRODUCTS.—The Secretary may include sugar products, whose majority content is sucrose for human consumption, derived from sugarcane, sugar beets, molasses, or sugar in the allotments under paragraph (1) if the Secretary determines it to be appropriate for purposes of this part.

“(c) PROHIBITIONS.—

“(1) IN GENERAL.—During any crop year or portion thereof for which marketing allotments have been established, no processor of sugar beets or sugarcane shall market a quantity of sugar in excess of the allocation established for such processor, except to enable another processor to fulfill an allocation established for such other processor or to facilitate the exportation of such sugar.

“(2) CIVIL PENALTY.—Any processor who knowingly violates paragraph (1) shall be liable to the Commodity Credit Corporation for a civil penalty in an amount equal to 3 times the United States market value, at the time of the commission of the violation, of that quantity of sugar involved in the violation.

“(3) DEFINITION OF MARKET.—For purposes of this part, the term ‘market’ shall mean to sell or otherwise dispose of in commerce in the United States (including the forfeiture of sugar under the loan program for sugar under section 156 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272) and, with respect to any integrated processor and refiner, the movement of raw cane sugar into the refining process).

“SEC. 359c. ESTABLISHMENT OF FLEXIBLE MARKETING ALLOTMENTS.

7 USC 1359cc.

“(a) IN GENERAL.—The Secretary shall establish flexible marketing allotments for sugar for any crop year in which the allotments are required under section 359b(b) in accordance with this section.

“(b) OVERALL ALLOTMENT QUANTITY.—

“(1) IN GENERAL.—The Secretary shall establish the overall quantity of sugar to be allotted for the crop year (in this part referred to as the ‘overall allotment quantity’) by deducting from the sum of the estimated sugar consumption and reasonable carryover stocks (at the end of the crop year) for the crop year, as determined under section 359b(a)—

“(A) 1,532,000 short tons, raw value; and

“(B) carry-in stocks of sugar, including sugar in Commodity Credit Corporation inventory.

“(2) ADJUSTMENT.—The Secretary shall adjust the overall allotment quantity to avoid the forfeiture of sugar to the Commodity Credit Corporation.

“(c) MARKETING ALLOTMENT FOR SUGAR DERIVED FROM SUGAR BEETS AND SUGAR DERIVED FROM SUGARCANE.—The overall allotment quantity for the crop year shall be allotted between—

“(1) sugar derived from sugar beets by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 54.35 percent; and

“(2) sugar derived from sugarcane by establishing a marketing allotment for a crop year at a quantity equal to the product of multiplying the overall allotment quantity for the crop year by 45.65 percent.

“(d) FILLING CANE SUGAR AND BEET SUGAR ALLOTMENTS.—

“(1) CANE SUGAR.—Each marketing allotment for cane sugar established under this section may only be filled with sugar processed from domestically grown sugarcane.

“(2) BEET SUGAR.—Each marketing allotment for beet sugar established under this section may only be filled with sugar domestically processed from sugar beets.

“(e) STATE CANE SUGAR ALLOTMENTS.—

“(1) IN GENERAL.—The allotment for sugar derived from sugarcane shall be further allotted, among the States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner as provided in this subsection and section 359d(b)(1)(D).

“(2) OFFSHORE ALLOTMENT.—

“(A) COLLECTIVELY.—Prior to the allotment of sugar derived from sugarcane to any other State, 325,000 short tons, raw value shall be allotted to the offshore States.

“(B) INDIVIDUALLY.—The collective offshore State allotment provided for under subparagraph (A) shall be further allotted among the offshore States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

“(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

“(ii) the ability of processors to market the sugar covered under the allotments for the crop year; and

“(iii) past processings of sugar from sugarcane, based on the 3-year average of the 1998 through 2000 crop years.

“(3) MAINLAND ALLOTMENT.—The allotment for sugar derived from sugarcane, less the amount provided for under paragraph (2), shall be allotted among the mainland States in the United States in which sugarcane is produced, after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, in a fair and equitable manner on the basis of—

“(A) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from the 1996 through 2000 crops;

“(B) the ability of processors to market the sugar covered under the allotments for the crop year; and

“(C) past processings of sugar from sugarcane, based on the 3 crop years with the greatest processings (in the mainland States collectively) during the 1991 through 2000 crop years.

“(f) FILLING CANE SUGAR ALLOTMENTS.—Except as provided in section 359e, a State cane sugar allotment established under subsection (e) for a crop year may be filled only with sugar processed from sugarcane grown in the State covered by the allotment.

“(g) ADJUSTMENT OF MARKETING ALLOTMENTS.—

“(1) IN GENERAL.—The Secretary shall, based on reestimates under section 359b(a)(3), adjust upward or downward marketing allotments in a fair and equitable manner, as the Secretary determines appropriate, to reflect changes in estimated sugar consumption, stocks, production, or imports.

“(2) ALLOCATION TO PROCESSORS.—In the case of any increase or decrease in an allotment, each allocation to a processor of the allotment under section 359d, and each proportionate share established with respect to the allotment under section 359f(c), shall be increased or decreased by the same percentage that the allotment is increased or decreased.

“(3) CARRY-OVER OF REDUCTIONS.—Whenever a marketing allotment for a crop year is required to be reduced during the crop year under this subsection, if, at the time of the reduction, the quantity of sugar marketed exceeds the processor’s reduced allocation, the allocation of an allotment next established for the processor shall be reduced by the quantity of the excess sugar marketed.

“(h) SUSPENSION OF ALLOTMENTS.—Whenever the Secretary estimates or reestimates under section 359b(a), or has reason to believe, that imports of sugars, syrups or molasses for human consumption or to be used for the extraction of sugar for human consumption, whether under a tariff-rate quota or in excess or outside of a tariff-rate quota, will exceed 1,532,000 short tons (raw value equivalent) (excluding any imports attributable to reassignment under paragraph (1)(D) or (2)(C) of section 359e(b)), and that the imports would lead to a reduction of the overall allotment quantity, the Secretary shall suspend the marketing allotments established under this section until such time as the imports have been restricted, eliminated, or reduced to or below the level of 1,532,000 short tons (raw value equivalent).

“SEC. 359d. ALLOCATION OF MARKETING ALLOTMENTS.

7 USC 1359dd.

“(a) ALLOCATION TO PROCESSORS.—Whenever marketing allotments are established for a crop year under section 359c, in order to afford all interested persons an equitable opportunity to market sugar under an allotment, the Secretary shall allocate each such allotment among the processors covered by the allotment.

“(b) HEARING AND NOTICE.—

“(1) CANE SUGAR.—

“(A) IN GENERAL.—The Secretary shall make allocations for cane sugar after a hearing, if requested by the affected sugarcane processors and growers, and on such notice as the Secretary by regulation may prescribe, in such manner and in such quantities as to provide a fair, efficient, and equitable distribution of the allocations under this paragraph. Each such allocation shall be subject to adjustment under section 359c(g).

“(B) MULTIPLE PROCESSOR STATES.—Except as provided in subparagraphs (C) and (D), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

“(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1996 through 2000 crops;

“(ii) the ability of processors to market sugar covered by that portion of the allotment allocated for the crop year; and

“(iii) past processings of sugar from sugarcane, based on the average of the 3 highest years of production during the 1996 through 2000 crop years.

“(C) TALISMAN PROCESSING FACILITY.—In the case of allotments under subparagraph (B) attributable to the operations of the Talisman processing facility before the date of enactment of this subparagraph, the Secretary shall allocate the allotment among processors in the State under subparagraph (A) in accordance with the agreements of March 25 and 26, 1999, between the affected processors and the Secretary of the Interior.

“(D) PROPORTIONATE SHARE STATES.—In the case of States subject to section 359f(c), the Secretary shall allocate the allotment for cane sugar among multiple cane sugar processors in a single State based on—

“(i) past marketings of sugar, based on the average of the 2 highest years of production of raw cane sugar from among the 1997 through 2001 crop years;

“(ii) the ability of processors to market sugar covered by that portion of the allotments allocated for the crop year; and

“(iii) past processings of sugar from sugarcane, based on the average of the 2 highest crop years of crop production during the 1997 through 2001 crop years.

“(E) NEW ENTRANTS.—

“(i) IN GENERAL.—Notwithstanding subparagraphs (B) and (D), the Secretary, on application of any processor that begins processing sugarcane on or after the date of enactment of this subparagraph, and after a hearing (if requested by the affected sugarcane processors and growers) and on such notice as the Secretary by regulation may prescribe, may provide the processor with an allocation that provides a fair, efficient and equitable distribution of the allocations from the allotment for the State in which the processor is located.

“(ii) PROPORTIONATE SHARE STATES.—In the case of proportionate share States, the Secretary shall establish proportionate shares in a quantity sufficient to produce the sugarcane required to satisfy the allocations.

“(iii) LIMITATIONS.—The allotment for a new processor under this subparagraph shall not exceed—

“(I) in the case of the first crop year of operation of a new processor, 50,000 short tons (raw value); and

“(II) in the case of each subsequent crop year of operation of the new processor, a quantity established by the Secretary in accordance with this subparagraph and the criteria described in subparagraph (B) or (D), as applicable.

“(iv) NEW ENTRANT STATES.—

“(I) IN GENERAL.—Notwithstanding subparagraphs (A) and (C) of section 359c(e)(3), to

accommodate an allocation under clause (i) to a new processor located in a new entrant mainland State, the Secretary shall provide the new entrant mainland State with an allotment.

“(II) EFFECT ON OTHER ALLOTMENTS.—The allotment to any new entrant mainland State shall be subtracted, on a pro rata basis, from the allotments otherwise allotted to each mainland State under section 359c(e)(3).

“(v) ADVERSE EFFECTS.—Before providing an initial processor allocation or State allotment to a new entrant processor or a new entrant State under this subparagraph, the Secretary shall take into consideration any adverse effects that the provision of the allocation or allotment may have on existing cane processors and producers in mainland States.

“(vi) ABILITY TO MARKET.—Consistent with section 359c and this section, any processor allocation or State allotment made to a new entrant processor or to a new entrant State under this subparagraph shall be provided only after the applicant processor, or the applicable processors in the State, have demonstrated the ability to process, produce, and market (including the transfer or delivery of the raw cane sugar to a refinery for further processing or marketing) raw cane sugar for the crop year for which the allotment is applicable.

“(vii) PROHIBITION.—Not more than 1 processor allocation provided under this subparagraph may be applicable to any individual sugar processing facility.

“(F) TRANSFER OF OWNERSHIP.—Except as otherwise provided in section 359f(c)(8), if a sugarcane processor is sold or otherwise transferred to another owner or is closed as part of an affiliated corporate group processing consolidation, the Secretary shall transfer the allotment allocation for the processor to the purchaser, new owner, successor in interest, or any remaining processor of an affiliated entity, as applicable, of the processor.

“(2) BEET SUGAR.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph and sections 359c(g), 359e(b), and 359f(b), the Secretary shall make allocations for beet sugar among beet sugar processors for each crop year that allotments are in effect on the basis of the adjusted weighted average quantity of beet sugar produced by the processors for each of the 1998 through 2000 crop years, as determined under this paragraph.

“(B) QUANTITY.—The quantity of an allocation made for a beet sugar processor for a crop year under subparagraph (A) shall bear the same ratio to the quantity of allocations made for all beet sugar processors for the crop year as the adjusted weighted average quantity of beet sugar produced by the processor (as determined under subparagraphs (C) and (D)) bears to the total of the adjusted weighted average quantities of beet sugar produced by all processors (as so determined).

“(C) **WEIGHTED AVERAGE QUANTITY.**—Subject to subparagraph (D), the weighted quantity of beet sugar produced by a beet sugar processor during each of the 1998 through 2000 crop years shall be (as determined by the Secretary)—

“(i) in the case of the 1998 crop year, 25 percent of the quantity of beet sugar produced by the processor during the crop year;

“(ii) in the case of the 1999 crop year, 35 percent of the quantity of beet sugar produced by the processor during the crop year; and

“(iii) in the case of the 2000 crop year, 40 percent of the quantity of beet sugar produced by the processor (including any quantity of sugar received from the Commodity Credit Corporation) during the crop year.

“(D) **ADJUSTMENTS.**—

“(i) **IN GENERAL.**—The Secretary shall adjust the weighted average quantity of beet sugar produced by a beet sugar processor during the 1998 through 2000 crop years under subparagraph (C) if the Secretary determines that the processor—

“(I) during the 1996 through 2000 crop years, opened a sugar beet processing factory;

“(II) during the 1998 through 2000 crop years, closed a sugar beet processing factory;

“(III) during the 1998 through 2000 crop years, constructed a molasses desugarization facility; or

“(IV) during the 1998 through 2000 crop years, suffered substantial quality losses on sugar beets stored during any such crop year.

“(ii) **QUANTITY.**—The quantity of beet sugar produced by a beet sugar processor under subparagraph (C) shall be—

“(I) in the case of a processor that opened a sugar beet processing factory, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is opened by the processor;

“(II) in the case of a processor that closed a sugar beet processing factory, decreased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each sugar beet processing factory that is closed by the processor;

“(III) in the case of a processor that constructed a molasses desugarization facility, increased by 0.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph) for each

molasses desugarization facility that is constructed by the processor; and

“(IV) in the case of a processor that suffered substantial quality losses on stored sugar beets, increased by 1.25 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years (without consideration of any adjustment under this subparagraph).

“(E) PERMANENT TERMINATION OF OPERATIONS OF A PROCESSOR.—If a processor of beet sugar has been dissolved, liquidated in a bankruptcy proceeding, or otherwise has permanently terminated operations (other than in conjunction with a sale or other disposition of the processor or the assets of the processor), the Secretary shall—

“(i) eliminate the allocation of the processor provided under this section; and

“(ii) distribute the allocation to other beet sugar processors on a pro rata basis.

“(F) SALE OF ALL ASSETS OF A PROCESSOR TO ANOTHER PROCESSOR.—If a processor of beet sugar (or all of the assets of the processor) is sold to another processor of beet sugar, the Secretary shall transfer the allocation of the seller to the buyer unless the allocation has been distributed to other sugar beet processors under subparagraph (E).

“(G) SALE OF FACTORIES OF A PROCESSOR TO ANOTHER PROCESSOR.—

“(i) IN GENERAL.—Subject to subparagraphs (E) and (F), if 1 or more factories of a processor of beet sugar (but not all of the assets of the processor) are sold to another processor of beet sugar during a crop year, the Secretary shall assign a pro rata portion of the allocation of the seller to the allocation of the buyer to reflect the historical contribution of the production of the sold factory or factories to the total allocation of the seller.

“(ii) APPLICATION OF ALLOCATION.—The assignment of the allocation under clause (i) shall apply—

“(I) during the remainder of the crop year during which the sale described in clause (i) occurs (referred to in this subparagraph as the ‘initial crop year’); and

“(II) each subsequent crop year (referred in this subparagraph as a ‘subsequent crop year’), subject to clause (iii).

“(iii) SUBSEQUENT CROP YEARS.—

“(I) IN GENERAL.—The assignment of the allocation under clause (i) shall apply during each subsequent crop year unless the acquired factory or factories continue in operation for less than the initial crop year and the first subsequent crop year.

“(II) REASSIGNMENT.—If the acquired factory or factories do not continue in operation for the complete initial crop year and the first subsequent

crop year, the Secretary shall reassign the temporary allocation to other processors of beet sugar on a pro rata basis.

“(iv) USE OF OTHER FACTORIES TO FILL ALLOCATION.—If the transferred allocation to the buyer for the purchased factory or factories cannot be filled by the production of the purchased factory or factories for the initial crop year or a subsequent crop year, the remainder of the transferred allocation may be filled by beet sugar produced by the buyer from other factories of the buyer.

“(H) NEW ENTRANTS STARTING PRODUCTION OR REOPENING FACTORIES.—

“(i) IN GENERAL.—Except as provided by clause (ii), if an individual or entity that does not have an allocation of beet sugar under this part (referred to in this paragraph as a ‘new entrant’) starts processing sugar beets after the date of enactment of this subparagraph, or acquires and reopens a factory that produced beet sugar during previous crop years that (at the time of acquisition) has no allocation associated with the factory under this part, the Secretary shall—

“(I) assign an allocation for beet sugar to the new entrant that provides a fair and equitable distribution of the allocations for beet sugar; and

“(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the new allocation.

“(ii) EXCEPTION.—If a new entrant acquires and reopens a factory that previously produced beet sugar from sugar beets and from sugar beet molasses but the factory last processed sugar beets during the 1997 crop year and the new entrant starts to process sugar beets at such factory after the date of enactment of this clause, the Secretary shall—

“(I) assign an allocation for beet sugar to the new entrant that is not less than the greater of 1.67 percent of the total of the adjusted weighted average quantities of beet sugar produced by all processors during the 1998 through 2000 crop years as determined under subsection (b)(2)(C), or 1,500,000 hundredweights; and

“(II) reduce the allocations for beet sugar of all other processors on a pro rata basis to reflect the new allocation.

“(I) NEW ENTRANTS ACQUIRING ONGOING FACTORIES WITH PRODUCTION HISTORY.—If a new entrant acquires a factory that has production history during the period of the 1998 through 2000 crop years and that is producing beet sugar at the time the allocations are made from a processor that has an allocation of beet sugar, the Secretary shall transfer a portion of the allocation of the seller to the new entrant to reflect the historical contribution of the production of the sold factory to the total allocation of the seller.

“SEC. 359e. REASSIGNMENT OF DEFICITS.

7 USC 1359ee.

“(a) ESTIMATES OF DEFICITS.—At any time allotments are in effect under this part, the Secretary, from time to time, shall determine whether (in view of then-current inventories of sugar, the estimated production of sugar and expected marketings, and other pertinent factors) any processor of sugarcane will be unable to market the sugar covered by the portion of the State cane sugar allotment allocated to the processor and whether any processor of sugar beets will be unable to market sugar covered by the portion of the beet sugar allotment allocated to the processor.

“(b) REASSIGNMENT OF DEFICITS.—

“(1) CANE SUGAR.—If the Secretary determines that any sugarcane processor who has been allocated a share of a State cane sugar allotment will be unable to market the processor’s allocation of the State’s allotment for the crop year—

“(A) the Secretary first shall reassign the estimated quantity of the deficit to the allocations for other processors within that State, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

“(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit proportionately to the allotments for other cane sugar States, depending on the capacity of each other State to fill the portion of the deficit to be assigned to it, with the reassigned quantity to each State to be allocated among processors in that State in proportion to the allocations of the processors;

“(C) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

“(D) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

“(2) BEET SUGAR.—If the Secretary determines that a sugar beet processor who has been allocated a share of the beet sugar allotment will be unable to market that allocation—

“(A) the Secretary first shall reassign the estimated quantity of the deficit to the allotments for other sugar beet processors, depending on the capacity of each other processor to fill the portion of the deficit to be assigned to it and taking into account the interests of producers served by the processors;

“(B) if after the reassignments the deficit cannot be completely eliminated, the Secretary shall reassign the estimated quantity of the deficit to the Commodity Credit Corporation and shall sell such quantity of sugar from inventories of the Corporation unless the Secretary determines that such sales would have a significant effect on the price of sugar; and

“(C) if after the reassignments and sales, the deficit cannot be completely eliminated, the Secretary shall reassign the remainder to imports.

“(3) CORRESPONDING INCREASE.—The allocation of each processor receiving a reassigned quantity of an allotment under this subsection for a crop year shall be increased to reflect the reassignment.

7 USC 1359ff.

“SEC. 359f. PROVISIONS APPLICABLE TO PRODUCERS.

“(a) PROCESSOR ASSURANCES.—

“(1) IN GENERAL.—If allotments for a crop year are allocated to processors under section 359d, the Secretary shall obtain from the processors such assurances as the Secretary considers adequate that the allocation will be shared among producers served by the processor in a fair and equitable manner that adequately reflects producers’ production histories.

“(2) ARBITRATION.—

“(A) IN GENERAL.—Any dispute between a processor and a producer, or group of producers, with respect to the sharing of the allocation to the processor shall be resolved through arbitration by the Secretary on the request of either party.

Deadlines.

“(B) PERIOD.—The arbitration shall, to the maximum extent practicable, be—

“(i) commenced not more than 45 days after the request; and

“(ii) completed not more than 60 days after the request.

“(b) SUGAR BEET PROCESSING FACILITY CLOSURES.—

“(1) IN GENERAL.—If a sugar beet processing facility is closed and the sugar beet growers that previously delivered beets to the facility elect to deliver their beets to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

“(2) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver their sugar beets, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

“(3) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

Deadline.

“(4) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

“(c) PROPORTIONATE SHARES OF CERTAIN ALLOTMENTS.—

“(1) IN GENERAL.—

“(A) STATES AFFECTED.—In any case in which a State allotment is established under section 359c(f) and there are in excess of 250 sugarcane producers in the State (other than Puerto Rico), the Secretary shall make a determination under subparagraph (B).

“(B) DETERMINATION.—The Secretary shall determine, for each State allotment described in subparagraph (A), whether the production of sugarcane, in the absence of

proportionate shares, will be greater than the quantity needed to enable processors to fill the allotment and provide a normal carryover inventory of sugar.

“(2) ESTABLISHMENT OF PROPORTIONATE SHARES.—If the Secretary determines under paragraph (1) that the quantity of sugarcane produced by producers in the area covered by a State allotment for a crop year will be in excess of the quantity needed to enable processors to fill the allotment for the crop year and provide a normal carryover inventory of sugar, the Secretary shall establish a proportionate share for each sugarcane-producing farm that limits the acreage of sugarcane that may be harvested on the farm for sugar or seed during the crop year the allotment is in effect as provided in this subsection. Each such proportionate share shall be subject to adjustment under paragraph (7) and section 359c(g).

“(3) METHOD OF DETERMINING.—For purposes of determining proportionate shares for any crop of sugarcane:

“(A) The Secretary shall establish the State’s per-acre yield goal for a crop of sugarcane at a level (not less than the average per-acre yield in the State for the 2 highest years from among the 1999, 2000, and 2001 crop years, as determined by the Secretary) that will ensure an adequate net return per pound to producers in the State, taking into consideration any available production research data that the Secretary considers relevant.

“(B) The Secretary shall adjust the per-acre yield goal by the average recovery rate of sugar produced from sugarcane by processors in the State.

“(C) The Secretary shall convert the State allotment for the crop year involved into a State acreage allotment for the crop by dividing the State allotment by the per-acre yield goal for the State, as established under subparagraph (A) and as further adjusted under subparagraph (B).

“(D) The Secretary shall establish a uniform reduction percentage for the crop by dividing the State acreage allotment, as determined for the crop under subparagraph (C), by the sum of all adjusted acreage bases in the State, as determined by the Secretary.

“(E) The uniform reduction percentage for the crop, as determined under subparagraph (D), shall be applied to the acreage base for each sugarcane-producing farm in the State to determine the farm’s proportionate share of sugarcane acreage that may be harvested for sugar or seed.

“(4) ACREAGE BASE.—For purposes of this subsection, the acreage base for each sugarcane-producing farm shall be determined by the Secretary, as follows:

“(A) The acreage base for any farm shall be the number of acres that is equal to the average of the acreage planted and considered planted for harvest for sugar or seed on the farm in the 2 highest of the 1999, 2000, and 2001 crop years.

“(B) Acreage planted to sugarcane that producers on a farm were unable to harvest to sugarcane for sugar or seed because of drought, flood, other natural disaster, or other condition beyond the control of the producers may

be considered as harvested for the production of sugar or seed for purposes of this paragraph.

“(5) VIOLATION.—

“(A) IN GENERAL.—Whenever proportionate shares are in effect in a State for a crop of sugarcane, producers on a farm shall not knowingly harvest, or allow to be harvested, for sugar or seed an acreage of sugarcane in excess of the farm’s proportionate share for the crop year, or otherwise violate proportionate share regulations issued by the Secretary under section 359h(a).

“(B) DETERMINATION OF VIOLATION.—No producer shall be considered to have violated subparagraph (A) unless the processor of the sugarcane harvested by such producer from acreage in excess of the proportionate share of the farm markets an amount of sugar that exceeds the allocation of such processor for a crop year.

“(C) CIVIL PENALTY.—Any producer on a farm who violates subparagraph (A) by knowingly harvesting, or allowing to be harvested, an acreage of sugarcane in excess of the farm’s proportionate share shall be liable to the Commodity Credit Corporation for a civil penalty equal to one and one-half times the United States market value of the quantity of sugar that is marketed by the processor of such sugarcane in excess of the allocation of such processor for the crop year. The Secretary shall prorate penalties imposed under this subparagraph in a fair and equitable manner among all the producers of sugarcane harvested from excess acreage that is acquired by such processor.

“(6) WAIVER.—Notwithstanding the preceding subparagraph, the Secretary may authorize the county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) to waive or modify deadlines and other proportionate share requirements in cases in which lateness or failure to meet the other requirements does not affect adversely the operation of proportionate shares.

“(7) ADJUSTMENTS.—Whenever the Secretary determines that, because of a natural disaster or other condition beyond the control of producers that adversely affects a crop of sugarcane subject to proportionate shares, the amount of sugarcane produced by producers subject to the proportionate shares will not be sufficient to enable processors in the State to meet the State’s cane sugar allotment and provide a normal carryover inventory of sugar, the Secretary may uniformly allow producers to harvest an amount of sugarcane in excess of their proportionate share, or suspend proportionate shares entirely, as necessary to enable processors to meet the State allotment and provide a normal carryover inventory of sugar.

“(8) PROCESSING FACILITY CLOSURES.—

“(A) IN GENERAL.—If a sugarcane processing facility subject to this subsection is closed and the sugarcane growers that delivered sugarcane to the facility prior to closure elect to deliver their sugarcane to another processing company, the growers may petition the Secretary to modify allocations under this part to allow the delivery.

“(B) INCREASED ALLOCATION FOR PROCESSING COMPANY.—The Secretary may increase the allocation to the processing company to which the growers elect to deliver the sugarcane, with the approval of the processing company, to a level that does not exceed the processing capacity of the processing company, to accommodate the change in deliveries.

“(C) DECREASED ALLOCATION FOR CLOSED COMPANY.—The increased allocation shall be deducted from the allocation to the company that owned the processing facility that has been closed and the remaining allocation shall be unaffected.

“(D) TIMING.—The determinations of the Secretary on the issues raised by the petition shall be made within 60 days after the filing of the petition.

Deadline.

“SEC. 359g. SPECIAL RULES.

7 USC 1359gg.

“(a) TRANSFER OF ACREAGE BASE HISTORY.—For the purpose of establishing proportionate shares for sugarcane farms under section 359f(c), the Secretary, on application of any producer, with the written consent of all owners of a farm, may transfer the acreage base history of the farm to any other parcels of land of the applicant.

“(b) PRESERVATION OF ACREAGE BASE HISTORY.—If for reasons beyond the control of a producer on a farm, the producer is unable to harvest an acreage of sugarcane for sugar or seed with respect to all or a portion of the proportionate share established for the farm under section 359f(c), the Secretary, on the application of the producer and with the written consent of all owners of the farm, may preserve for a period of not more than 5 consecutive years the acreage base history of the farm to the extent of the proportionate share involved. The Secretary may permit the proportionate share to be redistributed to other farms, but no acreage base history for purposes of establishing acreage bases shall accrue to the other farms by virtue of the redistribution of the proportionate share.

“(c) REVISIONS OF ALLOCATIONS AND PROPORTIONATE SHARES.—The Secretary, after such notice as the Secretary by regulation may prescribe, may revise or amend any allocation of a marketing allotment under section 359d, or any proportionate share established or adjusted for a farm under section 359f(c), on the same basis as the initial allocation or proportionate share was required to be established.

“(d) TRANSFERS OF MILL ALLOCATIONS.—

“(1) TRANSFER AUTHORIZED.—A producer in a proportionate share State, upon written consent from all crop-share owners (or the representative of the crop-share owners) of a farm, and from the processing company holding the applicable allocation for such shares, may deliver sugarcane to another processing company if the additional delivery, when combined with such other processing company's existing deliveries, does not exceed the processing capacity of the company.

“(2) ALLOCATION ADJUSTMENT.—Notwithstanding section 359d, the Secretary shall adjust the allocations of each of such processing companies affected by a transfer under paragraph (1) to reflect the change in deliveries, based on the product of—

“(A) the number of acres of proportionate shares being transferred; and

“(B) the State’s per acre yield goal established under section 359f(c)(3).

7 USC 1359hh.

“SEC. 359h. REGULATIONS; VIOLATIONS; PUBLICATION OF SECRETARY’S DETERMINATIONS; JURISDICTION OF THE COURTS; UNITED STATES ATTORNEYS.

“(a) **REGULATIONS.**—The Secretary or the Commodity Credit Corporation, as appropriate, shall issue such regulations as may be necessary to carry out the authority vested in the Secretary in administering this part.

“(b) **VIOLATION.**—Any person knowingly violating any regulation of the Secretary issued under subsection (a) shall be subject to a civil penalty of not more than \$5,000 for each violation.

“(c) **PUBLICATION IN FEDERAL REGISTER.**—Each determination issued by the Secretary to establish, adjust, or suspend allotments under this part shall be promptly published in the Federal Register and shall be accompanied by a statement of the reasons for the determination.

“(d) **JURISDICTION OF COURTS; UNITED STATES ATTORNEYS.**—

“(1) **JURISDICTION OF COURTS.**—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, this part or any regulation issued thereunder.

“(2) **UNITED STATES ATTORNEYS.**—Whenever the Secretary shall so request, it shall be the duty of the several United States attorneys, in their respective districts, to institute proceedings to enforce the remedies and to collect the penalties provided for in this part. The Secretary may elect not to refer to a United States attorney any violation of this part or regulation when the Secretary determines that the administration and enforcement of this part would be adequately served by written notice or warning to any person committing the violation.

“(e) **NONEXCLUSIVITY OF REMEDIES.**—The remedies and penalties provided for in this part shall be in addition to, and not exclusive of, any remedies or penalties existing at law or in equity.

7 USC 1359ii.

“SEC. 359i. APPEALS.

“(a) **IN GENERAL.**—An appeal may be taken to the Secretary from any decision under section 359d establishing allocations of marketing allotments, or under section 359f, by any person adversely affected by reason of any such decision.

“(b) **PROCEDURE.**—

“(1) **NOTICE OF APPEAL.**—Any such appeal shall be taken by filing with the Secretary, within 20 days after the decision complained of is effective, notice in writing of the appeal and a statement of the reasons therefor. Unless a later date is specified by the Secretary as part of the Secretary’s decision, the decision complained of shall be considered to be effective as of the date on which announcement of the decision is made. The Secretary shall deliver a copy of any notice of appeal to each person shown by the records of the Secretary to be adversely affected by reason of the decision appealed, and shall at all times thereafter permit any such person to inspect and make copies of appellant’s reasons for the appeal and shall on application permit the person to intervene in the appeal.

“(2) HEARING.—The Secretary shall provide each appellant an opportunity for a hearing before an administrative law judge in accordance with sections 554 and 556 of title 5, United States Code. The expenses for conducting the hearing shall be reimbursed by the Commodity Credit Corporation.

“(c) SPECIAL APPEAL PROCESS REGARDING BEET SUGAR ALLOCATIONS.—

“(1) APPEAL AUTHORIZED.—Beginning after the 2006 crop year, a processor that has an allocation of the beet sugar allotment under this part (referred to in this subsection as a ‘petitioner’) may file a notice of appeal with the Secretary regarding the petitioner’s beet sugar allocation. Except as provided in paragraph (2), the Secretary shall consider the appeal if the notice alleges that any processor that has a beet sugar allocation has failed to fill at least 82.5 percent of its allocation of the beet sugar allotment with sugar produced by it or received from the Commodity Credit Corporation in 2 out of the 3 crop years preceding the crop year in which the appeal is filed. A processor that is alleged to have failed to fill at least 82.5 percent of its allocation shall be allowed to fully participate in the appeal.

“(2) EXCEPTIONS.—An appeal under paragraph (1) shall not be based on the failure of a processor to fill at least 82.5 percent of its allocation because of drought, flood, hail, or other weather disaster, as determined by the Secretary. The determination by the Secretary shall not require a formal disaster declaration.

“(3) RESPONSE TO APPEAL.—Upon the petitioner making an appeal to the Secretary, and upon a review by the Secretary of how processors have filled their allocations, the Secretary may—

“(A) assign an increased allocation for beet sugar to the petitioner that provides a fair and equitable distribution of the allocations for beet sugar, taking into account—

“(i) production history during the period beginning on April 4, 1996, and through the date of enactment of the Farm Security and Rural Investment Act of 2002;

“(ii) capital investment during that period;

“(iii) increases in United States sugar consumption; and

“(iv) the ability or inability of processors to fill the allocations they have received under this part; and

“(B) reduce, correspondingly, the allocation for beet sugar of each processor determined to have failed to fill at least 82.5 percent of its allocation of the beet sugar allotment as described in paragraph (1).

“(4) FILING DEADLINE.—For purposes of the filing deadline specified in subsection (b)(1), the 20-day period shall commence on the date on which the Secretary announces the allocations for the subsequent crop year or October 1, whichever is earlier.

“SEC. 359j. ADMINISTRATION.

7 USC 1359jj.

“(a) USE OF CERTAIN AGENCIES.—In carrying out this part, the Secretary may use the services of local committees of sugar beet or sugarcane producers, sugarcane processors, or sugar beet

processors, State and county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)), and the departments and agencies of the United States Government.

“(b) USE OF COMMODITY CREDIT CORPORATION.—The Secretary shall use the services, facilities, funds, and authorities of the Commodity Credit Corporation to carry out this part.

7 USC 1359kk.

“SEC. 359k. REALLOCATING SUGAR QUOTA IMPORT SHORTFALLS.

“(a) IN GENERAL.—Notwithstanding any other provision of law, on or after June 1 of each of the 2002 through 2007 calendar years, the United States Trade Representative, in consultation with the Secretary, shall determine the amount of the quota of cane sugar used by each qualified supplying country for that crop year, and may reallocate the unused quota for that crop year among qualified supplying countries.

“(b) QUALIFIED SUPPLYING COUNTRY DEFINED.—In this section, the term ‘qualified supplying country’ means one of the following foreign countries that is allowed to export cane sugar to the United States under an agreement or any other country with which the United States has an agreement relating to the importation of cane sugar:

Argentina
Australia
Barbados
Belize
Bolivia
Brazil
Colombia
Republic of the Congo
Costa Rica
Dominican Republic
Ecuador
El Salvador
Fiji
Gabon
Guatemala
Guyana
Haiti
Honduras
India
Cote D'Ivoire, formerly known as the Ivory Coast
Jamaica
Madagascar
Malawi
Mauritius
Mexico
Mozambique
Nicaragua
Panama
Papua New Guinea
Paraguay
Peru
Philippines
St. Kitts and Nevis
South Africa
Swaziland
Taiwan
Thailand
Trinidad-Tobago
Uruguay
Zimbabwe.”.

Subtitle E—Dairy

SEC. 1501. MILK PRICE SUPPORT PROGRAM.

7 USC 7981.

(a) **SUPPORT ACTIVITIES.**—During the period beginning on June 1, 2002, and ending on December 31, 2007, the Secretary of Agriculture shall support the price of milk produced in the 48 contiguous States through the purchase of cheese, butter, and nonfat dry milk produced from the milk.

(b) **RATE.**—During the period specified in subsection (a), the price of milk shall be supported at a rate equal to \$9.90 per hundredweight for milk containing 3.67 percent butterfat.

(c) **PURCHASE PRICES.**—

(1) **UNIFORM PRICES.**—The support purchase prices under this section for each of the products of milk (butter, cheese, and nonfat dry milk) announced by the Secretary shall be the same for all of that product sold by persons offering to sell the product to the Secretary.

(2) **SUFFICIENT PRICES.**—The purchase prices shall be sufficient to enable plants of average efficiency to pay producers, on average, a price that is not less than the rate of price support for milk in effect under subsection (b).

(d) **SPECIAL RULE FOR BUTTER AND NONFAT DRY MILK PURCHASE PRICES.**—

(1) **ALLOCATION OF PURCHASE PRICES.**—The Secretary may allocate the rate of price support between the purchase prices for nonfat dry milk and butter in a manner that will result in the lowest level of expenditures by the Commodity Credit Corporation or achieve such other objectives as the Secretary considers appropriate. Not later than 10 days after making or changing an allocation, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the allocation. Section 553 of title 5, United States Code, shall not apply with respect to the implementation of this section.

(2) **TIMING OF PURCHASE PRICE ADJUSTMENTS.**—The Secretary may make any such adjustments in the purchase prices for nonfat dry milk and butter the Secretary considers to be necessary not more than twice in each calendar year.

(e) **COMMODITY CREDIT CORPORATION.**—The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

SEC. 1502. NATIONAL DAIRY MARKET LOSS PAYMENTS.

7 USC 7982.

(a) **DEFINITIONS.**—In this section:

(1) **CLASS I MILK.**—The term ‘Class I milk’ means milk (including milk components) classified as Class I milk under a Federal milk marketing order.

(2) **ELIGIBLE PRODUCTION.**—The term ‘eligible production’ means milk produced by a producer in a participating State.

(3) **FEDERAL MILK MARKETING ORDER.**—The term ‘Federal milk marketing order’ means an order issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937.

(4) PARTICIPATING STATE.—The term ‘participating State’ means each State.

(5) PRODUCER.—The term ‘producer’ means an individual or entity that directly or indirectly (as determined by the Secretary)—

(A) shares in the risk of producing milk; and

(B) makes contributions (including land, labor, management, equipment, or capital) to the dairy farming operation of the individual or entity that are at least commensurate with the share of the individual or entity of the proceeds of the operation.

Contracts.

(b) PAYMENTS.—The Secretary shall offer to enter into contracts with producers on a dairy farm located in a participating State under which the producers receive payments on eligible production.

(c) AMOUNT.—Payments to a producer under this section shall be calculated by multiplying (as determined by the Secretary)—

(1) the payment quantity for the producer during the applicable month established under subsection (d);

(2) the amount equal to—

(A) \$16.94 per hundredweight; less

(B) the Class I milk price per hundredweight in Boston under the applicable Federal milk marketing order; by

(3) 45 percent.

(d) PAYMENT QUANTITY.—

(1) IN GENERAL.—Subject to paragraph (2), the payment quantity for a producer during the applicable month under this section shall be equal to the quantity of eligible production marketed by the producer during the month.

(2) LIMITATION.—The payment quantity for all producers on a single dairy operation during the months of the applicable fiscal year for which the producers receive payments under subsection (b) shall not exceed 2,400,000 pounds. For purposes of determining whether producers are producers on separate dairy operations or a single dairy operation, the Secretary shall apply the same standards as were applied in implementing the dairy program under section 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-387; 114 Stat. 1549A-50).

(3) RECONSTITUTION.—The Secretary shall promulgate regulations to ensure that a producer does not reconstitute a dairy operation for the sole purpose of receiving additional payments under this section.

Deadline.

(e) PAYMENTS.—A payment under a contract under this section shall be made on a monthly basis not later than 60 days after the last day of the month for which the payment is made.

Contracts.

(f) SIGNUP.—The Secretary shall offer to enter into contracts under this section during the period beginning on the date that is 60 days after the date of enactment of this Act and ending on September 30, 2005.

(g) DURATION OF CONTRACT.—

(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (h), any contract entered into by producers on a dairy farm under this section shall cover eligible production marketed by the producers on the dairy farm during the period starting with the first day of month the producers on the

dairy farm enter into the contract and ending on September 30, 2005.

(2) VIOLATIONS.—If a producer violates the contract, the Secretary may—

(A) terminate the contract and allow the producer to retain any payments received under the contract; or

(B) allow the contract to remain in effect and require the producer to repay a portion of the payments received under the contract based on the severity of the violation.

(h) TRANSITION RULE.—In addition to any payment that is otherwise available under this section, if the producers on a dairy farm enter into a contract under this section, the Secretary shall make a payment in accordance with the formula specified in subsection (c) on the quantity of eligible production of the producer marketed during the period beginning on December 1, 2001, and ending on the last day of the month preceding the month the producers on the dairy farm entered into the contract.

SEC. 1503. DAIRY EXPORT INCENTIVE AND DAIRY INDEMNITY PROGRAMS.

(a) DAIRY EXPORT INCENTIVE PROGRAM.—Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking “2002” and inserting “2007”.

(b) DAIRY INDEMNITY PROGRAM.—Section 3 of Public Law 90-484 (7 U.S.C. 450l) is amended by striking “1995” and inserting “2007”.

SEC. 1504. DAIRY PRODUCT MANDATORY REPORTING.

Section 272(1) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1637a(1)) is amended—

(1) by striking “means manufactured dairy products” and inserting “means—

“(A) manufactured dairy products”;

(2) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(B) substantially identical products designated by the Secretary.”.

SEC. 1505. FUNDING OF DAIRY PROMOTION AND RESEARCH PROGRAM.

(a) DEFINITIONS.—Section 111 of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502) is amended—

(1) in subsection (k), by striking “and” at the end;

(2) in subsection (l), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(m) the term ‘imported dairy product’ means any dairy product that is imported into the United States (as defined in subsection (l)), including dairy products imported into the United States in the form of—

“(1) milk, cream, and fresh and dried dairy products;

“(2) butter and butterfat mixtures;

“(3) cheese; and

“(4) casein and mixtures;

“(n) the term ‘importer’ means a person that imports an imported dairy product into the United States; and

“(o) the term ‘Customs’ means the United States Customs Service.”.

(b) REPRESENTATION OF IMPORTERS ON BOARD.—Section 113(b) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(b)) is amended—

(1) by inserting “NATIONAL DAIRY PROMOTION AND RESEARCH BOARD.—” after “(b)”;

(2) by designating the first through ninth sentences as paragraphs (1) through (5) and paragraphs (7) through (10), respectively, and indenting the paragraphs appropriately;

(3) in paragraph (2) (as so designated), by striking “Members” and inserting “Except as provided in paragraph (6), the members”;

(4) by inserting after paragraph (5) (as so designated) the following:

“(6) IMPORTERS.—

“(A) INITIAL REPRESENTATION.—In making initial appointments to the Board of importer representatives, the Secretary shall appoint 2 members who represent importers of dairy products and are subject to assessments under the order.

“(B) SUBSEQUENT REPRESENTATION.—At least once every 3 years after the initial appointment of importer representatives under subparagraph (A), the Secretary shall review the average volume of domestic production of dairy products compared to the average volume of imports of dairy products into the United States during the previous 3 years and, on the basis of that review, shall reapportion importer representation on the Board to reflect the proportional share of the United States market by domestic production and imported dairy products.

“(C) ADDITIONAL MEMBERS; NOMINATIONS.—The members appointed under this paragraph—

“(i) shall be in addition to the total number of members appointed under paragraph (2); and

“(ii) shall be appointed from nominations submitted by importers under such procedures as the Secretary determines to be appropriate.”; and

(5) in paragraph (8) (as so designated), by striking “is produced” and inserting “is produced as well as importers of dairy products”.

(c) BUDGETS.—Section 113(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(e)) is amended—

(1) by striking “(e)” and inserting:

“(e) BUDGETS.—

“(1) PREPARATION AND SUBMISSION.—”;

(2) by striking the last sentence; and

(3) by adding at the end the following:

“(2) FOREIGN MARKET EFFORTS.—The order shall authorize the Board to expend in the maintenance and expansion of foreign markets an amount not to exceed the amount collected from United States producers for a fiscal year. Of those funds, for each of the 2002 through 2007 fiscal years, the Board’s budget may provide for the expenditure of revenues available to the Board to develop international markets for, and to promote within such markets, the consumption of dairy products produced or manufactured in the United States.”.

(d) **IMPORTER ASSESSMENT.**—Section 113(g) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(g)) is amended—

(1) by inserting “ASSESSMENTS.—” after “(g)”;

(2) by designating the first through fifth sentences as paragraphs (1) through (5), respectively, and indenting appropriately;

(3) in paragraph (3) (as so designated)—

(A) by inserting “for milk produced in the United States and imported dairy products” after “The rate of assessment”; and

(B) by inserting before the period at the end the following: “, as determined by the Secretary”; and

(4) by adding at the end the following:

“(6) **IMPORTERS.**—

“(A) **IN GENERAL.**—The order shall provide that each importer of imported dairy products shall pay an assessment to the Board in the manner prescribed by the order.

“(B) **TIME FOR PAYMENT.**—The assessment on imported dairy products shall be paid by the importer to Customs at the time the entry documents are filed with Customs. Customs shall remit the assessments to the Board. For purposes of this subparagraph, the term ‘importer’ includes persons who hold title to foreign-produced dairy products immediately upon release by Customs, as well as persons who act on behalf of others, as agents, brokers, or consignees, to secure the release of dairy products from Customs.

“(C) **USE OF ASSESSMENTS ON IMPORTED DAIRY PRODUCTS.**—Assessments collected on imported dairy products shall not be used for foreign market promotion.”.

(e) **RECORDS.**—Section 113(k) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4504(k)) is amended in the first sentence by striking “person receiving” and inserting “importer of imported dairy products, each person receiving”.

(f) **IMPORTER ELIGIBILITY TO VOTE IN REFERENDUM.**—Section 116(b) of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4507(b)) is amended—

(1) in the first sentence—

(A) by inserting after “of producers” the following: “and importers”; and

(B) by inserting after “the producers” the following: “and importers”; and

(2) in the second sentence, by inserting after “commercial use” the following: “and importers voting in the referendum (who have been engaged in the importation of dairy products during the same representative period, as determined by the Secretary)”.

(g) **ORDER IMPLEMENTATION AND INTERNATIONAL TRADE OBLIGATIONS.**—Section 112 of the Dairy Promotion Stabilization Act of 1983 (7 U.S.C. 4503) is amended by adding at the end the following:

“(d) **ORDER IMPLEMENTATION AND INTERNATIONAL TRADE OBLIGATIONS.**—The Secretary, in consultation with the United States Trade Representative, shall ensure that the order is implemented in a manner consistent with the international trade obligations of the Federal Government.”.

(h) CONFORMING AMENDMENTS TO REFLECT ADDITION OF IMPORTERS.—The Dairy Production Stabilization Act of 1983 is amended—

(1) in section 110(b) (7 U.S.C. 4501(b))—

(A) in the first sentence—

(i) by inserting after “commercial use” the following: “and on imported dairy products”; and

(ii) by striking “products produced in the United States.” and inserting “products.”; and

(B) in the second sentence, by inserting after “produce milk” the following: “or the right of any person to import dairy products”; and

(2) in section 111(d) (7 U.S.C. 4502(d)), by striking “produced in the United States”.

SEC. 1506. FLUID MILK PROMOTION.

(a) DEFINITION OF FLUID MILK PRODUCT.—Section 1999C of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402) is amended by striking paragraph (3) and inserting the following:

“(3) FLUID MILK PRODUCT.—The term ‘fluid milk product’ has the meaning given the term in—

“(A) section 1000.15 of title 7, Code of Federal Regulations, subject to such amendments as may be made by the Secretary; or

“(B) any successor regulation.”.

(b) DEFINITION OF FLUID MILK PROCESSOR.—Section 1999C(4) of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6402(4)) is amended by striking “500,000 pounds of fluid milk products in consumer-type packages per month” and inserting “3,000,000 pounds of fluid milk products in consumer-type packages per month (excluding products delivered directly to the place of residence of a consumer)”.

(c) ELIMINATION OF ORDER TERMINATION DATE.—Section 1999O of the Fluid Milk Promotion Act of 1990 (7 U.S.C. 6414) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

7 USC 7983.

SEC. 1507. STUDY OF NATIONAL DAIRY POLICY.

(a) STUDY REQUIRED.—The Secretary of Agriculture shall conduct a comprehensive economic evaluation of the potential direct and indirect effects of the various elements of the national dairy policy, including an examination of the effect of the national dairy policy on—

(1) farm price stability, farm profitability and viability, and local rural economies in the United States;

(2) child, senior, and low-income nutrition programs, including impacts on schools and institutions participating in the programs, on program recipients, and other factors; and

(3) the wholesale and retail cost of fluid milk, dairy farms, and milk utilization.

Deadline.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the study required by this section.

(c) **NATIONAL DAIRY POLICY DEFINED.**—In this section, the term “national dairy policy” means the dairy policy of the United States as evidenced by the following policies and programs:

(1) Federal milk marketing orders issued under section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Act of 1937.

(2) Interstate dairy compacts (including proposed compacts described in H.R. 1827 and S. 1157, as introduced in the 107th Congress).

(3) Over-order premiums and State pricing programs.

(4) Direct payments to milk producers.

(5) Federal milk price support program established under section 1401.

(6) Export programs regarding milk and dairy products, such as the dairy export incentive program established under section 153 of the Food Security Act of 1985 (15 U.S.C. 713a–14).

SEC. 1508. STUDIES OF EFFECTS OF CHANGES IN APPROACH TO NATIONAL DAIRY POLICY AND FLUID MILK IDENTITY STANDARDS. 7 USC 7984.

(a) **FEDERAL DAIRY POLICY CHANGES.**—The Secretary of Agriculture shall conduct a study of the effects of—

(1) terminating all Federal programs relating to price support and supply management for milk; and

(2) granting the consent of Congress to cooperative efforts by States to manage milk prices and supply.

(b) **FLUID MILK IDENTITY STANDARDS.**—The Secretary shall conduct a study of the effects of including in the standard of identity for fluid milk a required minimum protein content that is commensurate with the average nonfat solids content of bovine milk produced in the United States.

(c) **REPORTS.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the studies required by this section. Deadline.

Subtitle F—Administration

SEC. 1601. ADMINISTRATION GENERALLY. 7 USC 7991.

(a) **USE OF COMMODITY CREDIT CORPORATION.**—The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

(b) **DETERMINATIONS BY SECRETARY.**—A determination made by the Secretary under this title shall be final and conclusive.

(c) **REGULATIONS.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of this Act, the Secretary and the Commodity Credit Corporation, as appropriate, shall promulgate such regulations as are necessary to implement this title. Deadline.

(2) **PROCEDURE.**—The promulgation of the regulations and administration of this title shall be made without regard to— Regulations.

(A) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”);

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) the notice and comment provisions of section 553 of title 5, United States Code.

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

(d) TREATMENT OF ADVANCE PAYMENT OPTION.—The protection that was afforded producers that had an option to elect to accelerate the receipt of any payment under a production flexibility contract payable under the Federal Agriculture Improvement and Reform Act of 1996, as provided by section 525 of Public 106-170 (113 Stat. 1928; 7 U.S.C. 7212 note), shall also apply to the option to receive—

(1) the advance payment of direct payments and counter-cyclical payments under subtitle A and subtitle C; and

(2) the single payment of compensation for eligible peanut quota holders under section 1310.

(e) ADJUSTMENT AUTHORITY RELATED TO URUGUAY ROUND COMPLIANCE.—

(1) REQUIRED DETERMINATION; ADJUSTMENT.—If the Secretary determines that expenditures under subtitles A through E that are subject to the total allowable domestic support levels under the Uruguay Round Agreements (as defined in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501)), as in effect on the date of enactment of this Act, will exceed such allowable levels for any applicable reporting period, the Secretary shall, to the maximum extent practicable, make adjustments in the amount of such expenditures during that period to ensure that such expenditures do not exceed such allowable levels.

(2) CONGRESSIONAL NOTIFICATION.—Before making any adjustment under paragraph (1), the Secretary shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate and the Committee on Agriculture of the House of Representatives a report describing the determination made under that paragraph and the extent of the adjustment to be made.

7 USC 7992.

SEC. 1602. SUSPENSION OF PERMANENT PRICE SUPPORT AUTHORITY.

(a) AGRICULTURAL ADJUSTMENT ACT OF 1938.—The following provisions of the Agricultural Adjustment Act of 1938 shall not be applicable to the 2002 through 2007 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act through December 31, 2007:

(1) Parts II through V of subtitle B of title III (7 U.S.C. 1326-1351).

(2) In the case of upland cotton, section 377 (7 U.S.C. 1377).

(3) Subtitle D of title III (7 U.S.C. 1379a-1379j).

(4) Title IV (7 U.S.C. 1401-1407).

(b) AGRICULTURAL ACT OF 1949.—The following provisions of the Agricultural Act of 1949 shall not be applicable to the 2002

through 2007 crops of covered commodities, peanuts, and sugar and shall not be applicable to milk during the period beginning on the date of enactment of this Act and through December 31, 2007:

- (1) Section 101 (7 U.S.C. 1441).
- (2) Section 103(a) (7 U.S.C. 1444(a)).
- (3) Section 105 (7 U.S.C. 1444b).
- (4) Section 107 (7 U.S.C. 1445a).
- (5) Section 110 (7 U.S.C. 1445e).
- (6) Section 112 (7 U.S.C. 1445g).
- (7) Section 115 (7 U.S.C. 1445k).
- (8) Section 201 (7 U.S.C. 1446).
- (9) Title III (7 U.S.C. 1447-1449).
- (10) Title IV (7 U.S.C. 1421-1433d), other than sections 404, 412, and 416 (7 U.S.C. 1424, 1429, and 1431).
- (11) Title V (7 U.S.C. 1461-1469).
- (12) Title VI (7 U.S.C. 1471-1471j).

(c) **SUSPENSION OF CERTAIN QUOTA PROVISIONS.**—The joint resolution entitled “A joint resolution relating to corn and wheat marketing quotas under the Agricultural Adjustment Act of 1938, as amended”, approved May 26, 1941 (7 U.S.C. 1330 and 1340), shall not be applicable to the crops of wheat planted for harvest in the calendar years 2002 through 2007.

(d) **CONFORMING AMENDMENT.**—Section 171(a)(1) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7301(a)(1)) is amended by striking “2002” the first place appears and inserting “2001”.

SEC. 1603. PAYMENT LIMITATIONS.

(a) **LIMITATION ON AMOUNTS RECEIVED.**—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking the section heading, “SEC. 1001.”, and all that follows through the end of paragraph (4) and inserting the following:

“SEC. 1001. PAYMENT LIMITATIONS.

“(a) **DEFINITIONS.**—In this section:

“(1) **COVERED COMMODITY.**—The term ‘covered commodity’ has the meaning given that term in section 1001 of the Farm Security and Rural Investment Act of 2002.

“(2) **LOAN COMMODITY.**—The term ‘loan commodity’ has the meaning given that term in section 1001 of the Farm Security and Rural Investment Act of 2002, except that the term does not include wool, mohair, or honey.

“(3) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Agriculture.

“(b) **LIMITATION ON DIRECT PAYMENTS.**—

“(1) **COVERED COMMODITIES.**—The total amount of direct payments made to a person during any crop year under subtitle A of title I of the Farm Security and Rural Investment Act of 2002 for 1 or more covered commodities may not exceed \$40,000.

“(2) **PEANUTS.**—The total amount of direct payments made to a person during any crop year under subtitle C of title I of the Farm Security and Rural Investment Act of 2002 may not exceed \$40,000.

“(c) **LIMITATION ON COUNTER-CYCLICAL PAYMENTS.**—

“(1) **COVERED COMMODITIES.**—The total amount of counter-cyclical payments made to a person during any crop year under

subtitle A of title I of the Farm Security and Rural Investment Act of 2002 for 1 or more covered commodities may not exceed \$65,000.

“(2) PEANUTS.—The total amount of counter-cyclical payments made to a person during any crop year under subtitle C of title I of the Farm Security and Rural Investment Act of 2002 may not exceed \$65,000.

“(d) LIMITATION ON MARKETING LOAN GAINS AND LOAN DEFICIENCY PAYMENTS.—

“(1) LOAN COMMODITIES.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed \$75,000:

“(A) Any gain realized by a producer from repaying a marketing assistance loan for 1 or more loan commodities under subtitle B of title I of the Farm Security and Rural Investment Act of 2002 at a lower level than the original loan rate established for the loan commodity under that subtitle.

“(B) Any loan deficiency payments received for 1 or more loan commodities under that subtitle.

“(2) OTHER COMMODITIES.—The total amount of the following gains and payments that a person may receive during any crop year may not exceed \$75,000:

“(A) Any gain realized by a producer from repaying a marketing assistance loan for peanuts, wool, mohair, or honey under subtitle B or C of title I of the Farm Security and Rural Investment Act of 2002 at a lower level than the original loan rate established for the commodity under those subtitles.

“(B) Any loan deficiency payments received for peanuts, wool, mohair, and honey under those subtitles.”.

(b) CLERICAL AND CONFORMING AMENDMENTS TO SECTION 1001.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended—

(1) in paragraph (5)—

(A) by striking “(5)” and inserting “(e) DEFINITION OF PERSON.—”

(B) by redesignating subparagraphs (A) through (E) as paragraphs (1) through (5), respectively;

(C) in paragraph (1), as so redesignated—

(i) by redesignating clauses (i) and (ii) as subparagraphs (A) and (B), respectively; and

(ii) by striking the second sentence; and

(D) in paragraph (2), as so redesignated—

(i) by redesignating clause (i) as subparagraph (A) and, in such subparagraph (as so redesignated)—

(I) by striking “subparagraph (A), subject to clause (ii)” and inserting “paragraph (1), subject to subparagraph (B)”; and

(II) by redesignating subclauses (I), (II), and (III), as clauses (i), (ii), and (iii), respectively;

(ii) by redesignating clause (ii) as subparagraph (B) and, in such subparagraph (as so redesignated), by redesignating subclauses (I), (II), and (III), as clauses (i), (ii), and (iii), respectively; and

(iii) by redesignating clause (iii) as subparagraph (C) and, in such subparagraph (as so redesignated)—

(I) by striking “as described in paragraphs (1) and (2)” and inserting “as described in subsections (b), (c), and (d)”; and

(II) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively;

(2) in paragraph (6), by striking “(6)” and inserting “(f) PUBLIC SCHOOLS.—”; and

(3) in paragraph (7), by striking “(7)” and inserting “(g) TIME LIMITS; RELIANCE.—”.

(c) CONFORMING AMENDMENTS TO OTHER LAWS.—

(1) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended—

(A) in subsections (a)(1) and (b)(2)(B), by striking “section 1001(5)(B)(i)(II)” and inserting “section 1001(e)(2)(A)(ii)”; and

(B) in subsections (a)(1) and (b)(1), by striking “section 1001(5)(B)(i)” and inserting “section 1001(e)(2)(A)”; and

(2) Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308-2) is amended by striking “as described in paragraphs (1) and (2)” and inserting “as described in subsections (b), (c), and (d)”.

(3) Section 1001C(a) of the Food Security Act of 1985 (7 U.S.C. 1308-3(a)) is amended by inserting “title I of the Farm Security and Rural Investment Act of 2002,” after “made available under”.

(d) TRANSITION.—Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308), as in effect on the day before the date of the enactment of this Act, shall continue to apply with respect to the 2001 crop of any covered commodity.

SEC. 1604. ADJUSTED GROSS INCOME LIMITATION.

The Food Security Act of 1985 is amended—

(1) by redesignating section 1001D (7 U.S.C. 1308-4) and section 1001E (7 U.S.C. 1308-5) as sections 1001E and 1001F, respectively; and

(2) by inserting after section 1001C (7 U.S.C. 1308-3) the following:

“SEC. 1001D. ADJUSTED GROSS INCOME LIMITATION.

7 USC 1308-3a.

“(a) DEFINITION OF AVERAGE ADJUSTED GROSS INCOME.—

“(1) IN GENERAL.—In this section, the term ‘average adjusted gross income’, with respect to an individual or entity (for purposes of this section, as defined in section 1001(e)(2)(A)(ii)), means the 3-year average of the adjusted gross income or comparable measure of the individual or entity over the 3 preceding tax years, as determined by the Secretary.

“(2) SPECIAL RULES FOR CERTAIN INDIVIDUALS AND ENTITIES.—In the case of an entity that is not required to file a Federal income tax return or an individual or entity that did not have taxable income in 1 or more of the tax years used to determine the average under paragraph (1), the Secretary shall provide, by regulation, a method for determining the average adjusted gross income of the individual or entity for purposes of this section.

“(b) LIMITATION.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, an individual or entity shall not be eligible to receive any benefit described in paragraph (2) during a crop year

if the average adjusted gross income of the individual or entity exceeds \$2,500,000, unless not less than 75 percent of the average adjusted gross income of the individual or entity is derived from farming, ranching, or forestry operations, as determined by the Secretary.

“(2) COVERED BENEFITS.—Paragraph (1) applies with respect to the following:

“(A) A direct payment or counter-cyclical payment under subtitle A or C of title I of the Farm Security and Rural Investment Act of 2002.

“(B) A marketing loan gain or payment described in section 1001(d) of this Act.

“(C) A payment under any program under title XII of this Act or title II of the Farm Security and Rural Investment Act of 2002.

“(c) CERTIFICATION.—To comply with the limitation under subsection (b), an individual or entity shall provide to the Secretary—

“(1) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the individual or entity does not exceed the limitation specified in that subsection; or

“(2) information and documentation regarding the adjusted gross income of the individual or entity through other procedures established by the Secretary.

“(d) COMMENSURATE REDUCTION.—In the case of a benefit described in subsection (b)(2) made in a crop year to an entity, general partnership, or joint venture, the amount of the benefit shall be reduced by an amount that is commensurate with the direct and indirect ownership interest in the entity, general partnership, or joint venture of each individual who has an average adjusted gross income in excess of the limitation specified in subsection (b) for the average of the 3 preceding crop years.

“(e) EFFECTIVE PERIOD.—This section shall apply only during the 2003 through 2007 crop years.”.

7 USC 7993.

SEC. 1605. COMMISSION ON APPLICATION OF PAYMENT LIMITATIONS.

(a) ESTABLISHMENT.—There is established a commission to be known as the “Commission on the Application of Payment Limitations for Agriculture” (referred to in this section as the “Commission”).

(b) DUTIES.—The Commission shall conduct a study on the potential impacts of further payment limitations on the receipt of direct payments, counter-cyclical payments, and marketing loan gains and loan deficiency payments on—

- (1) farm income;
- (2) land values;
- (3) rural communities;
- (4) agribusiness infrastructure;
- (5) planting decisions of producers affected; and
- (6) supply and prices of covered commodities, loan commodities, specialty crops (including fruits and vegetables), and other agricultural commodities.

(c) MEMBERSHIP.—

(1) COMPOSITION.—The Commission shall be composed of 10 members as follows:

(A) 3 members appointed by the Secretary.

(B) 3 members appointed by the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(C) 3 members appointed by the Committee on Agriculture of the House of Representatives.

(D) The Chief Economist of the Department of Agriculture.

(2) FEDERAL GOVERNMENT EMPLOYMENT.—The membership of the Commission may include 1 or more employees of the Department of Agriculture or other Federal agencies.

(3) DATE OF APPOINTMENTS.—The appointment of a member of the Commission shall be made not later than 60 days after the date of enactment of this Act. Deadline.

(4) TERM; VACANCIES.—

(A) TERM.—A member shall be appointed for the life of the Commission.

(B) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled in the same manner as the original appointment was made.

(5) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold the initial meeting of the Commission. Deadline.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(e) CHAIRPERSON.—The Secretary shall appoint 1 of the members of the Commission to serve as Chairperson of the Commission.

(f) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit to the President, the Committee on Agriculture of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report containing the results of the study required by subsection (b), including such recommendations as the Commission considers appropriate. Deadline.

(g) HEARINGS.—The Commission may hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this section.

(h) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from a Federal agency such information as the Commission considers necessary to carry out this section. On request of the Chairperson of the Commission, the head of the agency shall provide the information to the Commission.

(i) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

(j) ASSISTANCE FROM SECRETARY.—The Secretary may provide to the Commission appropriate office space and such reasonable administrative and support services as the Commission may request.

(k) COMPENSATION OF MEMBERS.—

(1) NON-FEDERAL EMPLOYEES.—A member of the Commission who is not an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV

of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission.

(2) **FEDERAL EMPLOYEES.**—A member of the Commission who is an officer or employee of the Federal Government shall serve without compensation in addition to the compensation received for the services of the member as an officer or employee of the Federal Government.

(3) **TRAVEL EXPENSES.**—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(1) **FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission or any proceeding of the Commission.

SEC. 1606. ADJUSTMENTS OF LOANS.

Section 162(b) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7282(b)) is amended by striking “this title” and inserting “this title and title I of the Farm Security and Rural Investment Act of 2002”.

SEC. 1607. PERSONAL LIABILITY OF PRODUCERS FOR DEFICIENCIES.

Section 164 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7284) is amended by striking “this title” each places it appears and inserting “this title and title I of the Farm Security and Rural Investment Act of 2002”.

SEC. 1608. EXTENSION OF EXISTING ADMINISTRATIVE AUTHORITY REGARDING LOANS.

Section 166 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7286) is amended—

(1) in subsection (a), by striking “subtitle C” and inserting “subtitle C of this title and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002”; and

(2) in subsection (c)(1), by striking “subtitle C” and inserting “subtitle C of this title and subtitle B and C of title I of the Farm Security and Rural Investment Act of 2002”.

SEC. 1609. COMMODITY CREDIT CORPORATION INVENTORY.

Section 5 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c) is amended in the last sentence by inserting before the period at the end the following: “(including, at the option of the Corporation, the use of private sector entities)”.

SEC. 1610. RESERVE STOCK LEVEL.

Section 301(b)(14)(C) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1301(b)(14)(C)) is amended—

(1) in clause (i), by striking “100,000,000” and inserting “60,000,000”; and

(2) in clause (ii), by striking “15 percent” and inserting “10 percent”.

SEC. 1611. FARM RECONSTITUTIONS.

(a) **IN GENERAL.**—Section 316(a)(1)(A)(ii) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314b(a)(1)(A)(ii)) is amended

by adding at the end the following: “Notwithstanding any other provision of law, for the 2002 crop only, the Secretary shall allow special farm reconstitutions, in lieu of lease and transfer of allotments and quotas, under this section, in accordance with such conditions as are established by the Secretary.”.

(b) STUDY.—

7 USC 7994.

(1) IN GENERAL.—The Secretary shall conduct a study on the effects on the limitation on producers to move quota to a farm other than the farm to which the quota was initially assigned under part I of subtitle B of title III of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1311 et seq.).

(2) REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of the study.

Deadline.

SEC. 1612. ASSIGNMENT OF PAYMENTS.

7 USC 7995.

The provisions of section 8(g) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(g)), relating to assignment of payments, shall apply to payments made under the authority of this Act. The producer making the assignment, or the assignee, shall provide the Secretary with notice, in such manner as the Secretary may require, of any assignment made under this section.

SEC. 1613. EQUITABLE RELIEF FROM INELIGIBILITY FOR LOANS, PAYMENTS, OR OTHER BENEFITS.

7 USC 7996.

(a) DEFINITIONS.—In this section:

(1) AGRICULTURAL COMMODITY.—The term “agricultural commodity” means any agricultural commodity, food, feed, fiber, or livestock that is subject to a covered program.

(2) COVERED PROGRAM.—

(A) IN GENERAL.—The term “covered program” means—

(i) a program administered by the Secretary under which price or income support, or production or market loss assistance, is provided to producers of agricultural commodities; and

(ii) a conservation program administered by the Secretary.

(B) EXCLUSIONS.—The term “covered program” does not include—

(i) an agricultural credit program carried out under the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.); or

(ii) the crop insurance program carried out under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) PARTICIPANT.—The term “participant” means a participant in a covered program.

(4) STATE CONSERVATIONIST.—The term “State Conservationist” means the State Conservationist with respect to a program administered by the Natural Resources Conservation Service.

(5) STATE DIRECTOR.—The term “State Director” means the State Executive Director of the Farm Service Agency with respect to a program administered by the Farm Service Agency.

(b) EQUITABLE RELIEF.—The Secretary may provide relief to any participant that is determined to be not in compliance with the requirements of a covered program, and therefore ineligible

for a loan, payment, or other benefit under the covered program, if the participant—

(1) acting in good faith, relied on the action or advice of the Secretary (including any authorized representative of the Secretary) to the detriment of the participant; or

(2) failed to comply fully with the requirements of the covered program, but made a good faith effort to comply with the requirements.

(c) FORMS OF RELIEF.—The Secretary may authorize a participant in a covered program to—

(1) retain loans, payments, or other benefits received under the covered program;

(2) continue to receive loans, payments, and other benefits under the covered program;

(3) continue to participate, in whole or in part, under any contract executed under the covered program;

(4) in the case of a conservation program, reenroll all or part of the land covered by the program; and

(5) receive such other equitable relief as the Secretary determines to be appropriate.

(d) REMEDIAL ACTION.—As a condition of receiving relief under this section, the Secretary may require the participant to take actions designed to remedy any failure to comply with the covered program.

(e) EQUITABLE RELIEF BY STATE DIRECTORS AND STATE CONSERVATIONISTS.—

(1) IN GENERAL.—A State Director, in the case of programs administered by the State Director, and the State Conservationist, in the case of programs administered by the State Conservationist, may grant relief to a participant in accordance with subsections (b) through (d) if—

(A) the amount of loans, payments, and benefits for which relief will be provided to the participant under this subsection is less than \$20,000;

(B) the total amount of loans, payments, and benefits for which relief has been previously provided to the participant under this subsection is not more than \$5,000; and

(C) the total amount of loans, payments, and benefits for which relief is provided to similarly situated participants under this subsection is not more than \$1,000,000, as determined by the Secretary.

(2) CONSULTATION, APPROVAL, AND REVERSAL.—The decision by a State Director or State Conservationist to grant relief under this subsection—

(A) shall not require prior approval by the Administrator of the Farm Service Agency, the Chief of the Natural Resources Conservation Service, or any other officer or employee of the Agency or Service;

(B) shall be made only after consultation with, and the approval of, the Office of General Counsel of the Department of Agriculture; and

(C) is subject to reversal only by the Secretary (who may not delegate the reversal authority).

(3) NONAPPLICABILITY.—The authority of a State Director or State Conservationist under this subsection does not apply to the administration of—

(A) payment limitations under—

(i) sections 1001 through 1001F of the Food Security Act of 1985 (7 U.S.C. 1308 et seq.); or

(ii) a conservation program administered by the Secretary.

(B) highly erodible land and wetland conservation requirements under subtitle B or C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

(4) OTHER AUTHORITY.—The authority provided to a State Director and State Conservationist under this subsection is in addition to any other applicable authority and does not limit other authority provided by law or the Secretary.

(f) JUDICIAL REVIEW.—A discretionary decision by the Secretary, the State Director, or the State Conservationist under this section shall be final, and shall not be subject to review under chapter 7 of title 5, United States Code.

(g) REPORTS.—Not later than February 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes for the previous calendar year—

(1) the number of requests for equitable relief under subsections (b) and (e) and the disposition of the requests; and

(2) the number of requests for equitable relief under section 278(d) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6998(d)) and the disposition of the requests.

(h) RELATIONSHIP TO OTHER LAW.—The authority provided in this section is in addition to any other authority provided in this or any other Act.

(i) FINALITY RULE.—Section 281(a) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7001(a)) is amended—

(1) by striking “Consolidated Farm Service Agency” each place it appears and inserting “Farm Service Agency”;

(2) in paragraph (1)—

(A) by striking “This subsection” and inserting the following:

“(A) IN GENERAL.—Except as provided in subparagraph

(B), this subsection”; and

(B) by adding at the end the following:

“(B) NONAPPLICABILITY.—This subsection does not apply to—

“(i) a function performed under section 376 of the Consolidated Farm and Rural Development Act; or

“(ii) a function performed under a conservation program administered by the Natural Resources Conservation Service.”; and

(3) in paragraph (2), by inserting “, before the end of the 90-day period,” after “unless the decision”.

(j) CONFORMING AMENDMENTS.—

(1) Section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a) is repealed.

(2) Section 278(d) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6998(d)) is amended in the first sentence by striking “section 326 of the Food and Agriculture Act of 1962 (7 U.S.C. 1339a)” and inserting “section 1613 of the Farm Security and Rural Investment Act of 2002”.

(3) Section 1230A of the Food Security Act of 1985 (16 U.S.C. 3830a) is repealed.

7 USC 7997.

SEC. 1614. TRACKING OF BENEFITS.

As soon as practicable after the date of enactment of this Act, the Secretary shall establish procedures to track the benefits provided, directly or indirectly, to individuals and entities under titles I and II and the amendments made by those titles.

7 USC 7998.

SEC. 1615. ESTIMATES OF NET FARM INCOME.

In each issuance of projections of net farm income, the Secretary shall include (as determined by the Secretary)—

(1) an estimate of the net farm income earned by commercial producers in the United States; and

(2) an estimate of the net farm income attributable to commercial producers of each of the following:

(A) Livestock.

(B) Loan commodities.

(C) Agricultural commodities other than loan commodities.

7 USC 7999.

SEC. 1616. AVAILABILITY OF INCENTIVE PAYMENTS FOR CERTAIN PRODUCERS.

(a) INCENTIVE PAYMENTS REQUIRED.—Subject to subsection (b), the Secretary shall make available a total of \$20,000,000 of funds of the Commodity Credit Corporation during the 2003 through 2005 crop years to provide incentive payments to producers of hard white wheat.

(b) CONDITIONS ON IMPLEMENTATION.—The Secretary shall implement subsection (a)—

(1) only with regard to production that meets minimum quality criteria; and

(2) on not more than 2,000,000 acres or the equivalent volume of production.

(c) DEMAND FOR WHEAT.—To be eligible to obtain an incentive payment under subsection (a), a producer shall demonstrate to the satisfaction of the Secretary that buyers and end-users are available for the wheat to be covered by the incentive payment.

7 USC 8000.

SEC. 1617. RENEWED AVAILABILITY OF MARKET LOSS ASSISTANCE AND CERTAIN EMERGENCY ASSISTANCE TO PERSONS THAT FAILED TO RECEIVE ASSISTANCE UNDER EARLIER AUTHORITIES.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Agriculture may use such funds of the Commodity Credit Corporation as are necessary to provide market loss assistance and other emergency assistance under a provision of law specified in subsection (c) to persons that, as determined by the Secretary)—

(1) were eligible to receive the assistance under the provision of law; but

(2) did not receive the assistance before October 1, 2001.

(b) LIMITATION.—The amount of assistance provided under a provision of law specified in subsection (c) and this section to a person shall not exceed the amount of assistance the person would have been eligible to receive under the provision had the claim of the producer under the provision been timely resolved.

(c) COVERED MARKET LOSS ASSISTANCE AUTHORITIES.—The following provisions of law are covered by this section:

(1) Sections 1, 2, 3, 4, and 5 of Public Law 107–25 (115 Stat. 201).

(2) Sections 805, 806, and 814 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106–387; 114 Stat. 1549).

(3) Sections 201, 202, 204(a), 204(d), 257, and 259 of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 7 U.S.C. 1421 note).

(4) Sections 802, 803(a), 804, and 805 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2000 (Public Law 106–78; 113 Stat. 1135).

(5) The livestock indemnity program under the heading “COMMODITY CREDIT CORPORATION FUND” in chapter 1 of title I of the 1999 Emergency Supplemental Appropriations Act (Public Law 106–31; 113 Stat. 59).

(6) Section 1111(a) of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (as contained in section 101(a) of division A of Public Law 105–277; 112 Stat. 2681–44).

SEC. 1618. PRODUCER RETENTION OF ERRONEOUSLY PAID LOAN DEFICIENCY PAYMENTS AND MARKETING LOAN GAINS. 7 USC 8001.

Notwithstanding any other provision of law, the Secretary and the Commodity Credit Corporation shall not require producers in Erie County, Pennsylvania, to repay loan deficiency payments and marketing loan gains erroneously paid or determined to have been earned by the Commodity Credit Corporation for certain 1998 and 1999 crops under subtitle C of title I of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7231 et seq.). In the case of a producer who has already made the repayment on or before the date of the enactment of this Act, the Commodity Credit Corporation shall reimburse the producer for the full amount of the repayment.

TITLE II—CONSERVATION

Subtitle A—Conservation Security

SEC. 2001. CONSERVATION SECURITY PROGRAM.

(a) IN GENERAL.—Subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by inserting after chapter 1 the following:

“CHAPTER 2—CONSERVATION SECURITY AND FARMLAND PROTECTION

“Subchapter A—Conservation Security Program

“SEC. 1238. DEFINITIONS.

16 USC 3838.

“In this subchapter:

“(1) **BASE PAYMENT.**—The term ‘base payment’ means an amount that is—

“(A) determined in accordance with the rate described in section 1238C(b)(1)(A); and

“(B) paid to a producer under a conservation security contract in accordance with clause (i) of subparagraph (C), (D), or (E) of section 1238C(b)(1), as appropriate.

“(2) BEGINNING FARMER OR RANCHER.—The term ‘beginning farmer or rancher’ has the meaning given the term under section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)).

“(3) CONSERVATION PRACTICE.—The term ‘conservation practice’ means a conservation farming practice described in section 1238A(d)(4) that—

“(A) requires planning, implementation, management, and maintenance; and

“(B) promotes 1 or more of the purposes described in section 1238A(a).

“(4) CONSERVATION SECURITY CONTRACT.—The term ‘conservation security contract’ means a contract described in section 1238A(e).

“(5) CONSERVATION SECURITY PLAN.—The term ‘conservation security plan’ means a plan described in section 1238A(c).

“(6) CONSERVATION SECURITY PROGRAM.—The term ‘conservation security program’ means the program established under section 1238A(a).

“(7) ENHANCED PAYMENT.—The term ‘enhanced payment’ means the amount paid to a producer under a conservation security contract that is equal to the amount described in section 1238C(b)(1)(C)(iii).

“(8) NONDEGRADATION STANDARD.—The term ‘nondegradation standard’ means the level of measures required to adequately protect, and prevent degradation of, 1 or more natural resources, as determined by the Secretary in accordance with the quality criteria described in handbooks of the Natural Resources Conservation Service.

“(9) PRODUCER.—

“(A) IN GENERAL.—The term ‘producer’ means an owner, operator, landlord, tenant, or sharecropper that—

“(i) shares in the risk of producing any crop or livestock; and

“(ii) is entitled to share in the crop or livestock available for marketing from a farm (or would have shared had the crop or livestock been produced).

“(B) HYBRID SEED GROWERS.—In determining whether a grower of hybrid seed is a producer, the Secretary shall not take into consideration the existence of a hybrid seed contract.

“(10) RESOURCE-CONSERVING CROP ROTATION.—The term ‘resource-conserving crop rotation’ means a crop rotation that—

“(A) includes at least 1 resource-conserving crop (as defined by the Secretary);

“(B) reduces erosion;

“(C) improves soil fertility and tilth;

“(D) interrupts pest cycles; and

“(E) in applicable areas, reduces depletion of soil moisture (or otherwise reduces the need for irrigation).

“(11) RESOURCE MANAGEMENT SYSTEM.—The term ‘resource management system’ means a system of conservation practices and management relating to land or water use that is designed to prevent resource degradation and permit sustained use of

land, water, and other natural resources, as defined in accordance with the technical guide of the Natural Resources Conservation Service.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Chief of the Natural Resources Conservation Service.

“(13) TIER I CONSERVATION SECURITY CONTRACT.—The term ‘Tier I conservation security contract’ means a contract described in section 1238A(d)(5)(A).

“(14) TIER II CONSERVATION SECURITY CONTRACT.—The term ‘Tier II conservation security contract’ means a contract described in section 1238A(d)(5)(B).

“(15) TIER III CONSERVATION SECURITY CONTRACT.—The term ‘Tier III conservation security contract’ means a contract described in section 1238A(d)(5)(C).

“SEC. 1238A. CONSERVATION SECURITY PROGRAM.

16 USC 3838a.

“(a) IN GENERAL.—The Secretary shall establish and, for each of fiscal years 2003 through 2007, carry out a conservation security program to assist producers of agricultural operations in promoting, as is applicable with respect to land to be enrolled in the program, conservation and improvement of the quality of soil, water, air, energy, plant and animal life, and any other conservation purposes, as determined by the Secretary.

“(b) ELIGIBILITY.—

“(1) ELIGIBLE PRODUCERS.—To be eligible to participate in the conservation security program (other than to receive technical assistance under section 1238C(g) for the development of conservation security contracts), a producer shall—

“(A) develop and submit to the Secretary, and obtain the approval of the Secretary of, a conservation security plan that meets the requirements of subsection (c)(1); and

“(B) enter into a conservation security contract with the Secretary to carry out the conservation security plan.

“(2) ELIGIBLE LAND.—Except as provided in paragraph (3), private agricultural land (including cropland, grassland, prairie land, improved pasture land, and rangeland), land under the jurisdiction of an Indian tribe (as defined by the Secretary), and forested land that is an incidental part of an agricultural operation shall be eligible for enrollment in the conservation security program.

“(3) EXCLUSIONS.—

“(A) CONSERVATION RESERVE PROGRAM.—Land enrolled in the conservation reserve program under subchapter B of chapter 1 shall not be eligible for enrollment in the conservation security program.

“(B) WETLANDS RESERVE PROGRAM.—Land enrolled in the wetlands reserve program established under subchapter C of chapter 1 shall not be eligible for enrollment in the conservation security program.

“(C) GRASSLAND RESERVE PROGRAM.—Land enrolled in the grassland reserve program established under subchapter C of chapter 2 shall not be eligible for enrollment in the conservation security program.

“(D) CONVERSION TO CROPLAND.—Land that is used for crop production after the date of enactment of this subchapter that had not been planted, considered to be

planted, or devoted to crop production for at least 4 of the 6 years preceding that date (except for land enrolled in the conservation reserve program under subchapter B of chapter 1) or that has been maintained using long-term crop rotation practices, as determined by the Secretary, shall not be the basis for any payment under the conservation security program.

“(4) ECONOMIC USES.—The Secretary shall permit a producer to implement, with respect to all eligible land covered by a conservation security plan, economic uses that—

“(A) maintain the agricultural nature of the land; and

“(B) are consistent with the natural resource and conservation objectives of the conservation security program.

“(c) CONSERVATION SECURITY PLANS.—

“(1) IN GENERAL.—A conservation security plan shall—

“(A) identify the designated land and resources to be conserved under the conservation security plan;

“(B) describe the tier of conservation security contract, and the particular conservation practices to be implemented, maintained, or improved, in accordance with subsection (d) on the land covered by the conservation security contract for the specified term; and

“(C) contain a schedule for the implementation, maintenance, or improvement of the conservation practices described in the conservation security plan during the term of the conservation security contract.

“(2) RESOURCE PLANNING.—The Secretary may assist producers that enter into conservation security contracts in developing a comprehensive, long-term strategy for improving and maintaining all natural resources of the agricultural operation of the producer.

“(d) CONSERVATION CONTRACTS AND PRACTICES.—

“(1) IN GENERAL.—

“(A) ESTABLISHMENT OF TIERS.—The Secretary shall establish, and offer to eligible producers, 3 tiers of conservation contracts under which a payment under this subchapter may be received.

“(B) ELIGIBLE CONSERVATION PRACTICES.—

“(i) IN GENERAL.—The Secretary shall make eligible for payment under a conservation security contract land management, vegetative, and structural practices.

“(ii) DETERMINATION.—In determining the eligibility of a practice described in clause (i), the Secretary shall require, to the maximum extent practicable, that the lowest cost alternatives be used to fulfill the purposes of the conservation security plan, as determined by the Secretary.

“(2) ON-FARM RESEARCH AND DEMONSTRATION OR PILOT TESTING.—With respect to land enrolled in the conservation security program, the Secretary may approve a conservation security plan that includes—

“(A) on-farm conservation research and demonstration activities; and

“(B) pilot testing of new technologies or innovative conservation practices.

“(3) USE OF HANDBOOK AND GUIDES; STATE AND LOCAL CONSERVATION CONCERNS.—

“(A) USE OF HANDBOOK AND GUIDES.—In determining eligible conservation practices and the criteria for implementing or maintaining the conservation practices under the conservation security program, the Secretary shall use the National Handbook of Conservation Practices of the Natural Resources Conservation Service.

“(B) STATE AND LOCAL CONSERVATION PRIORITIES.—The conservation priorities of a State or locality in which an agricultural operation is situated shall be determined by the State Conservationist, in consultation with—

“(i) the State technical committee established under subtitle G; and

“(ii) local agricultural producers and conservation working groups.

“(4) CONSERVATION PRACTICES.—Conservation practices that may be implemented by a producer under a conservation security contract (as appropriate for the agricultural operation of a producer) include—

“(A) nutrient management;

“(B) integrated pest management;

“(C) water conservation (including through irrigation) and water quality management;

“(D) grazing, pasture, and rangeland management;

“(E) soil conservation, quality, and residue management;

“(F) invasive species management;

“(G) fish and wildlife habitat conservation, restoration, and management;

“(H) air quality management;

“(I) energy conservation measures;

“(J) biological resource conservation and regeneration;

“(K) contour farming;

“(L) strip cropping;

“(M) cover cropping;

“(N) controlled rotational grazing;

“(O) resource-conserving crop rotation;

“(P) conversion of portions of cropland from a soil-depleting use to a soil-conserving use, including production of cover crops;

“(Q) partial field conservation practices;

“(R) native grassland and prairie protection and restoration; and

“(S) any other conservation practices that the Secretary determines to be appropriate and comparable to other conservation practices described in this paragraph.

“(5) TIERS.—Subject to paragraph (6), to carry out this subsection, the Secretary shall establish the following 3 tiers of conservation contracts:

“(A) TIER I CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier I conservation security contract shall—

“(i) be for a period of 5 years; and

“(ii) include conservation practices appropriate for the agricultural operation, that, at a minimum (as determined by the Secretary)—

“(I) address at least 1 significant resource of concern for the enrolled portion of the agricultural operation at a level that meets the appropriate nondegradation standard; and

“(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

“(B) TIER II CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier II conservation security contract shall—

“(i) be for a period of not less than 5 nor more than 10 years, as determined by the producer;

“(ii) include conservation practices appropriate for the agricultural operation, that, at a minimum—

“(I) address at least 1 significant resource of concern for the entire agricultural operation, as determined by the Secretary, at a level that meets the appropriate nondegradation standard; and

“(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

“(C) TIER III CONSERVATION SECURITY CONTRACTS.—A conservation security plan for land enrolled under a Tier III conservation security contract shall—

“(i) be for a period of not less than 5 nor more than 10 years, as determined by the producer; and

“(ii) include conservation practices appropriate for the agricultural operation that, at a minimum—

“(I) apply a resource management system that meets the appropriate nondegradation standard for all resources of concern of the entire agricultural operation, as determined by the Secretary; and

“(II) cover active management of conservation practices that are implemented or maintained under the conservation security contract.

“(6) MINIMUM REQUIREMENTS.—The minimum requirements for each tier of conservation contracts implemented under paragraph (5) shall be determined and approved by the Secretary.

“(e) CONSERVATION SECURITY CONTRACTS.—

“(1) IN GENERAL.—On approval of a conservation security plan of a producer, the Secretary shall enter into a conservation security contract with the producer to enroll the land covered by the conservation security plan in the conservation security program.

“(2) MODIFICATION.—

“(A) OPTIONAL MODIFICATIONS.—A producer may apply to the Secretary for a modification of the conservation security contract of the producer that is consistent with the purposes of the conservation security program.

“(B) OTHER MODIFICATIONS.—

“(i) IN GENERAL.—The Secretary may, in writing, require a producer to modify a conservation security contract before the expiration of the conservation security contract if the Secretary determines that a change made to the type, size, management, or other aspect of the agricultural operation of the producer would,

without the modification of the contract, significantly interfere with achieving the purposes of the conservation security program.

“(ii) PARTICIPATION IN OTHER PROGRAMS.—If appropriate payment reductions and other adjustments (as determined by the Secretary) are made to the conservation security contract of a producer, the producer may—

“(I) simultaneously participate in—

“(aa) the conservation security program;

“(bb) the conservation reserve program under subchapter B of chapter 1; and

“(cc) the wetlands reserve program under subchapter C of chapter 1; and

“(II) may remove land enrolled in the conservation security program for enrollment in a program described in item (bb) or (cc) of subclause (I).

“(3) TERMINATION.—

“(A) OPTIONAL TERMINATION.—A producer may terminate a conservation security contract and retain payments received under the conservation security contract, if—

“(i) the producer is in full compliance with the terms and conditions (including any maintenance requirements) of the conservation security contract as of the date of the termination; and

“(ii) the Secretary determines that termination of the contract would not defeat the purposes of the conservation security plan of the producer.

“(B) OTHER TERMINATION.—A producer that is required to modify a conservation security contract under paragraph (2)(B)(i) may, in lieu of modifying the contract—

“(i) terminate the conservation security contract; and

“(ii) retain payments received under the conservation security contract, if the producer has fully complied with the terms and conditions of the conservation security contract before termination of the contract, as determined by the Secretary.

“(4) RENEWAL.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), at the option of a producer, the conservation security contract of the producer may be renewed for an additional period of not less than 5 nor more than 10 years.

“(B) TIER I RENEWALS.—In the case of a Tier I conservation security contract of a producer, the producer may renew the contract only if the producer agrees—

“(i) to apply additional conservation practices that meet the nondegradation standard on land already enrolled in the conservation security program; or

“(ii) to adopt new conservation practices with respect to another portion of the agricultural operation that address resource concerns and meet the nondegradation standard under the terms of the Tier I conservation security contract.

“(f) NONCOMPLIANCE DUE TO CIRCUMSTANCES BEYOND THE CONTROL OF PRODUCERS.—The Secretary shall include in the conservation security contract a provision, and may permit modification

of a conservation security contract under subsection (e)(1), to ensure that a producer shall not be considered in violation of a conservation security contract for failure to comply with the conservation security contract due to circumstances beyond the control of the producer, including a disaster or related condition, as determined by the Secretary.

16 USC 3838b.

“SEC. 1238B. DUTIES OF PRODUCERS.

“Under a conservation security contract, a producer shall agree, during the term of the conservation security contract—

“(1) to implement the applicable conservation security plan approved by the Secretary;

“(2) to maintain, and make available to the Secretary at such times as the Secretary may request, appropriate records showing the effective and timely implementation of the conservation security plan;

“(3) not to engage in any activity that would interfere with the purposes of the conservation security program; and

“(4) on the violation of a term or condition of the conservation security contract—

“(A) if the Secretary determines that the violation warrants termination of the conservation security contract—

“(i) to forfeit all rights to receive payments under the conservation security contract; and

“(ii) to refund to the Secretary all or a portion of the payments received by the producer under the conservation security contract, including any advance payments and interest on the payments, as determined by the Secretary; or

“(B) if the Secretary determines that the violation does not warrant termination of the conservation security contract, to refund to the Secretary, or accept adjustments to, the payments provided to the producer, as the Secretary determines to be appropriate.

16 USC 3838c.

“SEC. 1238C. DUTIES OF THE SECRETARY.

“(a) **TIMING OF PAYMENTS.**—The Secretary shall make payments under a conservation security contract as soon as practicable after October 1 of each fiscal year.

“(b) **ANNUAL PAYMENTS.**—

“(1) **CRITERIA FOR DETERMINING AMOUNT OF PAYMENTS.**—

“(A) **BASE PAYMENT.**—A base payment under this paragraph shall be (as determined by the Secretary)—

“(i) the average national per-acre rental rate for a specific land use during the 2001 crop year; or

“(ii) another appropriate rate for the 2001 crop year that ensures regional equity.

“(B) **PAYMENTS.**—A payment for a conservation practice under this paragraph shall be determined in accordance with subparagraphs (C) through (E).

“(C) **TIER I CONSERVATION SECURITY CONTRACTS.**—The payment for a Tier I conservation security contract shall consist of the total of the following amounts:

“(i) An amount equal to 5 percent of the applicable base payment for land covered by the contract.

“(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county costs of practices

for the 2001 crop year that are included in the conservation security contract, as determined by the Secretary, including the costs of—

“(I) the adoption of new management, vegetative, and land-based structural practices;

“(II) the maintenance of existing land management and vegetative practices; and

“(III) the maintenance of existing land-based structural practices that are approved by the Secretary but not already covered by a Federal or State maintenance requirement.

“(iii) An enhanced payment that is determined by the Secretary in a manner that ensures equity across regions of the United States, if the producer—

“(I) implements or maintains multiple conservation practices that exceed minimum requirements for the applicable tier of participation (including practices that involve a change in land use, such as resource-conserving crop rotation, managed rotational grazing, or conservation buffer practices);

“(II) addresses local conservation priorities in addition to resources of concern for the agricultural operation;

“(III) participates in an on-farm conservation research, demonstration, or pilot project;

“(IV) participates in a watershed or regional resource conservation plan that involves at least 75 percent of producers in a targeted area; or

“(V) carries out assessment and evaluation activities relating to practices included in a conservation security plan.

“(D) TIER II CONSERVATION SECURITY CONTRACTS.—The payment for a Tier II conservation security contract shall consist of the total of the following amounts:

“(i) An amount equal to 10 percent of the applicable base payment for land covered by the conservation security contract.

“(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that are included in the conservation security contract, as described in subparagraph (C)(ii).

“(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

“(E) TIER III CONSERVATION SECURITY CONTRACTS.—The payment for a Tier III conservation security contract shall consist of the total of the following amounts:

“(i) An amount equal to 15 percent of the base payment for land covered by the conservation security contract.

“(ii) An amount that does not exceed 75 percent (or, in the case of a beginning farmer or rancher, 90 percent) of the average county cost of adopting or maintaining practices for the 2001 crop year that

are included in the conservation security contract, as described in subparagraph (C)(ii).

“(iii) An enhanced payment that is determined in accordance with subparagraph (C)(iii).

“(2) LIMITATION ON PAYMENTS.—

“(A) IN GENERAL.—Subject to paragraphs (1) and (3), the Secretary shall make an annual payment, directly or indirectly, to an individual or entity covered by a conservation security contract in an amount not to exceed—

“(i) in the case of a Tier I conservation security contract, \$20,000;

“(ii) in the case of a Tier II conservation security contract, \$35,000; or

“(iii) in the case of a Tier III conservation security contract, \$45,000.

“(B) LIMITATION ON BASE PAYMENTS.—In applying the payment limitation under each of clauses (i), (ii), and (iii) of subparagraph (A), an individual or entity may not receive, directly or indirectly, payments described in clause (i) of paragraph (1)(C), (1)(D), or (1)(E), as appropriate, in an amount that exceeds—

“(i) in the case of Tier I contracts, 25 percent of the applicable payment limitation; or

“(ii) in the case of Tier II contracts and Tier III contracts, 30 percent of the applicable payment limitation.

“(C) OTHER USDA PAYMENTS.—A producer shall not receive payments under the conservation security program and any other conservation program administered by the Secretary for the same practices on the same land.

“(D) COMMENSURATE SHARE.—To be eligible to receive a payment under this subchapter, an individual or entity shall make contributions (including contributions of land, labor, management, equipment, or capital) to the operation of the farm that are at least commensurate with the share of the proceeds of the operation of the individual or entity.

“(3) EQUIPMENT OR FACILITIES.—A payment to a producer under this subchapter shall not be provided for—

“(A) construction or maintenance of animal waste storage or treatment facilities or associated waste transport or transfer devices for animal feeding operations; or

“(B) the purchase or maintenance of equipment or a non-land based structure that is not integral to a land-based practice, as determined by the Secretary.

“(c) MINIMUM PRACTICE REQUIREMENT.—In determining a payment under subsection (b) for a producer that receives a payment under another program administered by the Secretary that is contingent on complying with requirements under subtitle B or C (relating to the use of highly erodible land or wetland), a payment under this subchapter on land subject to those requirements shall be for practices only to the extent that the practices exceed minimum requirements for the producer under those subtitles, as determined by the Secretary.

“(d) REGULATIONS.—The Secretary shall promulgate regulations that—

“(1) provide for adequate safeguards to protect the interests of tenants and sharecroppers, including provision for sharing payments, on a fair and equitable basis; and

“(2) prescribe such other rules as the Secretary determines to be necessary to ensure a fair and reasonable application of the limitations established under subsection (b).

“(e) **TRANSFER OR CHANGE OF INTEREST IN LAND SUBJECT TO CONSERVATION SECURITY CONTRACT.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), the transfer, or change in the interest, of a producer in land subject to a conservation security contract shall result in the termination of the conservation security contract.

“(2) **TRANSFER OF DUTIES AND RIGHTS.**—Paragraph (1) shall not apply if, not later than 60 days after the date of the transfer or change in the interest in land, the transferee of the land provides written notice to the Secretary that all duties and rights under the conservation security contract have been transferred to, and assumed by, the transferee.

Deadline.

“(f) **ENROLLMENT PROCEDURE.**—In entering into conservation security contracts with producers under this subchapter, the Secretary shall not use competitive bidding or any similar procedure.

“(g) **TECHNICAL ASSISTANCE.**—For each of fiscal years 2003 through 2007, the Secretary shall provide technical assistance to producers for the development and implementation of conservation security contracts, in an amount not to exceed 15 percent of amounts expended for the fiscal year.”.

(b) **REGULATIONS.**—Not later than 270 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations implementing the amendment made by subsection (a).

Deadline.
16 USC 3838
note.

SEC. 2002. CONSERVATION COMPLIANCE.

(a) **HIGHLY ERODIBLE LAND.**—Section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) by striking the section heading and all that follows through “Except as provided in” and inserting the following:

“SEC. 1211. PROGRAM INELIGIBILITY.

“(a) **IN GENERAL.**—Except as provided in”; and

(2) by adding at the end the following:

“(b) **HIGHLY ERODIBLE LAND.**—The Secretary shall have, and shall not delegate to any private person or entity, authority to determine whether a person has complied with this subtitle.”.

(b) **WETLAND.**—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended by adding at the end the following:

“(e) **WETLAND.**—The Secretary shall have, and shall not delegate to any private person or entity, authority to determine whether a person has complied with this subtitle.”.

SEC. 2003. PARTNERSHIPS AND COOPERATION.

Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is amended by adding at the end the following:

“(f) **PARTNERSHIPS AND COOPERATION.**—

“(1) **IN GENERAL.**—In carrying out any program under subtitle D, the Secretary may use resources provided under that subtitle to enter into stewardship agreements with State and local agencies, Indian tribes, and nongovernmental organizations and to designate special projects, as recommended by the State Conservationist, after consultation with the State

technical committee, to enhance technical and financial assistance provided to owners, operators, and producers to address natural resource issues related to agricultural production.

“(2) CRITERIA FOR SPECIAL PROJECTS.—The purposes of special projects carried out under this subsection shall be to encourage—

“(A) producers to cooperate in the installation and maintenance of conservation practices that affect multiple agricultural operations;

“(B) the sharing of information and technical and financial resources among producers;

“(C) cumulative conservation benefits in geographic areas; and

“(D) the development and demonstration of innovative conservation methods.

“(3) INCENTIVES.—To realize the purposes of the special projects under paragraph (1), the Secretary may provide special incentives to owners, operators, and producers participating in the special projects to encourage partnerships and enrollments of optimal conservation value.

“(4) FLEXIBILITY.—

“(A) IN GENERAL.—The Secretary may enter into stewardship agreements with States (including State agencies and units of local government), Indian tribes, and nongovernmental organizations that have a history of working with agricultural producers to allow greater flexibility to adjust the application of eligibility criteria, approved practices, innovative conservation practices, and other elements of the programs under this title to better reflect unique local circumstances and purposes in a manner that is consistent with—

“(i) conservation enhancement and long-term productivity of the natural resource base; and

“(ii) the purposes and requirements of this title.

“(B) PLAN.—Each party to a stewardship agreement under subparagraph (A) shall submit to the Secretary, for approval by the Secretary, a special project area plan for each program to be carried out by the party that includes—

“(i) a description of the requested resources and adjustments to program implementation (including a description of how those adjustments will accelerate the achievement of conservation benefits);

“(ii) an analysis of the contribution those adjustments will make to the effectiveness of programs in achieving the purposes of the special project;

“(iii) a timetable for reevaluating the need for or performance of the proposed adjustments;

“(iv) a description of non-Federal programs and resources that will contribute to achieving the purposes of the special project; and

“(v) a plan for the evaluation of progress toward the purposes of the special project.

“(5) FUNDING.—

“(A) IN GENERAL.—In addition to resources from programs under subtitle D, subject to subparagraph (B), the Secretary shall use not more than 5 percent of the funds

made available for each fiscal year under section 1241(a) to carry out activities that are authorized under conservation programs under subtitle D.

“(B) UNUSED FUNDING.—Any funds made available for a fiscal year under subparagraph (A) that are not obligated by April 1 of the fiscal year may be used to carry out other activities under conservation programs under subtitle D during the fiscal year in which the funding becomes available.”.

SEC. 2004. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS.

(a) IN GENERAL.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841 et seq.) is amended by adding at the end the following:

“SEC. 1244. ADMINISTRATIVE REQUIREMENTS FOR CONSERVATION PROGRAMS. 16 USC 3844.

“(a) BEGINNING FARMERS AND RANCHERS AND INDIAN TRIBES.—In carrying out any conservation program administered by the Secretary, the Secretary may provide to beginning farmers and ranchers and Indian tribes (as those terms are defined in section 1238) and limited resource agricultural producers incentives to participate in the conservation program to—

- “(1) foster new farming and ranching opportunities; and
- “(2) enhance environmental stewardship over the long term.

“(b) PRIVACY OF PERSONAL INFORMATION RELATING TO NATURAL RESOURCES CONSERVATION PROGRAMS.—

“(1) INFORMATION RECEIVED FOR TECHNICAL AND FINANCIAL ASSISTANCE.—

“(A) IN GENERAL.—In accordance with section 552(b)(3) of title 5, United States Code, except as provided in subparagraph (C) and paragraph (2), information described in subparagraph (B)—

“(i) shall not be considered to be public information; and

“(ii) shall not be released to any person or Federal, State, local agency or Indian tribe (as defined by the Secretary) outside the Department of Agriculture.

“(B) INFORMATION.—The information referred to in subparagraph (A) is information—

“(i) provided to the Secretary or a contractor of the Secretary (including information provided under subtitle D) for the purpose of providing technical or financial assistance to an owner, operator, or producer with respect to any natural resources conservation program administered by the Natural Resources Conservation Service or the Farm Service Agency; and

“(ii) that is proprietary (within the meaning of section 552(b)(4) of title 5, United States Code) to the agricultural operation or land that is a part of an agricultural operation of the owner, operator, or producer.

“(C) EXCEPTION.—Nothing in this section affects the availability of payment information (including payment amounts and the names and addresses of recipients of payments) under section 552 of title 5, United States Code.

“(2) EXCEPTIONS.—

“(A) RELEASE AND DISCLOSURE FOR ENFORCEMENT.—The Secretary may release or disclose to the Attorney General information covered by paragraph (1) to the extent necessary to enforce the natural resources conservation programs referred to in paragraph (1)(B)(i).

“(B) DISCLOSURE TO COOPERATING PERSONS AND AGENCIES.—

“(i) IN GENERAL.—The Secretary may release or disclose information covered by paragraph (1) to a person or Federal, State, local, or tribal agency working in cooperation with the Secretary in providing technical and financial assistance described in paragraph (1)(B)(i) or collecting information from data gathering sites.

“(ii) USE OF INFORMATION.—The person or Federal, State, local, or tribal agency that receives information described in clause (i) may release the information only for the purpose of assisting the Secretary—

“(I) in providing the requested technical or financial assistance; or

“(II) in collecting information from data gathering sites.

“(C) STATISTICAL AND AGGREGATE INFORMATION.—Information covered by paragraph (1) may be disclosed to the public if the information has been transformed into a statistical or aggregate form without naming any—

“(i) individual owner, operator, or producer; or

“(ii) specific data gathering site.

“(D) CONSENT OF OWNER, OPERATOR, OR PRODUCER.—

“(i) IN GENERAL.—An owner, operator, or producer may consent to the disclosure of information described in paragraph (1).

“(ii) CONDITION OF OTHER PROGRAMS.—The participation of the owner, operator, or producer in, and the receipt of any benefit by the owner, operator, or producer under, this title or any other program administered by the Secretary may not be conditioned on the owner, operator, or producer providing consent under this paragraph.

“(3) VIOLATIONS; PENALTIES.—Section 1770(c) shall apply with respect to the release of information collected in any manner or for any purpose prohibited by this subsection.

“(4) DATA COLLECTION, DISCLOSURE, AND REVIEW.—Nothing in this subsection—

“(A) affects any procedure for data collection or disclosure through the National Resources Inventory; or

“(B) limits the authority of Congress or the General Accounting Office to review information collected or disclosed under this subsection.”

(b) NATIONAL RESOURCES INVENTORY.—Section 1770 of the Food Security Act of 1985 (7 U.S.C. 2276) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “or” at the end;

(B) in paragraph (2), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(3) in the case of information collected under the authority described in subsection (d)(12), disclose the information to any person or any Federal, State, local, or tribal agency outside the Department of Agriculture, unless the information has been converted into a statistical or aggregate form that does not allow the identification of the person that supplied particular information.”; and

(2) in subsection (d)—

(A) in paragraph (9), by striking “or” at the end;

(B) in paragraph (11), by striking the period and inserting “; or”; and

(C) by adding at the end the following:

“(12) section 302 of the Rural Development Act of 1972 (7 U.S.C. 1010a) regarding the authority to collect data for the National Resources Inventory.”.

SEC. 2005. REFORM AND ASSESSMENT OF CONSERVATION PROGRAMS.

16 USC 3801
note.

(a) **IN GENERAL.**—The Secretary of Agriculture shall develop a plan to coordinate land retirement and agricultural working land conservation programs that are administered by the Secretary to achieve the goals of—

(1) eliminating redundancy;

(2) streamlining program delivery; and

(3) improving services provided to agricultural producers (including the reevaluation of the provision of technical assistance).

(b) **REPORT.**—Not later than December 31, 2005, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report that describes—

Deadline.

(1) the plan developed under subsection (a); and

(2) the means by which the Secretary intends to achieve the goals described in subsection (a).

SEC. 2006. CONFORMING AMENDMENTS.

(a) Chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3830 et seq.) is amended by striking the chapter heading and inserting the following:

**“CHAPTER 1—COMPREHENSIVE CONSERVATION
ENHANCEMENT PROGRAM”.**

(b) Section 1230 of the Food Security Act of 1985 (16 U.S.C. 3830) is amended—

(1) in the section heading, by striking “**ENVIRONMENTAL CONSERVATION ACREAGE RESERVE PROGRAM**” and inserting “**COMPREHENSIVE CONSERVATION ENHANCEMENT PROGRAM**”;

(2) in subsection (a)(1), by striking “an environmental conservation acreage reserve program” and inserting “a comprehensive conservation enhancement program”;

(3) by striking subsection (c); and

(4) by striking “ECARP” each place it appears and inserting “CCEP”.

(c) Section 1230A of the Food Security Act of 1985 (16 U.S.C. 3830a) is repealed.

(d) Section 1243 of the Food Security Act of 1985 (16 U.S.C. 3843) is amended by striking the section heading and inserting the following:

“SEC. 1243. ADMINISTRATION OF CCEP.”.

Subtitle B—Conservation Reserve

SEC. 2101. CONSERVATION RESERVE PROGRAM.

(a) IN GENERAL.—Subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) is amended to read as follows:

“Subchapter B—Conservation Reserve

16 USC 3831.

“SEC. 1231. CONSERVATION RESERVE.

“(a) IN GENERAL.—Through the 2007 calendar year, the Secretary shall formulate and carry out a conservation reserve program under which land is enrolled through the use of contracts to assist owners and operators of land specified in subsection (b) to conserve and improve the soil, water, and wildlife resources of such land.

“(b) ELIGIBLE LAND.—The Secretary may include in the program established under this subchapter—

“(1) highly erodible cropland that—

“(A)(i) if permitted to remain untreated could substantially reduce the agricultural production capability for future generations; or

“(ii) cannot be farmed in accordance with a plan that complies with the requirements of subtitle B; and

“(B) the Secretary determines had a cropping history or was considered to be planted for 4 of the 6 years preceding the date of enactment of the Farm Security and Rural Investment Act of 2002 (except for land enrolled in the conservation reserve program as of that date).

“(2) marginal pasture land converted to wetland or established as wildlife habitat prior to November 28, 1990;

“(3) marginal pasture land to be devoted to appropriate vegetation, including trees, in or near riparian areas, or devoted to similar water quality purposes (including marginal pastureland converted to wetland or established as wildlife habitat);

“(4) cropland that is otherwise ineligible if the Secretary determines that—

“(A) if permitted to remain in agricultural production, the land would—

“(i) contribute to the degradation of soil, water, or air quality; or

“(ii) pose an on-site or off-site environmental threat to soil, water, or air quality;

“(B) the land is a—

“(i) newly-created, permanent grass sod waterway; or

“(ii) a contour grass sod strip established and maintained as part of an approved conservation plan;

“(C) the land will be devoted to newly established living snow fences, permanent wildlife habitat, windbreaks, shelterbelts, or filterstrips devoted to trees or shrubs; or

“(D) the land poses an off-farm environmental threat, or a threat of continued degradation of productivity due to soil salinity, if permitted to remain in production; and

“(E) enrollment of the land would facilitate a net savings in groundwater or surface water resources of the agricultural operation of the producer;

“(5) the portion of land in a field not enrolled in the conservation reserve in a case in which more than 50 percent of the land in the field is enrolled as a buffer, if—

“(A) the land is enrolled as part of the buffer; and

“(B) the remainder of the field is—

“(i) infeasible to farm; and

“(ii) enrolled at regular rental rates.

“(c) PLANTING STATUS OF CERTAIN LAND.—For purposes of determining the eligibility of land to be placed in the conservation reserve established under this subchapter, land shall be considered to be planted to an agricultural commodity during a crop year if—

“(1) during the crop year, the land was devoted to a conserving use; or

“(2)(A) during the crop year or during any of the 2 years preceding the crop year, the land was enrolled in the water bank program; and

“(B) the contract of the owner or operator of the cropland expired or will expire in calendar year 2000, 2001, or 2002.

“(d) MAXIMUM ENROLLMENT.—The Secretary may maintain up to 39,200,000 acres in the conservation reserve at any 1 time during the 2002 through 2007 calendar years (including contracts extended by the Secretary pursuant to section 1437(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 (16 U.S.C. 3831 note; Public Law 101-624)).

“(e) DURATION OF CONTRACT.—

“(1) IN GENERAL.—For the purpose of carrying out this subchapter, the Secretary shall enter into contracts of not less than 10, nor more than 15, years.

“(2) CERTAIN LAND.—

“(A) IN GENERAL.—In the case of land devoted to hardwood trees, shelterbelts, windbreaks, or wildlife corridors under a contract entered into under this subchapter after October 1, 1990, and land devoted to such uses under contracts modified under section 1235A, the owner or operator of the land may, within the limitations prescribed under this section, specify the duration of the contract.

“(B) HARDWOOD TREES.—In the case of land that is devoted to hardwood trees under a contract entered into under this subchapter prior to October 1, 1990, the Secretary may extend the contract for a term of not to exceed 5 years, as agreed to by the owner or operator of such land and the Secretary.

“(3) 1-YEAR EXTENSION.—In the case of a contract described in paragraph (1) the term of which expires during calendar year 2002, an owner or operator of land enrolled under the contract may extend the contract for 1 additional year.

“(f) CONSERVATION PRIORITY AREAS.—

“(1) DESIGNATION.—On application by the appropriate State agency, the Secretary shall designate watershed areas of the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia), the Great Lakes Region, the Long Island Sound Region, and other areas of special environmental sensitivity as conservation priority areas.

“(2) ELIGIBLE WATERSHEDS.—Watersheds eligible for designation under this subsection shall include areas with actual and significant adverse water quality or habitat impacts related to agricultural production activities.

“(3) EXPIRATION.—Conservation priority area designation under this subsection shall expire after 5 years, subject to redesignation, except that the Secretary may withdraw a watershed’s designation—

“(A) on application by the appropriate State agency;

or

“(B) in the case of an area covered by this subsection, if the Secretary finds that the area no longer contains actual and significant adverse water quality or habitat impacts related to agricultural production activities.

“(4) DUTY OF SECRETARY.—In carrying out this subsection, the Secretary shall attempt to maximize water quality and habitat benefits in the watersheds described in paragraph (1) by promoting a significant level of enrollment of land within the watersheds in the program under this subchapter by whatever means the Secretary determines are appropriate and consistent with the purposes of this subchapter.

“(g) MULTI-YEAR GRASSES AND LEGUMES.—For purposes of this subchapter, alfalfa and other multi-year grasses and legumes in a rotation practice, approved by the Secretary, shall be considered agricultural commodities.

“(h) PILOT PROGRAM FOR ENROLLMENT OF WETLAND AND BUFFER ACREAGE IN CONSERVATION RESERVE.—

“(1) PROGRAM.—

“(A) IN GENERAL.—During the 2002 through 2007 calendar years, the Secretary shall carry out a program in each State under which the Secretary shall include eligible acreage described in paragraph (2) in the program established under this subchapter.

“(B) PARTICIPATION AMONG STATES.—The Secretary shall ensure, to the maximum extent practicable, that owners and operators in each State have an equitable opportunity to participate in the pilot program established under this subsection.

“(2) ELIGIBLE ACREAGE.—

“(A) IN GENERAL.—Subject to subparagraphs (B) through (D), an owner or operator may enroll in the conservation reserve under this subsection—

“(i) a wetland (including a converted wetland described in section 1222(b)(1)(A)) that was cropped during at least 3 of the immediately preceding 10 crop years; and

“(ii) buffer acreage that—

“(I) is contiguous to the wetland described in clause (i);

“(II) is used to protect the wetland; and

“(III) is of such width as the Secretary determines is necessary to protect the wetland, taking into consideration and accommodating the farming practices (including the straightening of boundaries to accommodate machinery) used with respect to the cropland that surrounds the wetland.

“(B) EXCLUSIONS.—An owner or operator may not enroll in the conservation reserve under this subsection—

“(i) any wetland, or land on a floodplain, that is, or is adjacent to, a perennial riverine system wetland identified on the final national wetland inventory map of the Secretary of the Interior; or

“(ii) in the case of an area that is not covered by the final national inventory map, any wetland, or land on a floodplain, that is adjacent to a perennial stream identified on a 1-24,000 scale map of the United States Geological Survey.

“(C) PROGRAM LIMITATIONS.—

“(i) IN GENERAL.—The Secretary may enroll in the conservation reserve under this subsection not more than—

“(I) 100,000 acres in any 1 State referred to in paragraph (1); and

“(II) not more than a total of 1,000,000 acres.

“(ii) RELATIONSHIP TO PROGRAM MAXIMUM.—Subject to clause (iii), for the purposes of subsection (d), any acreage enrolled in the conservation reserve under this subsection shall be considered acres maintained in the conservation reserve.

“(iii) RELATIONSHIP TO OTHER ENROLLED ACREAGE.—Acreage enrolled under this subsection shall not affect for any fiscal year the quantity of—

“(I) acreage enrolled to establish conservation buffers as part of the program announced on March 24, 1998 (63 Fed. Reg. 14109); or

“(II) acreage enrolled into the conservation reserve enhancement program announced on May 27, 1998 (63 Fed. Reg. 28965).

“(iv) REVIEW; POTENTIAL INCREASE IN ENROLLMENT ACREAGE.—Not later than 3 years after the date of enactment of this clause, the Secretary shall— Deadline.

“(I) conduct a review of the program under this subsection with respect to each State that has enrolled land in the program; and

“(II) notwithstanding clause (i)(I), increase the number of acres that may be enrolled by a State under clause (i)(I) to not more than 150,000 acres, as determined by the Secretary.

“(D) OWNER OR OPERATOR LIMITATIONS.—

“(i) WETLAND.—

“(I) IN GENERAL.—The maximum size of any wetland described in subparagraph (A)(i) of an owner or operator enrolled in the conservation reserve under this subsection shall be 10 contiguous acres, of which not more than 5 acres shall be eligible for payment.

“(II) COVERAGE.—All acres described in subclause (I) (including acres that are ineligible for payment) shall be covered by the conservation contract.

“(ii) BUFFER ACREAGE.—The maximum size of any buffer acreage described in subparagraph (A)(ii) of an

owner or operator enrolled in the conservation reserve under this subsection shall be the greater of—

“(I) 3 times the size of any wetland described in subparagraph (A)(i) to which the buffer acreage is contiguous; or

“(II) 150 feet on either side of the wetland.

“(iii) TRACTS.—The maximum size of any eligible acreage described in subparagraph (A) in a tract (as determined by the Secretary) of an owner or operator enrolled in the conservation reserve under this subsection shall be 40 acres.

“(3) DUTIES OF OWNERS AND OPERATORS.—Under a contract entered into under this subsection, during the term of the contract, an owner or operator of a farm or ranch shall agree—

“(A) to restore the hydrology of the wetland within the eligible acreage to the maximum extent practicable, as determined by the Secretary;

“(B) to establish vegetative cover (which may include emerging vegetation in water) on the eligible acreage, as determined by the Secretary; and

“(C) to carry out other duties described in section 1232.

“(4) DUTIES OF THE SECRETARY.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in return for a contract entered into by an owner or operator under this subsection, the Secretary shall make payments and provide assistance to the owner or operator in accordance with sections 1233 and 1234.

“(B) CONTINUOUS SIGNUP.—The Secretary shall use continuous signup under section 1234(c)(2)(B) to determine the acceptability of contract offers and the amount of rental payments under this subsection.

“(C) INCENTIVES.—The amounts payable to owners and operators in the form of rental payments under contracts entered into under this subsection shall reflect incentives that are provided to owners and operators to enroll filterstrips in the conservation reserve under section 1234.

“(i) ELIGIBILITY FOR CONSIDERATION.—On the expiration of a contract entered into under this subchapter, the land subject to the contract shall be eligible to be considered for reenrollment in the conservation reserve.

“(j) BALANCE OF NATURAL RESOURCE PURPOSES.—In determining the acceptability of contract offers under this subchapter, the Secretary shall ensure, to the maximum extent practicable, an equitable balance among the conservation purposes of soil erosion, water quality, and wildlife habitat.

“SEC. 1232. DUTIES OF OWNERS AND OPERATORS.

“(a) IN GENERAL.—Under the terms of a contract entered into under this subchapter, during the term of the contract, an owner or operator of a farm or ranch shall agree—

“(1) to implement a plan approved by the local conservation district (or in an area not located within a conservation district, a plan approved by the Secretary) for converting eligible land normally devoted to the production of an agricultural commodity on the farm or ranch to a less intensive use (as defined by the Secretary), such as pasture, permanent grass, legumes,

forbs, shrubs, or trees, substantially in accordance with a schedule outlined in the plan;

“(2) to place highly erodible cropland subject to the contract in the conservation reserve established under this subchapter;

“(3) not to use the land for agricultural purposes, except as permitted by the Secretary;

“(4) to establish approved vegetative cover (which may include emerging vegetation in water), water cover for the enhancement of wildlife, or, where practicable, maintain existing cover on the land, except that—

“(A) the water cover shall not include ponds for the purpose of watering livestock, irrigating crops, or raising fish for commercial purposes; and

“(B) the Secretary shall not terminate the contract for failure to establish approved vegetative or water cover on the land if—

“(i) the failure to plant the cover was due to excessive rainfall or flooding;

“(ii) the land subject to the contract that could practicably be planted to the cover is planted to the cover; and

“(iii) the land on which the owner or operator was unable to plant the cover is planted to the cover after the wet conditions that prevented the planting subsides;

“(5) on a violation of a term or condition of the contract at any time the owner or operator has control of the land—

“(A) to forfeit all rights to receive rental payments and cost sharing payments under the contract and to refund to the Secretary any rental payments and cost sharing payments received by the owner or operator under the contract, together with interest on the payments as determined by the Secretary, if the Secretary, after considering the recommendations of the soil conservation district and the Natural Resources Conservation Service, determines that the violation is of such nature as to warrant termination of the contract; or

“(B) to refund to the Secretary, or accept adjustments to, the rental payments and cost sharing payments provided to the owner or operator, as the Secretary considers appropriate, if the Secretary determines that the violation does not warrant termination of the contract;

“(6) on the transfer of the right and interest of the owner or operator in land subject to the contract—

“(A) to forfeit all rights to rental payments and cost sharing payments under the contract; and

“(B) to refund to the United States all rental payments and cost sharing payments received by the owner or operator, or accept such payment adjustments or make such refunds as the Secretary considers appropriate and consistent with the objectives of this subchapter;

unless the transferee of the land agrees with the Secretary to assume all obligations of the contract, except that no refund of rental payments and cost sharing payments shall be required if the land is purchased by or for the United States Fish and Wildlife Service, or the transferee and the Secretary agree

to modifications to the contract, in a case in which the modifications are consistent with the objectives of the program, as determined by the Secretary;

“(7) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that the Secretary may permit, consistent with the conservation of soil, water quality, and wildlife habitat (including habitat during nesting seasons for birds in the area)—

“(A) managed harvesting and grazing (including the managed harvesting of biomass), except that in permitting managed harvesting and grazing, the Secretary—

“(i) shall, in coordination with the State technical committee—

“(I) develop appropriate vegetation management requirements; and

“(II) identify periods during which harvesting and grazing under this paragraph may be conducted;

“(ii) may permit harvesting and grazing or other commercial use of the forage on the land that is subject to the contract in response to a drought or other emergency; and

“(iii) shall, in the case of routine managed harvesting or grazing or harvesting or grazing conducted in response to a drought or other emergency, reduce the rental payment otherwise payable under the contract by an amount commensurate with the economic value of the activity; and

“(B) the installation of wind turbines, except that in permitting the installation of wind turbines, the Secretary shall determine the number and location of wind turbines that may be installed, taking into account—

“(i) the location, size, and other physical characteristics of the land;

“(ii) the extent to which the land contains wildlife and wildlife habitat; and

“(iii) the purposes of the conservation reserve program under this subchapter;

“(8) not to conduct any planting of trees on land that is subject to the contract unless the contract specifies that the harvesting and commercial sale of trees such as Christmas trees are prohibited, nor otherwise make commercial use of trees on land that is subject to the contract unless it is expressly permitted in the contract, nor adopt any similar practice specified in the contract by the Secretary as a practice that would tend to defeat the purposes of the contract, except that no contract shall prohibit activities consistent with customary forestry practice, such as pruning, thinning, or stand improvement of trees, on land converted to forestry use;

“(9) not to adopt any practice specified by the Secretary in the contract as a practice that would tend to defeat the purposes of this subchapter; and

“(10) to comply with such additional provisions as the Secretary determines are desirable and are included in the contract

to carry out this subchapter or to facilitate the practical administration of this subchapter.

“(b) CONSERVATION PLANS.—The plan referred to in subsection

(a)(1)—

“(1) shall set forth—

“(A) the conservation measures and practices to be carried out by the owner or operator during the term of the contract; and

“(B) the commercial use, if any, to be permitted on the land during the term; and

“(2) may provide for the permanent retirement of any existing cropland base and allotment history for the land.

“(c) FORECLOSURE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, an owner or operator who is a party to a contract entered into under this subchapter may not be required to make repayments to the Secretary of amounts received under the contract if the land that is subject to the contract has been foreclosed on and the Secretary determines that forgiving the repayments is appropriate in order to provide fair and equitable treatment.

“(2) RESUMPTION OF CONTROL.—

“(A) IN GENERAL.—This subsection shall not void the responsibilities of an owner or operator under the contract if the owner or operator resumes control over the land that is subject to the contract within the period specified in the contract.

“(B) CONTRACT.—On the resumption of the control over the land by the owner or operator, the provisions of the contract in effect on the date of the foreclosure shall apply.

“SEC. 1233. DUTIES OF THE SECRETARY.

16 USC 3833.

“In return for a contract entered into by an owner or operator under section 1232, the Secretary shall—

“(1) share the cost of carrying out the conservation measures and practices set forth in the contract for which the Secretary determines that cost sharing is appropriate and in the public interest; and

“(2) for a period of years not in excess of the term of the contract, pay an annual rental payment in an amount necessary to compensate for—

“(A) the conversion of highly erodible cropland normally devoted to the production of an agricultural commodity on a farm or ranch to a less intensive use; and

“(B) the retirement of any cropland base and allotment history that the owner or operator agrees to retire permanently.

“SEC. 1234. PAYMENTS.

16 USC 3834.

“(a) TIMING.—The Secretary shall provide payment for obligations incurred by the Secretary under a contract entered into under this subchapter—

“(1) with respect to any cost-sharing payment obligation incurred by the Secretary, as soon as practicable after the obligation is incurred; and

“(2) with respect to any annual rental payment obligation incurred by the Secretary—

“(A) as soon as practicable after October 1 of each calendar year; or

“(B) at the option of the Secretary, at any time prior to such date during the year that the obligation is incurred.”

“(b) FEDERAL PERCENTAGE OF COST SHARING PAYMENTS.—

“(1) IN GENERAL.—In making cost sharing payments to an owner or operator under a contract entered into under this subchapter, the Secretary shall pay 50 percent of the cost of establishing water quality and conservation measures and practices required under each contract for which the Secretary determines that cost sharing is appropriate and in the public interest.

“(2) LIMITATION.—The Secretary shall not make any payment to an owner or operator under this subchapter to the extent that the total amount of cost sharing payments provided to the owner or operator from all sources would exceed 100 percent of the total cost of establishing measures and practices described in paragraph (1).

“(3) HARDWOOD TREES, WINDBREAKS, SHELTERBELTS, AND WILDLIFE CORRIDORS.—

“(A) APPLICABILITY.—This paragraph applies to—

“(i) land devoted to the production of hardwood trees, windbreaks, shelterbelts, or wildlife corridors under a contract entered into under this subchapter after November 28, 1990; and

“(ii) land converted to such production under section 1235A.

“(B) PAYMENTS.—In making cost share payments to an owner or operator of land described in subparagraph (A), the Secretary shall pay 50 percent of the reasonable and necessary costs, as determined by the Secretary, incurred by the owner or operator for maintaining trees or shrubs, including the cost of replanting (if the trees or shrubs were lost due to conditions beyond the control of the owner or operator), during not less than the 2-year, and not more than the 4-year, period beginning on the date of the planting of the trees or shrubs, as determined appropriate by the Secretary.

“(4) HARDWOOD TREE PLANTING.—The Secretary may permit owners or operators that contract to devote at least 10 acres of land to the production of hardwood trees under this subchapter to extend the planting of the trees over a 3-year period if at least $\frac{1}{3}$ of the trees are planted in each of the first 2 years.

“(5) OTHER FEDERAL COST SHARE ASSISTANCE.—An owner or operator shall not be eligible to receive or retain cost share assistance under this subsection if the owner or operator receives any other Federal cost share assistance with respect to the land under any other provision of law.

“(c) ANNUAL RENTAL PAYMENTS.—

“(1) IN GENERAL.—In determining the amount of annual rental payments to be paid to owners and operators for converting highly erodible cropland normally devoted to the production of an agricultural commodity to less intensive use, the Secretary may consider, among other things, the amount necessary to encourage owners or operators of highly erodible cropland to participate in the program established by this subchapter.

“(2) METHOD OF DETERMINATION.—The amounts payable to owners or operators in the form of rental payments under contracts entered into under this subchapter may be determined through—

“(A) the submission of bids for such contracts by owners and operators in such manner as the Secretary may prescribe; or

“(B) such other means as the Secretary determines are appropriate.

“(3) ACCEPTANCE OF CONTRACT OFFERS.—In determining the acceptability of contract offers, the Secretary may—

“(A) take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, wildlife habitat, or provide other environmental benefits; and

“(B) establish different criteria in various States and regions of the United States based on the extent to which water quality or wildlife habitat may be improved or erosion may be abated.

“(4) HARDWOOD TREE ACREAGE.—In the case of acreage enrolled in the conservation reserve established under this subchapter that is to be devoted to hardwood trees, the Secretary may consider bids for contracts under this subsection on a continuous basis.

“(d) CASH OR IN-KIND PAYMENTS.—

“(1) IN GENERAL.—Except as otherwise provided in this section, payments under this subchapter—

“(A) shall be made in cash or in commodities in such amount and on such time schedule as is agreed on and specified in the contract; and

“(B) may be made in advance of determination of performance.

“(2) METHOD OF PROVIDING IN-KIND PAYMENTS.—If the payment to an owner or operator is made with in-kind commodities, the payment shall be made by the Commodity Credit Corporation—

“(A) by delivery of the commodity involved to the owner or operator at a warehouse or other similar facility located in the county in which the highly erodible cropland is located or at such other location as is agreed to by the Secretary and the owner or operator;

“(B) by the transfer of negotiable warehouse receipts; or

“(C) by such other method, including the sale of the commodity in commercial markets, as is determined by the Secretary to be appropriate to enable the owner or operator to receive efficient and expeditious possession of the commodity.

“(3) CASH PAYMENTS.—

“(A) COMMODITY CREDIT CORPORATION STOCKS.—If stocks of a commodity acquired by the Commodity Credit Corporation are not readily available to make full payment in kind to the owner or operator, the Secretary may substitute full or partial payment in cash for payment in kind.

“(B) SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.—Payments to an owner or operator under a

special conservation reserve enhancement program described in subsection (f)(4) shall be in the form of cash only.

“(e) PAYMENTS ON DEATH, DISABILITY, OR SUCCESSION.—If an owner or operator that is entitled to a payment under a contract entered into under this subchapter dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person that renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

“(f) PAYMENT LIMITATION FOR RENTAL PAYMENTS.—

“(1) IN GENERAL.—The total amount of rental payments, including rental payments made in the form of in-kind commodities, made to a person under this subchapter for any fiscal year may not exceed \$50,000.

“(2) REGULATIONS.—

“(A) IN GENERAL.—The Secretary shall promulgate regulations—

“(i) defining the term ‘person’ as used in this subsection; and

“(ii) providing such terms and conditions as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established by this subsection.

“(B) CORPORATIONS AND STOCKHOLDERS.—The regulations promulgated by the Secretary on December 18, 1970, under section 101 of the Agricultural Act of 1970 (7 U.S.C. 1307), shall be used to determine whether corporations and their stockholders may be considered as separate persons under this subsection.

“(3) OTHER PAYMENTS.—Rental payments received by an owner or operator shall be in addition to, and not affect, the total amount of payments that the owner or operator is otherwise eligible to receive under the Farm Security and Rural Investment Act of 2002.

“(4) SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.—

“(A) IN GENERAL.—The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C. 1308 note; Public Law 100-203), shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special conservation reserve enhancement program carried out by that entity that has been approved by the Secretary.

“(B) AGREEMENTS.—The Secretary may enter into such agreements for payments to States (including political subdivisions and agencies of States) that the Secretary determines will advance the purposes of this subchapter.

“(g) OTHER STATE OR LOCAL ASSISTANCE.—In addition to any payment under this subchapter, an owner or operator may receive cost share assistance, rental payments, or tax benefits from a State or subdivision thereof for enrolling land in the conservation reserve program.

“SEC. 1235. CONTRACTS.

16 USC 3835.

“(a) OWNERSHIP OR OPERATION REQUIREMENTS.—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), no contract shall be entered into under this subchapter concerning land with respect to which the ownership has changed in the 1-year period preceding the first year of the contract period unless—

“(A) the new ownership was acquired by will or succession as a result of the death of the previous owner;

“(B) the new ownership was acquired before January 1, 1985;

“(C) the Secretary determines that the land was acquired under circumstances that give adequate assurance that the land was not acquired for the purpose of placing the land in the program established by this subchapter; or

“(D) the ownership change occurred due to foreclosure on the land and the owner of the land immediately before the foreclosure exercises a right of redemption from the mortgage holder in accordance with State law.

“(2) **EXCEPTIONS.**—Paragraph (1) shall not—

“(A) prohibit the continuation of an agreement by a new owner after an agreement has been entered into under this subchapter; or

“(B) require a person to own the land as a condition of eligibility for entering into the contract if the person—

“(i) has operated the land to be covered by a contract under this section for at least 1 year preceding the date of the contract or since January 1, 1985, whichever is later; and

“(ii) controls the land for the contract period.

“(b) **SALES OR TRANSFERS.**—If, during the term of a contract entered into under this subchapter, an owner or operator of land subject to the contract sells or otherwise transfers the ownership or right of occupancy of the land, the new owner or operator of the land may—

“(1) continue the contract under the same terms or conditions;

“(2) enter into a new contract in accordance with this subchapter; or

“(3) elect not to participate in the program established by this subchapter.

“(c) **MODIFICATIONS.**—

“(1) **IN GENERAL.**—The Secretary may modify a contract entered into with an owner or operator under this subchapter if—

“(A) the owner or operator agrees to the modification; and

“(B) the Secretary determines that the modification is desirable—

“(i) to carry out this subchapter;

“(ii) to facilitate the practical administration of this subchapter; or

“(iii) to achieve such other goals as the Secretary determines are appropriate, consistent with this subchapter.

“(2) PRODUCTION OF AGRICULTURAL COMMODITIES.—The Secretary may modify or waive a term or condition of a contract entered into under this subchapter in order to permit all or part of the land subject to such contract to be devoted to the production of an agricultural commodity during a crop year, subject to such conditions as the Secretary determines are appropriate.

“(d) TERMINATION.—

“(1) IN GENERAL.—The Secretary may terminate a contract entered into with an owner or operator under this subchapter if—

“(A) the owner or operator agrees to the termination; and

“(B) the Secretary determines that the termination would be in the public interest.

“(2) NOTICE TO CONGRESSIONAL COMMITTEES.—At least 90 days before taking any action to terminate under paragraph (1) all conservation reserve contracts entered into under this subchapter, the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate written notice of the action.

“(e) EARLY TERMINATION BY OWNER OR OPERATOR.—

“(1) EARLY TERMINATION.—

“(A) IN GENERAL.—The Secretary shall allow a participant that entered into a contract under this subchapter before January 1, 1995, to terminate the contract at any time if the contract has been in effect for at least 5 years.

“(B) LIABILITY FOR CONTRACT VIOLATION.—The termination shall not relieve the participant of liability for a contract violation occurring before the date of the termination.

“(C) NOTICE TO SECRETARY.—The participant shall provide the Secretary with reasonable notice of the desire of the participant to terminate the contract.

“(2) CERTAIN LAND EXCEPTED.—The following land shall not be subject to an early termination of contract under this subsection:

“(A) Filterstrips, waterways, strips adjacent to riparian areas, windbreaks, and shelterbelts.

“(B) Land with an erodibility index of more than 15.

“(C) Other land of high environmental value (including wetland), as determined by the Secretary.

“(3) EFFECTIVE DATE.—The contract termination shall become effective 60 days after the date on which the owner or operator submits the notice required under paragraph (1)(C).

“(4) PRORATED RENTAL PAYMENT.—If a contract entered into under this subchapter is terminated under this subsection before the end of the fiscal year for which a rental payment is due, the Secretary shall provide a prorated rental payment covering the portion of the fiscal year during which the contract was in effect.

“(5) RENEWED ENROLLMENT.—The termination of a contract entered into under this subchapter shall not affect the ability of the owner or operator that requested the termination to submit a subsequent bid to enroll the land that was subject to the contract into the conservation reserve.

“(6) CONSERVATION REQUIREMENTS.—If land that was subject to a contract is returned to production of an agricultural commodity, the conservation requirements under subtitles B and C shall apply to the use of the land to the extent that the requirements are similar to those requirements imposed on other similar land in the area, except that the requirements may not be more onerous than the requirements imposed on other land.

“SEC. 1235A. CONVERSION OF LAND SUBJECT TO CONTRACT TO OTHER CONSERVING USES. 16 USC 3835a.

“(a) CONVERSION TO TREES.—

“(1) IN GENERAL.—The Secretary shall permit an owner or operator that has entered into a contract under this subchapter that is in effect on November 28, 1990, to convert areas of highly erodible cropland that are subject to the contract, and that are devoted to vegetative cover, from that use to hardwood trees, windbreaks, shelterbelts, or wildlife corridors.

“(2) TERMS.—

“(A) EXTENSION OF CONTRACT.—With respect to a contract that is modified under this section that provides for the planting of hardwood trees, windbreaks, shelterbelts, or wildlife corridors, if the original term of the contract was less than 15 years, the owner or operator may extend the contract to a term of not to exceed 15 years.

“(B) COST SHARE ASSISTANCE.—The Secretary shall pay 50 percent of the cost of establishing conservation measures and practices authorized under this subsection for which the Secretary determines the cost sharing is appropriate and in the public interest.

“(b) CONVERSION TO WETLAND.—The Secretary shall permit an owner or operator that has entered into a contract under this subchapter that is in effect on November 28, 1990, to restore areas of highly erodible cropland that are devoted to vegetative cover under the contract to wetland if—

“(1) the areas are prior converted wetland;

“(2) the owner or operator of the areas enters into an agreement to provide the Secretary with a long-term or permanent easement under subchapter C covering the areas;

“(3) there is a high probability that the prior converted area can be successfully restored to wetland status; and

“(4) the restoration of the areas otherwise meets the requirements of subchapter C.

“(c) LIMITATION.—The Secretary shall not incur, through a conversion under this section, any additional expense on the acres, including the expense involved in the original establishment of the vegetative cover, that would result in cost share for costs under this section in excess of the costs that would have been subject to cost share for the new practice had that practice been the original practice.

“(d) CONDITION OF CONTRACT.—An owner or operator shall as a condition of entering into a contract under subsection (a) participate in the Forest Stewardship Program established under section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103a).”.

16 USC 3831
note.

(b) STUDY ON ECONOMIC EFFECTS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the economic and social effects on rural communities resulting from the conservation reserve program established under subchapter B of chapter 1 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.).

(2) COMPONENTS.—The study under paragraph (1) shall include analyses of—

(A) the impact that enrollments in the conservation reserve program have on rural businesses, civic organizations, and community services (such as schools, public safety, and infrastructure), particularly in communities with a large percentage of whole farm enrollments;

(B) the effect that those enrollments have on rural population and beginning farmers (including a description of any connection between the rate of enrollment and the incidence of absentee ownership);

(C)(i) the manner in which differential per acre payment rates potentially impact the types of land (by productivity) enrolled;

(ii) changes to the per acre payment rates that may affect that impact; and

(iii) the manner in which differential per acre payment rates could facilitate retention of productive agricultural land in agriculture; and

(D) the effect of enrollment on opportunities for recreational activities (including hunting and fishing).

Subtitle C—Wetlands Reserve Program

SEC. 2201. REAUTHORIZATION.

Section 1237(c) of the Food Security Act of 1985 (16 U.S.C. 3837(c)) is amended by striking “2002” and inserting “2007”.

SEC. 2202. ENROLLMENT.

Section 1237 of the Food Security Act of 1985 (16 U.S.C. 3837) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) ENROLLMENT CONDITIONS.—

“(1) MAXIMUM ENROLLMENT.—The total number of acres enrolled in the wetlands reserve program shall not exceed 2,275,000 acres, of which, to the maximum extent practicable, the Secretary shall enroll 250,000 acres in each calendar year.

“(2) METHODS OF ENROLLMENT.—The Secretary shall enroll acreage into the wetlands reserve program through the use of permanent easements, 30-year easements, restoration cost share agreements, or any combination of those options.”; and

(2) by striking subsection (g).

SEC. 2203. EASEMENTS AND AGREEMENTS.

Section 1237A of the Food Security Act of 1985 (16 U.S.C. 3837a) is amended by striking subsection (h).

SEC. 2204. CHANGES IN OWNERSHIP; AGREEMENT MODIFICATION; TERMINATION.

Section 1237E(a) of the Food Security Act of 1985 (16 U.S.C. 3837e(a)) is amended by striking paragraph (2) and inserting the following:

“(2)(A) the ownership change occurred because of foreclosure on the land; and

“(B) immediately before the foreclosure, the owner of the land exercises a right of redemption from the mortgage holder in accordance with State law; or”.

Subtitle D—Environmental Quality Incentives

SEC. 2301. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

Chapter 4 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839aa et seq.) is amended to read as follows:

“SEC. 1240. PURPOSES.

16 USC 3839aa.

“The purposes of the environmental quality incentives program established by this chapter are to promote agricultural production and environmental quality as compatible goals, and to optimize environmental benefits, by—

“(1) assisting producers in complying with local, State, and national regulatory requirements concerning—

“(A) soil, water, and air quality;

“(B) wildlife habitat; and

“(C) surface and ground water conservation;

“(2) avoiding, to the maximum extent practicable, the need for resource and regulatory programs by assisting producers in protecting soil, water, air, and related natural resources and meeting environmental quality criteria established by Federal, State, tribal, and local agencies;

“(3) providing flexible assistance to producers to install and maintain conservation practices that enhance soil, water, related natural resources (including grazing land and wetland), and wildlife while sustaining production of food and fiber;

“(4) assisting producers to make beneficial, cost effective changes to cropping systems, grazing management, nutrient management associated with livestock, pest or irrigation management, or other practices on agricultural land; and

“(5) consolidating and streamlining conservation planning and regulatory compliance processes to reduce administrative burdens on producers and the cost of achieving environmental goals.

“SEC. 1240A. DEFINITIONS.16 USC
3839aa–1.

“In this chapter:

“(1) **BEGINNING FARMER OR RANCHER.**—The term ‘beginning farmer or rancher’ has the meaning provided under section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999(a)).

“(2) **ELIGIBLE LAND.**—

“(A) **IN GENERAL.**—The term ‘eligible land’ means land on which agricultural commodities or livestock are produced.

“(B) INCLUSIONS.—The term ‘eligible land’ includes—

“(i) cropland;

“(ii) grassland;

“(iii) rangeland;

“(iv) pasture land;

“(v) private, nonindustrial forest land; and

“(vi) other agricultural land that the Secretary determines poses a serious threat to soil, air, water, or related resources.

“(3) LAND MANAGEMENT PRACTICE.—The term ‘land management practice’ means a site-specific nutrient or manure management, integrated pest management, irrigation management, tillage or residue management, grazing management, air quality management, or other land management practice carried out on eligible land that the Secretary determines is needed to protect from degradation, in the most cost-effective manner, water, soil, or related resources.

“(4) LIVESTOCK.—The term ‘livestock’ means dairy cattle, beef cattle, laying hens, broilers, turkeys, swine, sheep, and other such animals as are determined by the Secretary.

“(5) PRACTICE.—The term ‘practice’ means 1 or more structural practices, land management practices, and comprehensive nutrient management planning practices.

“(6) STRUCTURAL PRACTICE.—The term ‘structural practice’ means—

“(A) the establishment on eligible land of a site-specific animal waste management facility, terrace, grassed waterway, contour grass strip, filterstrip, tailwater pit, permanent wildlife habitat, constructed wetland, or other structural practice that the Secretary determines is needed to protect, in the most cost effective manner, water, soil, or related resources from degradation; and

“(B) the capping of abandoned wells on eligible land.

16 USC
3839aa-2.

“SEC. 1240B. ESTABLISHMENT AND ADMINISTRATION OF ENVIRONMENTAL QUALITY INCENTIVES PROGRAM.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—During each of the 2002 through 2007 fiscal years, the Secretary shall provide cost-share payments and incentive payments to producers that enter into contracts with the Secretary under the program.

“(2) ELIGIBLE PRACTICES.—With respect to practices implemented under this chapter—

“(A) a producer that implements a structural practice in accordance with this chapter shall be eligible to receive cost-share payments; and

“(B) a producer that implements a land management practice, or develops a comprehensive nutrient management plan, in accordance with this chapter shall be eligible to receive incentive payments.

“(b) PRACTICES AND TERM.—

“(1) PRACTICES.—A contract under this chapter may apply to 1 or more structural practices, land management practices, and comprehensive nutrient management practices.

“(2) TERM.—A contract under this chapter shall have a term that—

“(A) at a minimum, is equal to the period beginning on the date on which the contract is entered into and ending on the date that is 1 year after the date on which all practices under the contract have been implemented; but

“(B) not to exceed 10 years.

“(c) BIDDING DOWN.—If the Secretary determines that the environmental values of 2 or more applications for cost-share payments or incentive payments are comparable, the Secretary shall not assign a higher priority to the application only because it would present the least cost to the program established under the program.

“(d) COST-SHARE PAYMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the cost-share payments provided to a producer proposing to implement 1 or more practices under the program shall be not more than 75 percent of the cost of the practice, as determined by the Secretary.

“(2) EXCEPTIONS.—

“(A) LIMITED RESOURCE AND BEGINNING FARMERS.—The Secretary may increase the amount provided to a producer under paragraph (1) to not more than 90 percent if the producer is a limited resource or beginning farmer or rancher, as determined by the Secretary.

“(B) COST-SHARE ASSISTANCE FROM OTHER SOURCES.—Except as provided in paragraph (3), any cost-share payments received by a producer from a State or private organization or person for the implementation of 1 or more practices on eligible land of the producer shall be in addition to the payments provided to the producer under paragraph (1).

“(3) OTHER PAYMENTS.—A producer shall not be eligible for cost-share payments for practices on eligible land under the program if the producer receives cost-share payments or other benefits for the same practice on the same land under chapter 1 and the program.

“(e) INCENTIVE PAYMENTS.—

“(1) IN GENERAL.—The Secretary shall make incentive payments in an amount and at a rate determined by the Secretary to be necessary to encourage a producer to perform 1 or more land management practices.

“(2) SPECIAL RULE.—In determining the amount and rate of incentive payments, the Secretary may accord great significance to a practice that promotes residue, nutrient, pest, invasive species, or air quality management.

“(f) MODIFICATION OR TERMINATION OF CONTRACTS.—

“(1) VOLUNTARY MODIFICATION OR TERMINATION.—The Secretary may modify or terminate a contract entered into with a producer under this chapter if—

“(A) the producer agrees to the modification or termination; and

“(B) the Secretary determines that the modification or termination is in the public interest.

“(2) INVOLUNTARY TERMINATION.—The Secretary may terminate a contract under this chapter if the Secretary determines that the producer violated the contract.

“(g) ALLOCATION OF FUNDING.—For each of fiscal years 2002 through 2007, 60 percent of the funds made available for cost-share payments and incentive payments under this chapter shall be targeted at practices relating to livestock production.

16 USC
3839aa-3.

“SEC. 1240C. EVALUATION OF OFFERS AND PAYMENTS.

“In evaluating applications for cost-share payments and incentive payments, the Secretary shall accord a higher priority to assistance and payments that—

“(1) encourage the use by producers of cost-effective conservation practices; and

“(2) address national conservation priorities.

16 USC
3839aa-4.

“SEC. 1240D. DUTIES OF PRODUCERS.

“To receive technical assistance, cost-share payments, or incentive payments under the program, a producer shall agree—

“(1) to implement an environmental quality incentives program plan (including a comprehensive nutrient management plan, if applicable) that describes conservation and environmental purposes to be achieved through 1 or more practices that are approved by the Secretary;

“(2) not to conduct any practices on the farm or ranch that would tend to defeat the purposes of the program;

“(3) on the violation of a term or condition of the contract at anytime the producer has control of the land—

“(A) if the Secretary determines that the violation warrants termination of the contract—

“(i) to forfeit all rights to receive payments under the contract; and

“(ii) to refund to the Secretary all or a portion of the payments received by the owner or operator under the contract, including any interest on the payments, as determined by the Secretary; or

“(B) if the Secretary determines that the violation does not warrant termination of the contract, to refund to the Secretary, or accept adjustments to, the payments provided to the owner or operator, as the Secretary determines to be appropriate;

“(4) on the transfer of the right and interest of the producer in land subject to the contract, unless the transferee of the right and interest agrees with the Secretary to assume all obligations of the contract, to refund all cost-share payments and incentive payments received under the program, as determined by the Secretary;

“(5) to supply information as required by the Secretary to determine compliance with the program plan and requirements of the program; and

“(6) to comply with such additional provisions as the Secretary determines are necessary to carry out the program plan.

16 USC
3839aa-5.

“SEC. 1240E. ENVIRONMENTAL QUALITY INCENTIVES PROGRAM PLAN.

“(a) IN GENERAL.—To be eligible to receive cost-share payments or incentive payments under the program, a producer shall submit to the Secretary for approval a plan of operations that—

“(1) specifies practices covered under the program;

“(2) includes such terms and conditions as the Secretary considers necessary to carry out the program, including a

description of the purposes to be met by the implementation of the plan; and

“(3) in the case of a confined livestock feeding operation, provides for development and implementation of a comprehensive nutrient management plan, if applicable.

“(b) AVOIDANCE OF DUPLICATION.—The Secretary shall, to the maximum extent practicable, eliminate duplication of planning activities under the program under this chapter and comparable conservation programs.

“SEC. 1240F. DUTIES OF THE SECRETARY.

16 USC
3839aa-6.

“To the extent appropriate, the Secretary shall assist a producer in achieving the conservation and environmental goals of a program plan by—

“(1) providing cost-share payments or incentive payments for developing and implementing 1 or more practices, as appropriate; and

“(2) providing the producer with information and training to aid in implementation of the plan.

“SEC. 1240G. LIMITATION ON PAYMENTS.

16 USC
3839aa-7.

“An individual or entity may not receive, directly or indirectly, cost-share or incentive payments under this chapter that, in the aggregate, exceed \$450,000 for all contracts entered into under this chapter by the individual or entity during the period of fiscal years 2002 through 2007, regardless of the number of contracts entered into under this chapter by the individual or entity.

“SEC. 1240H. CONSERVATION INNOVATION GRANTS.

16 USC
3839aa-8.

“(a) IN GENERAL.—The Secretary may pay the cost of competitive grants that are intended to stimulate innovative approaches to leveraging Federal investment in environmental enhancement and protection, in conjunction with agricultural production, through the program.

“(b) USE.—The Secretary may provide grants under this section to governmental and nongovernmental organizations and persons, on a competitive basis, to carry out projects that—

“(1) involve producers that are eligible for payments or technical assistance under the program;

“(2) implement projects, such as—

“(A) market systems for pollution reduction; and

“(B) innovative conservation practices, including the storing of carbon in the soil; and

“(3) leverage funds made available to carry out the program under this chapter with matching funds provided by State and local governments and private organizations to promote environmental enhancement and protection in conjunction with agricultural production.

“(c) COST SHARE.—The amount of a grant made under this section to carry out a project shall not exceed 50 percent of the cost of the project.

“SEC. 1240I. GROUND AND SURFACE WATER CONSERVATION.

16 USC
3839aa-9.

“(a) ESTABLISHMENT.—In carrying out the program under this chapter, subject to subsection (b), the Secretary shall promote ground and surface water conservation by providing cost-share payments, incentive payments, and loans to producers to carry out

eligible water conservation activities with respect to the agricultural operations of producers, to—

“(1) improve irrigation systems;

“(2) enhance irrigation efficiencies;

“(3) convert to—

“(A) the production of less water-intensive agricultural commodities; or

“(B) dryland farming;

“(4) improve the storage of water through measures such as water banking and groundwater recharge;

“(5) mitigate the effects of drought; or

“(6) institute other measures that improve groundwater and surface water conservation, as determined by the Secretary, in the agricultural operations of producers.

“(b) **NET SAVINGS.**—The Secretary may provide assistance to a producer under this section only if the Secretary determines that the assistance will facilitate a conservation measure that results in a net savings in groundwater or surface water resources in the agricultural operation of the producer.

“(c) **FUNDING.**—Of the funds of the Commodity Credit Corporation, in addition to amounts made available under section 1241(a)(6) to carry out this chapter, the Secretary shall use—

“(1) to carry out this section—

“(A) \$25,000,000 for fiscal year 2002;

“(B) \$45,000,000 for fiscal year 2003; and

“(C) \$60,000,000 for each of fiscal years 2004 through 2007; and

“(2) \$50,000,000 to carry out water conservation activities in Klamath Basin, California and Oregon, to be made available as soon as practicable after the date of enactment of this section.”.

Subtitle E—Grassland Reserve

SEC. 2401. GRASSLAND RESERVE PROGRAM.

Chapter 2 of the Food Security Act of 1985 (as amended by section 2001) is amended by adding at the end the following:

“Subchapter C—Grassland Reserve Program

16 USC 3838n.

“SEC. 1238N. GRASSLAND RESERVE PROGRAM.

“(a) **ESTABLISHMENT.**—The Secretary shall establish a grassland reserve program (referred to in this subchapter as the ‘program’) to assist owners in restoring and conserving eligible land described in subsection (c).

“(b) **ENROLLMENT CONDITIONS.**—

“(1) **MAXIMUM ENROLLMENT.**—The total number of acres enrolled in the program shall not exceed 2,000,000 acres of restored or improved grassland, rangeland, and pastureland.

“(2) **METHODS OF ENROLLMENT.**—

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Secretary shall enroll in the program from a willing owner not less than 40 contiguous acres of land through the use of—

“(i) a 10-year, 15-year, or 20-year rental agreement;

“(ii)(I) a 30-year rental agreement or permanent or 30-year easement; or

“(II) in a State that imposes a maximum duration for easements, an easement for the maximum duration allowed under State law.

“(B) WAIVER.—The Secretary may enroll in the program such parcels of land that are less than 40 acres as the Secretary determines are appropriate to achieve the purposes of the program.

“(3) LIMITATION ON USE OF EASEMENTS AND RENTAL AGREEMENTS.—Of the total amount of funds expended under the program to acquire easements and rental agreements described in paragraph (2)(A)—

“(A) not more than 40 percent shall be used for rental agreements described in paragraph (2)(A)(i); and

“(B) not more than 60 percent shall be used for easements and rental agreements described in paragraph (2)(A)(ii).

“(c) ELIGIBLE LAND.—Land shall be eligible to be enrolled in the program if the Secretary determines that the land is private land that is—

“(1) grassland, land that contains forbs, or shrubland (including improved rangeland and pastureland); or

“(2) land that—

“(A) is located in an area that has been historically dominated by grassland, forbs, or shrubland; and

“(B) has potential to serve as habitat for animal or plant populations of significant ecological value if the land is—

“(i) retained in the current use of the land; or

“(ii) restored to a natural condition; or

“(3) land that is incidental to land described in paragraph (1) or (2), if the incidental land is determined by the Secretary to be necessary for the efficient administration of an agreement or easement.

“SEC. 12380. REQUIREMENTS RELATING TO EASEMENTS AND AGREEMENTS.

16 USC 3838o.

“(a) REQUIREMENTS OF LANDOWNER.—

“(1) IN GENERAL.—To be eligible to enroll land in the program through the grant of an easement, the owner of the land shall enter into an agreement with the Secretary—

“(A) to grant an easement that applies to the land to the Secretary;

“(B) to create and record an appropriate deed restriction in accordance with applicable State law to reflect the easement;

“(C) to provide a written statement of consent to the easement signed by persons holding a security interest or any vested interest in the land;

“(D) to provide proof of unencumbered title to the underlying fee interest in the land that is the subject of the easement; and

“(E) to comply with the terms of the easement and restoration agreement.

“(2) AGREEMENTS.—To be eligible to enroll land in the program under an agreement, the owner or operator of the land shall agree—

“(A) to comply with the terms of the agreement (including any related restoration agreements); and

“(B) to the suspension of any existing cropland base and allotment history for the land under a program administered by the Secretary.

“(b) TERMS OF EASEMENT OR RENTAL AGREEMENT.—An easement or rental agreement under subsection (a) shall—

“(1) permit—

“(A) common grazing practices, including maintenance and necessary cultural practices, on the land in a manner that is consistent with maintaining the viability of grassland, forb, and shrub species common to that locality;

“(B) subject to appropriate restrictions during the nesting season for birds in the local area that are in significant decline or are conserved in accordance with Federal or State law, as determined by the Natural Resources Conservation Service State conservationist, haying, mowing, or harvesting for seed production; and

“(C) fire rehabilitation and construction of fire breaks and fences (including placement of the posts necessary for fences);

“(2) prohibit—

“(A) the production of crops (other than hay), fruit trees, vineyards, or any other agricultural commodity that requires breaking the soil surface; and

“(B) except as permitted under this subsection or subsection (d), the conduct of any other activity that would disturb the surface of the land covered by the easement or rental agreement; and

“(3) include such additional provisions as the Secretary determines are appropriate to carry out or facilitate the administration of this subchapter.

“(c) EVALUATION AND RANKING OF EASEMENT AND RENTAL AGREEMENT APPLICATIONS.—

“(1) IN GENERAL.—The Secretary shall establish criteria to evaluate and rank applications for easements and rental agreements under this subchapter.

“(2) CONSIDERATIONS.—In establishing the criteria, the Secretary shall emphasize support for—

“(A) grazing operations;

“(B) plant and animal biodiversity; and

“(C) grassland, land that contains forbs, and shrubland under the greatest threat of conversion.

“(d) RESTORATION AGREEMENTS.—

“(1) IN GENERAL.—The Secretary shall prescribe the terms of a restoration agreement by which grassland, land that contains forbs, or shrubland that is subject to an easement or rental agreement entered into under the program shall be restored.

“(2) REQUIREMENTS.—The restoration agreement shall describe the respective duties of the owner and the Secretary (including the Federal share of restoration payments and technical assistance).

“(e) VIOLATIONS.—On a violation of the terms or conditions of an easement, rental agreement, or restoration agreement entered into under this section—

“(1) the easement or rental agreement shall remain in force; and

“(2) the Secretary may require the owner to refund all or part of any payments received by the owner under this subchapter, with interest on the payments as determined appropriate by the Secretary.

“SEC. 1238P. DUTIES OF SECRETARY.

16 USC 3838p.

“(a) IN GENERAL.—In return for the granting of an easement, or the execution of a rental agreement, by an owner under this subchapter, the Secretary shall, in accordance with this section—

“(1) make easement or rental agreement payments to the owner in accordance with subsection (b); and

“(2) make payments to the owner for the Federal share of the cost of restoration in accordance with subsection (c).

“(b) PAYMENTS.—

“(1) EASEMENT PAYMENTS.—

“(A) AMOUNT.—In return for the granting of an easement by an owner under this subchapter, the Secretary shall make easement payments to the owner in an amount equal to—

“(i) in the case of a permanent easement, the fair market value of the land less the grazing value of the land encumbered by the easement; and

“(ii) in the case of a 30-year easement or an easement for the maximum duration allowed under applicable State law, 30 percent of the fair market value of the land less the grazing value of the land for the period during which the land is encumbered by the easement.

“(B) SCHEDULE.—Easement payments may be provided in not less than 1 payment nor more than 10 annual payments of equal or unequal amount, as agreed to by the Secretary and the owner.

“(2) RENTAL AGREEMENT PAYMENTS.—In return for entering into a rental agreement by an owner under this subchapter, the Secretary shall make annual payments to the owner during the term of the rental agreement in an amount that is not more than 75 percent of the grazing value of the land covered by the contract.

“(c) FEDERAL SHARE OF RESTORATION.—The Secretary shall make payments to an owner under this section of not more than—

“(1) in the case of grassland, land that contains forbs, or shrubland that has never been cultivated, 90 percent of the costs of carrying out measures and practices necessary to restore functions and values of that land; or

“(2) in the case of restored grassland, land that contains forbs, or shrubland, 75 percent of those costs.

“(d) PAYMENTS TO OTHERS.—If an owner that is entitled to a payment under this subchapter dies, becomes incompetent, is otherwise unable to receive the payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make the payment, in accordance with regulations promulgated by the Secretary and without regard to any other

provision of law, in such manner as the Secretary determines is fair and reasonable in light of all the circumstances.

16 USC 3838q.

“SEC. 1238Q. DELEGATION TO PRIVATE ORGANIZATIONS.

“(a) IN GENERAL.—The Secretary may permit a private conservation or land trust organization (referred to in this section as a ‘private organization’) or a State agency to hold and enforce an easement under this subchapter, in lieu of the Secretary, subject to the right of the Secretary to conduct periodic inspections and enforce the easement, if—

“(1) the Secretary determines that granting the permission will promote protection of grassland, land that contains forbs, and shrubland;

“(2) the owner authorizes the private organization or State agency to hold and enforce the easement; and

“(3) the private organization or State agency agrees to assume the costs incurred in administering and enforcing the easement, including the costs of restoration or rehabilitation of the land as specified by the owner and the private organization or State agency.

“(b) APPLICATION.—A private organization or State agency that seeks to hold and enforce an easement under this subchapter shall apply to the Secretary for approval.

“(c) APPROVAL BY SECRETARY.—The Secretary may approve a private organization to hold and enforce an easement under this subchapter if (as determined by the Secretary) the private organization—

“(1)(A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of that Code; or

“(B) is described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code;

“(2) has the relevant experience necessary to administer grassland and shrubland easements;

“(3) has a charter that describes the commitment of the private organization to conserving ranchland, agricultural land, or grassland for grazing and conservation purposes; and

“(4) has the resources necessary to effectuate the purposes of the charter.

“(d) REASSIGNMENT.—

“(1) IN GENERAL.—If a private organization holding an easement on land under this subchapter terminates, not later than 30 days after termination of the private organization, the owner of the land shall reassign the easement to—

“(A) a new private organization that is approved by the Secretary; or

“(B) the Secretary.

“(2) NOTIFICATION OF SECRETARY.—

“(A) IN GENERAL.—If the easement is reassigned to a new private organization, not later than 60 days after the date of reassignment, the owner and the new organization shall notify the Secretary in writing that a reassignment for termination has been made.

“(B) FAILURE TO NOTIFY.—If the owner and the new organization fail to notify the Secretary of the reassignment in accordance with subparagraph (A), the easement shall revert to the control of the Secretary.”.

Deadline.

Subtitle F—Other Conservation Programs

SEC. 2501. AGRICULTURAL MANAGEMENT ASSISTANCE.

Section 524 of the Federal Crop Insurance Act (7 U.S.C. 1524) is amended by striking subsection (b) and inserting the following:

“(b) AGRICULTURAL MANAGEMENT ASSISTANCE.—

“(1) AUTHORITY.—The Secretary shall provide financial assistance to producers in the States of Connecticut, Delaware, Maryland, Massachusetts, Maine, Nevada, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Utah, Vermont, West Virginia, and Wyoming.

“(2) USES.—A producer may use financial assistance provided under this subsection to—

“(A) construct or improve—

“(i) watershed management structures; or

“(ii) irrigation structures;

“(B) plant trees to form windbreaks or to improve water quality;

“(C) mitigate financial risk through production or marketing diversification or resource conservation practices, including—

“(i) soil erosion control;

“(ii) integrated pest management;

“(iii) organic farming; or

“(iv) to develop and implement a plan to create marketing opportunities for the producer, including through value-added processing;

“(D) enter into futures, hedging, or options contracts in a manner designed to help reduce production, price, or revenue risk;

“(E) enter into agricultural trade options as a hedging transaction to reduce production, price, or revenue risk; or

“(F) conduct any other activity relating to an activity described in subparagraphs (A) through (E), as determined by the Secretary.

“(3) PAYMENT LIMITATION.—The total amount of payments made to a person (as defined in section 1001(5) of the Food Security Act (7 U.S.C. 1308(5))) under this subsection for any year may not exceed \$50,000.

“(4) COMMODITY CREDIT CORPORATION.—

“(A) IN GENERAL.—The Secretary shall carry out this subsection through the Commodity Credit Corporation.

“(B) FUNDING.—

“(i) IN GENERAL.—Except as provided in clause (ii), the Commodity Credit Corporation shall make available to carry out this subsection not less than \$10,000,000 for each fiscal year.

“(ii) EXCEPTION.—For each of fiscal years 2003 through 2007, the Commodity Credit Corporation shall make available to carry out this subsection \$20,000,000.”.

SEC. 2502. GRAZING, WILDLIFE HABITAT INCENTIVE, SOURCE WATER PROTECTION, AND GREAT LAKES BASIN PROGRAMS.

(a) IN GENERAL.—Chapter 5 of subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3839bb et seq.) is amended to read as follows:

“CHAPTER 5—OTHER CONSERVATION PROGRAMS

16 USC 3839bb.

“SEC. 1240M. CONSERVATION OF PRIVATE GRAZING LAND.

“(a) PURPOSE.—It is the purpose of this section to authorize the Secretary to provide a coordinated technical, educational, and related assistance program to conserve and enhance private grazing land resources and provide related benefits to all citizens of the United States by—

“(1) establishing a coordinated and cooperative Federal, State, and local grazing conservation program for management of private grazing land;

“(2) strengthening technical, educational, and related assistance programs that provide assistance to owners and managers of private grazing land;

“(3) conserving and improving wildlife habitat on private grazing land;

“(4) conserving and improving fish habitat and aquatic systems through grazing land conservation treatment;

“(5) protecting and improving water quality;

“(6) improving the dependability and consistency of water supplies;

“(7) identifying and managing weed, noxious weed, and brush encroachment problems on private grazing land; and

“(8) integrating conservation planning and management decisions by owners and managers of private grazing land, on a voluntary basis.

“(b) DEFINITIONS.—In this section:

“(1) DEPARTMENT.—The term ‘Department’ means the Department of Agriculture.

“(2) PRIVATE GRAZING LAND.—The term ‘private grazing land’ means private, State-owned, tribally-owned, and any other non-federally owned rangeland, pastureland, grazed forest land, and hay land.

“(3) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(c) PRIVATE GRAZING LAND CONSERVATION ASSISTANCE.—

“(1) ASSISTANCE TO GRAZING LANDOWNERS AND OTHERS.—Subject to the availability of appropriations for this section, the Secretary shall establish a voluntary program to provide technical, educational, and related assistance to owners and managers of private grazing land and public agencies, through local conservation districts, to enable the landowners, managers, and public agencies to voluntarily carry out activities that are consistent with this section, including—

“(A) maintaining and improving private grazing land and the multiple values and uses that depend on private grazing land;

“(B) implementing grazing land management technologies;

“(C) managing resources on private grazing land, including—

“(i) planning, managing, and treating private grazing land resources;

“(ii) ensuring the long-term sustainability of private grazing land resources;

“(iii) harvesting, processing, and marketing private grazing land resources; and

“(iv) identifying and managing weed, noxious weed, and brush encroachment problems;

“(D) protecting and improving the quality and quantity of water yields from private grazing land;

“(E) maintaining and improving wildlife and fish habitat on private grazing land;

“(F) enhancing recreational opportunities on private grazing land;

“(G) maintaining and improving the aesthetic character of private grazing land;

“(H) identifying the opportunities and encouraging the diversification of private grazing land enterprises; and

“(I) encouraging the use of sustainable grazing systems, such as year-round, rotational, or managed grazing.

“(2) PROGRAM ELEMENTS.—

“(A) FUNDING.—If funding is provided to carry out this section, it shall be provided through a specific line-item in the annual appropriations for the Natural Resources Conservation Service.

“(B) TECHNICAL ASSISTANCE AND EDUCATION.—Personnel of the Department trained in pasture and range management shall be made available under the program to deliver and coordinate technical assistance and education to owners and managers of private grazing land, at the request of the owners and managers.

“(d) GRAZING TECHNICAL ASSISTANCE SELF-HELP.—

“(1) FINDINGS.—Congress finds that—

“(A) there is a severe lack of technical assistance for farmers and ranchers that graze livestock;

“(B) Federal budgetary constraints preclude any significant expansion, and may force a reduction of, current levels of technical support; and

“(C) farmers and ranchers have a history of cooperatively working together to address common needs in the promotion of their products and in the drainage of wet areas through drainage districts.

“(2) ESTABLISHMENT OF GRAZING DEMONSTRATION.—In accordance with paragraph (3), the Secretary may establish 2 grazing management demonstration districts at the recommendation of the grazing land conservation initiative steering committee.

“(3) PROCEDURE.—

“(A) PROPOSAL.—Within a reasonable time after the submission of a request of an organization of farmers or ranchers engaged in grazing, the Secretary shall propose that a grazing management district be established.

“(B) FUNDING.—The terms and conditions of the funding and operation of the grazing management district shall be proposed by the producers.

“(C) APPROVAL.—The Secretary shall approve the proposal if the Secretary determines that the proposal—

“(i) is reasonable;

“(ii) will promote sound grazing practices; and

“(iii) contains provisions similar to the provisions contained in the beef promotion and research order issued under section 4 of the Beef Research and Information Act (7 U.S.C. 2903) in effect on April 4, 1996.

“(D) AREA INCLUDED.—The area proposed to be included in a grazing management district shall be determined by the Secretary on the basis of an application by farmers or ranchers.

“(E) AUTHORIZATION.—The Secretary may use authority under the Agricultural Adjustment Act (7 U.S.C. 601 et seq.), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, to operate, on a demonstration basis, a grazing management district.

“(F) ACTIVITIES.—The activities of a grazing management district shall be scientifically sound activities, as determined by the Secretary in consultation with a technical advisory committee composed of ranchers, farmers, and technical experts.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$60,000,000 for each of fiscal years 2002 through 2007.

16 USC
3839bb-1.
Establishment.

“SEC. 1240N. WILDLIFE HABITAT INCENTIVE PROGRAM.

“(a) IN GENERAL.—The Secretary, in consultation with the State technical committees established under section 1261, shall establish within the Natural Resources Conservation Service a program to be known as the wildlife habitat incentive program (referred to in this section as the ‘program’).

“(b) COST-SHARE PAYMENTS.—

“(1) IN GENERAL.—Under the program, the Secretary shall make cost-share payments to landowners to develop—

“(A) upland wildlife habitat;

“(B) wetland wildlife habitat;

“(C) habitat for threatened and endangered species;

“(D) fish habitat; and

“(E) other types of wildlife habitat approved by the Secretary.

“(2) INCREASED COST SHARE FOR LONG-TERM AGREEMENTS.—

“(A) IN GENERAL.—In a case in which the Secretary enters into an agreement or contract to protect and restore plant and animal habitat that has a term of at least 15 years, the Secretary may provide cost-share payments in addition to amounts provided under paragraph (1).

“(B) FUNDING LIMITATION.—The Secretary may use, for a fiscal year, not more than 15 percent of funds made available under section 1241(a)(7) for the fiscal year to carry out contracts and agreements described in subparagraph (A).

“(c) REGIONAL EQUITY.—In carrying out this section, the Secretary shall, to the maximum extent practicable, ensure that regional issues of concern relating to wildlife habitat are addressed in an appropriate manner.

“SEC. 12400. GRASSROOTS SOURCE WATER PROTECTION PROGRAM.16 USC
3839bb-2.

“(a) IN GENERAL.—The Secretary shall establish a national grassroots water protection program to more effectively use onsite technical assistance capabilities of each State rural water association that, as of the date of enactment of this section, operates a wellhead or groundwater protection program in the State.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2002 through 2007.

“SEC. 1240P. GREAT LAKES BASIN PROGRAM FOR SOIL EROSION AND SEDIMENT CONTROL.16 USC
3839bb-3.

“(a) IN GENERAL.—The Secretary, in consultation with the Great Lakes Commission created by Article IV of the Great Lakes Basin Compact (82 Stat. 415) and in cooperation with the Administrator of the Environmental Protection Agency and the Secretary of the Army, may carry out the Great Lakes basin program for soil erosion and sediment control (referred to in this section as the ‘program’).

“(b) ASSISTANCE.—In carrying out the program, the Secretary may—

“(1) provide project demonstration grants, provide technical assistance, and carry out information and education programs to improve water quality in the Great Lakes basin by reducing soil erosion and improving sediment control; and

“(2) provide a priority for projects and activities that directly reduce soil erosion or improve sediment control.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2002 through 2007.”.

(b) CONFORMING AMENDMENT.—Sections 386 and 387 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 2005b, 3836a) are repealed.

SEC. 2503. FARMLAND PROTECTION PROGRAM.

(a) IN GENERAL.—Chapter 2 of the Food Security Act of 1985 (as amended by section 2001) is amended by adding at the end the following:

“Subchapter B—Farmland Protection Program**“SEC. 1238H. DEFINITIONS.**

16 USC 3838h.

“In this subchapter:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) any agency of any State or local government or an Indian tribe (including a farmland protection board or land resource council established under State law); or

“(B) any organization that—

“(i) is organized for, and at all times since the formation of the organization has been operated principally for, 1 or more of the conservation purposes specified in clause (i), (ii), (iii), or (iv) of section 170(h)(4)(A) of the Internal Revenue Code of 1986;

“(ii) is an organization described in section 501(c)(3) of that Code that is exempt from taxation under section 501(a) of that Code;

- “(iii) is described in section 509(a)(2) of that Code;
- or
- “(iv) is described in section 509(a)(3), and is controlled by an organization described in section 509(a)(2), of that Code.
- “(2) ELIGIBLE LAND.—
- “(A) IN GENERAL.—The term ‘eligible land’ means land on a farm or ranch that—
- “(i)(I) has prime, unique, or other productive soil;
- or
- “(II) contains historical or archaeological resources;
- and
- “(ii) is subject to a pending offer for purchase from an eligible entity.
- “(B) INCLUSIONS.—The term ‘eligible land’ includes, on a farm or ranch—
- “(i) cropland;
- “(ii) rangeland;
- “(iii) grassland;
- “(iv) pasture land; and
- “(v) forest land that is an incidental part of an agricultural operation, as determined by the Secretary.
- “(3) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).
- “(4) PROGRAM.—The term ‘program’ means the farmland protection program established under section 1238I(a).

16 USC 3838i.

“SEC. 1238I. FARMLAND PROTECTION.

“(a) IN GENERAL.—The Secretary, acting through the Natural Resources Conservation Service, shall establish and carry out a farmland protection program under which the Secretary shall purchase conservation easements or other interests in eligible land that is subject to a pending offer from an eligible entity for the purpose of protecting topsoil by limiting nonagricultural uses of the land.

“(b) CONSERVATION PLAN.—Any highly erodible cropland for which a conservation easement or other interest is purchased under this subchapter shall be subject to the requirements of a conservation plan that requires, at the option of the Secretary, the conversion of the cropland to less intensive uses.

“(c) COST SHARING.—

“(1) FARMLAND PROTECTION.—

“(A) SHARE PROVIDED UNDER THIS SUBSECTION.—The share of the cost of purchasing a conservation easement or other interest in eligible land described in subsection (a) provided under section 1241(d) shall not exceed 50 percent of the appraised fair market value of the conservation easement or other interest in eligible land.

“(B) SHARE NOT PROVIDED UNDER THIS SUBSECTION.—As part of the share of the cost of purchasing a conservation easement or other interest in eligible land described in subsection (a) that is not provided under section 1241(d), an eligible entity may include a charitable donation by the private landowner from which the eligible land is to be purchased of not more than 25 percent of the fair

market value of the conservation easement or other interest in eligible land.

“(2) BIDDING DOWN.—If the Secretary determines that 2 or more applications for the purchase of a conservation easement or other interest in eligible land described in subsection (a) are comparable in achieving the purposes of this section, the Secretary shall not assign a higher priority to any 1 of those applications solely on the basis of lesser cost to the farmland protection program established under subsection (a).

“SEC. 1238J. FARM VIABILITY PROGRAM.

16 USC 3838j.

“(a) IN GENERAL.—The Secretary may provide to eligible entities identified by the Secretary grants for use in carrying out farm viability programs developed by the eligible entities and approved by the Secretary.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this section such sums as are necessary for each of fiscal years 2002 through 2007.”.

(b) CONFORMING AMENDMENTS.—

(1) IN GENERAL.—

(A) Section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note; Public Law 104-127) is repealed.

(B) Section 211 of the Agriculture Risk Protection Act of 2000 (16 U.S.C. 3830 note; Public Law 106-224) is amended—

(i) by striking subsection (a); and

(ii) in subsection (b)—

(I) by striking the subsection designation and the subsection heading;

(II) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively, and indenting appropriately;

(III) in subsection (a) (as so redesignated), by redesignating subparagraphs (A), (B), and (C) as paragraphs (1), (2), and (3), respectively, and indenting appropriately;

(IV) in subsection (b) (as so redesignated), by striking “ASSISTANCE” and inserting “ASSISTANCE”; and

(V) by striking “subsection” each place it appears and inserting “section”.

(2) EFFECT ON CONTRACTS.—The amendment made by paragraph (1)(A) shall have no effect on any contract entered into under section 388 of the Federal Agriculture Improvement and Reform Act of 1996 (16 U.S.C. 3830 note) that is in effect as of the date of enactment of this Act.

16 USC 3830 note.

SEC. 2504. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.

Subtitle H of title XV of the Agriculture and Food Act of 1981 (16 U.S.C. 3451 et seq.) is amended to read as follows:

“Subtitle H—Resource Conservation and Development Program

16 USC 3451.

“SEC. 1528. DEFINITIONS.

“In this subtitle:

“(1) **AREA PLAN.**—The term ‘area plan’ means a resource conservation and use plan developed through a planning process by a council for a designated area of 1 or more States, or of land under the jurisdiction of an Indian tribe, that includes 1 or more of the following elements:

“(A) A land conservation element, the purpose of which is to control erosion and sedimentation.

“(B) A water management element that provides 1 or more clear environmental or conservation benefits, the purpose of which is to provide for—

“(i) the conservation, use, and quality of water, including irrigation and rural water supplies;

“(ii) the mitigation of floods and high water tables;

“(iii) the repair and improvement of reservoirs;

“(iv) the improvement of agricultural water management; and

“(v) the improvement of water quality.

“(C) A community development element, the purpose of which is to improve—

“(i) the development of resources-based industries;

“(ii) the protection of rural industries from natural resource hazards;

“(iii) the development of adequate rural water and waste disposal systems;

“(iv) the improvement of recreation facilities;

“(v) the improvement in the quality of rural housing;

“(vi) the provision of adequate health and education facilities;

“(vii) the satisfaction of essential transportation and communication needs; and

“(viii) the promotion of food security, economic development, and education.

“(D) A land management element, the purpose of which is—

“(i) energy conservation, including the production of energy crops;

“(ii) the protection of agricultural land, as appropriate, from conversion to other uses;

“(iii) farmland protection; and

“(iv) the protection of fish and wildlife habitats.

“(2) **BOARD.**—The term ‘Board’ means the Resource Conservation and Development Policy Advisory Board established under section 1533(a).

“(3) **COUNCIL.**—The term ‘council’ means a nonprofit entity (including an affiliate of the entity) operating in a State that is—

“(A) established by volunteers or representatives of States, local units of government, Indian tribes, or local nonprofit organizations to carry out an area plan in a designated area; and

“(B) designated by the chief executive officer or legislature of the State to receive technical assistance and financial assistance under this subtitle.

“(4) DESIGNATED AREA.—The term ‘designated area’ means a geographic area designated by the Secretary to receive technical assistance and financial assistance under this subtitle.

“(5) FINANCIAL ASSISTANCE.—The term ‘financial assistance’ means a grant or loan provided by the Secretary (or the Secretary and other Federal agencies) to, or a cooperative agreement entered into by the Secretary (or the Secretary and other Federal agencies) with, a council, or association of councils, to carry out an area plan in a designated area, including assistance provided for planning, analysis, feasibility studies, training, education, and other activities necessary to carry out the area plan.

“(6) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(7) LOCAL UNIT OF GOVERNMENT.—The term ‘local unit of government’ means—

“(A) any county, city, town, township, parish, village, or other general-purpose subdivision of a State; and

“(B) any local or regional special district or other limited political subdivision of a State, including any soil conservation district, school district, park authority, and water or sanitary district.

“(8) NONPROFIT ORGANIZATION.—The term ‘nonprofit organization’ means any organization that is—

“(A) described in section 501(c) of the Internal Revenue Code of 1986; and

“(B) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986.

“(9) PLANNING PROCESS.—The term ‘planning process’ means actions taken by a council to develop and carry out an effective area plan in a designated area, including development of the area plan, goals, purposes, policies, implementation activities, evaluations and reviews, and the opportunity for public participation in the actions.

“(10) PROJECT.—The term ‘project’ means a project that is carried out by a council to achieve any of the elements of an area plan.

“(11) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(12) STATE.—The term ‘State’ means—

“(A) any State;

“(B) the District of Columbia; or

“(C) any territory or possession of the United States.

“(13) TECHNICAL ASSISTANCE.—The term ‘technical assistance’ means any service provided by the Secretary or agent of the Secretary, including—

“(A) inventorying, evaluating, planning, designing, supervising, laying out, and inspecting projects;

“(B) providing maps, reports, and other documents associated with the services provided;

“(C) providing assistance for the long-term implementation of area plans; and

“(D) providing services of an agency of the Department of Agriculture to assist councils in developing and carrying out area plans.

- 16 USC 3452. **“SEC. 1529. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM.**
Establishment. “The Secretary shall establish a resource conservation and development program under which the Secretary shall provide technical assistance and financial assistance to councils to develop and carry out area plans and projects in designated areas—
“(1) to conserve and improve the use of land, develop natural resources, and improve and enhance the social, economic, and environmental conditions in primarily rural areas of the United States; and
“(2) to encourage and improve the capability of State, units of government, Indian tribes, nonprofit organizations, and councils to carry out the purposes described in paragraph (1).
- 16 USC 3453. **“SEC. 1530. SELECTION OF DESIGNATED AREAS.**
“The Secretary shall select designated areas for assistance under this subtitle on the basis of the elements of area plans.
- 16 USC 3454. **“SEC. 1531. POWERS OF THE SECRETARY.**
“In carrying out this subtitle, the Secretary may—
“(1) provide technical assistance to any council to assist in developing and implementing an area plan for a designated area;
“(2) cooperate with other departments and agencies of the Federal Government, States, local units of government, local Indian tribes, and local nonprofit organizations in conducting surveys and inventories, disseminating information, and developing area plans;
“(3) assist in carrying out an area plan approved by the Secretary for any designated area by providing technical assistance and financial assistance to any council; and
“(4) enter into agreements with councils in accordance with section 1532.
- 16 USC 3455. **“SEC. 1532. ELIGIBILITY; TERMS AND CONDITIONS.**
“(a) **ELIGIBILITY.**—Technical assistance and financial assistance may be provided by the Secretary under this subtitle to any council to assist in carrying out a project specified in an area plan approved by the Secretary only if—
“(1) the council agrees in writing—
“(A) to carry out the project; and
“(B) to finance or arrange for financing of any portion of the cost of carrying out the project for which financial assistance is not provided by the Secretary under this subtitle;
“(2) the project is included in an area plan and is approved by the council;
“(3) the Secretary determines that assistance is necessary to carry out the area plan;
“(4) the project provided for in the area plan is consistent with any comprehensive plan for the area;
“(5) the cost of the land or an interest in the land acquired or to be acquired under the plan by any State, local unit of government, Indian tribe, or local nonprofit organization

is borne by the State, local unit of government, Indian tribe, or local nonprofit organization, respectively; and

“(6) the State, local unit of government, Indian tribe, or local nonprofit organization participating in the area plan agrees to maintain and operate the project.

“(b) LOANS.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), a loan made under this subtitle shall be made on such terms and conditions as the Secretary may prescribe.

“(2) TERM.—A loan for a project made under this subtitle shall have a term of not more than 30 years after the date of completion of the project.

“(3) INTEREST RATE.—A loan made under this subtitle shall bear interest at the average rate of interest paid by the United States on obligations of a comparable term, as determined by the Secretary of the Treasury.

“(c) APPROVAL BY SECRETARY.—Technical assistance and financial assistance under this subtitle may not be made available to a council to carry out an area plan unless the area plan has been submitted to and approved by the Secretary.

“(d) WITHDRAWAL.—The Secretary may withdraw technical assistance and financial assistance with respect to any area plan if the Secretary determines that the assistance is no longer necessary or that sufficient progress has not been made toward developing or implementing the elements of the area plan.

“SEC. 1533. RESOURCE CONSERVATION AND DEVELOPMENT POLICY ADVISORY BOARD. 16 USC 3456.

“(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a Resource Conservation and Development Policy Advisory Board.

“(b) COMPOSITION.—

“(1) IN GENERAL.—The Board shall be composed of at least 7 employees of the Department of Agriculture selected by the Secretary.

“(2) CHAIRPERSON.—A member of the Board shall be designated by the Secretary to serve as chairperson of the Board.

“(c) DUTIES.—The Board shall advise the Secretary regarding the administration of this subtitle, including the formulation of policies for carrying out this subtitle.

“SEC. 1534. EVALUATION OF PROGRAM.

16 USC 3457.

“(a) IN GENERAL.—The Secretary, in consultation with councils, shall evaluate the program established under this subtitle to determine whether the program is effectively meeting the needs of, and the purposes identified by, States, units of government, Indian tribes, nonprofit organizations, and councils participating in, or served by, the program.

“(b) REPORT.—Not later than June 30, 2005, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the results of the evaluation, together with any recommendations of the Secretary for continuing, terminating, or modifying the program.

Deadline.

16 USC 3458.

“SEC. 1535. LIMITATION ON ASSISTANCE.

“In carrying out this subtitle, the Secretary shall provide technical assistance and financial assistance with respect to not more than 450 active designated areas.

16 USC 3459.

“SEC. 1536. SUPPLEMENTAL AUTHORITY OF THE SECRETARY.

“The authority of the Secretary under this subtitle to assist councils in the development and implementation of area plans shall be supplemental to, and not in lieu of, any authority of the Secretary under any other provision of law.

16 USC 3460.

“SEC. 1537. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be such sums as are necessary to carry out this subtitle.

“(b) LOANS.—The Secretary shall not use more than \$15,000,000 of any funds made available for a fiscal year to make loans under this subtitle.

“(c) AVAILABILITY.—Funds appropriated to carry out this subtitle shall remain available until expended.”.

SEC. 2505. SMALL WATERSHED REHABILITATION PROGRAM.

Section 14 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1012) is amended by striking subsection (h) and inserting the following:

“(h) FUNDING.—

“(1) FUNDS OF COMMODITY CREDIT CORPORATION.—In carrying out this section, of the funds of the Commodity Credit Corporation, the Secretary shall make available, to remain available until expended—

“(A) \$45,000,000 for fiscal year 2003;

“(B) \$50,000,000 for fiscal year 2004;

“(C) \$55,000,000 for fiscal year 2005;

“(D) \$60,000,000 for fiscal year 2006;

“(E) \$65,000,000 for fiscal year 2007; and

“(F) \$0 for fiscal year 2008.

“(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under paragraph (1), there are authorized to be appropriated to the Secretary to carry out this section, to remain available until expended—

“(A) \$45,000,000 for fiscal year 2003;

“(B) \$55,000,000 for fiscal year 2004;

“(C) \$65,000,000 for fiscal year 2005;

“(D) \$75,000,000 for fiscal year 2006; and

“(E) \$85,000,000 for fiscal year 2007.”.

SEC. 2506. USE OF SYMBOLS, SLOGANS, AND LOGOS.

Section 356 of the Federal Agriculture Improvement Act of 1996 (16 U.S.C. 5801 et seq.) is amended—

16 USC 5805.

(1) in subsection (c)—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) on the written approval of the Secretary, to use, license, or transfer symbols, slogans, and logos of the Foundation (exclusive of any symbol or logo of a governmental entity);”;

(2) in subsection (d), by adding at the end the following:

“(3) USE OF SYMBOLS, SLOGANS, AND LOGOS OF THE FOUNDATION.—

“(A) IN GENERAL.—The Secretary may authorize the Foundation to use, license, or transfer symbols, slogans, and logos of the Foundation.

“(B) INCOME.—

“(i) IN GENERAL.—All revenue received by the Foundation from the use, licensing, or transfer of symbols, slogans, and logos of the Foundation shall be transferred to the Secretary.

“(ii) CONSERVATION OPERATIONS.—The Secretary shall transfer all revenue received under clause (i) to the account within the Natural Resources Conservation Service that is used to carry out conservation operations.”.

SEC. 2507. DESERT TERMINAL LAKES.

43 USC 2211
note.

“(a) IN GENERAL.—Subject to subsection (b), as soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall transfer \$200,000,000 of the funds of the Commodity Credit Corporation to the Bureau of Reclamation Water and Related Resources Account, which funds shall—

“(1) be used by the Secretary of the Interior, acting through the Commissioner of Reclamation, to provide water to at-risk natural desert terminal lakes; and

“(2) remain available until expended.

“(b) LIMITATION.—The funds described in subsection (a) shall not be used to purchase or lease water rights.

Subtitle G—Conservation Corridor Demonstration Program

SEC. 2601. DEFINITIONS.

16 USC 3801
note.

In this subtitle:

(1) DELMARVA PENINSULA.—The term “Delmarva Peninsula” means land in the States of Delaware, Maryland, and Virginia located on the east side of the Chesapeake Bay.

(2) DEMONSTRATION PROGRAM.—The term “demonstration program” means the Conservation Corridor Demonstration Program established under this subtitle.

(3) CONSERVATION CORRIDOR PLAN; PLAN.—The terms “conservation corridor plan” and “plan” mean a conservation corridor plan required to be submitted and approved as a condition for participation in the demonstration program.

(4) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 2602. CONSERVATION CORRIDOR DEMONSTRATION PROGRAM.

16 USC 3801
note.

(a) ESTABLISHMENT.—The Secretary shall carry out a demonstration program, to be known as the “Conservation Corridor Demonstration Program”, under which any of the States of Delaware, Maryland, and Virginia, a local government of any 1 of those States with jurisdiction over land on the Delmarva Peninsula, or a combination of those States, may submit a conservation corridor plan to integrate agriculture and forestry conservation programs of the Department of Agriculture with State and local efforts to address farm conservation needs.

(b) SUBMISSION OF CONSERVATION CORRIDOR PLAN.—

(1) SUBMISSION AND PROPOSAL.—To be eligible to participate in the demonstration program, a State, local government, or combination of States referred to in subsection (a) shall—

(A) submit to the Secretary a conservation corridor plan that—

(i) proposes specific criteria and commitment of resources in the geographic region designated in the plan; and

(ii) describes how the linkage of Federal, State, and local resources will improve—

(I) the economic viability of agriculture; and

(II) the environmental integrity of the watersheds in the Delmarva Peninsula; and

(B) demonstrate to the Secretary that, in developing the plan, the State, local government, or combination of States has solicited and taken into account the views of local residents.

(2) DRAFT MEMORANDUM OF AGREEMENT.—If the conservation corridor plan is submitted by more than 1 State, the plan shall provide a draft memorandum of agreement among entities in each submitting State.

Deadline.

(c) REVIEW OF PLAN.—Not later than 90 days after the date of receipt of a conservation corridor plan, the Secretary—

(1) shall review the plan; and

(2) may approve the plan for implementation under this subtitle if the Secretary determines that the plan meets the requirements specified in subsection (d).

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a conservation corridor plan only if, as determined by the Secretary, the plan provides for each of the following:

(1) VOLUNTARY ACTIONS.—Actions taken under the plan—

(A) are voluntary;

(B) require the consent of willing landowners; and

(C) provide a mechanism by which the landowner may withdraw such consent without adverse consequences other than the loss of any payments to the landowner conditioned on continued enrollment of the land.

(2) LAND OF HIGH CONSERVATION VALUE.—Criteria specified in the plan ensure that land enrolled in each conservation program incorporated through the plan are of exceptionally high conservation value, as determined by the Secretary.

(3) NO EFFECT ON UNENROLLED LAND.—The enrollment of land in a conservation program incorporated through the plan will neither—

(A) adversely affect any adjacent land not so enrolled;

nor

(B) create any buffer zone on such unenrolled land.

(4) GREATER BENEFITS.—The conservation programs incorporated through the plan provide benefits greater than the benefits that would likely be achieved through individual application of the conservation programs.

(5) SUFFICIENT STAFFING.—Staffing, considering both Federal and non-Federal resources, is sufficient to ensure success of the plan.

SEC. 2603. IMPLEMENTATION OF CONSERVATION CORRIDOR PLAN.16 USC 3801
note.

(a) **MEMORANDUM OF AGREEMENT.**—On approval of a conservation corridor plan, the Secretary may enter into a memorandum of agreement with the State, local government, or combination of States that submitted the plan to—

- (1) guarantee specific program resources for implementation of the plan;
- (2) establish various compensation rates to the extent that the parties to the agreement consider justified; and
- (3) provide streamlined and integrated paperwork requirements.

(b) **CONTINUED COMPLIANCE WITH PLAN APPROVAL CRITERIA.**—The Secretary shall terminate the memorandum of agreement entered into under subsection (a) with respect to an approved conservation corridor plan and cease the provision of resources for implementation of the plan if the Secretary determines that, in the implementation of the plan—

- (1) the State, local government, or combination of States that submitted the plan has deviated from—
 - (A) the plan;
 - (B) the criteria specified in section 2602(d) on which approval of the plan was conditioned; or
 - (C) the cost-sharing requirements of section 2604(a) or any other condition of the plan; or
- (2) the economic viability of agriculture in the geographic region designated in the plan is being hindered.

(c) **PROGRESS REPORT.**—At the end of the 3-year period that begins on the date on which funds are first provided with respect to a conservation corridor plan under the demonstration program, the State, local government, or combination of States that submitted the plan shall submit to the Secretary—

- (1) a report on the effectiveness of the activities carried out under the plan; and
- (2) an evaluation of the economic viability of agriculture in the geographic region designated in the plan.

(d) **DURATION.**—The demonstration program shall be carried out for not less than 3 nor more than 5 years beginning on the date on which funds are first provided under the demonstration program.

SEC. 2604. FUNDING REQUIREMENTS.16 USC 3801
note.

(a) **COST SHARING.**—

(1) **REQUIRED NON-FEDERAL SHARE.**—Subject to paragraph (2), as a condition on the approval of a conservation corridor plan, the Secretary shall require the State and local participants to contribute financial resources sufficient to cover at least 50 percent of the total cost of the activities carried out under the plan.

(2) **EXCEPTION.**—The Secretary may reduce the cost-sharing requirement in the case of a specific project or activity under the demonstration program on good cause and on demonstration that the project or activity is likely to achieve extraordinary natural resource benefits.

(b) **RESERVATION OF FUNDS.**—The Secretary may consider directing funds on a priority basis to the demonstration program and to projects in areas identified by the plan.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle for each of fiscal years 2002 through 2007.

Subtitle H—Funding and Administration

SEC. 2701. FUNDING AND ADMINISTRATION.

Subtitle E of the Food Security Act of 1985 is amended by striking sections 1241 and 1242 (16 U.S.C. 3841, 3842) and inserting the following:

16 USC 3841.

“SEC. 1241. COMMODITY CREDIT CORPORATION.

“(a) IN GENERAL.—For each of fiscal years 2002 through 2007, the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out the following programs under subtitle D (including the provision of technical assistance):

“(1) The conservation reserve program under subchapter B of chapter 1.

“(2) The wetlands reserve program under subchapter C of chapter 1.

“(3) The conservation security program under subchapter A of chapter 2.

“(4) The farmland protection program under subchapter B of chapter 2, using, to the maximum extent practicable—

“(A) \$50,000,000 in fiscal year 2002;

“(B) \$100,000,000 in fiscal year 2003;

“(C) \$125,000,000 in each of fiscal years 2004 and 2005;

“(D) \$100,000,000 in fiscal year 2006; and

“(E) \$97,000,000 in fiscal year 2007.

“(5) The grassland reserve program under subchapter C of chapter 2, using, to the maximum extent practicable \$254,000,000 for the period of fiscal years 2003 through 2007.

“(6) The environmental quality incentives program under chapter 4, using, to the maximum extent practicable—

“(A) \$400,000,000 in fiscal year 2002;

“(B) \$700,000,000 in fiscal year 2003;

“(C) \$1,000,000,000 in fiscal year 2004;

“(D) \$1,200,000,000 in each of fiscal years 2005 and 2006; and

“(E) \$1,300,000,000 in fiscal year 2007.

“(7) The wildlife habitat incentives program under section 1240N, using, to the maximum extent practicable—

“(A) \$15,000,000 in fiscal year 2002;

“(B) \$30,000,000 in fiscal year 2003;

“(C) \$60,000,000 in fiscal year 2004; and

“(D) \$85,000,000 in each of fiscal years 2005 through 2007.

“(b) SECTION 11.—Nothing in this section affects the limit on expenditures for technical assistance imposed by section 11 of the Commodity Credit Corporation Charter Act (15 U.S.C. 714i).

“(c) REGIONAL EQUITY.—Before April 1 of each fiscal year, the Secretary shall give priority for funding under the conservation

programs under subtitle D (excluding the conservation reserve program under subchapter B of chapter 1, the wetlands reserve program under subchapter C of chapter 1, and the conservation security program under subchapter A of chapter 2) to approved applications in any State that has not received, for the fiscal year, an aggregate amount of at least \$12,000,000 for those conservation programs.

“SEC. 1242. DELIVERY OF TECHNICAL ASSISTANCE.

16 USC 3842.

“(a) IN GENERAL.—The Secretary shall provide technical assistance under this title to a producer eligible for that assistance—

“(1) directly; or

“(2) at the option of the producer, through a payment, as determined by the Secretary, to the producer for an approved third party, if available.

“(b) CERTIFICATION OF THIRD-PARTY PROVIDERS.—

“(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Farm Security and Rural Investment Act of 2002, the Secretary shall, by regulation, establish a system for—

Deadline.

“(A) approving individuals and entities to provide technical assistance to carry out programs under this title (including criteria for the evaluation of providers or potential providers of technical assistance); and

“(B) establishing the amounts and methods for payments for that assistance.

“(2) EXPERTISE.—In promulgating regulations to carry out this subsection the Secretary shall ensure that persons with expertise in the technical aspects of conservation planning, watershed planning, environmental engineering (including commercial entities, nonprofit entities, State or local governments or agencies, and other Federal agencies), are eligible to become approved providers of the technical assistance.

“(3) INTERIM ASSISTANCE.—

“(A) IN GENERAL.—A person that has provided technical assistance in accordance with an agreement between the person and the Secretary before the date of enactment of the Farm Security and Rural Investment Act of 2002 may continue to provide technical assistance under this section until the date on which the Secretary establishes the system described in paragraph (1).

“(B) EVALUATION.—If a person described in subparagraph (A) seeks to continue to provide technical assistance after the date referred to in subparagraph (A), the Secretary shall evaluate the person using criteria referred to in paragraph (1).

“(4) NON-FEDERAL ASSISTANCE.—The Secretary may request the services of, and enter into cooperative agreements or contracts with, non-Federal entities to assist the Secretary in providing technical assistance necessary to develop and implement conservation programs under this title.”.

SEC. 2702. REGULATIONS.

16 USC 3801
note.
Deadline.

(a) IN GENERAL.—Except as otherwise provided in this title or an amendment made by this title, not later than 90 days after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Commodity Credit Corporation, shall promulgate such regulations as are necessary to implement this title.

(b) **APPLICABLE AUTHORITY.**—The promulgation of regulations under subsection (a) and administration of this title—

(1) shall—

(A) be carried out without regard to chapter 35 of title 44, United States Code (commonly known as the Paperwork Reduction Act); and

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804) relating to notices of proposed rulemaking and public participation in rulemaking; and

(2) may—

(A) be promulgated with an opportunity for notice and comment; or

(B) if determined to be appropriate by the Secretary of Agriculture or the Commodity Credit Corporation, as an interim rule effective on publication with an opportunity for notice and comment.

(c) **CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.**—In carrying out this section, the Secretary shall use the authority provided under section 808(2) of title 5, United States Code.

TITLE III—TRADE

Subtitle A—Agricultural Trade Development and Assistance Act of 1954 and Related Statutes

SEC. 3001. UNITED STATES POLICY.

Section 2 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(6) prevent conflicts.”.

SEC. 3002. PROVISION OF AGRICULTURAL COMMODITIES.

Section 202 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1722) is amended—

(1) in subsection (b), by adding at the end the following:

“(3) **PROGRAM DIVERSITY.**—The Administrator shall—

“(A) encourage eligible organizations to propose and implement program plans to address 1 or more aspects of the program under section 201; and

“(B) consider proposals that incorporate a variety of program objectives and strategic plans based on the identification by eligible organizations of appropriate activities, consistent with section 201, to assist development of foreign countries.”;

(2) in subsection (e)(1), by striking “not less than \$10,000,000, and not more than \$28,000,000,” and inserting “not less than 5 percent nor more than 10 percent of the funds”; and

(3) by adding at the end the following:

“(h) **STREAMLINED PROGRAM MANAGEMENT.**—

“(1) IMPROVEMENTS.—Not later than 1 year after the date of enactment of this subsection, the Administrator shall— Deadline.

“(A) streamline program procedures and guidelines under this title for agreements with eligible organizations for programs in 1 or more countries; and

“(B) effective beginning with fiscal year 2004, to the maximum extent practicable, incorporate the changes into the procedures and guidelines for programs and the guidelines for resource requests.

“(2) STREAMLINED PROCEDURES AND GUIDELINES.—In carrying out paragraph (1), the Administrator shall make improvements in the Office of Food for Peace management systems that include—

“(A) expedition of and greater consistency in the program review and approval process under this title;

“(B) streamlining of information collection and reporting systems by identifying the critical information that needs to be monitored and reported on by eligible organizations; and

“(C) for approved programs, provision of greater flexibility for an eligible organization to make modifications in program activities to achieve program results with streamlined procedures for reporting such modifications.

“(3) CONSULTATION.—

“(A) IN GENERAL.—Paragraphs (1) and (2) shall be carried out in accordance with section 205 and subsections (b) and (c) of section 207.

“(B) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—Not later than 180 days after the date of enactment of this subsection, the Administrator shall consult with the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on progress made in carrying out this subsection. Deadline.

“(4) REPORT.—Not later than 270 days after the date of enactment of this subsection, the Administrator shall submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the improvements made and planned upgrades in the information management, procurement, and financial management systems to administer this title.”. Deadline.

SEC. 3003. GENERATION AND USE OF CURRENCIES BY PRIVATE VOLUNTARY ORGANIZATIONS AND COOPERATIVES.

Section 203 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1723) is amended—

(1) in the section heading, by striking “FOREIGN”;

(2) in subsection (a), by striking “the recipient country, or in a country” and inserting “1 or more recipient countries, or 1 or more countries”;

(3) in subsection (b)—

(A) by striking “in recipient countries, or in countries” and inserting “1 or more recipient countries, or in 1 or more countries”; and

(B) by striking “foreign currency”;

- (4) in subsection (c)—
 - (A) by striking “foreign currency”; and
 - (B) by striking “the recipient country, or in a country” and inserting “1 or more recipient countries, or in 1 or more countries”; and
- (5) in subsection (d)—
 - (A) by striking “Foreign currencies” and inserting “Proceeds”; and
 - (B) in paragraph (2)—
 - (i) by striking “income generating” and inserting “income-generating”; and
 - (ii) by striking “the recipient country or within a country” and inserting “1 or more recipient countries or within 1 or more countries”; and
 - (C) in paragraph (3)—
 - (i) by inserting a comma after “invested”; and
 - (ii) by inserting a comma after “used”.

SEC. 3004. LEVELS OF ASSISTANCE.

Section 204(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1724(a)) is amended—

- (1) by striking “1996 through 2002” each place it appears and inserting “2002 through 2007”; and
- (2) in paragraph (1), by striking “2,025,000” and inserting “2,500,000”; and
- (3) in paragraph (2), by striking “1,550,000 metric tons” and inserting “1,875,000 metric tons”.

SEC. 3005. FOOD AID CONSULTATIVE GROUP.

Section 205(f) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1725(f)) is amended by striking “2002” and inserting “2007”.

SEC. 3006. MAXIMUM LEVEL OF EXPENDITURES.

Section 206 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726) is repealed.

SEC. 3007. ADMINISTRATION.

Section 207 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726a) is amended—

- (1) in subsection (a)—
 - (A) by redesignating paragraph (2) as paragraph (3); and
 - (B) by striking paragraph (1) and inserting the following:

“(1) **RECIPIENT COUNTRIES.**—A proposal to enter into a non-emergency food assistance agreement under this title shall identify the recipient country or countries that are the subject of the agreement.

“(2) **TIMING.**—Not later than 120 days after the date of receipt by the Administrator of a proposal submitted by an eligible organization under this title, the Administrator shall determine whether to accept the proposal.”;

(2) in subsection (b), by striking “guideline” each place it appears and inserting “guideline or annual policy guidance”; and

(3) by adding at the end the following:

“(e) **TIMELY APPROVAL.**—

Deadline.

“(1) IN GENERAL.—The Administrator is encouraged to finalize program agreements and resource requests for programs under this section before the beginning of each fiscal year.

“(2) REPORT.—Not later than December 1 of each year, the Administrator shall submit to the Committee on Agriculture and the Committee on International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that contains—

“(A) a list of programs, countries, and commodities approved to date for assistance under this section; and

“(B) a statement of the total amount of funds approved to date for transportation and administrative costs under this section.”.

Deadline.

SEC. 3008. ASSISTANCE FOR STOCKPILING AND RAPID TRANSPORTATION, DELIVERY, AND DISTRIBUTION OF SHELF-STABLE PREPACKAGED FOODS.

Section 208(f) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1726b(f)) is amended by striking “and 2002” and inserting “through 2007”.

SEC. 3009. SALE PROCEDURE.

(a) IN GENERAL.—Section 403 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733) is amended—

(1) in subsection (e)—

(A) by striking “In carrying” and inserting the following:

“(1) IN GENERAL.—In carrying”; and

(B) by adding at the end the following:

“(2) SALE PRICE.—Sales of agricultural commodities described in paragraph (1) shall be made at a reasonable market price in the economy where the agricultural commodity is to be sold, as determined by the Secretary or the Administrator, as appropriate.”; and

(2) by adding at the end the following:

“(1) SALE PROCEDURE.—

“(1) IN GENERAL.—Subsections (b) and (h) shall apply to sales of commodities in recipient countries to generate proceeds to carry out projects under—

“(A) titles I and II;

“(B) section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)); and

“(C) the Food for Progress Act of 1985 (7 U.S.C. 1736o).

“(2) CURRENCY.—A sale described in paragraph (1) may be made in United States dollars or other currencies.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) is amended by adding at the end the following:

“(10) SALE PROCEDURE.—In approving sales of commodities under this subsection, the Secretary shall follow the sale procedure described in section 403(l) of the Agricultural Trade Development and Assistance Act of 1954.”.

(2) Subsection (f) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(f)) is amended by adding at the end the following:

“(5) SALE PROCEDURE.—In making sales of eligible commodities under this section, the Secretary shall follow the sale procedure described in section 403(l) of the Agricultural Trade Development and Assistance Act of 1954.”.

SEC. 3010. PREPOSITIONING.

Section 407(c)(4) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(4)) is amended by striking “and 2002” and inserting “through 2007”.

SEC. 3011. TRANSPORTATION AND RELATED COSTS.

Section 407(c)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736a(c)(1)) is amended—

(1) by striking “The Administrator” and inserting the following:

“(A) IN GENERAL.—The Administrator”; and

(2) by adding at the end the following:

“(B) CERTAIN COMMODITIES MADE AVAILABLE FOR NON-EMERGENCY ASSISTANCE.—In the case of agricultural commodities made available for nonemergency assistance under title II for least developed countries that meet the poverty and other eligibility criteria established by the International Bank for Reconstruction and Development for financing under the International Development Association, the Administrator may pay the transportation costs incurred in moving the agricultural commodities from designated points of entry or ports of entry abroad to storage and distribution sites and associated storage and distribution costs.”.

SEC. 3012. EXPIRATION DATE.

Section 408 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736b) is amended by striking “2002” and inserting “2007”.

SEC. 3013. MICRONUTRIENT FORTIFICATION PROGRAMS.

Section 415 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736g-2) is amended—

(1) in the section heading, by striking “PILOT PROGRAM.” and inserting “PROGRAMS.”;

(2) in subsection (a)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and adjusting the margins appropriately;

(B) by striking the first sentence and inserting the following:

“(1) PROGRAMS.—Not later than September 30, 2003, the Administrator, in consultation with the Secretary, shall establish micronutrient fortification programs.”; and

(C) in the second sentence, by striking “The purpose of the program” and inserting the following:

“(2) PURPOSE.—The purpose of a program”; and

(D) in paragraph (2) (as designated by subparagraph (C))—

(i) in subparagraph (A), by striking “and” at the end;

(ii) in subparagraph (B)—

(I) by striking “whole”; and

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- (II) by striking the period at the end and inserting “; and”; and
- (iii) by adding at the end the following:
 - “(C) assess and apply technologies and systems to improve and ensure the quality, shelf life, bioavailability, and safety of fortified food aid commodities, and products of those commodities, that are provided to developing countries, by using the same mechanism that was used to assess the micronutrient fortification program in the report entitled ‘Micronutrient Compliance Review of Fortified P.L. 480 Commodities’, published October 2001 with funds from the Bureau for Humanitarian Response of the United States Agency for International Development.”;
- (3) in subsection (b), by striking “the pilot program” and inserting “a program under this section”;
- (4) in the first sentence of subsection (c)—
 - (A) by striking “the pilot program, whole” and inserting “a program,”;
 - (B) by striking “the pilot program may” and inserting “a program may”;
 - (C) by striking “including” and inserting “such as”;and
 - (D) by striking “and iodine” and inserting “iodine, and folic acid”; and
- (5) in subsection (d)—
 - (A) by striking “the pilot program” and inserting “programs”; and
 - (B) by striking “2002” and inserting “2007”.

SEC. 3014. JOHN OGONOWSKI FARMER-TO-FARMER PROGRAM.

Section 501 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1737) is amended to read as follows:

“SEC. 501. JOHN OGONOWSKI FARMER-TO-FARMER PROGRAM.

“(a) DEFINITIONS.—In this section:

“(1) CARIBBEAN BASIN COUNTRY.—The term ‘Caribbean Basin country’ means a country eligible for designation as a beneficiary country under section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702).

“(2) EMERGING MARKET.—The term ‘emerging market’ means a country that the Secretary determines—

“(A) is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

“(B) has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

“(3) MIDDLE INCOME COUNTRY.—The term ‘middle income country’ means a country that has developed economically to the point at which the country does not receive bilateral development assistance from the United States.

“(4) SUB-SAHARAN AFRICAN COUNTRY.—The term ‘sub-Saharan African country’ has the meaning given the term in section 107 of the Trade and Development Act of 2000 (19 U.S.C. 3706).

“(b) PROVISION.—Notwithstanding any other provision of law, to further assist developing countries, middle-income countries, emerging markets, sub-Saharan African countries, and Caribbean

Basin countries to increase farm production and farmer incomes, the President may—

“(1) establish and administer a program, to be known as the ‘John Ogonowski Farmer-to-Farmer Program’, of farmer-to-farmer assistance between the United States and such countries to assist in—

“(A) increasing food production and distribution; and

“(B) improving the effectiveness of the farming and marketing operations of agricultural producers in those countries;

“(2) use United States agricultural producers, agriculturalists, colleges and universities (including historically black colleges and universities, land grant colleges or universities, and foundations maintained by colleges or universities), private agribusinesses, private organizations (including grass-roots organizations with an established and demonstrated capacity to carry out such a bilateral exchange program), private corporations, and nonprofit farm organizations to work in conjunction with agricultural producers and farm organizations in those countries, on a voluntary basis—

“(A) to improve agricultural and agribusiness operations and agricultural systems in those countries, including improving—

“(i) animal care and health;

“(ii) field crop cultivation;

“(iii) fruit and vegetable growing;

“(iv) livestock operations;

“(v) food processing and packaging;

“(vi) farm credit;

“(vii) marketing;

“(viii) inputs; and

“(ix) agricultural extension; and

“(B) to strengthen cooperatives and other agricultural groups in those countries;

“(3) transfer the knowledge and expertise of United States agricultural producers and businesses, on an individual basis, to those countries while enhancing the democratic process by supporting private and public agriculturally related organizations that request and support technical assistance activities through cash and in-kind services;

“(4) to the maximum extent practicable, make grants to or enter into contracts or other cooperative agreements with private voluntary organizations, cooperatives, land grant universities, private agribusiness, or nonprofit farm organizations to carry out this section (except that any such contract or other agreement may obligate the United States to make outlays only to the extent that the budget authority for such outlays is available under subsection (d) or has otherwise been provided in advance in appropriation Acts);

“(5) coordinate programs established under this section with other foreign assistance programs and activities carried out by the United States; and

“(6) to the extent that local currencies can be used to meet the costs of a program established under this section, augment funds of the United States that are available for such a program through the use, within the country in which the program is being conducted, of—

“(A) foreign currencies that accrue from the sale of agricultural commodities and products under this Act; and

“(B) local currencies generated from other types of foreign assistance activities.

“(c) SPECIAL EMPHASIS ON SUB-SAHARAN AFRICAN AND CARIBBEAN BASIN COUNTRIES.—

“(1) FINDINGS.—Congress finds that—

“(A) agricultural producers in sub-Saharan African and Caribbean Basin countries need training in agricultural techniques that are appropriate for the majority of eligible agricultural producers in those countries, including training in—

“(i) standard growing practices;

“(ii) insecticide and sanitation procedures; and

“(iii) other agricultural methods that will produce increased yields of more nutritious and healthful crops;

“(B) agricultural producers in the United States (including African-American agricultural producers) and banking and insurance professionals have agribusiness expertise that would be invaluable for agricultural producers in sub-Saharan African and Caribbean Basin countries;

“(C) a commitment by the United States is appropriate to support the development of a comprehensive agricultural skills training program for those agricultural producers that focuses on—

“(i) improving knowledge of insecticide and sanitation procedures to prevent crop destruction;

“(ii) teaching modern agricultural techniques that would facilitate a continual analysis of crop production, including—

“(I) the identification and development of standard growing practices; and

“(II) the establishment of systems for record-keeping;

“(iii) the use and maintenance of agricultural equipment that is appropriate for the majority of eligible agricultural producers in sub-Saharan African or Caribbean Basin countries;

“(iv) the expansion of small agricultural operations into agribusiness enterprises by increasing access to credit for agricultural producers through—

“(I) the development and use of village banking systems; and

“(II) the use of agricultural risk insurance pilot products; and

“(v) marketing crop yields to prospective purchasers (including businesses and individuals) for local needs and export; and

“(D) programs that promote the exchange of agricultural knowledge and expertise through the exchange of American and foreign agricultural producers have been effective in promoting improved agricultural techniques and food security and the extension of additional resources to such farmer-to-farmer exchanges is warranted.

“(2) GOALS FOR PROGRAMS CARRIED OUT IN SUB-SAHARAN AFRICAN AND CARIBBEAN COUNTRIES.—The goals of programs

carried out under this section in sub-Saharan African and Caribbean Basin countries shall be—

“(A) to expand small agricultural operations in those countries into agribusiness enterprises by increasing access to credit for agricultural producers through—

“(i) the development and use of village banking systems; and

“(ii) the use of agricultural risk insurance pilot products;

“(B) to provide training to agricultural producers in those countries that will—

“(i) enhance local food security; and

“(ii) help mitigate and alleviate hunger;

“(C) to provide training to agricultural producers in those countries in groups to encourage participants to share and pass on to other agricultural producers in the home communities of the participants, the information and skills obtained from the training, rather than merely retaining the information and skills for the personal enrichment of the participants; and

“(D) to maximize the number of beneficiaries of the programs in sub-Saharan African and Caribbean Basin countries.

“(d) **MINIMUM FUNDING.**—Notwithstanding any other provision of law, in addition to any funds that may be specifically appropriated to carry out this section, not less than 0.5 percent of the amounts made available for each of fiscal years 2002 through 2007 to carry out this Act shall be used to carry out programs under this section, with—

“(1) not less than 0.2 percent to be used for programs in developing countries; and

“(2) not less than 0.1 percent to be used for programs in sub-Saharan African and Caribbean Basin countries.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—

“(1) **IN GENERAL.**—There is authorized to be appropriated to carry out programs under this section in sub-Saharan African and Caribbean Basin countries \$10,000,000 for each of fiscal years 2002 through 2007.

“(2) **ADMINISTRATIVE COSTS.**—Not more than 5 percent of the funds made available for a fiscal year under paragraph (1) may be used to pay administrative costs incurred in carrying out programs in sub-Saharan African and Caribbean Basin countries.”.

Subtitle B—Agricultural Trade Act of 1978

SEC. 3101. EXPORTER ASSISTANCE INITIATIVE.

Title I of the Agricultural Trade Act of 1978 (7 U.S.C. 5601 et seq.) is amended by adding at the end the following:

7 USC 5607.

“SEC. 107. EXPORTER ASSISTANCE INITIATIVE.

“To provide a comprehensive source of information to facilitate exports of United States agricultural commodities, the Secretary shall maintain on a website on the Internet information to assist exporters and potential exporters of United States agricultural commodities.”.

SEC. 3102. EXPORT CREDIT GUARANTEE PROGRAM.

(a) **TERMS OF SUPPLIER CREDIT PROGRAM.**—Section 202(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(a)) is amended by adding at the end the following:

“(3) **EXTENDED SUPPLIER CREDITS.**—

“(A) **IN GENERAL.**—Subject to the appropriation of funds under subparagraph (B), in carrying out this section, the Commodity Credit Corporation may issue guarantees for the repayment of credit made available for a period of more than 180 days, but not more than 360 days, by a United States exporter to a buyer in a foreign country.

“(B) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to fund the additional costs attributable to the portion of any guarantee issued under this paragraph to cover the repayment of credit beyond the initial 180-day period.”.

(b) **PROCESSED AND HIGH-VALUE PRODUCTS.**—Section 202(k)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5622(k)(1)) is amended by striking “, 2001, and 2002” and inserting “through 2007”.

(c) **REPORT.**—Section 202 of the Agricultural Trade Act of 1978 (7 U.S.C. 5622) is amended by adding at the end the following:

“(l) **CONSULTATION ON AGRICULTURAL EXPORT CREDIT PROGRAMS.**—The Secretary and the United States Trade Representative shall consult on a regular basis with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the status of multilateral negotiations regarding agricultural export credit programs.”.

(d) **REAUTHORIZATION.**—Section 211(b)(1) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(b)(1)) is amended by striking “2002” and inserting “2007”.

SEC. 3103. MARKET ACCESS PROGRAM.

Section 211(c) of the Agricultural Trade Act of 1978 (7 U.S.C. 5641(c)) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(2) by striking “The Commodity” and inserting the following:

“(1) **IN GENERAL.**—The Commodity”;

(3) by striking subparagraph (A) (as so redesignated) and inserting the following:

“(A) in addition to any funds that may be specifically appropriated to implement a market access program, not more than \$90,000,000 for fiscal year 2001, \$100,000,000 for fiscal year 2002, \$110,000,000 for fiscal year 2003, \$125,000,000 for fiscal year 2004, \$140,000,000 for fiscal year 2005, and \$200,000,000 for each of fiscal years 2006 and 2007, of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation; and”;

(4) by adding at the end the following:

“(2) **PROGRAM PRIORITIES.**—In providing any amount of funds made available under paragraph (1)(A) for any fiscal year that is in excess of the amount made available under paragraph (1)(A) for fiscal year 2001, the Secretary shall, to the maximum extent practicable—

“(A) give equal consideration to—

“(i) proposals submitted by organizations that were participating organizations in prior fiscal years; and

“(ii) proposals submitted by eligible trade organizations that have not previously participated in the program established under this title; and

“(B) give equal consideration to—

“(i) proposals submitted for activities in emerging markets; and

“(ii) proposals submitted for activities in markets other than emerging markets.”.

SEC. 3104. EXPORT ENHANCEMENT PROGRAM.

(a) **IN GENERAL.**—Section 301(e)(1)(G) of the Agricultural Trade Act of 1978 (7 U.S.C. 5651(e)(1)(G)) is amended by striking “fiscal year 2002” and inserting “each of fiscal years 2002 through 2007”.

(b) **UNFAIR TRADE PRACTICES.**—Section 102(5)(A) of the Agricultural Trade Act of 1978 (7 U.S.C. 5602(5)(A)) is amended—

(1) in clause (i), by striking “or” at the end; and

(2) by striking clause (ii) and inserting the following:

“(ii) in the case of a monopolistic state trading enterprise engaged in the export sale of an agricultural commodity, implements a pricing practice that is inconsistent with sound commercial practice;

“(iii) provides a subsidy that—

“(I) decreases market opportunities for United States exports; or

“(II) unfairly distorts an agricultural market to the detriment of United States exporters;

“(iv) imposes an unfair technical barrier to trade, including—

“(I) a trade restriction or commercial requirement (such as a labeling requirement) that adversely affects a new technology (including biotechnology); and

“(II) an unjustified sanitary or phytosanitary restriction (including any restriction that, in violation of the Uruguay Round Agreements, is not based on scientific principles;

“(v) imposes a rule that unfairly restricts imports of United States agricultural commodities in the administration of tariff rate quotas; or

“(vi) fails to adhere to, or circumvents any obligation under, any provision of a trade agreement with the United States.”.

SEC. 3105. FOREIGN MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) **VALUE-ADDED PRODUCTS.**—

(1) **IN GENERAL.**—Section 702(a) of the Agricultural Trade Act of 1978 (7 U.S.C. 5722(a)) is amended by inserting “, with a continued significant emphasis on the importance of the export of value-added United States agricultural products into emerging markets” after “products”.

(2) **REPORT TO CONGRESS.**—Section 702 of the Agricultural Trade Act of 1978 (7 U.S.C. 5722) is amended by adding at the end the following:

“(c) **REPORT TO CONGRESS.**—The Secretary shall annually submit to the Committee on Agriculture and the Committee on

International Relations of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on activities under this section describing the amount of funding provided, the types of programs funded, the value-added products that have been targeted, and the foreign markets for those products that have been developed.”.

(b) FUNDING.—Section 703 of the Agricultural Trade Act of 1978 (7 U.S.C. 5723) is amended to read as follows:

“SEC. 703. FUNDING.

“(a) IN GENERAL.—To carry out this title, the Secretary shall use funds of the Commodity Credit Corporation, or commodities of the Commodity Credit Corporation of a comparable value, in the amount of \$34,500,000 for each of fiscal years 2002 through 2007.

“(b) PROGRAM PRIORITIES.—In providing any amount of funds or commodities made available under subsection (a) for any fiscal year that is in excess of the amount made available under this section for fiscal year 2001, the Secretary shall, to the maximum extent practicable—

“(1) give equal consideration to—

“(A) proposals submitted by organizations that were participating organizations in prior fiscal years; and

“(B) proposals submitted by eligible trade organizations that have not previously participated in the program established under this title; and

“(2) give equal consideration to—

“(A) proposals submitted for activities in emerging markets; and

“(B) proposals submitted for activities in markets other than emerging markets.”.

SEC. 3106. FOOD FOR PROGRESS.

(a) IN GENERAL.—Subsections (f)(3), (k), and (l)(1) of the Food for Progress Act of 1985 (7 U.S.C. 1736o) are each amended by striking “2002” and inserting “2007”.

(b) DEFINITIONS; PROGRAM.—

(1) IN GENERAL.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended by striking subsections (b) and (c) and inserting the following:

“(b) DEFINITIONS.—In this section:

“(1) COOPERATIVE.—The term ‘cooperative’ has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

“(2) CORPORATION.—The term ‘Corporation’ means the Commodity Credit Corporation.

“(3) DEVELOPING COUNTRY.—The term ‘developing country’ has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

“(4) ELIGIBLE COMMODITY.—The term ‘eligible commodity’ means an agricultural commodity, or a product of an agricultural commodity, in inventories of the Corporation or acquired by the President or the Corporation for disposition through commercial purchases under a program authorized under this section.

“(5) ELIGIBLE ENTITY.—The term ‘eligible entity’ means—

“(A) the government of an emerging agricultural country;

“(B) an intergovernmental organization;

“(C) a private voluntary organization;

“(D) a nonprofit agricultural organization or cooperative;

“(E) a nongovernmental organization; and

“(F) any other private entity.

“(6) FOOD SECURITY.—The term ‘food security’ means access by all people at all times to sufficient food and nutrition for a healthy and productive life.

“(7) NONGOVERNMENTAL ORGANIZATION.—The term ‘nongovernmental organization’ has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

“(8) PRIVATE VOLUNTARY ORGANIZATION.—The term ‘private voluntary organization’ has the meaning given the term in section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732).

“(9) PROGRAM.—The term ‘program’ means a food assistance or development initiative proposed by an eligible entity and approved by the President under this section.

“(c) PROGRAM.—In order to use the food resources of the United States more effectively in support of developing countries, and countries that are emerging democracies that have made commitments to introduce or expand free enterprise elements in their agricultural economies through changes in commodity pricing, marketing, input availability, distribution, and private sector involvement, the President may enter into agreements with eligible entities to furnish to the countries eligible commodities made available under subsections (e) and (f).”

7 USC 1736.

(2) CONFORMING AMENDMENTS.—The Food for Progress Act of 1985 (7 U.S.C. 1736o) is amended—

(A) in the first sentence of subsection (d), by striking “food”;

(B) in subsection (l)(2), by striking “agricultural”;

(C) in subsection (m)(1), by striking “these”;

(D) in subsections (d), (e), (f), (h), (j), (l), and (m), by striking “commodities” each place it appears and inserting “eligible commodities”;

(E) in subsections (e), (f), and (l), by striking “Commodity Credit Corporation” each place it appears and inserting “Corporation”; and

(F) by striking subsection (o).

(c) CONSIDERATION FOR AGREEMENTS.—Subsection (d) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(d)) is amended by striking “(d) In determining” and inserting “(d) CONSIDERATION FOR AGREEMENTS.—In determining”.

(d) FUNDING OF ELIGIBLE COMMODITIES.—Subsection (e) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(e)) is amended—

(1) by striking “(e)” and inserting “(e) FUNDING OF ELIGIBLE COMMODITIES.—”;

(2) in paragraph (2), by inserting “, and subsection (g) does not apply to eligible commodities furnished on a grant basis or on credit terms under that title” before the period at the end; and

(3) by adding at the end the following:

“(5) NO EFFECT ON DOMESTIC PROGRAMS.—The President shall not make an eligible commodity available for disposition under this section in any amount that will reduce the amount of the eligible commodity that is traditionally made available through donations to domestic feeding programs or agencies, as determined by the President.”.

(e) PROVISION OF ELIGIBLE COMMODITIES TO DEVELOPING COUNTRIES.—Subsection (f) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(f)) is amended—

(1) by striking “(f)” and inserting “(f) PROVISION OF ELIGIBLE COMMODITIES TO DEVELOPING COUNTRIES.—”; and

(2) in paragraph (3), by striking “\$30,000,000 (or in the case of fiscal year 1999, \$35,000,000)” and inserting “\$40,000,000”.

(f) MINIMUM TONNAGE.—The Food for Progress Act of 1985 is amended by striking subsection (g) (7 U.S.C. 1736o(g)) and inserting the following:

“(g) MINIMUM TONNAGE.—Subject to subsection (f)(3), not less than 400,000 metric tons of eligible commodities may be provided under this section for the program for each of fiscal years 2002 through 2007.”.

(g) PROHIBITION ON RESALE OR TRANSSHIPMENT OF ELIGIBLE COMMODITIES.—Subsection (h) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(h)) is amended by striking “(h) An agreement” and inserting “(h) PROHIBITION ON RESALE OR TRANSSHIPMENT OF ELIGIBLE COMMODITIES.—An agreement”.

(h) DISPLACEMENT OF UNITED STATES COMMERCIAL SALES.—Subsection (i) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(i)) is amended by striking “(i) In entering” and inserting “(i) DISPLACEMENT OF UNITED STATES COMMERCIAL SALES.—In entering”.

(i) MULTICOUNTRY OR MULTIYEAR BASIS.—Subsection (j) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(j)) is amended—

(1) by striking “(j) In carrying out this section, the President may,” and inserting the following: “(j) MULTICOUNTRY OR MULTIYEAR BASIS.—

“(1) IN GENERAL.—In carrying out this section, the President,”;

(2) by striking “approve” and inserting “is encouraged to approve”;

(3) by striking “multiyear” and inserting “multicountry or multiyear”; and

(4) by adding at the end the following:

“(2) DEADLINE FOR PROGRAM ANNOUNCEMENTS.—Before the beginning of any fiscal year, the President shall, to the maximum extent practicable—

“(A) make all determinations concerning program agreements and resource requests for programs under this section; and

“(B) announce those determinations.

“(3) REPORT.—Not later than December 1 of each fiscal year, the President shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a list of programs, countries, and eligible commodities, and the total amount of funds for transportation and administrative costs, approved to date for the fiscal year under this section.”.

President.

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(j) EFFECTIVE AND TERMINATION DATES.—Subsection (k) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(k)) is amended by striking “(k) This section” and inserting “(k) EFFECTIVE AND TERMINATION DATES.—This section”.

(k) ADMINISTRATIVE EXPENSES.—Subsection (l) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(l)) is amended—

(1) by striking “(l)” and inserting “(l) ADMINISTRATIVE EXPENSES.—”;

(2) in paragraph (1), by striking “\$10,000,000” and inserting “\$15,000,000”;

(3) in paragraph (3), by striking “local currencies” and inserting “proceeds”; and

(4) by adding at the end the following:

“(4) HUMANITARIAN OR DEVELOPMENT PURPOSES.—The Secretary may authorize the use of proceeds to pay the costs incurred by an eligible entity under this section for—

“(A)(i) programs targeted at hunger and malnutrition;

or

“(ii) development programs involving food security;

“(B) transportation, storage, and distribution of eligible commodities provided under this section; and

“(C) administration, sales, monitoring, and technical assistance.”.

(l) PRESIDENTIAL APPROVAL.—Subsection (m) of the Food for Progress Act of 1985 (7 U.S.C. 1736o(m)) is amended by striking “(m) In carrying” and inserting “(m) PRESIDENTIAL APPROVAL.—In carrying”.

(m) PROGRAM MANAGEMENT.—The Food for Progress Act of 1985 is amended by striking subsection (n) (7 U.S.C. 1736o(n)) and inserting the following:

“(n) PROGRAM MANAGEMENT.—

“(1) IN GENERAL.—The President shall ensure, to the maximum extent practicable, that each eligible entity participating in 1 or more programs under this section—

“(A) uses eligible commodities made available under this section—

“(i) in an effective manner;

“(ii) in the areas of greatest need; and

“(iii) in a manner that promotes the purposes of this section;

“(B) in using eligible commodities, assesses and takes into account the needs of recipient countries and the target populations of the recipient countries;

“(C) works with recipient countries, and indigenous institutions or groups in recipient countries, to design and carry out mutually acceptable programs authorized under this section; and

“(D) monitors and reports on the distribution or sale of eligible commodities provided under this section using methods that, as determined by the President, facilitate accurate and timely reporting.

“(2) REQUIREMENTS.—

“(A) IN GENERAL.—Not later than 270 days after the date of enactment of this paragraph, the President shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve,

President.

Deadline.

and clarify the application, approval, and implementation processes pertaining to agreements under this section.

“(B) CONSIDERATIONS.—In conducting the review, the President shall consider—

- “(i) revising procedures for submitting proposals;
- “(ii) developing criteria for program approval that separately address the objectives of the program;
- “(iii) pre-screening organizations and proposals to ensure that the minimum qualifications are met;
- “(iv) implementing e-government initiatives and otherwise improving the efficiency of the proposal submission and approval processes;
- “(v) upgrading information management systems;
- “(vi) improving commodity and transportation procurement processes; and
- “(vii) ensuring that evaluation and monitoring methods are sufficient.

“(C) CONSULTATIONS.—Not later than 1 year after the date of enactment of this paragraph, the President shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on changes made in regulations and procedures.

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“(3) REPORTS.—Each eligible entity that enters into an agreement under this section shall submit to the President, at such time as the President may request, a report containing such information as the President may request relating to the use of eligible commodities and funds furnished to the eligible entity under this section.”.

SEC. 3107. MCGOVERN-DOLE INTERNATIONAL FOOD FOR EDUCATION AND CHILD NUTRITION PROGRAM.

7 USC 1736o-1.

(a) DEFINITION OF AGRICULTURAL COMMODITY.—In this section, the term “agricultural commodity” means an agricultural commodity, or a product of an agricultural commodity, that is produced in the United States.

(b) PROGRAM.—Subject to subsection (l), the President may establish a program, to be known as “McGovern-Dole International Food for Education and Child Nutrition Program”, requiring the procurement of agricultural commodities and the provision of financial and technical assistance to carry out—

(1) preschool and school food for education programs in foreign countries to improve food security, reduce the incidence of hunger, and improve literacy and primary education, particularly with respect to girls; and

(2) maternal, infant, and child nutrition programs for pregnant women, nursing mothers, infants, and children who are 5 years of age or younger.

(c) ELIGIBLE COMMODITIES AND COST ITEMS.—Notwithstanding any other provision of law—

(1) any agricultural commodity is eligible to be provided under this section;

(2) as necessary to achieve the purposes of this section, funds appropriated under this section may be used to pay—

(A)(i) the cost of acquiring agricultural commodities;

(ii) the costs associated with packaging, enrichment, preservation, and fortification of agricultural commodities;

(iii) the processing, transportation, handling, and other incidental costs up to the time of the delivery of agricultural commodities free on board vessels in United States ports;

(iv) the vessel freight charges from United States ports or designated Canadian transshipment ports, as determined by the Secretary, to designated ports of entry abroad;

(v) the costs associated with transporting agricultural commodities from United States ports to designated points of entry abroad in the case—

(I) of landlocked countries;

(II) of ports that cannot be used effectively because of natural or other disturbances;

(III) of the unavailability of carriers to a specific country; or

(IV) of substantial savings in costs or time that may be effected by the utilization of points of entry other than ports; and

(vi) the charges for general average contributions arising out of the ocean transport of agricultural commodities transferred pursuant thereto;

(B) all or any part of the internal transportation, storage, and handling costs incurred in moving the eligible commodity, if the President determines that—

(i) payment of the costs is appropriate; and

(ii) the recipient country is a low income, net food-importing country that—

(I) meets the poverty criteria established by the International Bank for Reconstruction and Development for Civil Works Preference; and

(II) has a national government that is committed to or is working toward, through a national action plan, the goals of the World Declaration on Education for All convened in 1990 in Jomtien, Thailand, and the followup Dakar Framework for Action of the World Education Forum, convened in 2000;

(C) the costs of activities conducted in the recipient countries by a nonprofit voluntary organization, cooperative, or intergovernmental agency or organization that would enhance the effectiveness of the activities implemented by such entities under this section; and

(D) the costs of meeting the allowable administrative expenses of private voluntary organizations, cooperatives, or intergovernmental organizations that are implementing activities under this section.

President.

(d) GENERAL AUTHORITIES.—The President shall designate 1 or more Federal agencies to—

(1) implement the program established under this section;

(2) ensure that the program established under this section is consistent with the foreign policy and development assistance objectives of the United States; and

(3) consider, in determining whether a country should receive assistance under this section, whether the government of the country is taking concrete steps to improve the preschool and school systems in the country.

(e) **ELIGIBLE ENTITIES.**—Assistance may be provided under this section to private voluntary organizations, cooperatives, intergovernmental organizations, governments of developing countries and their agencies, and other organizations.

(f) **PROCEDURES.**—

(1) **IN GENERAL.**—In carrying out subsection (b), the President shall ensure that procedures are established that—

(A) provide for the submission of proposals by eligible entities, each of which may include 1 or more recipient countries, for commodities and other assistance under this section;

(B) provide for eligible commodities and assistance on a multiyear basis;

(C) ensure that eligible entities demonstrate the organizational capacity and the ability to develop, implement, monitor, report on, and provide accountability for activities conducted under this section;

(D) provide for the expedited development, review, and approval of proposals submitted in accordance with this section;

(E) ensure monitoring and reporting by eligible entities on the use of commodities and other assistance provided under this section; and

(F) allow for the sale or barter of commodities by eligible entities to acquire funds to implement activities that improve the food security of women and children or otherwise enhance the effectiveness of programs and activities authorized under this section.

(2) **PRIORITIES FOR PROGRAM FUNDING.**—In carrying out paragraph (1) with respect to criteria for determining the use of commodities and other assistance provided for programs and activities authorized under this section, the implementing agency may consider the ability of eligible entities to—

(A) identify and assess the needs of beneficiaries, especially malnourished or undernourished mothers and their children who are 5 years of age or younger, and school-age children who are malnourished, undernourished, or do not regularly attend school;

(B)(i) in the case of preschool and school-age children, target low-income areas where children's enrollment and attendance in school is low or girls' enrollment and participation in preschool or school is low, and incorporate developmental objectives for improving literacy and primary education, particularly with respect to girls; and

(ii) in the case of programs to benefit mothers and children who are 5 years of age or younger, coordinate supplementary feeding and nutrition programs with existing or newly-established maternal, infant, and children programs that provide health-needs interventions, including maternal, prenatal, and postnatal and newborn care;

(C) involve indigenous institutions as well as local communities and governments in the development and implementation of the programs and activities to foster local capacity building and leadership; and

(D) carry out multiyear programs that foster local self-sufficiency and ensure the longevity of programs in the recipient country .

(g) USE OF FOOD AND NUTRITION SERVICE.—The Food and Nutrition Service of the Department of Agriculture may provide technical advice on the establishment of programs under subsection (b)(1) and on implementation of the programs in the field in recipient countries.

(h) MULTILATERAL INVOLVEMENT.—

(1) IN GENERAL.—The President is urged to engage existing international food aid coordinating mechanisms to ensure multilateral commitments to, and participation in, programs similar to programs supported under this section.

President.

(2) REPORTS.—The President shall annually submit to the Committee on International Relations and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the commitments and activities of governments, including the United States government, in the global effort to reduce child hunger and increase school attendance.

(i) PRIVATE SECTOR INVOLVEMENT.—The President is urged to encourage the support and active involvement of the private sector, foundations, and other individuals and organizations in programs assisted under this section.

(j) GRADUATION.—An agreement with an eligible organization under this section shall include provisions—

(1) to—

(A) sustain the benefits to the education, enrollment, and attendance of children in schools in the targeted communities when the provision of commodities and assistance to a recipient country under a program under this section terminates; and

(B) estimate the period of time required until the recipient country or eligible organization is able to provide sufficient assistance without additional assistance under this section; or

(2) to provide other long-term benefits to targeted populations of the recipient country.

(k) REQUIREMENT TO SAFEGUARD LOCAL PRODUCTION AND USUAL MARKETING.—The requirement of section 403(a) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1733(a)) applies with respect to the availability of commodities under this section.

(l) FUNDING.—

(1) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the President shall use \$100,000,000 for fiscal year 2003 to carry out this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2004 through 2007.

(3) ADMINISTRATIVE EXPENSES.—Funds made available to carry out this section may be used to pay the administrative expenses of any Federal agency implementing or assisting in the implementation of this section.

Subtitle C—Miscellaneous

SEC. 3201. SURPLUS COMMODITIES FOR DEVELOPING OR FRIENDLY COUNTRIES.

(a) USE OF CURRENCIES.—Section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)) is amended—

(1) in clauses (i) and (iii), by striking “foreign currency” each place it appears;

(2) in clause (ii)—

(A) by striking “Foreign currencies” and inserting “Proceeds”; and

(B) by striking “foreign currency”; and

(3) in clause (iv)—

(A) by striking “Foreign currency proceeds” and inserting “Proceeds”;

(B) by striking “country of origin” the second place it appears and all that follows through “as necessary to expedite” and inserting “country of origin as necessary to expedite”;

(C) by striking “; or” and inserting a period; and

(D) by striking subclause (II).

(b) IMPLEMENTATION OF AGREEMENTS.—Section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) (as amended by section 3009(b)) is amended—

(1) in paragraph (8), by striking “(8)(A)” and all that follows through “(B) The Secretary” and inserting the following:

“(8) ADMINISTRATIVE PROVISIONS.—

“(A) EXPEDITED PROCEDURES.—To the maximum extent practicable, expedited procedures shall be used in the implementation of this subsection.

“(B) ESTIMATE OF COMMODITIES.—The Secretary shall publish in the Federal Register, not later than October 31 of each fiscal year, an estimate of the types and quantities of commodities and products that will be available under this section for the fiscal year.

Federal Register,
publication.
Deadline.

“(C) FINALIZATION OF AGREEMENTS.—The Secretary is encouraged to finalize program agreements under this section not later than December 31 of each fiscal year.

Deadline.

“(D) REGULATIONS.—The Secretary”; and

(2) by adding at the end the following:

“(11) REQUIREMENTS.—

“(A) IN GENERAL.—Not later than 270 days after the date of enactment of this subparagraph, the Secretary shall review and, as necessary, make changes in regulations and internal procedures designed to streamline, improve, and clarify the application, approval, and implementation processes pertaining to agreements under this section.

Deadline.

“(B) CONSIDERATIONS.—In conducting the review, the Secretary shall consider—

“(i) revising procedures for submitting proposals;

“(ii) developing criteria for program approval that separately address the objectives of the program;

“(iii) pre-screening organizations and proposals to ensure that the minimum qualifications are met;

“(iv) implementing e-government initiatives and otherwise improving the efficiency of the proposal submission and approval processes;

“(v) upgrading information management systems;

“(vi) improving commodity and transportation procurement processes; and

“(vii) ensuring that evaluation and monitoring methods are sufficient.

Deadline.

“(C) CONSULTATIONS.—Not later than 1 year after the date of enactment of this subparagraph, the Secretary shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on changes made in regulations and procedures under this paragraph.”.

SEC. 3202. BILL EMERSON HUMANITARIAN TRUST.

Section 302 of the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f-1) is amended by striking “2002” each place it appears in subsection (b)(2)(B)(i) and paragraphs (1) and (2) of subsection (h) and inserting “2007”.

SEC. 3203. EMERGING MARKETS.

Section 1542 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5622 note) is amended in subsections (a) and (d)(1)(A)(i) by striking “2002” and inserting “2007”.

SEC. 3204. BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

The Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 1543 (7 U.S.C. 3293) the following:

7 USC 5679.

“SEC. 1543A. BIOTECHNOLOGY AND AGRICULTURAL TRADE PROGRAM.

“(a) ESTABLISHMENT.—There is established in the Department the biotechnology and agricultural trade program.

“(b) PURPOSE.—The purpose of the program shall be to remove, resolve, or mitigate significant regulatory nontariff barriers to the export of United States agricultural commodities (as defined in section 102 of the Agricultural Trade Act of 1978 (7 U.S.C. 5602)) into foreign markets through public and private sector projects funded by grants that address—

“(1) quick response intervention regarding nontariff barriers to United States exports involving—

“(A) United States agricultural commodities produced through biotechnology;

“(B) food safety;

“(C) disease; or

“(D) other sanitary or phytosanitary concerns; or

“(2) developing protocols as part of bilateral negotiations with other countries on issues such as animal health, grain quality, and genetically modified commodities.

“(c) ELIGIBLE PROGRAMS.—Depending on need, as determined by the Secretary, activities authorized under this section may be carried out through—

“(1) this section;

“(2) the emerging markets program under section 1542;

or

“(3) the Cochran Fellowship Program under section 1543.

“(d) FUNDING.—There is authorized to be appropriated \$6,000,000 for each of fiscal years 2002 through 2007.”.

SEC. 3205. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.

7 USC 5680.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish an export assistance program (referred to in this section as the “program”) to address unique barriers that prohibit or threaten the export of United States specialty crops.

(b) PURPOSE.—The program shall provide direct assistance through public and private sector projects and technical assistance to remove, resolve, or mitigate sanitary and phytosanitary and related barriers to trade.

(c) PRIORITY.—The program shall address time sensitive and strategic market access projects based on—

- (1) trade effect on market retention, market access, and market expansion; and
- (2) trade impact.

(d) FUNDING.—For each of fiscal years 2002 through 2007, the Secretary shall make available \$2,000,000 of the funds of, or an equal value of commodities owned by, the Commodity Credit Corporation.

SEC. 3206. GLOBAL MARKET STRATEGY.

7 USC 5603a.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and biennially thereafter, the Secretary of Agriculture shall consult with the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the formulation and implementation of a global market strategy for the Department of Agriculture that, to the maximum extent practicable—

Deadline.

- (1) identifies opportunities for the growth of agricultural exports to overseas markets;
- (2) ensures that the resources, programs, and policies of the Department are coordinated with those of other agencies; and
- (3) remove barriers to agricultural trade in overseas markets.

(b) REVIEW.—The consultations under subsection (a) shall include a review of—

- (1) the strategic goals of the Department; and
- (2) the progress of the Department in implementing the strategic goals through the global market strategy.

SEC. 3207. REPORT ON USE OF PERISHABLE COMMODITIES AND LIVE ANIMALS.

Not later than 120 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on international food aid programs of the United States that evaluates—

Deadline.

- (1) the implications of storage and transportation capacity and funding for the use of perishable agricultural commodities and semiperishable agricultural commodities; and
- (2) the feasibility of the transport of lambs and other live animals under the program.

7 USC 5693 note. **SEC. 3208. STUDY ON FEE FOR SERVICES.**

Deadline.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture, and the Committee on International Relations, of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate a report on the feasibility of instituting a program under which the Secretary would charge and retain a fee to cover the costs incurred by the Department of Agriculture, acting through the Foreign Agricultural Service or any successor agency, in providing persons with commercial services provided outside the United States.

(b) **PURPOSE OF PROGRAM.**—The purpose of a program described in subsection (a) would be to supplement and not replace any services currently offered overseas by the Foreign Agricultural Service.

(c) **MARKET DEVELOPMENT STRATEGY.**—A program under subsection (b) would be part of an overall market development strategy for a particular country or region.

(d) **PILOT PROGRAM.**—A program under subsection (a) would be established on a pilot basis to ensure that the program does not disadvantage small- and medium-sized companies, including companies that have never engaged in exporting.

SEC. 3209. SENSE OF CONGRESS CONCERNING FOREIGN ASSISTANCE PROGRAMS.

(a) **FINDINGS.**—Congress finds that—

(1) the international community faces a continuing epidemic of ethnic, sectarian, and criminal violence;

(2) poverty, hunger, political uncertainty, and social instability are the principal causes of violence and conflict around the world;

(3) broad-based, equitable economic growth and agriculture development facilitates political stability, food security, democracy, and the rule of law;

(4) democratic governments are more likely to advocate and observe international laws, protect civil and human rights, pursue free market economies, and avoid external conflicts;

(5) the United States Agency for International Development has provided critical democracy and governance assistance to a majority of the nations that successfully made the transition to democratic governments during the past 2 decades;

(6) 43 of the top 50 consumer nations of American agricultural products were once United States foreign aid recipients;

(7) in the past 50 years, infant child death rates in the developing world have been reduced by 50 percent, and health conditions around the world have improved more during this period than in any other period;

(8) the United States Agency for International Development child survival programs have significantly contributed to a 10 percent reduction in infant mortality rates worldwide in just the past 8 years;

(9) in providing assistance by the United States and other donors in better seeds and teaching more efficient agricultural techniques over the past 2 decades have helped make it possible to feed an additional 1,000,000,000 people in the world;

(10) despite this progress, approximately 1,200,000,000 people, one-quarter of the world's population, live on less than

\$1 per day, and approximately 3,000,000,000 people live on only \$2 per day;

(11) 95 percent of new births occur in developing countries, including the world's poorest countries; and

(12) only $\frac{1}{2}$ percent of the Federal budget is dedicated to international economic and humanitarian assistance.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign assistance programs should play an increased role in the global fight against terrorism to complement the national security objectives of the United States;

(2) the United States should lead coordinated international efforts to provide increased financial assistance to countries with impoverished and disadvantaged populations that are the breeding grounds for terrorism; and

(3) the United States Agency for International Development and the Department of Agriculture should substantially increase humanitarian, economic development, and agricultural assistance to foster international peace and stability and the promotion of human rights.

SEC. 3210. SENSE OF THE SENATE CONCERNING AGRICULTURAL TRADE.

(a) AGRICULTURE TRADE NEGOTIATING OBJECTIVES.—It is the sense of the Senate that the principal negotiating objective of the United States with respect to agricultural trade in all multilateral, regional, and bilateral negotiations is to obtain competitive opportunities for the export of United States agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of agricultural trade in bulk and value-added commodities by—

(1) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for the export of United States agricultural commodities, giving priority to United States agricultural commodities that are subject to significantly higher tariffs or subsidy regimes of major producing countries;

(2) immediately eliminating all export subsidies on agricultural commodities worldwide while maintaining bona fide food aid and preserving United States agricultural market development and export credit programs that allow the United States to compete with other foreign export promotion efforts;

(3) leveling the playing field for United States agricultural producers by disciplining domestic supports such that no other country can provide greater support, measured as a percentage of total agricultural production value, than the United States does while preserving existing green box category to support conservation activities, family farms, and rural communities;

(4) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities for United States agricultural commodities or distort agricultural markets to the detriment of the United States, including—

(A) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on—

(i) requiring price transparency in the operation of state trading enterprises and such other mechanisms; and

(ii) ending discriminatory pricing practices for agricultural commodities that amount to de facto export subsidies so that the enterprises or other mechanisms do not (except in cases of bona fide food aid) sell agricultural commodities in foreign markets at prices below domestic market prices or prices below the full costs of acquiring and delivering agricultural commodities to the foreign markets;

(B) unjustified trade restrictions or commercial requirements affecting new agricultural technologies, including biotechnology;

(C) unjustified sanitary or phytosanitary restrictions, including restrictions that are not based on scientific principles, in contravention of the Agreement on the Application of Sanitary and Phytosanitary Measures (as described in section 101(d)(3) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(3)));

(D) other unjustified technical barriers to agricultural trade; and

(E) restrictive and nontransparent rules in the administration of tariff rate quotas;

(5) improving import relief mechanisms to recognize the unique characteristics of perishable agricultural commodities;

(6) taking into account whether a party to negotiations with respect to trading in an agricultural commodity has—

(A) failed to adhere to the provisions of an existing bilateral trade agreement with the United States;

(B) circumvented obligations under a multilateral trade agreement to which the United States is a signatory; or

(C) manipulated its currency value to the detriment of United States agricultural producers or exporters; and

(7) otherwise ensuring that countries that accede to the World Trade Organization—

(A) have made meaningful market liberalization commitments in agriculture; and

(B) make progress in fulfilling those commitments over time.

(b) PRIORITY FOR AGRICULTURE TRADE.—It is the sense of the Senate that—

(1) reaching a successful agreement on agriculture should be the top priority of United States negotiators in World Trade Organization talks; and

(2) if the primary export competitors of the United States fail to reduce their trade distorting domestic supports and eliminate export subsidies in accordance with the negotiating objectives expressed in this section, the United States should take steps to increase the leverage of United States negotiators and level the playing field for United States producers, within existing World Trade Organization commitments.

(c) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—It is the sense of the Senate that—

(1) before the United States Trade Representative negotiates a trade agreement that would reduce tariffs on agricultural commodities or require a change in United States agricultural law, the United States Trade Representative should consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(2) not less than 48 hours before initialing an agreement relating to agricultural trade negotiated under the auspices of the World Trade Organization, the United States Trade Representative should consult closely with the committees referred to in paragraph (1) regarding—

(A) the details of the agreement;

(B) the potential impact of the agreement on United States agricultural producers; and

(C) any changes in United States law necessary to implement the agreement; and

(3) any agreement or other understanding (whether verbal or in writing) that relates to agricultural trade that is not disclosed to Congress before legislation implementing a trade agreement is introduced in either the Senate or the House of Representatives should not be considered to be part of the agreement approved by Congress and should have no force and effect under United States law or in any dispute settlement body.

TITLE IV—NUTRITION PROGRAMS

SEC. 4001. SHORT TITLE.

This title may be cited as the “Food Stamp Reauthorization Act of 2002”.

Food Stamp
Reauthorization
Act of 2002.
7 USC 2011 note.

Subtitle A—Food Stamp Program

SEC. 4101. ENCOURAGEMENT OF PAYMENT OF CHILD SUPPORT.

(a) EXCLUSION.—Section 5(d)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(6)) is amended by adding at the end the following: “and child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.”.

(b) SIMPLIFIED PROCEDURE.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e), by striking paragraph (4) and inserting the following:

“(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

“(A) IN GENERAL.—In lieu of providing an exclusion for legally obligated child support payments made by a household member under subsection (d)(6), a State agency may elect to provide a deduction for the amount of the payments.

“(B) ORDER OF DETERMINING DEDUCTIONS.—A deduction under this paragraph shall be determined before the computation of the excess shelter expense deduction under paragraph (6).”; and

(2) by adding at the end the following:

“(n) STATE OPTIONS TO SIMPLIFY DETERMINATION OF CHILD SUPPORT PAYMENTS.—Regardless of whether a State agency elects to provide a deduction under subsection (e)(4), the Secretary shall establish simplified procedures to allow State agencies, at the option of the State agencies, to determine the amount of any legally obligated child support payments made, including procedures to allow the State agency to rely on information from the agency responsible for implementing the program under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) concerning payments made in prior months in lieu of obtaining current information from the households.”.

SEC. 4102. SIMPLIFIED DEFINITION OF INCOME.

Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking “and (15)” and inserting “(15)”; and

(2) by inserting before the period at the end the following: “, (16) at the option of the State agency, any educational loans on which payment is deferred, grants, scholarships, fellowships, veterans’ educational benefits, and the like (other than loans, grants, scholarships, fellowships, veterans’ educational benefits, and the like excluded under paragraph (3)), to the extent that they are required to be excluded under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), (17) at the option of the State agency, any State complementary assistance program payments that are excluded for the purpose of determining eligibility for medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), and (18) at the option of the State agency, any types of income that the State agency does not consider when determining eligibility for (A) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) or the amount of such assistance, or (B) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u–1), except that this paragraph does not authorize a State agency to exclude wages or salaries, benefits under title I, II, IV, X, XIV, or XVI of the Social Security Act (42 U.S.C. 301 et seq.), regular payments from a government source (such as unemployment benefits and general assistance), worker’s compensation, child support payments made to a household member by an individual who is legally obligated to make the payments, or such other types of income the consideration of which the Secretary determines by regulation to be essential to equitable determinations of eligibility and benefit levels”.

SEC. 4103. STANDARD DEDUCTION.

Section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)) is amended by striking paragraph (1) and inserting the following:

“(1) STANDARD DEDUCTION.—

“(A) IN GENERAL.—

“(i) DEDUCTION.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands of the United States in an amount that is—

“(I) equal to 8.31 percent of the income standard of eligibility established under subsection (c)(1); but

“(II) not more than 8.31 percent of the income standard of eligibility established under subsection (c)(1) for a household of 6 members.

“(ii) MINIMUM AMOUNT.—Notwithstanding clause (i), the standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, and the Virgin Islands of the United States shall be not less than \$134, \$229, \$189, and \$118, respectively.

“(B) GUAM.—

“(i) IN GENERAL.—The Secretary shall allow a standard deduction for each household in Guam in an amount that is—

“(I) equal to 8.31 percent of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia; but

“(II) not more than 8.31 percent of twice the income standard of eligibility established under subsection (c)(1) for the 48 contiguous States and the District of Columbia for a household of 6 members.

“(ii) MINIMUM AMOUNT.—Notwithstanding clause (i), the standard deduction for each household in Guam shall be not less than \$269.”.

SEC. 4104. SIMPLIFIED UTILITY ALLOWANCE.

Section 5(e)(7)(C)(iii) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)(C)(iii)) is amended—

(1) in subclause (I)(bb), by inserting “(without regard to subclause (III))” after “Secretary finds”; and

(2) by adding at the end the following:

“(III) INAPPLICABILITY OF CERTAIN RESTRICTIONS.—Clauses (ii)(II) and (ii)(III) shall not apply in the case of a State agency that has made the use of a standard utility allowance mandatory under subclause (I).”.

SEC. 4105. SIMPLIFIED DETERMINATION OF HOUSING COSTS.

(a) IN GENERAL.—Section 5(e)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e)(7)) is amended by adding at the end the following:

“(D) HOMELESS HOUSEHOLDS.—

“(i) ALTERNATIVE DEDUCTION.—In lieu of the deduction provided under subparagraph (A), a State agency may elect to allow a household in which all members are homeless individuals, but that is not receiving free shelter throughout the month, to receive a deduction of \$143 per month.

“(ii) INELIGIBILITY.—The State agency may make a household with extremely low shelter costs ineligible for the alternative deduction under clause (i).”.

(b) CONFORMING AMENDMENTS.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended—

(1) in subsection (e)—

- (A) by striking paragraph (5); and
- (B) by redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively; and
- (2) in subsection (k)(4)(B), by striking “subsection (e)(7)” and inserting “subsection (e)(6)”.

SEC. 4106. SIMPLIFIED DETERMINATION OF DEDUCTIONS.

Section 5(f)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)(1)) is amended by adding at the end the following:

“(C) SIMPLIFIED DETERMINATION OF DEDUCTIONS.—

“(i) IN GENERAL.—Except as provided in clause (ii), for the purposes of subsection (e), a State agency may elect to disregard until the next recertification of eligibility under section 11(e)(4) 1 or more types of changes in the circumstances of a household that affect the amount of deductions the household may claim under subsection (e).

“(ii) CHANGES THAT MAY NOT BE DISREGARDED.—Under clause (i), a State agency may not disregard—

“(I) any reported change of residence; or

“(II) under standards prescribed by the Secretary, any change in earned income.”.

SEC. 4107. SIMPLIFIED DEFINITION OF RESOURCES.

Section 5(g) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)) is amended—

(1) in paragraph (1), by striking “a member who is 60 years of age or older” and inserting “an elderly or disabled member”; and

(2) by adding at the end the following:

“(6) EXCLUSION OF TYPES OF FINANCIAL RESOURCES NOT CONSIDERED UNDER CERTAIN OTHER FEDERAL PROGRAMS.—

“(A) IN GENERAL.—Subject to subparagraph (B), a State agency may, at the option of the State agency, exclude from financial resources under this subsection any types of financial resources that the State agency does not consider when determining eligibility for—

“(i) cash assistance under a program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

“(ii) medical assistance under section 1931 of the Social Security Act (42 U.S.C. 1396u-1).

“(B) LIMITATIONS.—Except to the extent that any of the types of resources specified in clauses (i) through (iv) are excluded under another paragraph of this subsection, subparagraph (A) does not authorize a State agency to exclude—

“(i) cash;

“(ii) licensed vehicles;

“(iii) amounts in any account in a financial institution that are readily available to the household; or

“(iv) any other similar type of resource the inclusion in financial resources of which the Secretary determines by regulation to be essential to equitable determinations of eligibility under the food stamp program.”.

SEC. 4108. ALTERNATIVE ISSUANCE SYSTEMS IN DISASTERS.

(a) **IN GENERAL.**—Section 5(h)(3)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(3)(B)) is amended—

(1) in the first sentence, by inserting “issuance methods and” after “shall adjust”; and

(2) in the second sentence, by inserting “, any conditions that make reliance on electronic benefit transfer systems described in section 7(i) impracticable,” after “personnel”.

(b) **EFFECTIVE DATE.**—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 4109. STATE OPTION TO REDUCE REPORTING REQUIREMENTS.

Section 6(c)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)(1)) is amended—

(1) in subparagraph (B), by striking “on a monthly basis”; and

(2) by adding at the end the following:

“(D) **FREQUENCY OF REPORTING.**—

“(i) **IN GENERAL.**—Except as provided in subparagraphs (A) and (C), a State agency may require households that report on a periodic basis to submit reports—

“(I) not less often than once each 6 months; but

“(II) not more often than once each month.

“(ii) **REPORTING BY HOUSEHOLDS WITH EXCESS INCOME.**—A household required to report less often than once each 3 months shall, notwithstanding subparagraph (B), report in a manner prescribed by the Secretary if the income of the household for any month exceeds the income standard of eligibility established under section 5(c)(2).”.

SEC. 4110. COST NEUTRALITY FOR ELECTRONIC BENEFIT TRANSFER SYSTEMS.

Section 7(i)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2016(i)(2)) is amended—

(1) by striking subparagraph (A); and

(2) by redesignating subparagraphs (B) through (I) as subparagraphs (A) through (H), respectively.

SEC. 4111. REPORT ON ELECTRONIC BENEFIT TRANSFER SYSTEMS.

7 USC 2016 note.

(a) **DEFINITION OF EBT SYSTEM.**—In this section, the term “EBT system” means an electronic benefit transfer system used in issuance of benefits under the food stamp program under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

(b) **REPORT.**—Not later than October 1, 2003, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

Deadline.

(1) describes the status of use by each State agency of EBT systems;

(2) specifies the number of vendors that have entered into a contract for an EBT system with a State agency;

(3)(A) specifies the number of State agencies that have entered into an EBT-system contract with multiple EBT-system vendors; and

(B) describes, for each State agency described in subparagraph (A), how responsibilities are divided among the various vendors;

(4) with respect to any State in which an EBT system is not operational throughout the State as of October 1, 2002—

(A) provides an explanation of the reasons why an EBT system is not operational throughout the State;

(B) describes how the reasons are being addressed; and

(C) specifies the expected date of operation of an EBT system throughout the State;

(5) provides a description of—

(A) the issues faced by any State agency that has awarded a second EBT-system contract in the 2-year period preceding the date of the report; and

(B) the steps that the State agency has taken to address those issues;

(6) provides a description of—

(A) the issues faced by any State agency that will award a second EBT-system contract within the 2-year period beginning on the date of the report; and

(B) strategies that the State agency is considering to address those issues;

(7) describes initiatives being considered or taken by the Department of Agriculture, food retailers, EBT-system vendors, and client advocates to address any outstanding issues with respect to EBT systems; and

(8) examines areas of potential advances in electronic benefit delivery in the 5- to 10-year period beginning on the date of the report, including—

(A) access to EBT systems at farmers' markets;

(B) increased use of transaction data from EBT systems to identify and prosecute fraud; and

(C) fostering of increased competition among EBT-system vendors to ensure cost containment and optimal service.

SEC. 4112. ALTERNATIVE PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.

(a) IN GENERAL.—Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

“(f) ALTERNATIVE PROCEDURES FOR RESIDENTS OF CERTAIN GROUP FACILITIES.—

“(1) IN GENERAL.—

“(A) APPLICABILITY.—

“(i) IN GENERAL.—Subject to clause (ii), at the option of the State agency, allotments for residents of any facility described in subparagraph (B), (C), (D), or (E) of section 3(i)(5) (referred to in this subsection as a ‘covered facility’) may be determined and issued under this paragraph in lieu of subsection (a).

“(ii) LIMITATION.—Unless the Secretary authorizes implementation of this paragraph in all States under paragraph (3), clause (i) shall apply only to residents of covered facilities participating in a pilot project under paragraph (2).

“(B) AMOUNT OF ALLOTMENT.—The allotment for each eligible resident described in subparagraph (A) shall be calculated in accordance with standardized procedures established by the Secretary that take into account the allotments typically received by residents of covered facilities.

“(C) ISSUANCE OF ALLOTMENT.—

“(i) IN GENERAL.—The State agency shall issue an allotment determined under this paragraph to a covered facility as the authorized representative of the residents of the covered facility.

“(ii) ADJUSTMENT.—The Secretary shall establish procedures to ensure that a covered facility does not receive a greater proportion of a resident’s monthly allotment than the proportion of the month during which the resident lived in the covered facility.

“(D) DEPARTURES OF RESIDENTS OF COVERED FACILITIES.—

“(i) NOTIFICATION.—Any covered facility that receives an allotment for a resident under this paragraph shall—

“(I) notify the State agency promptly on the departure of the resident; and

“(II) notify the resident, before the departure of the resident, that the resident—

“(aa) is eligible for continued benefits under the food stamp program; and

“(bb) should contact the State agency concerning continuation of the benefits.

“(ii) ISSUANCE TO DEPARTED RESIDENTS.—On receiving a notification under clause (i)(I) concerning the departure of a resident, the State agency—

“(I) shall promptly issue the departed resident an allotment for the days of the month after the departure of the resident (calculated in a manner prescribed by the Secretary) unless the departed resident reapplies to participate in the food stamp program; and

“(II) may issue an allotment for the month following the month of the departure (but not any subsequent month) based on this paragraph unless the departed resident reapplies to participate in the food stamp program.

“(iii) STATE OPTION.—The State agency may elect not to issue an allotment under clause (ii)(I) if the State agency lacks sufficient information on the location of the departed resident to provide the allotment.

“(iv) EFFECT OF REAPPLICATION.—If the departed resident reapplies to participate in the food stamp program, the allotment of the departed resident shall be determined without regard to this paragraph.

“(2) PILOT PROJECTS.—

“(A) IN GENERAL.—Before the Secretary authorizes implementation of paragraph (1) in all States, the Secretary shall carry out, at the request of 1 or more State agencies and in 1 or more areas of the United States, such number of pilot projects as the Secretary determines to be sufficient

to test the feasibility of determining and issuing allotments to residents of covered facilities under paragraph (1) in lieu of subsection (a).

“(B) PROJECT PLAN.—To be eligible to participate in a pilot project under subparagraph (A), a State agency shall submit to the Secretary for approval a project plan that includes—

“(i) a specification of the covered facilities in the State that will participate in the pilot project;

“(ii) a schedule for reports to be submitted to the Secretary on the pilot project;

“(iii) procedures for standardizing allotment amounts that takes into account the allotments typically received by residents of covered facilities; and

“(iv) a commitment to carry out the pilot project in compliance with the requirements of this subsection other than paragraph (1)(B).

“(3) AUTHORIZATION OF IMPLEMENTATION IN ALL STATES.—

“(A) IN GENERAL.—The Secretary shall—

“(i) determine whether to authorize implementation of paragraph (1) in all States; and

“(ii) notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the determination.

“(B) DETERMINATION NOT TO AUTHORIZE IMPLEMENTATION IN ALL STATES.—

“(i) IN GENERAL.—If the Secretary makes a finding described in clause (ii), the Secretary—

“(I) shall not authorize implementation of paragraph (1) in all States; and

“(II) shall terminate all pilot projects under paragraph (2) within a reasonable period of time (as determined by the Secretary).

“(ii) FINDING.—The finding referred to in clause (i) is that—

“(I) an insufficient number of project plans that the Secretary determines to be eligible for approval are submitted by State agencies under paragraph (2)(B); or

“(II)(aa) a sufficient number of pilot projects have been carried out under paragraph (2)(A); and

“(bb) authorization of implementation of paragraph (1) in all States is not in the best interest of the food stamp program.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended—

(A) by striking “(i) ‘Household’ means (1) an” and inserting the following:

“(i)(1) ‘Household’ means—

“(A) an”;

(B) in the first sentence, by striking “others, or (2) a group” and inserting the following: “others; or

“(B) a group”;

(C) in the second sentence, by striking “Spouses” and inserting the following:

“(2) Spouses”;

(D) in the third sentence, by striking “Notwithstanding” and inserting the following:

“(3) Notwithstanding”;

(E) in paragraph (3) (as designated by subparagraph (D)), by striking “the preceding sentences” and inserting “paragraphs (1) and (2)”;

(F) in the fourth sentence, by striking “In no event” and inserting the following:

“(4) In no event”;

(G) in the fifth sentence, by striking “For the purposes of this subsection, residents” and inserting the following:

“(5) For the purposes of this subsection, the following persons shall not be considered to be residents of institutions and shall be considered to be individual households:

“(A) Residents”; and

(H) in paragraph (5) (as designated by subparagraph (G))—

(i) by striking “Act, or are individuals” and inserting the following: “Act.

“(B) Individuals”;

(ii) by striking “such section, temporary” and inserting the following: “that section.

“(C) Temporary”;

(iii) by striking “children, residents” and inserting the following: “children.

“(D) Residents”;

(iv) by striking “coupons, and narcotics” and inserting the following: “coupons.

“(E) Narcotics”; and

(v) by striking “shall not” and all that follows and inserting a period.

(2) Section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended by striking “the third sentence of section 3(i)” each place it appears and inserting “section 3(i)(4)”.

(3) Section 8(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2017(e)(1)) is amended by striking “the last sentence of section 3(i)” and inserting “section 3(i)(5)”.

(4) Section 17(b)(1)(B)(iv)(III)(aa) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(iv)(III)(aa)) is amended by striking “the last 2 sentences of section 3(i)” and inserting “paragraphs (4) and (5) of section 3(i)”.

SEC. 4113. REDEMPTION OF BENEFITS THROUGH GROUP LIVING ARRANGEMENTS.

(a) IN GENERAL.—Section 10 of the Food Stamp Act of 1977 (7 U.S.C. 2019) is amended by inserting after the first sentence the following: “Notwithstanding the preceding sentence, a center, organization, institution, shelter, group living arrangement, or establishment described in that sentence may be authorized to redeem coupons through a financial institution described in that sentence if the center, organization, institution, shelter, group living arrangement, or establishment is equipped with 1 or more point-of-sale devices and is operating in an area in which an electronic benefit transfer system described in section 7(i) has been implemented.”.

7 USC 2019 note.

(b) **EFFECTIVE DATE.**—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 4114. AVAILABILITY OF FOOD STAMP PROGRAM APPLICATIONS ON THE INTERNET.

(a) **IN GENERAL.**—Section 11(e)(2)(B)(ii) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(2)(B)(ii)) is amended—

(1) by inserting “(I)” after “(ii)”;

(2) in subclause (I) (as designated by paragraph (1)), by adding “and” at the end; and

(3) by adding at the end the following:

“(II) if the State agency maintains a website for the State agency, shall make the application available on the website in each language in which the State agency makes a printed application available;”.

7 USC 2020 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section take effect 18 months after the date of enactment of this Act.

SEC. 4115. TRANSITIONAL FOOD STAMPS FOR FAMILIES MOVING FROM WELFARE.

(a) **IN GENERAL.**—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

“(s) **TRANSITIONAL BENEFITS OPTION.**—

“(1) **IN GENERAL.**—A State agency may provide transitional food stamp benefits to a household that ceases to receive cash assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.).

“(2) **TRANSITIONAL BENEFITS PERIOD.**—Under paragraph (1), a household may receive transitional food stamp benefits for a period of not more than 5 months after the date on which cash assistance is terminated.

“(3) **AMOUNT OF BENEFITS.**—During the transitional benefits period under paragraph (2), a household shall receive an amount of food stamp benefits equal to the allotment received in the month immediately preceding the date on which cash assistance was terminated, adjusted for the change in household income as a result of—

“(A) the termination of cash assistance; and

“(B) at the option of the State agency, information from another program in which the household participates.

“(4) **DETERMINATION OF FUTURE ELIGIBILITY.**—In the final month of the transitional benefits period under paragraph (2), the State agency may—

“(A) require the household to cooperate in a recertification of eligibility; and

“(B) initiate a new certification period for the household without regard to whether the preceding certification period has expired.

“(5) **LIMITATION.**—A household shall not be eligible for transitional benefits under this subsection if the household—

“(A) loses eligibility under section 6;

“(B) is sanctioned for a failure to perform an action required by Federal, State, or local law relating to a cash assistance program described in paragraph (1); or

“(C) is a member of any other category of households designated by the State agency as ineligible for transitional benefits.

“(6) **APPLICATIONS FOR RECERTIFICATION.**—

“(A) IN GENERAL.—A household receiving transitional benefits under this subsection may apply for recertification at any time during the transitional benefits period under paragraph (2).

“(B) DETERMINATION OF ALLOTMENT.—If a household applies for recertification under subparagraph (A), the allotment of the household for all subsequent months shall be determined without regard to this subsection.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by adding at the end the following: “The limits specified in this subsection may be extended until the end of any transitional benefit period established under section 11(s).”.

(2) Section 6(c) of the Food Stamp Act of 1977 (7 U.S.C. 2015(c)) is amended by striking “No household” and inserting “Except in a case in which a household is receiving transitional benefits during the transitional benefits period under section 11(s), no household”.

SEC. 4116. GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.

(a) IN GENERAL.—Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) (as amended by section 4115(a)) is amended by adding at the end the following:

“(t) GRANTS FOR SIMPLE APPLICATION AND ELIGIBILITY DETERMINATION SYSTEMS AND IMPROVED ACCESS TO BENEFITS.—

“(1) IN GENERAL.—For each of fiscal years 2003 through 2007, the Secretary shall use not more than \$5,000,000 of funds made available under section 18(a)(1) to make grants to pay 100 percent of the costs of eligible entities approved by the Secretary to carry out projects to develop and implement—

“(A) simple food stamp application and eligibility determination systems; or

“(B) measures to improve access to food stamp benefits by eligible households.

“(2) TYPES OF PROJECTS.—A project under paragraph (1) may consist of—

“(A) coordinating application and eligibility determination processes, including verification practices, under the food stamp program and other Federal, State, and local assistance programs;

“(B) establishing methods for applying for benefits and determining eligibility that—

“(i) more extensively use—

“(I) communications by telephone; and

“(II) electronic alternatives such as the Internet; or

“(ii) otherwise improve the administrative infrastructure used in processing applications and determining eligibility;

“(C) developing procedures, training materials, and other resources aimed at reducing barriers to participation and reaching eligible households;

“(D) improving methods for informing and enrolling eligible households; or

“(E) carrying out such other activities as the Secretary determines to be appropriate.

“(3) LIMITATION.—A grant under this subsection shall not be made for the ongoing cost of carrying out any project.

“(4) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this subsection, an entity shall be—

“(A) a State agency administering the food stamp program;

“(B) a State or local government;

“(C) an agency providing health or welfare services;

“(D) a public health or educational entity; or

“(E) a private nonprofit entity such as a community-based organization, food bank, or other emergency feeding organization.

“(5) SELECTION OF ELIGIBLE ENTITIES.—The Secretary—

“(A) shall develop criteria for the selection of eligible entities to receive grants under this subsection; and

“(B) may give preference to any eligible entity that consists of a partnership between a governmental entity and a nongovernmental entity.”.

(b) CONFORMING AMENDMENTS.—Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended—

(1) by striking subsection (i); and

(2) by redesignating subsections (j) and (k) as subsections (i) and (j), respectively.

SEC. 4117. DELIVERY TO RETAILERS OF NOTICES OF ADVERSE ACTION.

(a) IN GENERAL.—Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended by striking paragraph (2) and inserting the following:

“(2) DELIVERY OF NOTICES.—A notice under paragraph (1) shall be delivered by any form of delivery that the Secretary determines will provide evidence of the delivery.”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

7 USC 2023 note.

SEC. 4118. REFORM OF QUALITY CONTROL SYSTEM.

(a) IN GENERAL.—Section 16(c) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)) is amended—

(1) by striking “(c)(1) The program” and all that follows through the end of paragraph (1) and inserting the following:

“(c) QUALITY CONTROL SYSTEM.—

“(1) IN GENERAL.—

“(A) SYSTEM.—In carrying out the food stamp program, the Secretary shall carry out a system that enhances payment accuracy and improves administration by establishing fiscal incentives that require State agencies with high payment error rates to share in the cost of payment error.

“(B) ADJUSTMENT OF FEDERAL SHARE OF ADMINISTRATIVE COSTS FOR FISCAL YEARS BEFORE FISCAL YEAR 2003.—

“(i) IN GENERAL.—Subject to clause (ii), with respect to any fiscal year before fiscal year 2003, the Secretary shall adjust a State agency’s federally funded share of administrative costs under subsection (a), other than the costs already shared in excess of 50

percent under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing that share of all such administrative costs by 1 percentage point to a maximum of 60 percent of all such administrative costs for each full $\frac{1}{10}$ of a percentage point by which the payment error rate is less than 6 percent.

“(ii) LIMITATION.—Only States with a rate of invalid decisions in denying eligibility that is less than a nationwide percentage that the Secretary determines to be reasonable shall be entitled to the adjustment under clause (i).

“(C) ESTABLISHMENT OF LIABILITY AMOUNT FOR FISCAL YEAR 2003 AND THEREAFTER.—With respect to fiscal year 2004 and any fiscal year thereafter for which the Secretary determines that, for the second or subsequent consecutive fiscal year, a 95 percent statistical probability exists that the payment error rate of a State agency exceeds 105 percent of the national performance measure for payment error rates announced under paragraph (6), the Secretary shall establish an amount for which the State agency may be liable (referred to in this paragraph as the ‘liability amount’) that is equal to the product obtained by multiplying—

“(i) the value of all allotments issued by the State agency in the fiscal year;

“(ii) the difference between—

“(I) the payment error rate of the State agency; and

“(II) 6 percent; and

“(iii) 10 percent.

“(D) AUTHORITY OF SECRETARY WITH RESPECT TO LIABILITY AMOUNT.—With respect to the liability amount established for a State agency under subparagraph (C) for any fiscal year, the Secretary shall—

“(i)(I) waive the responsibility of the State agency to pay all or any portion of the liability amount established for the fiscal year (referred to in this paragraph as the ‘waiver amount’);

“(II) require that a portion, not to exceed 50 percent, of the liability amount established for the fiscal year be used by the State agency for new investment, approved by the Secretary, to improve administration by the State agency of the food stamp program (referred to in this paragraph as the ‘new investment amount’), which new investment amount shall not be matched by Federal funds;

“(III) designate a portion, not to exceed 50 percent, of the amount established for the fiscal year for payment to the Secretary in accordance with subparagraph (E) (referred to in this paragraph as the ‘at-risk amount’); or

“(IV) take any combination of the actions described in subclauses (I) through (III); or

“(ii) make the determinations described in clause (i) and enter into a settlement with the State agency, only with respect to any waiver amount or new investment amount, before the end of the fiscal year in

which the liability amount is determined under subparagraph (C).

“(E) PAYMENT OF AT-RISK AMOUNT FOR CERTAIN STATES.—

“(i) IN GENERAL.—A State agency shall pay to the Secretary the at-risk amount designated under subparagraph (D)(i)(III) for any fiscal year in accordance with clause (ii), if, with respect to the immediately following fiscal year, a liability amount has been established for the State agency under subparagraph (C).

“(ii) METHOD OF PAYMENT OF AT-RISK AMOUNT.—

“(I) REMISSION TO THE SECRETARY.—In the case of a State agency required to pay an at-risk amount under clause (i), as soon as practicable after completion of all administrative and judicial reviews with respect to that requirement to pay, the chief executive officer of the State shall remit to the Secretary the at-risk amount required to be paid.

“(II) ALTERNATIVE METHOD OF COLLECTION.—

“(aa) IN GENERAL.—If the chief executive officer of the State fails to make the payment under subclause (I) within a reasonable period of time determined by the Secretary, the Secretary may reduce any amount due to the State agency under any other provision of this section by the amount required to be paid under clause (i).

“(bb) ACCRUAL OF INTEREST.—During any period of time determined by the Secretary under item (aa), interest on the payment under subclause (I) shall not accrue under section 13(a)(2).

“(F) USE OF PORTION OF LIABILITY AMOUNT FOR NEW INVESTMENT.—

“(i) REDUCTION OF OTHER AMOUNTS DUE TO STATE AGENCY.—In the case of a State agency that fails to comply with a requirement for new investment under subparagraph (D)(i)(II) or clause (iii)(I), the Secretary may reduce any amount due to the State agency under any other provision of this section by the portion of the liability amount that has not been used in accordance with that requirement.

“(ii) EFFECT OF STATE AGENCY’S WHOLLY PREVAILING ON APPEAL.—If a State agency begins required new investment under subparagraph (D)(i)(II), the State agency appeals the liability amount of the State agency, and the determination by the Secretary of the liability amount is reduced to \$0 on administrative or judicial review, the Secretary shall pay to the State agency an amount equal to 50 percent of the new investment amount that was included in the liability amount subject to the appeal.

“(iii) EFFECT OF SECRETARY’S WHOLLY PREVAILING ON APPEAL.—If a State agency does not begin required new investment under subparagraph (D)(i)(II), the State agency appeals the liability amount of the State

agency, and the determination by the Secretary of the liability amount is wholly upheld on administrative or judicial review, the Secretary shall—

“(I) require all or any portion of the new investment amount to be used by the State agency for new investment, approved by the Secretary, to improve administration by the State agency of the food stamp program, which amount shall not be matched by Federal funds; and

“(II) require payment of any remaining portion of the new investment amount in accordance with subparagraph (E)(ii).

“(iv) EFFECT OF NEITHER PARTY’S WHOLLY PREVAILING ON APPEAL.—The Secretary shall promulgate regulations regarding obligations of the Secretary and the State agency in a case in which the State agency appeals the liability amount of the State agency and neither the Secretary nor the State agency wholly prevails.

Regulations.

“(G) CORRECTIVE ACTION PLANS.—The Secretary shall foster management improvements by the States by requiring State agencies, other than State agencies with payment error rates of less than 6 percent, to develop and implement corrective action plans to reduce payment errors.”;

(2) in paragraph (4), by striking “(4)” and all that follows through the end of the first sentence and inserting the following:

“(4) REPORTING REQUIREMENTS.—The Secretary may require a State agency to report any factors that the Secretary considers necessary to determine a State agency’s payment error rate, liability amount or new investment amount under paragraph (1), or performance under the performance measures under subsection (d).”;

(3) in paragraph (5)—

(A) by striking “(5)” and all that follows through the end of the second sentence and inserting the following:

“(5) PROCEDURES.—To facilitate the implementation of this subsection, each State agency shall expeditiously submit to the Secretary data concerning the operations of the State agency in each fiscal year sufficient for the Secretary to establish the State agency’s payment error rate, liability amount or new investment amount under paragraph (1), or performance under the performance measures under subsection (d).”; and

(B) in the last sentence, by striking “paragraph (1)(C)” and inserting “paragraph (1)”;

(4) in paragraph (6)—

(A) by striking “(6) At” and inserting the following:

“(6) NATIONAL PERFORMANCE MEASURE FOR PAYMENT ERROR RATES.—

“(A) ANNOUNCEMENT.—At”;

(B) in subparagraph (A) (as designated by subparagraph (A)), by striking “and incentive payments or claims pursuant to paragraphs (1)(A) and (1)(C)”;

(C) in the first and third sentences, by striking “paragraph (5)” each place it appears and inserting “paragraph (8)”;

(D) by striking “Where a State” and inserting the following:

“(B) USE OF ALTERNATIVE MEASURE OF STATE ERROR.—Where a State”;

(E) by striking “The announced” and inserting the following:

“(C) USE OF NATIONAL PERFORMANCE MEASURE.—The announced”;

(F) in subparagraph (C) (as designated by subparagraph (E)), by striking “the State share of the cost of payment error under paragraph (1)(C)” and inserting “the liability amount of a State under paragraph (1)(C)”; and

(G) by adding at the end the following:

“(D) NO ADMINISTRATIVE OR JUDICIAL REVIEW.—The national performance measure announced under this paragraph shall not be subject to administrative or judicial review.”;

(5) in paragraph (7)—

(A) by striking “(7) If the Secretary asserts a financial claim against” and inserting the following:

“(7) ADMINISTRATIVE AND JUDICIAL REVIEW.—

“(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), if the Secretary asserts a financial claim against or establishes a liability amount with respect to”;

(B) in subparagraph (A) (as designated by subparagraph (A)), by striking “paragraph (1)(C)” and inserting “paragraph (1)”; and

(C) by adding at the end the following:

“(B) DETERMINATION OF PAYMENT ERROR RATE.—With respect to any fiscal year, a determination of the payment error rate of a State agency or a determination whether the payment error rate exceeds 105 percent of the national performance measure for payment error rates shall be subject to administrative or judicial review only if the Secretary establishes a liability amount with respect to the fiscal year under paragraph (1)(C).

“(C) AUTHORITY OF SECRETARY WITH RESPECT TO LIABILITY AMOUNT.—An action by the Secretary under subparagraph (D) or (F)(iii) of paragraph (1) shall not be subject to administrative or judicial review.”; and

(6) in paragraph (8)—

(A) in subparagraph (A), by striking “paragraph (1)(C)” and inserting “paragraph (1)”; and

(B) in subparagraph (C)—

(i) in clause (i), by striking “payment claimed against State agencies; and” and inserting “payment claimed against State agencies or liability amount established with respect to State agencies.”;

(ii) in clause (ii), by striking “claims.” and inserting “claims or liability amounts; and”; and

(iii) by adding at the end the following:

“(iii) provide a copy of the document providing notification under clause (ii) to the chief executive officer and the legislature of the State.”; and

(C) in subparagraphs (D) and (H), by inserting “or liability amount” after “claim” each place it appears.

(b) **AUTHORITY TO SETTLE CLAIMS CONCERNING AT-RISK AMOUNTS.**—Section 13(a) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)) is amended—

(1) by striking “(a)(1) The” and inserting the following:

“(a) **GENERAL AUTHORITY OF THE SECRETARY.**—

“(1) **DETERMINATION OF CLAIMS.**—Except in the case of an at-risk amount required under section 16(c)(1)(D)(i)(III), the”;

(2) by striking the fourth sentence;

(3) by striking “To the extent” and inserting the following:

“(2) **CLAIMS ESTABLISHED UNDER QUALITY CONTROL SYSTEM.**—To the extent”;

(4) in paragraph (2) (as designated by paragraph (3)), by striking “section 16(c)(1)(C)” and inserting “section 16(c)(1)”;

(5) by striking “Any interest” and inserting the following:

“(3) **COMPUTATION OF INTEREST.**—Any interest”; and

(6) by striking “(2) Each adult” and inserting the following:

“(4) **JOINT AND SEVERAL LIABILITY OF HOUSEHOLD MEMBERS.**—Each adult”.

(c) **CREDITING OF PAYMENTS TO FOOD STAMP APPROPRIATIONS ACCOUNT.**—Section 18(e) of the Food Stamp Act of 1977 (7 U.S.C. 2027(e)) is amended in the first sentence—

(1) by striking “11(g) and (h), and” and inserting “subsections (g) and (h) of section 11,”; and

(2) by inserting “and section 16(c)(1),” after “section 13,”.

(d) **CONFORMING AMENDMENTS.**—Section 22(h) of the Food Stamp Act of 1977 (7 U.S.C. 2031(h)) is amended—

(1) in the second sentence, by striking “section 16(c)(1)(C)” and inserting “section 16(c)(1)”;

(2) by striking the third sentence.

(e) **APPLICABILITY.**—The amendments made by this section shall not apply with respect to any sanction, appeal, new investment agreement, or other action by the Secretary of Agriculture or a State agency that is based on a payment error rate calculated for any fiscal year before fiscal year 2003. 7 USC 2022 note.

SEC. 4119. IMPROVEMENT OF CALCULATION OF STATE PERFORMANCE MEASURES.

(a) **IN GENERAL.**—Section 16(c)(8) of the Food Stamp Act of 1977 (7 U.S.C. 2025(c)(8)) is amended—

(1) in subparagraph (B), by striking “180 days after the end of the fiscal year” and inserting “the first May 31 after the end of the fiscal year referred to in subparagraph (A)”;

(2) in subparagraph (C), by striking “30 days thereafter” and inserting “the first June 30 after the end of the fiscal year referred to in subparagraph (A)”.

(b) **EFFECTIVE DATE.**—The amendments made by this section take effect on the date of enactment of this Act. 7 USC 2025 note.

SEC. 4120. BONUSES FOR STATES THAT DEMONSTRATE HIGH OR MOST IMPROVED PERFORMANCE.

(a) **IN GENERAL.**—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by striking subsection (d) and inserting the following:

“(d) **BONUSES FOR STATES THAT DEMONSTRATE HIGH OR MOST IMPROVED PERFORMANCE.**—

“(1) **FISCAL YEARS 2003 AND 2004.**—

Deadline.

“(A) GUIDANCE.—With respect to fiscal years 2003 and 2004, the Secretary shall establish, in guidance issued to State agencies not later than October 1, 2002—

“(i) performance criteria relating to—

“(I) actions taken to correct errors, reduce rates of error, and improve eligibility determinations; and

“(II) other indicators of effective administration determined by the Secretary; and

“(ii) standards for high and most improved performance to be used in awarding performance bonus payments under subparagraph (B)(ii).

“(B) PERFORMANCE BONUS PAYMENTS.—With respect to each of fiscal years 2003 and 2004, the Secretary shall—

“(i) measure the performance of each State agency with respect to the criteria established under subparagraph (A)(i); and

“(ii) subject to paragraph (3), award performance bonus payments in the following fiscal year, in a total amount of \$48,000,000 for each fiscal year, to State agencies that meet standards for high or most improved performance established by the Secretary under subparagraph (A)(ii).

“(2) FISCAL YEARS 2005 AND THEREAFTER.—

“(A) REGULATIONS.—With respect to fiscal year 2005 and each fiscal year thereafter, the Secretary shall—

“(i) establish, by regulation, performance criteria relating to—

“(I) actions taken to correct errors, reduce rates of error, and improve eligibility determinations; and

“(II) other indicators of effective administration determined by the Secretary;

“(ii) establish, by regulation, standards for high and most improved performance to be used in awarding performance bonus payments under subparagraph (B)(ii); and

“(iii) before issuing proposed regulations to carry out clauses (i) and (ii), solicit ideas for performance criteria and standards for high and most improved performance from State agencies and organizations that represent State interests.

“(B) PERFORMANCE BONUS PAYMENTS.—With respect to fiscal year 2005 and each fiscal year thereafter, the Secretary shall—

“(i) measure the performance of each State agency with respect to the criteria established under subparagraph (A)(i); and

“(ii) subject to paragraph (3), award performance bonus payments in the following fiscal year, in a total amount of \$48,000,000 for each fiscal year, to State agencies that meet standards for high or most improved performance established by the Secretary under subparagraph (A)(ii).

“(3) PROHIBITION ON RECEIPT OF PERFORMANCE BONUS PAYMENTS.—A State agency shall not be eligible for a performance bonus payment with respect to any fiscal year for which the

State agency has a liability amount established under subsection (c)(1)(C).

“(4) PAYMENTS NOT SUBJECT TO JUDICIAL REVIEW.—A determination by the Secretary whether, and in what amount, to award a performance bonus payment under this subsection shall not be subject to administrative or judicial review.”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act. 7 USC 2025 note.

SEC. 4121. EMPLOYMENT AND TRAINING PROGRAM.

(a) LEVELS OF FUNDING.—Section 16(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(1)) is amended—

(1) in subparagraph (A), by striking clause (vii) and inserting the following:

“(vii) for each of fiscal years 2002 through 2007, \$90,000,000.”;

(2) by striking subparagraph (B) and inserting the following:

“(B) ALLOCATION.—Funds made available under subparagraph (A) shall be made available to and reallocated among State agencies under a reasonable formula that—

“(i) is determined and adjusted by the Secretary; and

“(ii) takes into account the number of individuals who are not exempt from the work requirement under section 6(o).”; and

(3) by striking subparagraphs (E) through (G) and inserting the following:

“(E) ADDITIONAL ALLOCATIONS FOR STATES THAT ENSURE AVAILABILITY OF WORK OPPORTUNITIES.—

“(i) IN GENERAL.—In addition to the allocations under subparagraph (A), from funds made available under section 18(a)(1), the Secretary shall allocate not more than \$20,000,000 for each of fiscal years 2002 through 2007 to reimburse a State agency that is eligible under clause (ii) for the costs incurred in serving food stamp recipients who—

“(I) are not eligible for an exception under section 6(o)(3); and

“(II) are placed in and comply with a program described in subparagraph (B) or (C) of section 6(o)(2).

“(ii) ELIGIBILITY.—To be eligible for an additional allocation under clause (i), a State agency shall make and comply with a commitment to offer a position in a program described in subparagraph (B) or (C) of section 6(o)(2) to each applicant or recipient who—

“(I) is in the last month of the 3-month period described in section 6(o)(2);

“(II) is not eligible for an exception under section 6(o)(3);

“(III) is not eligible for a waiver under section 6(o)(4); and

“(IV) is not exempt under section 6(o)(6).”.

(b) CARRYOVER FUNDS.—Notwithstanding any other provision of law, funds provided under section 16(h)(1)(A) of the Food Stamp 7 USC 2025 note.

Act of 1977 (7 U.S.C. 2025(h)(1)(A)) for any fiscal year before fiscal year 2002 shall be rescinded on the date of enactment of this Act, unless obligated by a State agency before that date.

(c) PARTICIPANT EXPENSES.—Section 6(d)(4)(I)(i)(I) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)(I)(i)(I)) is amended by striking “, except that the State agency may limit such reimbursement to each participant to \$25 per month”.

(d) FEDERAL REIMBURSEMENT.—Section 16(h)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(h)(3)) is amended by striking “such total amount shall not exceed an amount representing \$25 per participant per month for costs of transportation and other actual costs (other than dependent care costs) and” and inserting “the amount of the reimbursement for dependent care expenses shall not exceed”.

7 USC 2015 note.

(e) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 4122. REAUTHORIZATION OF FOOD STAMP PROGRAM AND FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS.

(a) REDUCTIONS IN PAYMENTS FOR ADMINISTRATIVE COSTS.—Section 16(k)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2025(k)(3)) is amended—

(1) in the first sentence of subparagraph (A), by striking “2002” and inserting “2007”; and

(2) in subparagraph (B)(ii), by striking “2002” and inserting “2007”.

(b) CASH PAYMENT PILOT PROJECTS.—Section 17(b)(1)(B)(vi) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(B)(vi)) is amended by striking “2002” and inserting “2007”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended in the first sentence by striking “1996 through 2002” and inserting “2003 through 2007”.

SEC. 4123. EXPANDED GRANT AUTHORITY.

(a) IN GENERAL.—Section 17(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(a)(1)) is amended—

(1) by striking “, by way of making contracts with or grants to public or private organizations or agencies,” and inserting “enter into contracts with or make grants to public or private organizations or agencies under this section to”; and

(2) by adding at the end the following: “The waiver authority of the Secretary under subsection (b) shall extend to all contracts and grants under this section.”.

7 USC 2026 note.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 4124. CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.

(a) CONSOLIDATED FUNDING.—Section 19 of the Food Stamp Act of 1977 (7 U.S.C. 2028) is amended—

(1) by striking the section heading and “(a)(1)(A) From” and all that follows through “(2) The” and inserting the following:

“SEC. 19. CONSOLIDATED BLOCK GRANTS FOR PUERTO RICO AND AMERICAN SAMOA.

“(a) PAYMENTS TO GOVERNMENTAL ENTITIES.—

“(1) DEFINITION OF GOVERNMENTAL ENTITY.—In this subsection, the term ‘governmental entity’ means—

“(A) the Commonwealth of Puerto Rico; and

“(B) American Samoa.

“(2) BLOCK GRANTS.—

“(A) AMOUNT OF BLOCK GRANTS.—From the sums appropriated under this Act, the Secretary shall, subject to this section, pay to governmental entities to pay the expenditures for nutrition assistance programs for needy persons as described in subparagraphs (B) and (C)—

“(i) for fiscal year 2003, \$1,401,000,000; and

“(ii) for each of fiscal years 2004 through 2007, the amount specified in clause (i), as adjusted by the percentage by which the thrifty food plan has been adjusted under section 3(o)(4) between June 30, 2002, and June 30 of the immediately preceding fiscal year.

“(B) PAYMENTS TO COMMONWEALTH OF PUERTO RICO.—

“(i) IN GENERAL.—For fiscal year 2003 and each fiscal year thereafter, the Secretary shall use 99.6 percent of the funds made available under subparagraph (A) for payment to the Commonwealth of Puerto Rico to pay—

“(I) 100 percent of the expenditures by the Commonwealth for the fiscal year for the provision of nutrition assistance included in the plan of the Commonwealth approved under subsection (b); and

“(II) 50 percent of the related administrative expenses.

“(ii) EXCEPTION FOR EXPENDITURES FOR CERTAIN SYSTEMS.—Notwithstanding clause (i), the Commonwealth of Puerto Rico may spend in fiscal year 2002 or 2003 not more than \$6,000,000 of the amount required to be paid to the Commonwealth for fiscal year 2002 under this paragraph (as in effect on the day before the date of enactment of this clause) to pay 100 percent of the costs of—

“(I) upgrading and modernizing the electronic data processing system used to carry out nutrition assistance programs for needy persons;

“(II) implementing systems to simplify the determination of eligibility to receive the nutrition assistance; and

“(III) operating systems to deliver the nutrition assistance through electronic benefit transfers.

“(C) PAYMENTS TO AMERICAN SAMOA.—For fiscal year 2003 and each fiscal year thereafter, the Secretary shall use 0.4 percent of the funds made available under subparagraph (A) for payment to American Samoa to pay 100 percent of the expenditures by American Samoa for a nutrition assistance program extended under section 601(c) of Public Law 96-597 (48 U.S.C. 1469d(c)).

“(D) CARRYOVER OF FUNDS.—For fiscal year 2002 and each fiscal year thereafter, not more than 2 percent of the funds made available under this paragraph for the

fiscal year to each governmental entity may be carried over to the following fiscal year.

“(3) TIME AND MANNER OF PAYMENTS TO COMMONWEALTH OF PUERTO RICO.—The”;

(2) in subsection (b), by striking “subsection (a)(1)(A)” each place it appears and inserting “subsection (a)(2)(B)”; and

(3) in subsection (c), by striking “subsection (a)(1)(A)” each place it appears and inserting “subsection (a)(2)(A)”.

(b) CONFORMING AMENDMENT.—Section 24 of the Food Stamp Act of 1977 (7 U.S.C. 2033) is repealed.

7 USC 2028 note.

(c) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section apply beginning on October 1, 2002.

(2) EXCEPTIONS.—Subparagraphs (B)(ii) and (D) of section 19(a)(2) of the Food Stamp Act of 1977 (as amended by subsection (a)(1)) apply beginning on the date of enactment of this Act.

7 USC 2028 note.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 4125. ASSISTANCE FOR COMMUNITY FOOD PROJECTS.

(a) IN GENERAL.—Section 25 of the Food Stamp Act of 1977 (7 U.S.C. 2034) is amended—

(1) in subsection (a)—

(A) by striking “(1)” and inserting “(1)(A)”; and

(B) by redesignating paragraphs (2) and (3) as subparagraphs (B) and (C), respectively, of paragraph (1);

(C) in paragraph (1)(C) (as redesignated by subparagraph (B)), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(2) meet specific State, local, or neighborhood food and agricultural needs, including needs for—

“(A) infrastructure improvement and development;

“(B) planning for long-term solutions; or

“(C) the creation of innovative marketing activities that mutually benefit agricultural producers and low-income consumers.”;

(2) in subsection (b)(2)(B)—

(A) by striking “\$2,500,000” and inserting “\$5,000,000”;

and

(B) by striking “2002” and inserting “2007”;

(3) in subsection (d), by striking paragraph (4) and inserting the following:

“(4) encourage long-term planning activities, and multi-system, interagency approaches with multistakeholder collaborations, that build the long-term capacity of communities to address the food and agricultural problems of the communities, such as food policy councils and food planning associations.”; and

(4) by striking subsection (h) and inserting the following:

“(h) INNOVATIVE PROGRAMS FOR ADDRESSING COMMON COMMUNITY PROBLEMS.—

Contracts.

“(1) IN GENERAL.—The Secretary shall offer to enter into a contract with, or make a grant to, 1 nongovernmental organization that meets the requirements of paragraph (2) to

coordinate with Federal agencies, States, political subdivisions, and nongovernmental organizations (collectively referred to in this subsection as ‘targeted entities’) to gather information, and recommend to the targeted entities, innovative programs for addressing common community problems, including—

- “(A) loss of farms and ranches;
- “(B) rural poverty;
- “(C) welfare dependency;
- “(D) hunger;
- “(E) the need for job training; and
- “(F) the need for self-sufficiency by individuals and communities.

“(2) NONGOVERNMENTAL ORGANIZATION.—The nongovernmental organization referred to in paragraph (1) shall—

“(A) be selected by the Secretary on a competitive basis;

“(B) be experienced in working with other targeted entities and in organizing workshops that demonstrate programs to other targeted entities;

“(C) be experienced in identifying programs that effectively address community problems described in paragraph (1) that can be implemented by other targeted entities;

“(D) be experienced in, and capable of, receiving information from and communicating with other targeted entities throughout the United States;

“(E) be experienced in operating a national information clearinghouse that addresses 1 or more of the community problems described in paragraph (1); and

“(F) as a condition of entering into the contract or receiving the grant referred to in paragraph (1), agree—

“(i) to contribute in-kind resources toward implementation of the contract or grant;

“(ii) to provide to other targeted entities information and guidance on the innovative programs referred to in paragraph (1); and

“(iii) to operate a national information clearinghouse on innovative means for addressing community problems described in paragraph (1) that—

“(I) is easily usable by—

“(aa) Federal, State, and local government agencies;

“(bb) local community leaders;

“(cc) nongovernmental organizations; and

“(dd) the public; and

“(II) includes information on approved community food projects.

“(3) AUDITS; EFFECTIVE USE OF FUNDS.—The Secretary shall establish auditing procedures and otherwise ensure the effective use of funds made available to carry out this subsection.

“(4) FUNDING.—Not later than 90 days after the date of enactment of this paragraph, and on October 1 of each of fiscal years 2003 through 2007, the Secretary shall allocate to carry out this subsection \$200,000 of the funds made available under subsection (b), to remain available until expended.”.

Deadline.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act. 7 USC 2034 note.

SEC. 4126. AVAILABILITY OF COMMODITIES FOR THE EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 27(a) of the Food Stamp Act of 1977 (7 U.S.C. 2036(a)) is amended—

(1) by striking “1997 through 2002” and inserting “2002 through 2007”; and

(2) by striking “\$100,000,000” and inserting “\$140,000,000”.

7 USC 2036 note.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2001.

Subtitle B—Commodity Distribution**SEC. 4201. COMMODITY SUPPLEMENTAL FOOD PROGRAM.**

(a) COMMODITY DISTRIBUTION PROGRAM.—Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended in the first sentence by striking “2002” and inserting “2007”.

(b) COMMODITY SUPPLEMENTAL FOOD PROGRAM.—Section 5 of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) GRANTS PER ASSIGNED CASELOAD SLOT.—

“(1) IN GENERAL.—In carrying out the program under section 4 (referred to in this section as the ‘commodity supplemental food program’), for each of fiscal years 2003 through 2007, the Secretary shall provide to each State agency from funds made available to carry out that section (including any such funds remaining available from the preceding fiscal year), a grant per assigned caseload slot for administrative costs incurred by the State agency and local agencies in the State in operating the commodity supplemental food program.

“(2) AMOUNT OF GRANTS.—

“(A) FISCAL YEAR 2003.—For fiscal year 2003, the amount of each grant per assigned caseload slot shall be equal to the amount of the grant per assigned caseload slot for administrative costs in 2001, adjusted by the percentage change between—

“(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30, 2001; and

“(ii) the value of that index for the 12-month period ending June 30, 2002.

“(B) FISCAL YEARS 2004 THROUGH 2007.—For each of fiscal years 2004 through 2007, the amount of each grant per assigned caseload slot shall be equal to the amount of the grant per assigned caseload slot for the preceding fiscal year, adjusted by the percentage change between—

“(i) the value of the State and local government price index, as published by the Bureau of Economic Analysis of the Department of Commerce, for the 12-month period ending June 30 of the second preceding fiscal year; and

“(ii) the value of that index for the 12-month period ending June 30 of the preceding fiscal year.”;

(2) in subsection (d)(2), by striking “2002” each place it appears and inserting “2007”; and

(3) by striking subsection (l) and inserting the following:

“(l) USE OF APPROVED FOOD SAFETY TECHNOLOGY.—

“(1) IN GENERAL.—In acquiring commodities for distribution through a program specified in paragraph (2), the Secretary shall not prohibit the use of any technology to improve food safety that—

“(A) has been approved by the Secretary; or

“(B) has been approved or is otherwise allowed by the Secretary of Health and Human Services.

“(2) PROGRAMS.—A program referred to in paragraph (1) is a program authorized under—

“(A) this Act;

“(B) the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.);

“(C) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

“(D) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.); or

“(E) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.).”

(c) ADDITIONAL FUNDING FOR CERTAIN STATES.—

7 USC 612c note.

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available an amount equal to the amount that the Secretary of Agriculture determines to be necessary to permit each State that began administering the commodity supplemental food program under the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note; Public Law 93-86) in the 2000 caseload cycle to administer the program, through the 2002 caseload cycle, at a caseload level that is not less than the originally assigned caseload level of the State.

(2) PROVISION TO STATES.—The Secretary shall provide to each State described in paragraph (1) for the purpose described in that paragraph the funds made available under that paragraph.

(d) EFFECTIVE DATE.—The amendment made by subsection (b)(3) takes effect on the date of enactment of this Act. 7 USC 612c note.

SEC. 4202. COMMODITY DONATIONS.

(a) IN GENERAL.—The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note; Public Law 100-237) is amended—

(1) by redesignating sections 17 and 18 as sections 18 and 19, respectively; and

(2) by inserting after section 16 the following:

“SEC. 17. COMMODITY DONATIONS.

“(a) IN GENERAL.—Notwithstanding any other provision of law concerning commodity donations, any commodities acquired in the conduct of the operations of the Commodity Credit Corporation and any commodities acquired under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to the extent that the commodities are in excess of the quantities of commodities that are essential to carry out other authorized activities of the Commodity Credit Corporation and the Secretary (including any quantity specifically

reserved for a specific purpose), may be used for any program authorized to be carried out by the Secretary that involves the acquisition of commodities for use in a domestic feeding program, including any program conducted by the Secretary that provides commodities to individuals in cases of hardship.

“(b) PROGRAMS.—A program described in subsection (a) includes a program authorized by—

“(1) the Emergency Food Assistance Act of 1983 (7 U.S.C. 7501 et seq.);

“(2) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

“(3) the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.);

“(4) the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.); or

“(5) such other laws as the Secretary determines to be appropriate.”.

7 USC 612c note.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 4203. DISTRIBUTION OF SURPLUS COMMODITIES TO SPECIAL NUTRITION PROJECTS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended in the first sentence by striking “2002” and inserting “2007”.

SEC. 4204. EMERGENCY FOOD ASSISTANCE.

Section 204(a)(1) of the Emergency Food Assistance Act of 1983 (7 U.S.C. 7508(a)(1)) is amended in the first sentence—

(1) by striking “\$50,000,000” and inserting “\$60,000,000”;

(2) by striking “1991 through 2002” and inserting “2003 through 2007”;

(3) by striking “administrative”;

(4) by inserting “storage,” after “processing,”; and

(5) by inserting “, including commodities secured by gleaning (as defined in section 111(a) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note; Public Law 100–435))” after “sources”.

Subtitle C—Child Nutrition and Related Programs

SEC. 4301. COMMODITIES FOR SCHOOL LUNCH PROGRAM.

(a) IN GENERAL.—Section 6(e)(1)(B) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(e)(1)(B)) is amended by striking “2001” and inserting “2003”.

42 USC 1755
note.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

SEC. 4302. ELIGIBILITY FOR FREE AND REDUCED PRICE MEALS.

(a) IN GENERAL.—Section 9(b) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)) is amended by adding at the end the following:

“(7) EXCLUSION OF CERTAIN MILITARY HOUSING ALLOWANCES.—For each of fiscal years 2002 and 2003, the amount of a basic allowance provided under section 403 of title 37,

United States Code, on behalf of a member of a uniformed service for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law, shall not be considered to be income for the purpose of determining the eligibility of a child who is a member of the household of the member of a uniformed service for free or reduced price lunches under this Act.”.

(b) **EFFECTIVE DATE.**—The amendment made by this section takes effect on the date of enactment of this Act. 42 USC 1758 note.

SEC. 4303. PURCHASES OF LOCALLY PRODUCED FOODS.

Section 9 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end the following:

“(j) **PURCHASES OF LOCALLY PRODUCED FOODS.**—

“(1) **IN GENERAL.**—The Secretary shall—

“(A) encourage institutions participating in the school lunch program under this Act and the school breakfast program established by section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) to purchase, in addition to other food purchases, locally produced foods for school meal programs, to the maximum extent practicable and appropriate;

“(B) advise institutions participating in a program described in subparagraph (A) of the policy described in that subparagraph and post information concerning the policy on the website maintained by the Secretary; and

“(C) in accordance with requirements established by the Secretary, provide startup grants to not more than 200 institutions to defray the initial costs of equipment, materials, and storage facilities, and similar costs, incurred in carrying out the policy described in subparagraph (A).

“(2) **AUTHORIZATION OF APPROPRIATIONS.**—

“(A) **IN GENERAL.**—There is authorized to be appropriated to carry out this subsection \$400,000 for each of fiscal years 2003 through 2007, to remain available until expended.

“(B) **LIMITATION.**—No amounts may be made available to carry out this subsection unless specifically provided by an appropriation Act.”.

SEC. 4304. APPLICABILITY OF BUY-AMERICAN REQUIREMENT TO PUERTO RICO.

Section 12(n) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1760(n)) is amended by adding at the end the following:

“(4) **APPLICABILITY TO PUERTO RICO.**—Paragraph (2)(A) shall apply to a school food authority in the Commonwealth of Puerto Rico with respect to domestic commodities or products that are produced in the Commonwealth of Puerto Rico in sufficient quantities to meet the needs of meals provided under the school lunch program under this Act or the school breakfast program under section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773).”.

SEC. 4305. FRUIT AND VEGETABLE PILOT PROGRAM.

(a) IN GENERAL.—Section 18 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1769) is amended by adding at the end the following:

“(g) FRUIT AND VEGETABLE PILOT PROGRAM.—

“(1) IN GENERAL.—In the school year beginning July 2002, the Secretary shall carry out a pilot program to make available to students in 25 elementary or secondary schools in each of 4 States, and in elementary or secondary schools on 1 Indian reservation, free fresh and dried fruits and fresh vegetables throughout the school day in 1 or more areas designated by the school.

“(2) PUBLICITY.—A school that participates in the pilot program shall widely publicize within the school the availability of free fruits and vegetables under the pilot program.

“(3) REPORT.—Not later than May 1, 2003, the Secretary, acting through the Administrator of the Economic Research Service, shall report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the results of the pilot program.

“(4) FUNDING.—The Secretary shall use not more than \$6,000,000 of funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out this subsection (other than paragraph (3)).”.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect on the date of enactment of this Act.

Deadline.

42 USC 1769
note.

SEC. 4306. ELIGIBILITY FOR ASSISTANCE UNDER THE SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

(a) IN GENERAL.—Section 17(d)(2)(B)(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(d)(2)(B)(i)) is amended—

(1) by striking “basic allowance for housing” and inserting the following: “basic allowance—

“(I) for housing”;

(2) by striking “and” at the end and inserting “or”; and

(3) by adding at the end the following:

“(II) provided under section 403 of title 37, United States Code, for housing that is acquired or constructed under subchapter IV of chapter 169 of title 10, United States Code, or any related provision of law; and”.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

42 USC 1786
note.

SEC. 4307. WIC FARMERS' MARKET NUTRITION PROGRAM.

(a) IN GENERAL.—Section 17(m)(9) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(m)(9)) is amended—

(1) by striking “(9)(A) There” and inserting the following:

“(9) FUNDING.—

“(A) IN GENERAL.—

“(i) AUTHORIZATION OF APPROPRIATIONS.—There”;

and

(2) in subparagraph (A), by adding at the end the following:

“(ii) MANDATORY FUNDING.—Not later than 30 days after the date of enactment of the Food Stamp

Deadline.

Reauthorization Act of 2002, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection \$15,000,000, to remain available until expended.”.

(b) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act. 42 USC 1786 note.

Subtitle D—Miscellaneous

SEC. 4401. PARTIAL RESTORATION OF BENEFITS TO LEGAL IMMIGRANTS.

(a) RESTORATION OF BENEFITS TO DISABLED ALIENS.—Section 402(a)(2)(F) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(F)) is amended by striking “(i) was” and all that follows through “(II) in the case” and inserting the following:

“(i) in the case of the specified Federal program described in paragraph (3)(A)—

“(I) was lawfully residing in the United States on August 22, 1996; and

“(II) is blind or disabled (as defined in paragraph (2) or (3) of section 1614(a) of the Social Security Act (42 U.S.C. 1382c(a))); and

“(ii) in the case”.

(b) RESTORATION OF BENEFITS TO ALL QUALIFIED ALIEN CHILDREN.—

(1) IN GENERAL.—Section 402(a)(2)(J) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)(J)) is amended by striking “who” and all that follows through “is under” and inserting “who is under”.

(2) CONFORMING AMENDMENTS.—

(A) Section 403(c)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1613(c)(2)) is amended by adding at the end the following:

“(L) Assistance or benefits provided to individuals under the age of 18 under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).”.

(B) Section 421(d) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1631(d)) is amended by adding at the end the following:

“(3) This section shall not apply to assistance or benefits under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) to the extent that a qualified alien is eligible under section 402(a)(2)(J).”.

Applicability.

(C) Section 5(i)(2)(E) of the Food Stamp Act of 1977 (7 U.S.C. 2014(i)(2)(E)) is amended by inserting before the period at the end the following: “, or to any alien who is under 18 years of age”.

(3) EFFECTIVE DATE.—The amendments made by this subsection take effect on October 1, 2003.

7 USC 2014 note.

(c) FOOD STAMP EXCEPTION FOR CERTAIN QUALIFIED ALIENS.—

(1) IN GENERAL.—Section 402(a)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1612(a)(2)) is amended by adding at the end the following:

“(L) FOOD STAMP EXCEPTION FOR CERTAIN QUALIFIED ALIENS.—With respect to eligibility for benefits for the specified Federal program described in paragraph (3)(B), paragraph (1) shall not apply to any qualified alien who has resided in the United States with a status within the meaning of the term ‘qualified alien’ for a period of 5 years or more beginning on the date of the alien’s entry into the United States.”.

8 USC 1612 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect on April 1, 2003.

7 USC 3007.

SEC. 4402. SENIORS FARMERS’ MARKET NUTRITION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall use \$5,000,000 for fiscal year 2002, and \$15,000,000 for each of fiscal years 2003 through 2007, of the funds available to the Commodity Credit Corporation to carry out and expand a seniors farmers’ market nutrition program.

(b) PROGRAM PURPOSES.—The purposes of the seniors farmers’ market nutrition program are—

(1) to provide resources in the form of fresh, nutritious, unprepared, locally grown fruits, vegetables, and herbs from farmers’ markets, roadside stands, and community supported agriculture programs to low-income seniors;

(2) to increase the domestic consumption of agricultural commodities by expanding or aiding in the expansion of domestic farmers’ markets, roadside stands, and community supported agriculture programs; and

(3) to develop or aid in the development of new and additional farmers’ markets, roadside stands, and community supported agriculture programs.

(c) REGULATIONS.—The Secretary may issue such regulations as the Secretary considers necessary to carry out the seniors farmers’ market nutrition program.

7 USC 3171 note.

SEC. 4403. NUTRITION INFORMATION AND AWARENESS PILOT PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture may establish, in not more than 5 States, for a period not to exceed 4 years for each participating State, a pilot program to increase the domestic consumption of fresh fruits and vegetables.

(b) PURPOSE.—

(1) IN GENERAL.—Subject to paragraph (2), the purpose of the program shall be to provide funds to States solely for the purpose of assisting eligible public and private sector entities with cost-share assistance to carry out demonstration projects—

(A) to increase fruit and vegetable consumption; and

(B) to convey related health promotion messages.

(2) LIMITATION.—Funds made available to a State under the program shall not be used to disparage any agricultural commodity.

(c) SELECTION OF STATES.—

(1) IN GENERAL.—In selecting States to participate in the program, the Secretary shall take into consideration, with respect to projects and activities proposed to be carried out under the program—

(A) experience in carrying out similar projects or activities;

(B) innovative approaches; and

(C) the ability of the State to promote and track increases in levels of fruit and vegetable consumption.

(2) ENHANCEMENT OF EXISTING STATE PROGRAMS.—The Secretary may use the pilot program to enhance existing State programs that are consistent with the purpose of the pilot program specified in subsection (b).

(d) ELIGIBLE PUBLIC AND PRIVATE SECTOR ENTITIES.—

(1) IN GENERAL.—A participating State shall establish eligibility criteria under which the State may select public and private sector entities to carry out demonstration projects under the program.

(2) LIMITATION.—No funds made available to States under the program shall be provided by a State to any foreign for-profit corporation.

(e) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds provided under this section shall be 50 percent.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2002 through 2007.

SEC. 4404. HUNGER FELLOWSHIP PROGRAM.

(a) SHORT TITLE; FINDINGS.—

(1) SHORT TITLE.—This section may be cited as the “Congressional Hunger Fellows Act of 2002”.

(2) FINDINGS.—The Congress finds as follows:

(A) There is a critical need for compassionate individuals who are committed to assisting people who suffer from hunger as well as a need for such individuals to initiate and administer solutions to the hunger problem.

(B) Bill Emerson, the distinguished late Representative from the 8th District of Missouri, demonstrated his commitment to solving the problem of hunger in a bipartisan manner, his commitment to public service, and his great affection for the institution and the ideals of the United States Congress.

(C) George T. (Mickey) Leland, the distinguished late Representative from the 18th District of Texas, demonstrated his compassion for those in need, his high regard for public service, and his lively exercise of political talents.

(D) The special concern that Mr. Emerson and Mr. Leland demonstrated during their lives for the hungry and poor was an inspiration for others to work toward the goals of equality and justice for all.

(E) These two outstanding leaders maintained a special bond of friendship regardless of political affiliation and worked together to encourage future leaders to recognize and provide service to others, and therefore it is especially appropriate to honor the memory of Mr. Emerson and Mr. Leland by creating a fellowship program to develop and train the future leaders of the United States to pursue careers in humanitarian service.

(b) ESTABLISHMENT.—There is established as an independent entity of the legislative branch of the United States Government the Congressional Hunger Fellows Program (hereinafter in this section referred to as the “Program”).

Congressional
Hunger Fellows
Act of 2002.
2 USC 1161.

(c) BOARD OF TRUSTEES.—

(1) IN GENERAL.—The Program shall be subject to the supervision and direction of a Board of Trustees.

(2) MEMBERS OF THE BOARD OF TRUSTEES.—

(A) APPOINTMENT.—The Board shall be composed of 6 voting members appointed under clause (i) and one nonvoting ex officio member designated in clause (ii) as follows:

(i) VOTING MEMBERS.—(I) The Speaker of the House of Representatives shall appoint two members.

(II) The minority leader of the House of Representatives shall appoint one member.

(III) The majority leader of the Senate shall appoint two members.

(IV) The minority leader of the Senate shall appoint one member.

(ii) NONVOTING MEMBER.—The Executive Director of the program shall serve as a nonvoting ex officio member of the Board.

(B) TERMS.—Members of the Board shall serve a term of 4 years.

(C) VACANCY.—

(i) AUTHORITY OF BOARD.—A vacancy in the membership of the Board does not affect the power of the remaining members to carry out this section.

(ii) APPOINTMENT OF SUCCESSORS.—A vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

(iii) INCOMPLETE TERM.—If a member of the Board does not serve the full term applicable to the member, the individual appointed to fill the resulting vacancy shall be appointed for the remainder of the term of the predecessor of the individual.

(D) CHAIRPERSON.—As the first order of business of the first meeting of the Board, the members shall elect a Chairperson.

(E) COMPENSATION.—

(i) IN GENERAL.—Subject to clause (ii), members of the Board may not receive compensation for service on the Board.

(ii) TRAVEL.—Members of the Board may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the program.

(3) DUTIES.—

(A) BYLAWS.—

(i) ESTABLISHMENT.—The Board shall establish such bylaws and other regulations as may be appropriate to enable the Board to carry out this section, including the duties described in this paragraph.

(ii) CONTENTS.—Such bylaws and other regulations shall include provisions—

(I) for appropriate fiscal control, funds accountability, and operating principles;

(II) to prevent any conflict of interest, or the appearance of any conflict of interest, in the procurement and employment actions taken by the

Board or by any officer or employee of the Board and in the selection and placement of individuals in the fellowships developed under the program;

(III) for the resolution of a tie vote of the members of the Board; and

(IV) for authorization of travel for members of the Board.

(iii) TRANSMITTAL TO CONGRESS.—Not later than 90 days after the date of the first meeting of the Board, the Chairperson of the Board shall transmit to the appropriate congressional committees a copy of such bylaws.

(B) BUDGET.—For each fiscal year the program is in operation, the Board shall determine a budget for the program for that fiscal year. All spending by the program shall be pursuant to such budget unless a change is approved by the Board.

(C) PROCESS FOR SELECTION AND PLACEMENT OF FELLOWS.—The Board shall review and approve the process established by the Executive Director for the selection and placement of individuals in the fellowships developed under the program.

(D) ALLOCATION OF FUNDS TO FELLOWSHIPS.—The Board of Trustees shall determine the priority of the programs to be carried out under this section and the amount of funds to be allocated for the Emerson and Leland fellowships.

(d) PURPOSES; AUTHORITY OF PROGRAM.—

(1) PURPOSES.—The purposes of the program are—

(A) to encourage future leaders of the United States to pursue careers in humanitarian service, to recognize the needs of people who are hungry and poor, and to provide assistance and compassion for those in need;

(B) to increase awareness of the importance of public service; and

(C) to provide training and development opportunities for such leaders through placement in programs operated by appropriate organizations or entities.

(2) AUTHORITY.—The program is authorized to develop such fellowships to carry out the purposes of this section, including the fellowships described in paragraph (3).

(3) FELLOWSHIPS.—

(A) IN GENERAL.—The program shall establish and carry out the Bill Emerson Hunger Fellowship and the Mickey Leland Hunger Fellowship.

(B) CURRICULUM.—

(i) IN GENERAL.—The fellowships established under subparagraph (A) shall provide experience and training to develop the skills and understanding necessary to improve the humanitarian conditions and the lives of individuals who suffer from hunger, including—

(I) training in direct service to the hungry in conjunction with community-based organizations through a program of field placement; and

(II) experience in policy development through placement in a governmental entity or nonprofit organization.

(ii) FOCUS OF BILL EMERSON HUNGER FELLOWSHIP.—The Bill Emerson Hunger Fellowship shall address hunger and other humanitarian needs in the United States.

(iii) FOCUS OF MICKEY LELAND HUNGER FELLOWSHIP.—The Mickey Leland Hunger Fellowship shall address international hunger and other humanitarian needs.

(iv) WORKPLAN.—To carry out clause (i) and to assist in the evaluation of the fellowships under paragraph (4), the program shall, for each fellow, approve a work plan that identifies the target objectives for the fellow in the fellowship, including specific duties and responsibilities related to those objectives.

(C) PERIOD OF FELLOWSHIP.—

(i) EMERSON FELLOW.—A Bill Emerson Hunger Fellowship awarded under this paragraph shall be for no more than 1 year.

(ii) LELAND FELLOW.—A Mickey Leland Hunger Fellowship awarded under this paragraph shall be for no more than 2 years. Not less than 1 year of the fellowship shall be dedicated to fulfilling the requirement of subparagraph (B)(i)(I).

(D) SELECTION OF FELLOWS.—

(i) IN GENERAL.—A fellowship shall be awarded pursuant to a nationwide competition established by the program.

(ii) QUALIFICATION.—A successful applicant shall be an individual who has demonstrated—

(I) an intent to pursue a career in humanitarian service and outstanding potential for such a career;

(II) leadership potential or actual leadership experience;

(III) diverse life experience;

(IV) proficient writing and speaking skills;

(V) an ability to live in poor or diverse communities; and

(VI) such other attributes as determined to be appropriate by the Board.

(iii) AMOUNT OF AWARD.—

(I) IN GENERAL.—Each individual awarded a fellowship under this paragraph shall receive a living allowance and, subject to subclause (II), an end-of-service award as determined by the program.

(II) REQUIREMENT FOR SUCCESSFUL COMPLETION OF FELLOWSHIP.—Each individual awarded a fellowship under this paragraph shall be entitled to receive an end-of-service award at an appropriate rate for each month of satisfactory service as determined by the Executive Director.

(iv) RECOGNITION OF FELLOWSHIP AWARD.—

(I) EMERSON FELLOW.—An individual awarded a fellowship from the Bill Emerson Hunger Fellowship shall be known as an “Emerson Fellow”.

(II) LELAND FELLOW.—An individual awarded a fellowship from the Mickey Leland Hunger Fellowship shall be known as a “Leland Fellow”.

(4) EVALUATION.—The program shall conduct periodic evaluations of the Bill Emerson and Mickey Leland Hunger Fellowships. Such evaluations shall include the following:

(A) An assessment of the successful completion of the work plan of the fellow.

(B) An assessment of the impact of the fellowship on the fellows.

(C) An assessment of the accomplishment of the purposes of the program.

(D) An assessment of the impact of the fellow on the community.

(e) TRUST FUND.—

(1) ESTABLISHMENT.—There is established the Congressional Hunger Fellows Trust Fund (hereinafter in this section referred to as the “Fund”) in the Treasury of the United States, consisting of amounts appropriated to the Fund under subsection (i), amounts credited to it under paragraph (3), and amounts received under subsection (g)(3)(A).

(2) INVESTMENT OF FUNDS.—The Secretary of the Treasury shall invest the full amount of the Fund. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Secretary in consultation with the Board, has a maturity suitable for the Fund.

(3) RETURN ON INVESTMENT.—Except as provided in subsection (f)(2), the Secretary of the Treasury shall credit to the Fund the interest on, and the proceeds from the sale or redemption of, obligations held in the Fund.

(f) EXPENDITURES; AUDITS.—

(1) IN GENERAL.—The Secretary of the Treasury shall transfer to the program from the amounts described in subsection (e)(3) and subsection (g)(3)(A) such sums as the Board determines are necessary to enable the program to carry out the provisions of this section.

(2) LIMITATION.—The Secretary may not transfer to the program the amounts appropriated to the Fund under subsection (i).

(3) USE OF FUNDS.—Funds transferred to the program under paragraph (1) shall be used for the following purposes:

(A) STIPENDS FOR FELLOWS.—To provide for a living allowance for the fellows.

(B) TRAVEL OF FELLOWS.—To defray the costs of transportation of the fellows to the fellowship placement sites.

(C) INSURANCE.—To defray the costs of appropriate insurance of the fellows, the program, and the Board.

(D) TRAINING OF FELLOWS.—To defray the costs of preservice and midservice education and training of fellows.

(E) SUPPORT STAFF.—Staff described in subsection (g).

(F) AWARDS.—End-of-service awards under subsection (d)(3)(D)(iii)(II).

(G) ADDITIONAL APPROVED USES.—For such other purposes that the Board determines appropriate to carry out the program.

(4) AUDIT BY GAO.—

(A) IN GENERAL.—The Comptroller General of the United States shall conduct an annual audit of the accounts of the program.

(B) BOOKS.—The program shall make available to the Comptroller General all books, accounts, financial records (including records of salaries of the Executive Director and other personnel), reports, files, and all other papers, things, or property belonging to or in use by the program and necessary to facilitate such audit.

(C) REPORT TO CONGRESS.—The Comptroller General shall submit a copy of the results of each such audit to the appropriate congressional committees.

(g) STAFF; POWERS OF PROGRAM.—

(1) EXECUTIVE DIRECTOR.—

(A) IN GENERAL.—The Board shall appoint an Executive Director of the program who shall administer the program. The Executive Director shall carry out such other functions consistent with the provisions of this section as the Board shall prescribe.

(B) RESTRICTION.—The Executive Director may not serve as Chairperson of the Board.

(C) COMPENSATION.—The Executive Director shall be paid at a rate not to exceed the rate of basic pay payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) STAFF.—

(A) IN GENERAL.—With the approval of a majority of the Board, the Executive Director may appoint and fix the pay of additional personnel as the Executive Director considers necessary and appropriate to carry out the functions of the provisions of this section.

(B) COMPENSATION.—An individual appointed under subparagraph (A) shall be paid at a rate not to exceed the rate of basic pay payable for level GS-15 of the General Schedule.

(3) POWERS.—In order to carry out the provisions of this section, the program may perform the following functions:

(A) GIFTS.—The program may solicit, accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the program. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Fund and shall be available for disbursement upon order of the Board.

(B) EXPERTS AND CONSULTANTS.—The program may procure temporary and intermittent services under section 3109 of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-15 of the General Schedule.

(C) CONTRACT AUTHORITY.—The program may contract, with the approval of a majority of the members of the

Board, with and compensate Government and private agencies or persons without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

(D) OTHER NECESSARY EXPENDITURES.—The program shall make such other expenditures which the program considers necessary to carry out the provisions of this section, but excluding project development.

(h) REPORT.—Not later than December 31 of each year, the Board shall submit to the appropriate congressional committees a report on the activities of the program carried out during the previous fiscal year, and shall include the following: Deadline.

(1) An analysis of the evaluations conducted under subsection (d)(4) (relating to evaluations of the Emerson and Leland fellowships and accomplishment of the program purposes) during that fiscal year.

(2) A statement of the total amount of funds attributable to gifts received by the program in that fiscal year (as authorized under subsection (g)(3)(A)), and the total amount of such funds that were expended to carry out the program that fiscal year.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$18,000,000 to carry out the provisions of this section.

(j) DEFINITION.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Agriculture and the Committee on International Relations of the House of Representatives; and

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Foreign Relations of the Senate.

SEC. 4405. GENERAL EFFECTIVE DATE.

2 USC 1161 note.

Except as otherwise provided in this title, the amendments made by this title take effect on October 1, 2002.

TITLE V—CREDIT

Subtitle A—Farm Ownership Loans

SEC. 5001. DIRECT LOANS.

Section 302(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922(b)(1)) is amended by striking “operated” and inserting “participated in the business operations of”.

SEC. 5002. FINANCING OF BRIDGE LOANS.

Section 303(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1923(a)(1)) is amended—

(1) in subparagraph (C), by striking “or” at the end;

(2) in subparagraph (D), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(E) refinancing a temporary bridge loan made by a commercial or cooperative lender to a farmer or rancher for the acquisition of land for a farm or ranch, if—

“(i) the Secretary approved an application for a direct farm ownership loan to the farmer or rancher for acquisition of the land; and

“(ii) funds for direct farm ownership loans under section 346(b) were not available at the time at which the application was approved.”.

SEC. 5003. AMOUNT OF GUARANTEE OF LOANS FOR FARM OPERATIONS ON TRIBAL LANDS.

Section 309(h) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929(h)) is amended—

(1) in paragraph (4), by striking “paragraphs (5) and (6)” and inserting “paragraphs (5), (6), and (7)”; and

(2) by adding at the end the following:

“(7) AMOUNT OF GUARANTEE OF LOANS FOR FARM OPERATIONS ON TRIBAL LANDS.—In the case of an operating loan made to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction of an Indian tribe, the Secretary shall guarantee 95 percent of the loan.”.

SEC. 5004. GUARANTEE OF LOANS MADE UNDER STATE BEGINNING FARMER OR RANCHER PROGRAMS.

Section 309 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1929) is amended by adding at the end the following:

“(j) GUARANTEE OF LOANS MADE UNDER STATE BEGINNING FARMER OR RANCHER PROGRAMS.—The Secretary may guarantee under this title a loan made under a State beginning farmer or rancher program, including a loan financed by the net proceeds of a qualified small issue agricultural bond for land or property described in section 144(a)(12)(B)(ii) of the Internal Revenue Code of 1986.”.

SEC. 5005. DOWN PAYMENT LOAN PROGRAM.

Section 310E of the Consolidated Farm and Rural Development Act (7 U.S.C. 1935) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “30 percent” and inserting “40 percent”; and

(B) in paragraph (3), by striking “10 years” and inserting “15 years”; and

(2) in subsection (c)(3)(B), by striking “10-year” and inserting “15-year”.

SEC. 5006. BEGINNING FARMER AND RANCHER CONTRACT LAND SALES PROGRAM.

Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922 et seq.) is amended by adding at the end the following:

7 USC 1936.

“SEC. 310F. BEGINNING FARMER AND RANCHER CONTRACT LAND SALES PROGRAM.

“(a) IN GENERAL.—If the Secretary makes a determination that the risk is comparable under subsection (b), the Secretary shall carry out a pilot program in not fewer than 5 States, as determined by the Secretary, to guarantee up to 5 loans per State in each of fiscal years 2003 through 2007 made by a private seller of a farm or ranch to a qualified beginning farmer or rancher on a contract land sale basis, if the loan meets applicable underwriting

criteria and a commercial lending institution agrees to serve as escrow agent.

“(b) **DATE OF COMMENCEMENT OF PROGRAM.**—Not later than October 1, 2002, the Secretary shall make a determination on whether guarantees of contract land sales present a risk that is comparable with the risk presented in the case of guarantees to commercial lenders.”

Deadline.

Subtitle B—Operating Loans

SEC. 5101. DIRECT LOANS.

Section 311(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1941(c)) is amended—

(1) in paragraph (1)—

(A) in the matter that precedes subparagraph (A), by striking “paragraph (3)” and inserting “paragraphs (3) and (4)”; and

(B) in subparagraph (A), by striking “who has not” and all that follows through “5 years”; and

(2) by adding at the end the following:

“(4) **WAIVERS.**—

“(A) **FARM AND RANCH OPERATIONS ON TRIBAL LANDS.**—The Secretary shall waive the limitation under paragraph (1)(C) or (3) for a direct loan made under this subtitle to a farmer or rancher whose farm or ranch land is subject to the jurisdiction of an Indian tribe and whose loan is secured by 1 or more security instruments that are subject to the jurisdiction of an Indian tribe if the Secretary determines that commercial credit is not generally available for such farm or ranch operations.

“(B) **OTHER FARM AND RANCH OPERATIONS.**—On a case-by-case determination not subject to administrative appeal, the Secretary may grant a borrower a waiver, 1 time only for a period of 2 years, of the limitation under paragraph (1)(C) or (3) for a direct operating loan if the borrower demonstrates to the satisfaction of the Secretary that—

“(i) the borrower has a viable farm or ranch operation;

“(ii) the borrower applied for commercial credit from at least 2 commercial lenders;

“(iii) the borrower was unable to obtain a commercial loan (including a loan guaranteed by the Secretary); and

“(iv) the borrower successfully has completed, or will complete within 1 year, borrower training under section 359 (from which requirement the Secretary shall not grant a waiver under section 359(f)).”

SEC. 5102. SUSPENSION OF LIMITATION ON PERIOD FOR WHICH BORROWERS ARE ELIGIBLE FOR GUARANTEED ASSISTANCE.

During the period beginning January 1, 2002, and ending December 31, 2006, section 319(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1949(b)) shall have no force or effect.

7 USC 1949 note.

Effective date.
Termination
date.

Subtitle C—Emergency Loans

SEC. 5201. EMERGENCY LOANS IN RESPONSE TO AN EMERGENCY RESULTING FROM QUARANTINES.

(a) LOAN AUTHORITY.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in each of the 1st and 3rd sentences, by striking “a natural disaster in the United States or by” and inserting “a quarantine imposed by the Secretary under the Plant Protection Act or the animal quarantine laws (as defined in section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990), a natural disaster in the United States, or”; and

(2) in the 4th sentence—

(A) by striking “a natural disaster” and inserting “such a quarantine or natural disaster”; and

(B) by striking “by such natural disaster” and inserting “by such quarantine or natural disaster”.

(b) CONFORMING AMENDMENT.—Section 323 of such Act (7 U.S.C. 1963) is amended by inserting “quarantine,” before “natural disaster”.

Subtitle D—Administrative Provisions

7 USC 1922 note. SEC. 5301. EVALUATIONS OF DIRECT AND GUARANTEED LOAN PROGRAMS.

(a) STUDIES.—The Secretary of Agriculture shall conduct 2 studies of the direct and guaranteed loan programs under sections 302 and 311 of the Consolidated Farm and Rural Development Act, each of which shall include an examination of the number, average principal amount, and delinquency and default rates of loans provided or guaranteed during the period covered by the study.

(b) PERIODS COVERED.—

(1) FIRST STUDY.—One study under subsection (a) shall cover the 1-year period that begins 1 year after the date of the enactment of this section.

(2) SECOND STUDY.—One study under subsection (a) shall cover the 1-year period that begins 3 years after such date of enactment.

(c) REPORTS TO THE CONGRESS.—At the end of the period covered by each study under this section, the Secretary of Agriculture shall submit to the Congress a report that contains an evaluation of the results of the study, including an analysis of the effectiveness of loan programs referred to in subsection (a) in meeting the credit needs of agricultural producers in an efficient and fiscally responsible manner.

SEC. 5302. ELIGIBILITY OF TRUSTS AND LIMITED LIABILITY COMPANIES FOR FARM OWNERSHIP LOANS, FARM OPERATING LOANS, AND EMERGENCY LOANS.

(a) IN GENERAL.—Sections 302(a), 311(a), and 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1922(a), 1941(a), and 1961(a)) are each amended by striking “and joint operations” each place it appears and inserting “joint operations, trusts, and limited liability companies”.

(b) CONFORMING AMENDMENT.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking “or joint operations” each place it appears and inserting “joint operations, trusts, or limited liability companies”.

SEC. 5303. DEBT SETTLEMENT.

Section 331(b)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)(4)) is amended—

(1) by striking “The Secretary may release” and inserting “After consultation with a local or area county committee, the Secretary may release”; and

(2) by striking “carried out—” and all that follows through “(B) after” and inserting “carried out after”.

SEC. 5304. TEMPORARY AUTHORITY TO ENTER INTO CONTRACTS; PRIVATE COLLECTION AGENCIES.

(a) IN GENERAL.—Section 331 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981) is amended by striking subsections (d) and (e).

(b) APPLICATION.—The amendment made by subsection (a) shall not apply to a contract entered into before the effective date of this Act.

7 USC 1981 note.

SEC. 5305. INTEREST RATE OPTIONS FOR LOANS IN SERVICING.

Section 331B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981b) is amended—

(1) by striking “lower of (1) the” and inserting the following: “lowest of—

“(1) the”; and

(2) by striking “original loan or (2) the” and inserting the following: “original loan;

“(2) the rate being charged by the Secretary for loans, other than guaranteed loans, of the same type at the time at which the borrower applies for a deferral, consolidation, rescheduling, or reamortization; or

“(3) the”.

SEC. 5306. ELIMINATION OF REQUIREMENT THAT SECRETARY REQUIRE COUNTY COMMITTEES TO CERTIFY IN WRITING THAT CERTAIN LOAN REVIEWS HAVE BEEN CONDUCTED.

Section 333(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983(2)) is amended to read as follows:

“(2) except with respect to a loan under section 306, 310B, or 314—

“(A) an annual review of the credit history and business operation of the borrower; and

“(B) an annual review of the continued eligibility of the borrower for the loan;”.

SEC. 5307. SIMPLIFIED LOAN GUARANTEE APPLICATION AVAILABLE FOR LOANS OF GREATER AMOUNTS.

Section 333A(g)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a(g)(1)) is amended by striking “\$50,000” and inserting “\$125,000”.

SEC. 5308. INVENTORY PROPERTY.

Section 335(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B)—

(i) in clause (i), by striking “75 days” and inserting “135 days”; and

(ii) by adding at the end the following:

“(iv) COMBINING AND DIVIDING OF PROPERTY.—To the maximum extent practicable, the Secretary shall maximize the opportunity for beginning farmers and ranchers to purchase real property acquired by the Secretary under this title by combining or dividing inventory parcels of the property in such manner as the Secretary determines to be appropriate.”; and

(B) in subparagraph (C)—

(i) by striking “75 days” and inserting “135 days”; and

(ii) by striking “75-day period” and inserting “135-day period”; and

(2) by striking paragraph (2) and inserting the following:

“(2) PREVIOUS LEASE.—In the case of real property acquired before April 4, 1996, that the Secretary leased before April 4, 1996, not later than 60 days after the lease expires, the Secretary shall offer to sell the property in accordance with paragraph (1).”.

Deadline.

SEC. 5309. ADMINISTRATION OF CERTIFIED LENDERS AND PREFERRED CERTIFIED LENDERS PROGRAMS.

Section 339 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1989) is amended by adding at the end the following:

“(e) ADMINISTRATION OF CERTIFIED LENDERS AND PREFERRED CERTIFIED LENDERS PROGRAMS.—The Secretary may administer the loan guarantee programs under subsections (c) and (d) through central offices established in States or in multi-State areas.”.

SEC. 5310. DEFINITIONS.

(a) QUALIFIED BEGINNING FARMER OR RANCHER.—Section 343(a)(11)(F) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(11)(F)) is amended by striking “25 percent” and inserting “30 percent”.

(b) DEBT FORGIVENESS.—Section 343(a)(12)(B) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(12)(B)) is amended to read as follows:

“(B) EXCEPTIONS.—The term ‘debt forgiveness’ does not include—

“(i) consolidation, rescheduling, reamortization, or deferral of a loan; or

“(ii) any write-down provided as part of a resolution of a discrimination complaint against the Secretary.”.

SEC. 5311. LOAN AUTHORIZATION LEVELS.

Section 346(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(1)) is amended to read as follows:

“(1) IN GENERAL.—The Secretary may make or guarantee loans under subtitles A and B from the Agricultural Credit Insurance Fund provided for in section 309 for not more than \$3,796,000,000 for each of fiscal years 2003 through 2007, of which, for each fiscal year—

“(A) \$770,000,000 shall be for direct loans, of which—

“(i) \$205,000,000 shall be for farm ownership loans under subtitle A; and

“(ii) \$565,000,000 shall be for operating loans under subtitle B; and

“(B) \$3,026,000,000 shall be for guaranteed loans, of which—

“(i) \$1,000,000,000 shall be for guarantees of farm ownership loans under subtitle A; and

“(ii) \$2,026,000,000 shall be for guarantees of operating loans under subtitle B.”.

SEC. 5312. RESERVATION OF FUNDS FOR DIRECT OPERATING LOANS FOR BEGINNING FARMERS AND RANCHERS.

Section 346(b)(2)(A)(ii)(III) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994(b)(2)(A)(ii)(III)) is amended by striking “2000 through 2002” and inserting “2003 through 2007”.

SEC. 5313. INTEREST RATE REDUCTION PROGRAM.

Section 351 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1999) is amended—

(1) in subsection (a)—

(A) by striking “PROGRAM.—” and all that follows through “The Secretary” and inserting “PROGRAM.—The Secretary”; and

(B) by striking paragraph (2); and

(2) in subsection (e), by striking paragraph (2) and inserting the following:

“(2) MAXIMUM AMOUNT OF FUNDS.—

“(A) IN GENERAL.—The total amount of funds used by the Secretary to carry out this section for a fiscal year shall not exceed \$750,000,000.

“(B) BEGINNING FARMERS AND RANCHERS.—

“(i) IN GENERAL.—The Secretary shall reserve not less than 15 percent of the funds used by the Secretary under subparagraph (A) to make payments for guaranteed loans made to beginning farmers and ranchers.

“(ii) DURATION OF RESERVATION OF FUNDS.—Funds reserved for beginning farmers or ranchers under clause (i) for a fiscal year shall be reserved only until March 1 of the fiscal year.”.

SEC. 5314. REAMORTIZATION OF RECAPTURE PAYMENTS.

Section 353(e)(7) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)(7)) is amended by adding at the end the following:

“(D) REAMORTIZATION.—

“(i) IN GENERAL.—The Secretary may modify the amortization of a recapture payment referred to in subparagraph (A) of this paragraph on which a payment has become delinquent by using loan service tools under section 343(b)(3) if—

“(I) the default is due to circumstances beyond the control of the borrower; and

“(II) the borrower acted in good faith (as determined by the Secretary) in attempting to repay the recapture amount.

“(ii) LIMITATIONS.—

“(I) TERM OF REAMORTIZATION.—The term of a reamortization under this subparagraph may not exceed 25 years from the date of the original amortization agreement.

“(II) NO REDUCTION OR PRINCIPAL OR UNPAID INTEREST DUE.—A reamortization of a recapture payment under this subparagraph may not provide for reducing the outstanding principal or unpaid interest due on the recapture payment.

SEC. 5315. ALLOCATION OF CERTAIN FUNDS FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

The last sentence of section 355(c)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(c)(2)) is amended to read as follows: “Any funds reserved and allocated under this paragraph but not used within a State shall, to the extent necessary to satisfy pending applications under this title, be available for use by socially disadvantaged farmers and ranchers in other States, as determined by the Secretary, and any remaining funds shall be reallocated within the State.”.

SEC. 5316. WAIVER OF BORROWER TRAINING CERTIFICATION REQUIREMENT.

Section 359 of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006a) is amended by striking subsection (f) and inserting the following:

“(f) WAIVERS.—

“(1) IN GENERAL.—The Secretary may waive the requirements of this section for an individual borrower if the Secretary determines that the borrower demonstrates adequate knowledge in areas described in this section.

“(2) CRITERIA.—The Secretary shall establish criteria providing for the application of paragraph (1) consistently in all counties nationwide.”.

SEC. 5317. TIMING OF LOAN ASSESSMENTS.

Section 360(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006b(a)) is amended by striking “After an applicant is determined eligible for assistance under this title by the appropriate county committee established pursuant to section 332, the” and inserting “The”.

SEC. 5318. ANNUAL REVIEW OF BORROWERS.

Section 360(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006b(d)(1)) is amended by striking “biannual” and inserting “annual”.

SEC. 5319. LOAN ELIGIBILITY FOR BORROWERS WITH PRIOR DEBT FORGIVENESS.

Section 373(b)(2)(A) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2008h(b)(2)(A)) is amended—

(1) in clause (i), by striking “or”;

(2) in clause (ii), by striking the period and inserting “; or”; and

(3) by adding at the end the following:

“(iii) received debt forgiveness on not more than 1 occasion resulting directly and primarily from a

major disaster or emergency designated by the President on or after April 4, 1996, under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).”.

SEC. 5320. MAKING AND SERVICING OF LOANS BY PERSONNEL OF STATE, COUNTY, OR AREA COMMITTEES.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008j) is amended by adding at the end the following:

“SEC. 376. MAKING AND SERVICING OF LOANS BY PERSONNEL OF STATE, COUNTY, OR AREA COMMITTEES. 7 USC 2008k.

“The Secretary shall use personnel of a State, county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) to make and service loans under this title to the extent the personnel have been trained to do so.”.

SEC. 5321. ELIGIBILITY OF EMPLOYEES OF STATE, COUNTY, OR AREA COMMITTEE FOR LOANS AND LOAN GUARANTEES.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981–2008j) is further amended by adding at the end the following:

“SEC. 377. ELIGIBILITY OF EMPLOYEES OF STATE, COUNTY, OR AREA COMMITTEE FOR LOANS AND LOAN GUARANTEES. 7 USC 2008l.

“(a) IN GENERAL.—The Secretary shall not prohibit an employee of a State, county or area committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) or an employee of the Department of Agriculture from obtaining a loan or loan guarantee under subtitle A, B or C of this title.

“(b) APPROVALS.—

“(1) COUNTY OR AREA OFFICE.—In the case of a loan application from an employee in a county or area office, the Farm Service Agency State office shall be responsible for reviewing and approving the application.

“(2) STATE OFFICE.—In the case of a loan application from an employee of a State office, the Farm Service Agency national office shall be responsible for reviewing and approving the application.”.

Subtitle E—Farm Credit

SEC. 5401. REPEAL OF BURDENSOME APPROVAL REQUIREMENTS.

(a) **BANKS FOR COOPERATIVES.**—Section 3.1(11)(B) of the Farm Credit Act of 1971 (12 U.S.C. 2122(11)(B)) is amended—

(1) by striking clause (iii); and

(2) by redesignating clause (iv) as clause (iii).

(b) **OTHER SYSTEM BANKS; ASSOCIATIONS.**—Section 4.18A of the Farm Credit Act of 1971 (12 U.S.C. 2206a) is amended—

(1) in subsection (a)(1), by striking “3.1(11)(B)(iv)” and inserting “3.1(11)(B)(iii)”; and

(2) by striking subsection (c).

SEC. 5402. BANKS FOR COOPERATIVES.

Section 3.7(b) of the Farm Credit Act of 1971 (12 U.S.C. 2128(b)) is amended—

(1) in paragraphs (1) and (2)(A)(i), by striking “farm supplies” each place it appears and inserting “agricultural supplies”; and

(2) by adding at the end the following:

“(4) DEFINITION OF AGRICULTURAL SUPPLY.—In this subsection, the term ‘agricultural supply’ includes—

“(A) a farm supply; and

“(B)(i) agriculture-related processing equipment;

“(ii) agriculture-related machinery; and

“(iii) other capital goods related to the storage or handling of agricultural commodities or products.”.

SEC. 5403. INSURANCE CORPORATION PREMIUMS.

(a) REDUCTION IN PREMIUMS FOR GSE-GUARANTEED LOANS.—

(1) IN GENERAL.—Section 5.55 of the Farm Credit Act of 1971 (12 U.S.C. 2277a-4) is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking “government-guaranteed loans provided for in subparagraph (C)” and inserting “loans provided for in subparagraphs (C) and (D)”; and

(II) in subparagraph (B), by striking “and” at the end;

(III) in subparagraph (C), by striking the period at the end and inserting “; and”; and

(IV) by adding at the end the following:

“(D) the annual average principal outstanding for such year on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans made by the bank that are in accrual status, multiplied by a factor, not to exceed 0.0015, determined by the Corporation at the sole discretion of the Corporation.”; and

(ii) by adding at the end the following:

“(4) DEFINITION OF GOVERNMENT SPONSORED ENTERPRISE-GUARANTEED LOAN.—In this section and sections 1.12(b) and 5.56(a), the term ‘Government Sponsored Enterprise-guaranteed loan’ means a loan or credit, or portion of a loan or credit, that is guaranteed by an entity that is chartered by Congress to serve a public purpose and the debt obligations of which are not explicitly guaranteed by the United States, including the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Home Loan Bank System, and the Federal Agricultural Mortgage Corporation, but not including any other institution of the Farm Credit System.”; and

(B) in subsection (e)(4)(B), by striking “government-guaranteed loans described in subsection (a)(1)(C)” and inserting “loans described in subparagraph (C) or (D) of subsection (a)(1)”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1.12(b) of the Farm Credit Act of 1971 (12 U.S.C. 2020(b)) is amended—

(i) in paragraph (1), by inserting “and Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4)) provided for in paragraph (4)” after “government-guaranteed loans (as defined in section 5.55(a)(3)) provided for in paragraph (3)”;

(ii) in paragraph (2), by striking “and” at the end;

(iii) in paragraph (3), by striking the period at the end and inserting “; and”; and

(iv) by adding at the end the following:

“(4) the annual average principal outstanding for such year on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans (as so defined) made by the association, or by the other financing institution and funded by or discounted with the Farm Credit Bank, that are in accrual status, multiplied by a factor, not to exceed 0.0015, determined by the Corporation for the purpose of setting the premium for such guaranteed portions of loans under section 5.55(a)(1)(D).”.

(B) Section 5.56(a) of the Farm Credit Act of 1971 (12 U.S.C. 2277a–5(a)) is amended—

(i) in paragraph (1), by inserting “and Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4))” after “government-guaranteed loans”;

(ii) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(iii) by inserting after paragraph (3) the following:

“(4) the annual average principal outstanding on the guaranteed portions of Government Sponsored Enterprise-guaranteed loans (as defined in section 5.55(a)(4)) that are in accrual status;”.

(b) **APPLICABILITY.**—The amendments made by this section shall apply with respect to determinations of premiums for calendar year 2002 and for any succeeding calendar year, and to certified statements with respect to such premiums.

12 USC 2020
note.

Subtitle F—General Provisions

SEC. 5501. TECHNICAL AMENDMENTS.

(a) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking “Disaster Relief and Emergency Assistance Act” each place it appears and inserting “Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.)”.

(b) Section 336(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1986(b)) is amended in the second sentence by striking “provided for in section 332 of this title”.

(c) Section 359(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2006a(c)(1)) is amended by striking “established pursuant to section 332,”.

TITLE VI—RURAL DEVELOPMENT

Subtitle A—Consolidated Farm and Rural Development Act

SEC. 6001. ELIGIBILITY OF RURAL EMPOWERMENT ZONES AND RURAL ENTERPRISE COMMUNITIES FOR DIRECT AND GUARANTEED LOANS FOR ESSENTIAL COMMUNITY FACILITIES.

Section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) is amended by inserting after the first sentence the following: “The Secretary may also make or insure loans to communities that have been designated as rural empowerment zones or rural enterprise communities pursuant to part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986, or as rural enterprise communities pursuant to section 766 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (Public Law 105-277; 112 Stat. 2681, 2681-37), to provide for the installation or improvement of essential community facilities including necessary related equipment, and to furnish financial assistance or other aid in planning projects for such purposes.”.

SEC. 6002. WATER OR WASTE DISPOSAL GRANTS.

Section 306(a)(2) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(2)) is amended—

(1) by striking “(2) The” and inserting the following:

“(2) WATER, WASTE DISPOSAL, AND WASTEWATER FACILITY GRANTS.—

“(A) AUTHORITY.—

“(i) IN GENERAL.—The”;

(2) by striking “aggregating not to exceed \$590,000,000 in any fiscal year”;

(3) by striking “The amount” and inserting the following:

“(ii) AMOUNT.—The amount”;

(4) by striking “paragraph” and inserting “subparagraph”;

(5) by striking “The Secretary shall” and inserting the following:

“(iii) GRANT RATE.—The Secretary shall”; and

(6) by adding at the end the following:

“(B) REVOLVING FUNDS FOR FINANCING WATER AND WASTEWATER PROJECTS.—

“(i) IN GENERAL.—The Secretary may make grants to qualified private, nonprofit entities to capitalize revolving funds for the purpose of providing financing to eligible entities for—

“(I) predevelopment costs associated with proposed water and wastewater projects or with existing water and wastewater systems; and

“(II) short-term costs incurred for replacement equipment, small-scale extension services, or other small capital projects that are not part of the regular operations and maintenance activities of existing water and wastewater systems.

“(ii) ELIGIBLE ENTITIES.—To be eligible to obtain financing from a revolving fund under clause (i), an

eligible entity must be eligible to obtain a loan, loan guarantee, or grant under paragraph (1) or this paragraph.

“(iii) MAXIMUM AMOUNT OF FINANCING.—The amount of financing made to an eligible entity under this subparagraph shall not exceed—

“(I) \$100,000 for costs described in clause (i)(I);
and

“(II) \$100,000 for costs described in clause (i)(II).

“(iv) TERM.—The term of financing provided to an eligible entity under this subparagraph shall not exceed 10 years.

“(v) ADMINISTRATION.—The Secretary shall limit the amount of grant funds that may be used by a grant recipient for administrative costs incurred under this subparagraph.

“(vi) ANNUAL REPORT.—A nonprofit entity receiving a grant under this subparagraph shall submit to the Secretary an annual report that describes the number and size of communities served and the type of financing provided.

“(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph \$30,000,000 for each of fiscal years 2002 through 2007.”.

SEC. 6003. RURAL BUSINESS OPPORTUNITY GRANTS.

Section 306(a)(11)(D) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(11)(D)) is amended—

- (1) by striking “\$7,500,000” and inserting “\$15,000,000”;
- and
- (2) by striking “2002” and inserting “2007”.

SEC. 6004. CHILD DAY CARE FACILITIES.

Section 306(a)(19) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(19)) is amended by adding at the end the following:

“(C) RESERVATION OF FUNDS FOR CHILD DAY CARE FACILITIES.—

“(i) IN GENERAL.—For each fiscal year, not less than 10 percent of the funds made available to carry out this paragraph shall be reserved for grants to pay the Federal share of the cost of developing and constructing day care facilities for children in rural areas.

“(ii) RELEASE.—Funds reserved under clause (i) for a fiscal year shall be reserved only until April 1 of the fiscal year.”.

SEC. 6005. RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by adding at the end the following:

“(22) RURAL WATER AND WASTEWATER CIRCUIT RIDER PROGRAM.—

“(A) IN GENERAL.—The Secretary shall establish a national rural water and wastewater circuit rider program that is based on the rural water circuit rider program of the National Rural Water Association that (as of the date of enactment of this paragraph) receives funding from the Secretary, acting through the Rural Utilities Service.

“(B) RELATIONSHIP TO EXISTING PROGRAM.—The program established under subparagraph (A) shall not affect the authority of the Secretary to carry out the circuit rider program for which funds are made available under the heading “RURAL COMMUNITY ADVANCEMENT PROGRAM” in title III of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (115 Stat. 719).

“(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$15,000,000 for fiscal year 2003 and each fiscal year thereafter.”.

SEC. 6006. MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 6005) is amended by adding at the end the following:

“(23) MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS.—

“(A) GRANTS.—The Secretary shall provide grants to multijurisdictional regional planning and development organizations to pay the Federal share of the cost of providing assistance to local governments to improve the infrastructure, services, and business development capabilities of local governments and local economic development organizations.

“(B) PRIORITY.—In determining which organizations will receive a grant under this paragraph, the Secretary shall give priority to an organization that—

“(i) serves a rural area that, during the most recent 5-year period—

“(I) had a net out-migration of inhabitants, or other population loss, from the rural area that equals or exceeds 5 percent of the population of the rural area; or

“(II) had a median household income that is less than the nonmetropolitan median household income of the applicable State; and

“(ii) has a history of providing substantive assistance to local governments and economic development organizations.

“(C) FEDERAL SHARE.—A grant provided under this paragraph shall be for not more than 75 percent of the cost of providing assistance described in subparagraph (A).

“(D) MAXIMUM AMOUNT OF GRANTS.—The amount of a grant provided to an organization under this paragraph shall not exceed \$100,000.

“(E) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$30,000,000 for each of fiscal years 2003 through 2007.”.

SEC. 6007. LOAN GUARANTEES FOR CERTAIN RURAL DEVELOPMENT LOANS.

(a) LOAN GUARANTEES FOR WATER, WASTEWATER, AND ESSENTIAL COMMUNITY FACILITIES LOANS.—Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1925(a)) (as amended by section 6006) is amended by adding at the end the following:

7 USC 1926.

“(24) LOAN GUARANTEES FOR WATER, WASTEWATER, AND ESSENTIAL COMMUNITY FACILITIES LOANS.—

“(A) IN GENERAL.—The Secretary may guarantee a loan made to finance a community facility or water or waste facility project in a rural area, including a loan financed by the net proceeds of a bond described in section 142(a) of the Internal Revenue Code of 1986.

“(B) REQUIREMENTS.—To be eligible for a loan guarantee under subparagraph (A), an individual or entity offering to purchase the loan shall demonstrate to the Secretary that the person has—

“(i) the capabilities and resources necessary to service the loan in a manner that ensures the continued performance of the loan, as determined by the Secretary; and

“(ii) the ability to generate capital to provide borrowers of the loan with the additional credit necessary to properly service the loan.”

(b) LOAN GUARANTEES FOR CERTAIN LOANS.—Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by adding at the end the following:

“(h) LOAN GUARANTEES FOR CERTAIN LOANS.—The Secretary may guarantee loans made under subsection (a) to finance the issuance of bonds for the projects described in section 306(a)(24).”

SEC. 6008. TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.

Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) (as amended by section 6007(a)) is amended by adding at the end the following:

“(25) TRIBAL COLLEGE AND UNIVERSITY ESSENTIAL COMMUNITY FACILITIES.—

“(A) IN GENERAL.—The Secretary may make grants to tribal colleges and universities (as defined in section 316 of the Higher Education Act of 1965 (20 U.S.C. 1059c)) to provide the Federal share of the cost of developing specific tribal college or university essential community facilities in rural areas.

“(B) FEDERAL SHARE.—

“(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Secretary shall, by regulation, establish the maximum percentage of the cost of the facility that may be covered by a grant under this paragraph.

Regulation.

“(ii) MAXIMUM AMOUNT.—The amount of a grant provided under this paragraph for a facility shall not exceed 75 percent of the cost of developing the facility.

“(iii) GRADUATED SCALE.—The Secretary shall provide for a graduated scale of the percentages of the cost covered by a grant made under this paragraph that provides higher percentages for facilities in

communities that have lower community population and income levels, as determined by the Secretary.

“(C) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$10,000,000 for each of fiscal years 2003 through 2007.”.

SEC. 6009. EMERGENCY AND IMMINENT COMMUNITY WATER ASSISTANCE GRANT PROGRAM.

Section 306A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926a) is amended—

(1) in the section heading, by inserting “**AND IMMINENT**” after “**EMERGENCY**”;

(2) in subsection (a)—

(A) in paragraph (1), by inserting “, or when such a decline is imminent” before the semicolon at the end; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “acute” and inserting “acute, or imminent,”; and

(ii) in subparagraph (B), by striking “decline” and inserting “decline, or imminent decline,”;

(3) in subsection (c)(2), by striking “occurred” and inserting “occurred, or will occur,”;

(4) in subsection (d), by striking paragraph (1) and inserting the following:

“(1) **IN GENERAL.**—Grants made under this section may be used—

“(A) for waterline extensions from existing systems, laying of new waterlines, repairs, significant maintenance, digging of new wells, equipment replacement, and hook and tap fees;

“(B) for any other appropriate purpose associated with developing sources of, treating, storing, or distributing water;

“(C) to assist communities in complying with the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) or the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

“(D) to provide potable water to communities through other means.”;

(5) in subsection (f)(2), by striking “\$75,000” and inserting “\$150,000”;

(6) in subsection (h)—

(A) in the second sentence of paragraph (1), by striking “decline” and inserting “decline, or imminent decline,”; and

(B) by striking paragraph (2) and inserting the following:

“(2) **TIMING OF REVIEW OF APPLICATIONS.**—

“(A) **SIMPLIFIED APPLICATION.**—The application process developed by the Secretary under paragraph (1) shall include a simplified application form that will permit expedited consideration of an application for a grant filed under this section.

“(B) **PRIORITY REVIEW.**—In processing applications for any water or waste grant or loan authorized under this title, the Secretary shall afford priority processing to an application for a grant under this section to the extent

funds will be available for an award on the application at the conclusion of priority processing.

“(C) TIMING.—The Secretary shall, to the maximum extent practicable, review and act on an application under this section within 60 days after the date on which the application is submitted to the Secretary.”; and

(7) by striking subsection (i) and inserting the following:

“(i) FUNDING.—

“(1) RESERVATION.—

“(A) IN GENERAL.—For each fiscal year, not less than 3 nor more than 5 percent of the total amount made available to carry out section 306(a)(2) for the fiscal year shall be reserved for grants under this section.

“(B) RELEASE.—Funds reserved under subparagraph (A) for a fiscal year shall be reserved only until July 1 of the fiscal year.

“(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under paragraph (1), there is authorized to be appropriated to carry out this section \$35,000,000 for each of fiscal years 2003 through 2007.”.

SEC. 6010. WATER AND WASTE FACILITY GRANTS FOR NATIVE AMERICAN TRIBES.

Section 306C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926c) is amended by striking subsection (e) and inserting the following:

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—Subject to paragraph (2), there are authorized to be appropriated—

“(A) for grants under this section, \$30,000,000 for each fiscal year;

“(B) for loans under this section, \$30,000,000 for each fiscal year; and

“(C) in addition to grants provided under subparagraph (A), for grants under this section to benefit Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), \$20,000,000 for each fiscal year.

“(2) EXCEPTION.—An entity eligible to receive funding through a grant made under section 306D shall not be eligible for a grant from funds made available under paragraph (1)(C).”.

SEC. 6011. GRANTS FOR WATER SYSTEMS FOR RURAL AND NATIVE VILLAGES IN ALASKA.

Section 306D(d)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926d(d)(1)) is amended by striking “and 2002” and inserting “through 2007”.

SEC. 6012. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.

(a) IN GENERAL.—The Consolidated Farm and Rural Development Act is amended by inserting after section 306D (7 U.S.C. 1926d) the following:

7 USC 1926e.

“SEC. 306E. GRANTS TO NONPROFIT ORGANIZATIONS TO FINANCE THE CONSTRUCTION, REFURBISHING, AND SERVICING OF INDIVIDUALLY-OWNED HOUSEHOLD WATER WELL SYSTEMS IN RURAL AREAS FOR INDIVIDUALS WITH LOW OR MODERATE INCOMES.

“(a) **DEFINITION OF ELIGIBLE INDIVIDUAL.**—In this section, the term ‘eligible individual’ means an individual who is a member of a household the members of which have a combined income (for the most recent 12-month period for which the information is available) that is not more than 100 percent of the median nonmetropolitan household income for the State or territory in which the individual resides, according to the most recent decennial census of the United States.

“(b) **GRANTS.**—

“(1) **IN GENERAL.**—The Secretary may make grants to private nonprofit organizations for the purpose of providing loans to eligible individuals for the construction, refurbishing, and servicing of individual household water well systems in rural areas that are or will be owned by the eligible individuals.

“(2) **TERMS OF LOANS.**—A loan made with grant funds under this section—

“(A) shall have an interest rate of 1 percent;

“(B) shall have a term not to exceed 20 years; and

“(C) shall not exceed \$8,000 for each water well system described in paragraph (1).

“(3) **ADMINISTRATIVE EXPENSES.**—A recipient of a grant made under this section may use grant funds to pay administrative expenses associated with providing the assistance described in paragraph (1), as determined by the Secretary.

“(c) **PRIORITY IN AWARDING GRANTS.**—In awarding grants under this section, the Secretary shall give priority to an applicant that has substantial expertise and experience in promoting the safe and productive use of individually-owned household water well systems and ground water.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2003 through 2007.”.

7 USC 1926e note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) takes effect on October 1, 2002.

SEC. 6013. LOANS AND LOAN GUARANTEES FOR RENEWABLE ENERGY SYSTEMS.

Section 310B(a)(3) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(a)(3)) is amended by inserting “and other renewable energy systems (including wind energy systems and anaerobic digestors for the purpose of energy generation)” after “solar energy systems”.

SEC. 6014. RURAL BUSINESS ENTERPRISE GRANTS.

Section 310B(c)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(c)(1)) is amended—

(1) by striking “(1) **IN GENERAL.**—The Secretary” and inserting the following:

“(1) **GRANTS.**—

“(A) **IN GENERAL.**—The Secretary”; and

(2) by adding at the end the following:

“(B) SMALL AND EMERGING PRIVATE BUSINESS ENTERPRISES.—

“(i) IN GENERAL.—For the purpose of subparagraph (A), a small and emerging private business enterprise shall include (regardless of the number of employees or operating capital of the enterprise) an eligible nonprofit entity, or other tax-exempt organization, with a principal office in an area that is located—

“(I) on land of an existing or former Native American reservation; and

“(II) in a city, town, or unincorporated area that has a population of not more than 5,000 inhabitants.

“(ii) USE OF GRANT.—An eligible nonprofit entity, or other tax exempt organization, described in clause (i) may use assistance provided under this paragraph to create, expand, or operate value-added processing in an area described in clause (i) in connection with production agriculture.

“(iii) PRIORITY.—In making grants under this paragraph, the Secretary shall give priority to grants that will be used to provide assistance to eligible nonprofit entities and other tax exempt organizations described in clause (i).”.

SEC. 6015. RURAL COOPERATIVE DEVELOPMENT GRANTS.

Section 310B(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(e)) is amended—

(1) in paragraph (5)(F), before the period at the end the following: “, except that the Secretary shall not require non-Federal financial support in an amount that is greater than 5 percent in the case of a 1994 institution (as defined in section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382))”; and

(2) in paragraph (9), by striking “2002” and inserting “2007”.

SEC. 6016. GRANTS TO BROADCASTING SYSTEMS.

Section 310B(f) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932(f)) is amended by adding at the end the following:

“(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$5,000,000 for each of fiscal years 2002 through 2007.”.

SEC. 6017. BUSINESS AND INDUSTRY LOAN MODIFICATIONS.

Section 310B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1932) is amended by striking subsection (g) and inserting the following:

“(g) BUSINESS AND INDUSTRY DIRECT AND GUARANTEED LOANS.—

“(1) DEFINITION OF BUSINESS AND INDUSTRY LOAN.—In this subsection, the term ‘business and industry loan’ means a business and industry direct or guaranteed loan that is made or guaranteed by the Secretary under subsection (a)(1).

“(2) LOAN GUARANTEES FOR THE PURCHASE OF COOPERATIVE STOCK.—

“(A) IN GENERAL.—The Secretary may guarantee a business and industry loan to individual farmers or ranchers for the purpose of purchasing capital stock of a farmer or rancher cooperative established for the purpose of processing an agricultural commodity.

“(B) PROCESSING CONTRACTS DURING INITIAL PERIOD.—A cooperative described in subparagraph (A) for which a farmer or rancher receives a guarantee to purchase stock under subparagraph (A) may contract for services to process agricultural commodities, or otherwise process value-added agricultural products, during the 5-year period beginning on the date of the startup of the cooperative in order to provide adequate time for the planning and construction of the processing facility of the cooperative.

“(C) FINANCIAL INFORMATION.—Financial information required by the Secretary from a farmer or rancher as a condition of making a business and industry loan guarantee under this paragraph shall be provided in the manner generally required by commercial agricultural lenders in the area.

“(3) LOANS TO COOPERATIVES.—

“(A) IN GENERAL.—The Secretary may make or guarantee a business and industry loan to a cooperative organization that is headquartered in a metropolitan area if the loan is used for a project or venture described in subsection (a) that is located in a rural area or a loan guarantee that meets the requirements of paragraph (6).

“(B) REFINANCING.—A cooperative organization that is eligible for a business and industry loan shall be eligible to refinance an existing business and industry loan with a lender if—

“(i) the cooperative organization—

“(I) is current and performing with respect to the existing loan; and

“(II) is not, and has not been, in payment default, or the collateral of which has not been converted, with respect to the existing loan; and

“(ii) there is adequate security or full collateral for the refinanced loan.

“(4) LOAN APPRAISALS.—The Secretary may require that any appraisal made in connection with a business and industry loan be conducted by a specialized appraiser that uses standards that are similar to standards used for similar purposes in the private sector, as determined by the Secretary.

“(5) FEES.—The Secretary may assess a 1-time fee for any guaranteed business and industry loan in an amount that does not exceed 2 percent of the guaranteed principal portion of the loan.

“(6) LOAN GUARANTEES IN NONRURAL AREAS.—

“(A) IN GENERAL.—The Secretary may guarantee a business and industry loan to a cooperative organization for a facility that is not located in a rural area if—

“(i) the primary purpose of the loan guarantee is for a facility to provide value-added processing for agricultural producers that are located within 80 miles of the facility;

“(ii) the applicant demonstrates to the Secretary that the primary benefit of the loan guarantee will be to provide employment for residents of a rural area; and

“(iii) the total amount of business and industry loans guaranteed for a fiscal year under this paragraph does not exceed 10 percent of the business and industry loans guaranteed for the fiscal year under subsection (a)(1).

“(B) PRINCIPAL AMOUNTS.—The principal amount of a business and industry loan guaranteed under this paragraph may not exceed \$25,000,000.

“(7) INTANGIBLE ASSETS.—In determining whether a cooperative organization is eligible for a guaranteed business and industry loan, the Secretary may consider the market value of a properly appraised brand name, patent, or trademark of the cooperative.

“(8) LIMITATIONS ON LOAN GUARANTEES FOR COOPERATIVE ORGANIZATIONS.—

“(A) PRINCIPAL AMOUNT.—

“(i) IN GENERAL.—Subject to clause (ii), the principal amount of a business and industry loan made to a cooperative organization and guaranteed under this subsection shall not exceed \$40,000,000.

“(ii) USE.—To be eligible for a guarantee under this subsection for a business and industry loan made to a cooperative organization, the principal amount of the any such loan in excess of \$25,000,000 shall be used to carry out a project—

“(I) in a rural area; and

“(II) that provides for the value-added processing of agricultural commodities.

“(B) APPLICATIONS.—If a cooperative organization submits an application for a guarantee under this subsection of a business and industry loan with a principal amount that is in excess of \$25,000,000, the Secretary—

“(i) shall review and, if appropriate, approve the application; and

“(ii) may not delegate the approval authority.

“(C) MAXIMUM AMOUNT.—The total amount of business and industry loans made to cooperative organizations and guaranteed for a fiscal year under this subsection with principal amounts that are in excess of \$25,000,000 may not exceed 10 percent of the business and industry loans guaranteed for the fiscal year under subsection (a)(1).”.

SEC. 6018. USE OF RURAL DEVELOPMENT LOANS AND GRANTS FOR OTHER PURPOSES.

Subtitle A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) (as amended by section 5006) is amended by adding at the end the following:

“SEC. 310G. USE OF RURAL DEVELOPMENT LOANS AND GRANTS FOR OTHER PURPOSES. 7 USC 1936a.

“If, after making a loan or a grant described in section 381E(d), the Secretary determines that the circumstances under which the loan or grant was made have sufficiently changed to make the project or activity for which the loan or grant was made available

no longer appropriate, the Secretary may allow the loan borrower or grant recipient to use property (real and personal) purchased or improved with the loan or grant funds, or proceeds from the sale of property (real and personal) purchased with such funds, for another project or activity that (as determined by the Secretary)—

“(1) will be carried out in the same area as the original project or activity;

“(2) meets the criteria for a loan or a grant described in section 381E(d); and

“(3) satisfies such additional requirements as are established by the Secretary.”.

SEC. 6019. SIMPLIFIED APPLICATION FORMS FOR LOAN GUARANTEES.

Section 333A of the Consolidated Farm and Rural Development Act (7 U.S.C. 1983a) (as amended by section 5307) is amended by striking subsection (g) and inserting the following:

“(g) SIMPLIFIED APPLICATION FORMS FOR LOAN GUARANTEES.—

“(1) IN GENERAL.—The Secretary shall provide to lenders a short, simplified application form for guarantees under this title of—

“(A) farmer program loans the principal amount of which is \$125,000 or less; and

“(B) business and industry guaranteed loans under section 310B(a)(1) the principal amount of which is—

“(i) in the case of a loan guarantee made during fiscal year 2002 or 2003, \$400,000 or less; and

“(ii) in the case of a loan guarantee made during any subsequent fiscal year—

“(I) \$400,000 or less; or

“(II) if the Secretary determines that there is not a significant increased risk of a default on the loan, \$600,000 or less.

“(2) WATER AND WASTE DISPOSAL GRANTS AND LOANS.—

The Secretary shall develop an application process that accelerates, to the maximum extent practicable, the processing of applications for water and waste disposal grants or direct or guaranteed loans under paragraph (1) or (2) of section 306(a) the grant award amount or principal loan amount, respectively, of which is \$300,000 or less.

“(3) ADMINISTRATION.—In developing an application under this subsection, the Secretary shall—

“(A) consult with commercial and cooperative lenders; and

“(B) ensure that—

“(i) the form can be completed manually or electronically, at the option of the lender;

“(ii) the form minimizes the documentation required to accompany the form;

“(iii) the cost of completing and processing the form is minimal; and

“(iv) the form can be completed and processed in an expeditious manner.”.

SEC. 6020. DEFINITION OF RURAL AND RURAL AREA.

(a) IN GENERAL.—Section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)) is amended by adding at the end the following:

“(13) RURAL AND RURAL AREA.—

“(A) IN GENERAL.—Except as otherwise provided in this paragraph, the terms ‘rural’ and ‘rural area’ mean any area other than—

“(i) a city or town that has a population of greater than 50,000 inhabitants; and

“(ii) the urbanized area contiguous and adjacent to such a city or town.

“(B) WATER AND WASTE DISPOSAL GRANTS AND DIRECT AND GUARANTEED LOANS.—For the purpose of water and waste disposal grants and direct and guaranteed loans provided under paragraphs (1), (2), and (24) of section 306(a), the terms ‘rural’ and ‘rural area’ mean a city, town, or unincorporated area that has a population of no more than 10,000 inhabitants.

“(C) COMMUNITY FACILITY LOANS AND GRANTS.—For the purpose of community facility direct and guaranteed loans and grants under paragraphs (1), (19), (20), (21), and (24) of section 306(a), the terms ‘rural’ and ‘rural area’ mean a city, town, or unincorporated area that has a population of not more than 20,000 inhabitants.

“(D) MULTIJURISDICTIONAL REGIONAL PLANNING ORGANIZATIONS; NATIONAL RURAL DEVELOPMENT PARTNERSHIP.—In sections 306(a)(23) and 378, the term ‘rural area’ means—

“(i) all the territory of a State that is not within the boundary of any standard metropolitan statistical area; and

“(ii) all territory within any standard metropolitan statistical area within a census tract having a population density of less than 20 persons per square mile, as determined by the Secretary according to the most recent census of the United States as of any date.

“(E) RURAL BUSINESS INVESTMENT PROGRAM.—In subtitle H, the term ‘rural area’ means an area that is located—

“(i) outside a standard metropolitan statistical area; or

“(ii) within a community that has a population of 50,000 inhabitants or less.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)) is amended by striking paragraph (7).

(2) Section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3) Section 735 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 1999 (112 Stat. 2681-29) is repealed.

7 USC 2009 note.

SEC. 6021. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 5321) is amended by adding at the end the following:

7 USC 2008m.

“SEC. 378. NATIONAL RURAL DEVELOPMENT PARTNERSHIP.

“(a) DEFINITIONS.—In this section:

“(1) AGENCY WITH RURAL RESPONSIBILITIES.—The term ‘agency with rural responsibilities’ means any executive agency (as defined in section 105 of title 5, United States Code) that implements a Federal law, or administers a program, targeted at or having a significant impact on rural areas.

“(2) COORDINATING COMMITTEE.—The term ‘Coordinating Committee’ means the National Rural Development Coordinating Committee established by subsection (c).

“(3) PARTNERSHIP.—The term ‘Partnership’ means the National Rural Development Partnership continued by subsection (b).

“(4) STATE RURAL DEVELOPMENT COUNCIL.—The term ‘State rural development council’ means a State rural development council that meets the requirements of subsection (d).

“(b) PARTNERSHIP.—

“(1) IN GENERAL.—The Secretary shall continue the National Rural Development Partnership composed of—

“(A) the Coordinating Committee; and

“(B) State rural development councils.

“(2) PURPOSES.—The purposes of the Partnership are to empower and build the capacity of States and rural communities to design flexible and innovative responses to their own special rural development needs, with local determinations of progress and selection of projects and activities.

“(3) GOVERNING PANEL.—

“(A) IN GENERAL.—A panel consisting of representatives of the Coordinating Committee and State rural development councils shall be established to lead and coordinate the strategic operation, policies, and practices of the Partnership.

“(B) ANNUAL REPORTS.—In conjunction with the Coordinating Committee and State rural development councils, the panel shall prepare and submit to Congress an annual report on the activities of the Partnership.

“(4) ROLE OF FEDERAL GOVERNMENT.—The role of the Federal Government in the Partnership may be that of a partner and facilitator, with Federal agencies authorized—

“(A) to cooperate with States to implement the Partnership;

“(B) to provide States with the technical and administrative support necessary to plan and implement tailored rural development strategies to meet local needs;

“(C) to ensure that the head of each agency with rural responsibilities designates a senior-level agency official to represent the agency on the Coordinating Committee and directs appropriate field staff to participate fully with the State rural development council within the jurisdiction of the field staff; and

“(D) to enter into cooperative agreements with, and to provide grants and other assistance to, the Coordinating Committee and State rural development councils.

“(c) NATIONAL RURAL DEVELOPMENT COORDINATING COMMITTEE.—

Establishment.

“(1) ESTABLISHMENT.—The Secretary shall establish a National Rural Development Coordinating Committee within the Department of Agriculture.

“(2) COMPOSITION.—The Coordinating Committee shall be composed of—

“(A) 1 representative of each agency with rural responsibilities; and

“(B) representatives, approved by the Secretary, of—

“(i) national associations of State, regional, local, and tribal governments and intergovernmental and multijurisdictional agencies and organizations;

“(ii) national public interest groups;

“(iii) other national nonprofit organizations that elect to participate in the activities of the Coordinating Committee; and

“(iv) the private sector.

“(3) DUTIES.—The Coordinating Committee shall—

“(A) support the work of the State rural development councils;

“(B) facilitate coordination of rural development policies, programs, and activities among Federal agencies and with those of State, local, and tribal governments, the private sector, and nonprofit organizations;

“(C) review and comment on policies, regulations, and proposed legislation that affect or would affect rural areas and gather and provide related information;

“(D) develop and facilitate strategies to reduce or eliminate administrative and regulatory impediments; and

“(E) require each State rural development council receiving funds under this section to submit an annual report on the use of the funds, including a description of strategic plans, goals, performance measures, and outcomes for the State rural development council of the State.

“(4) FEDERAL PARTICIPATION IN COORDINATING COMMITTEE.—

“(A) IN GENERAL.—A Federal employee shall fully participate in the governance and operations of the Coordinating Committee, including activities related to grants, contracts, and other agreements, in accordance with this section.

“(B) CONFLICTS.—Participation by a Federal employee in the Coordinating Committee in accordance with this paragraph shall not constitute a violation of section 205 or 208 of title 18, United States Code.

“(5) ADMINISTRATIVE SUPPORT.—The Secretary may provide such administrative support for the Coordinating Committee as the Secretary determines is necessary to carry out the duties of the Coordinating Committee.

“(6) PROCEDURES.—The Secretary may prescribe such regulations, bylaws, or other procedures as are necessary for the operation of the Coordinating Committee.

“(d) STATE RURAL DEVELOPMENT COUNCILS.—

“(1) ESTABLISHMENT.—Notwithstanding chapter 63 of title 31, United States Code, each State may elect to participate in the Partnership by entering into an agreement with the Secretary to recognize a State rural development council.

“(2) COMPOSITION.—A State rural development council shall—

“(A) be composed of representatives of Federal, State, local, and tribal governments, nonprofit organizations, regional organizations, the private sector, and other entities committed to rural advancement; and

“(B) have a nonpartisan and nondiscriminatory membership that—

“(i) is broad and representative of the economic, social, and political diversity of the State; and

“(ii) shall be responsible for the governance and operations of the State rural development council.

“(3) DUTIES.—A State rural development council shall—

“(A) facilitate collaboration among Federal, State, local, and tribal governments and the private and nonprofit sectors in the planning and implementation of programs and policies that have an impact on rural areas of the State;

“(B) monitor, report, and comment on policies and programs that address, or fail to address, the needs of the rural areas of the State;

“(C) as part of the Partnership, in conjunction with the Coordinating Committee, facilitate the development of strategies to reduce or eliminate conflicting or duplicative administrative or regulatory requirements of Federal, State, local, and tribal governments; and

“(D)(i) provide to the Coordinating Committee an annual plan with goals and performance measures; and

“(ii) submit to the Coordinating Committee an annual report on the progress of the State rural development council in meeting the goals and measures.

“(4) FEDERAL PARTICIPATION IN STATE RURAL DEVELOPMENT COUNCILS.—

“(A) IN GENERAL.—A State Director for Rural Development of the Department of Agriculture, other employees of the Department, and employees of other Federal agencies with rural responsibilities shall fully participate as voting members in the governance and operations of State rural development councils (including activities related to grants, contracts, and other agreements in accordance with this section) on an equal basis with other members of the State rural development councils.

“(B) CONFLICTS.—Participation by a Federal employee in a State rural development council in accordance with this paragraph shall not constitute a violation of section 205 or 208 of title 18, United States Code.

“(e) ADMINISTRATIVE SUPPORT OF THE PARTNERSHIP.—

“(1) DETAIL OF EMPLOYEES.—

“(A) IN GENERAL.—In order to provide experience in intergovernmental collaboration, the head of an agency with rural responsibilities that elects to participate in the Partnership may, and is encouraged to, detail to the Secretary for the support of the Partnership 1 or more employees of the agency with rural responsibilities without reimbursement for a period of up to 1 year.

“(B) CIVIL SERVICE STATUS.—The detail shall be without interruption or loss of civil service status or privilege.

“(2) ADDITIONAL SUPPORT.—The Secretary may provide for any additional support staff to the Partnership as the Secretary determines to be necessary to carry out the duties of the Partnership.

“(3) INTERMEDIARIES.—The Secretary may enter into a contract with a qualified intermediary under which the intermediary shall be responsible for providing administrative and technical assistance to a State rural development council, including administering the financial assistance available to the State rural development council.

“(f) MATCHING REQUIREMENTS FOR STATE RURAL DEVELOPMENT COUNCILS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), a State rural development council shall provide matching funds, or in-kind goods or services, to support the activities of the State rural development council in an amount that is not less than 33 percent of the amount of Federal funds received from a Federal agency under subsection (g)(2).

“(2) EXCEPTIONS TO MATCHING REQUIREMENT FOR CERTAIN FEDERAL FUNDS.—Paragraph (1) shall not apply to funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or technical assistance received by a State rural development council from a Federal agency that are used—

“(A) to support 1 or more specific program or project activities; or

“(B) to reimburse the State rural development council for services provided to the Federal agency providing the funds, grants, funds provided under contracts or cooperative agreements, gifts, contributions, or technical assistance.

“(3) DEPARTMENT’S SHARE.—The Secretary shall develop a plan to decrease, over time, the share of the Department of Agriculture of the cost of the core operations of State rural development councils.

“(g) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2003 through 2007.

“(2) FEDERAL AGENCIES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law limiting the ability of an agency, along with other agencies, to provide funds to the Coordinating Committee or a State rural development council in order to carry out the purposes of this section, a Federal agency may make grants, gifts, or contributions to, provide technical assistance to, or enter into contracts or cooperative agreements with, the Coordinating Committee or a State rural development council.

“(B) ASSISTANCE.—Federal agencies are encouraged to use funds made available for programs that have an impact on rural areas to provide assistance to, and enter into contracts with, the Coordinating Committee or a State rural development council, as described in subparagraph (A).

“(3) CONTRIBUTIONS.—The Coordinating Committee and a State rural development council may accept private contributions.

“(h) TERMINATION.—The authority provided under this section shall terminate on the date that is 5 years after the date of enactment of this section.”.

SEC. 6022. RURAL TELEWORK.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6021) is amended by adding at the end the following:

7 USC 2008n.

“SEC. 379. RURAL TELEWORK.

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE ORGANIZATION.—The term ‘eligible organization’ means a nonprofit entity, an educational institution, an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or any other organization, in a rural area (except for the institute), that meets the requirements of this section and such other requirements as are established by the Secretary.

“(2) INSTITUTE.—The term ‘institute’ means a rural telework institute established using a grant under subsection (b).

“(3) TELEWORK.—The term ‘telework’ means the use of telecommunications to perform work functions at a rural work center located outside the place of business of an employer.

“(b) RURAL TELEWORK INSTITUTE.—

Grants.

“(1) IN GENERAL.—The Secretary shall make 1 or more grants to an eligible organization to pay the Federal share of the cost of establishing and operating a national rural telework institute to carry out projects described in paragraph (2).

“(2) PROJECTS.—The institute shall use grant funds received under this subsection to carry out a 5-year project—

“(A) to serve as a clearinghouse for telework research and development;

“(B) to conduct outreach to rural communities and rural workers;

“(C) to develop and share best practices in rural telework throughout the United States;

“(D) to develop innovative, market-driven telework projects and joint ventures with the private sector that employ workers in rural areas in jobs that promote economic self-sufficiency;

“(E) to share information about the design and implementation of telework arrangements;

“(F) to support private sector businesses that are transitioning to telework;

“(G) to support and assist telework projects and individuals at the State and local level; and

“(H) to perform such other functions as the Secretary considers appropriate.

“(3) NON-FEDERAL SHARE.—

“(A) IN GENERAL.—As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application of the eligible organization

has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to—

“(i) during each of the first, second, and third years of a project, 30 percent of the amount of the grant; and

“(ii) during each of the fourth and fifth years of the project, 50 percent of the amount of the grant.

“(B) INDIAN TRIBES.—Notwithstanding subparagraph (A), an Indian tribe may use any Federal funds made available to the Indian tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

“(C) FORM.—The non-Federal contributions required under subparagraph (A) may be in the form of in-kind contributions, including office equipment, office space, computer software, consultant services, computer networking equipment, and related services.

“(c) TELEWORK GRANTS.—

“(1) IN GENERAL.—Subject to paragraphs (2) through (5), the Secretary shall make grants to eligible organizations to pay the Federal share of the cost of—

“(A) obtaining equipment and facilities to establish or expand telework locations in rural areas; and

“(B) operating telework locations in rural areas.

“(2) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible organization shall submit to the Secretary, and receive the approval of the Secretary of, an application for the grant that demonstrates that the eligible organization has adequate resources and capabilities to establish or expand a telework location in a rural area.

“(3) NON-FEDERAL SHARE.—

“(A) IN GENERAL.—As a condition of receiving a grant under this subsection, an eligible organization shall agree to obtain, after the application of the eligible organization has been approved and notice of award has been issued, contributions from non-Federal sources that are equal to 50 percent of the amount of the grant.

“(B) INDIAN TRIBES.—Notwithstanding subparagraph (A), an Indian tribe may use Federal funds made available to the tribe for self-governance to pay the non-Federal contributions required under subparagraph (A).

“(C) SOURCES.—The non-Federal contributions required under subparagraph (A)—

“(i) may be in the form of in-kind contributions, including office equipment, office space, computer software, consultant services, computer networking equipment, and related services; and

“(ii) may not be made from funds made available for community development block grants under title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

“(4) DURATION.—The Secretary may not provide a grant under this subsection to expand or operate a telework location in a rural area after the date that is 3 years after the establishment of the telework location.

“(5) AMOUNT.—The amount of a grant provided to an eligible organization under this subsection shall be not less than \$1,000,000 and not more than \$2,000,000.

“(d) APPLICABILITY OF CERTAIN FEDERAL LAW.—An eligible organization that receives funds under this section shall be subject to the provisions of Federal law (including regulations) administered by the Secretary of Labor or the Equal Employment Opportunity Commission that govern the responsibilities of employers to employees.

Deadline.

“(e) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

“(f) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section \$30,000,000 for each of fiscal years 2002 through 2007, of which \$5,000,000 shall be provided to establish and support an institute under subsection (b).”.

SEC. 6023. HISTORIC BARN PRESERVATION.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6022) is amended by adding at the end the following:

7 USC 2008o.

“SEC. 379A. HISTORIC BARN PRESERVATION.

“(a) DEFINITIONS.—In this section:

“(1) BARN.—The term ‘barn’ means a building (other than a dwelling) on a farm, ranch, or other agricultural operation for—

“(A) housing animals;

“(B) storing or processing crops;

“(C) storing and maintaining agricultural equipment;

or

“(D) serving an essential or useful purpose related to agricultural activities conducted on the adjacent land.

“(2) ELIGIBLE APPLICANT.—The term ‘eligible applicant’ means—

“(A) a State department of agriculture (or a designee);

“(B) a national or State nonprofit organization that—

“(i) is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; and

“(ii) has experience or expertise, as determined by the Secretary, in the identification, evaluation, rehabilitation, preservation, or protection of historic barns; and

“(C) a State historic preservation office.

“(3) HISTORIC BARN.—The term ‘historic barn’ means a barn that—

“(A) is at least 50 years old;

“(B) retains sufficient integrity of design, materials, and construction to clearly identify the barn as an agricultural building; and

“(C) meets the criteria for listing on National, State, or local registers or inventories of historic structures.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary, acting through the Under Secretary of Rural Development.

“(b) PROGRAM.—The Secretary shall establish a historic barn preservation program—

“(1) to assist States in developing a list of historic barns;

“(2) to collect and disseminate information on historic barns;

“(3) to foster educational programs relating to the history, construction techniques, rehabilitation, and contribution to society of historic barns; and

“(4) to sponsor and conduct research on—

“(A) the history of barns; and

“(B) best practices to protect and rehabilitate historic barns from the effects of decay, fire, arson, and natural disasters.

“(c) GRANTS.—

“(1) IN GENERAL.—The Secretary may make grants to, or enter into contracts or cooperative agreements with, eligible applicants to carry out an eligible project under paragraph (2).

“(2) ELIGIBLE PROJECTS.—A grant under this subsection may be made to an eligible applicant for a project—

“(A) to rehabilitate or repair a historic barn;

“(B) to preserve a historic barn through—

“(i) the installation of a fire protection system, including fireproofing or fire detection system and sprinklers; and

“(ii) the installation of a system to prevent vandalism; and

“(C) to identify, document, and conduct research on a historic barn to develop and evaluate appropriate techniques or best practices for protecting historic barns.

“(3) REQUIREMENTS.—An eligible applicant that receives a grant for a project under this subsection shall comply with any standards established by the Secretary of the Interior for historic preservation projects.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.”.

SEC. 6024. GRANTS FOR NOAA WEATHER RADIO TRANSMITTERS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6023)) is amended by adding at the end the following:

“SEC. 379B. GRANTS FOR NOAA WEATHER RADIO TRANSMITTERS.

7 USC 2008p.

“(a) IN GENERAL.—The Secretary, acting through the Administrator of the Rural Utilities Service, may make grants to public and nonprofit entities, and borrowers of loans made by the Rural Utilities Service, for the Federal share of the cost of acquiring radio transmitters to increase coverage of rural areas by the all hazards weather radio broadcast system of the National Oceanic and Atmospheric Administration.

“(b) ELIGIBILITY.—To be eligible for a grant under this section, an applicant shall provide to the Secretary—

“(1) a binding commitment from a tower owner to place the transmitter on a tower; and

“(2) a description of how the tower placement will increase coverage of a rural area by the all hazards weather radio

broadcast system of the National Oceanic and Atmospheric Administration.

“(c) FEDERAL SHARE.—A grant provided under this section shall be not more than 75 percent of the total cost of acquiring a radio transmitter, as described in subsection (a).

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.”.

SEC. 6025. GRANTS TO TRAIN FARM WORKERS IN NEW TECHNOLOGIES AND TO TRAIN FARM WORKERS IN SPECIALIZED SKILLS NECESSARY FOR HIGHER VALUE CROPS.

Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6024) is amended by adding at the end the following:

7 USC 2008q.

“SEC. 379C. GRANTS TO TRAIN FARM WORKERS IN NEW TECHNOLOGIES AND TO TRAIN FARM WORKERS IN SPECIALIZED SKILLS NECESSARY FOR HIGHER VALUE CROPS.

“(a) IN GENERAL.—The Secretary shall make grants to nonprofit organizations, or to a consortium of nonprofit organizations, agribusinesses, State and local governments, agricultural labor organizations, farmer or rancher cooperatives, and community-based organizations with the capacity to train farm workers.

“(b) USE OF FUNDS.—An entity to which a grant is made under this section shall use the grant to train farm workers to use new technologies and develop specialized skills for agricultural development.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000 for each of fiscal years 2002 through 2007.”.

SEC. 6026. RURAL COMMUNITY ADVANCEMENT PROGRAM.

(a) NATIONAL RESERVE PROGRAM.—Section 381E of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009d) is amended—

(1) in subsection (b)—

(A) by striking paragraph (4); and

(B) by redesignating paragraph (5) as paragraph (4);

(2) by striking subsection (e);

(3) by redesignating subsections (f) through (h) as subsections (e) through (g), respectively; and

(4) in subsection (g) (as so redesignated), by striking “subsection (g) of this section” and inserting “subsection (f)”.

(b) RURAL VENTURE CAPITAL DEMONSTRATION PROGRAM.—Section 381O of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009n) is repealed.

(c) CONFORMING AMENDMENTS.—Section 381G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009f(a)) is amended—

(1) in subsection (a), by striking “section 381E(g)” each place it appears and inserting “section 381E(f)”; and

(2) in subsection (b)(1), by striking “section 381E(h)” and inserting “section 381E(g)”.

SEC. 6027. DELTA REGIONAL AUTHORITY.

(a) VOTING.—Section 382B(c) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-1(c)) is amended by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—

“(A) TEMPORARY METHOD.—During the period beginning on the date of enactment of this subparagraph and ending on December 31, 2004, a decision by the Authority shall require the affirmative vote of the Federal cochairperson and a majority of the State members (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.

Effective date.
Termination
date.

“(B) PERMANENT METHOD.—Effective beginning on January 1, 2005, a decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(C)) to be effective.”.

Effective date.

(b) AUTHORITY TO ISSUE REGULATIONS.—Section 382B(e)(4) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-1(e)(4)) is amended by striking “and rules” and inserting “, rules, and regulations”.

(c) ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.—Section 382C(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-2(b)) is amended by striking paragraph (3).

(d) SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.—Section 382D of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-3) is amended to read as follows:

“SEC. 382D. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

“(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

“(1) the States or communities lack the economic resources to provide the required matching share; or

“(2) there are insufficient funds available under the applicable Federal law authorizing the Federal grant program to meet pressing needs of the region.

“(b) FEDERAL GRANT PROGRAM FUNDING.—Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations of any Federal grant program, and in accordance with subsection (c), the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region—

“(1) may increase the Federal share of the costs of a project under the Federal grant program to not more than 90 percent (except as provided in section 382F(b)); and

“(2) shall use amounts made available to carry out this subtitle to pay the increased Federal share.

“(c) CERTIFICATIONS.—

“(1) IN GENERAL.—In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

“(A) meets (except as provided in subsection (b)) the applicable requirements of the applicable Federal grant program; and

“(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

“(2) CERTIFICATION BY AUTHORITY.—

“(A) IN GENERAL.—The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 382I—

“(i) shall be controlling; and

“(ii) shall be accepted by the Federal agencies.

“(B) ACCEPTANCE BY FEDERAL COCHAIRPERSON.—In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.”

(e) GRANTS TO LOCAL DEVELOPMENT AGENCIES.—Section 382E(b)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-4(b)(1)) is amended by striking “may” and inserting “shall”.

(f) APPROVAL OF DEVELOPMENT PLANS AND PROJECTS.—Section 382I of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-8) is amended—

(1) in subsection (a), by inserting “and approved” after “reviewed”; and

(2) in subsection (d), by striking “VOTES FOR DECISIONS.—” and inserting “APPROVAL OF GRANT APPLICATIONS.—”.

(g) AUTHORIZATION OF APPROPRIATIONS.—Section 382M(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-12(a)) is amended by striking “2002” and inserting “2007”.

(h) TERMINATION OF AUTHORITY.—Section 382N of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa-13) is amended by striking “2002” and inserting “2007”.

(i) DELTA REGION AGRICULTURAL ECONOMIC DEVELOPMENT.—Subtitle D of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.) (as amended by section 6025) is amended by adding at the end the following:

7 USC 2008r.

“SEC. 379D. DELTA REGION AGRICULTURAL ECONOMIC DEVELOPMENT.

“(a) IN GENERAL.—The Secretary may make grants to assist in the development of state-of-the-art technology in animal nutrition (including research and development of the technology) and value-added manufacturing to promote an economic platform for the Delta region (as defined in section 382A) to relieve severe economic conditions.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$7,000,000 for each of fiscal years 2002 through 2007.”.

(j) DEFINITION OF LOWER MISSISSIPPI.—Section 4(2)(I) of the Delta Development Act (42 U.S.C. 3121 note; Public Law 100-460) is amended by inserting “Butler, Conecuh, Escambia, Monroe,” after “Russell,”.

SEC. 6028. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

The Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) is amended by adding at the end the following:

“Subtitle G—Northern Great Plains Regional Authority

“SEC. 383A. DEFINITIONS.

7 USC 2009bb.

“In this subtitle:

“(1) **AUTHORITY.**—The term ‘Authority’ means the Northern Great Plains Regional Authority established by section 383B.

“(2) **FEDERAL GRANT PROGRAM.**—The term ‘Federal grant program’ means a Federal grant program to provide assistance in—

“(A) implementing the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great Plains Rural Development Act (7 U.S.C. 2661 note; Public Law 103-318);

“(B) acquiring or developing land;

“(C) constructing or equipping a highway, road, bridge, or facility;

“(D) carrying out other economic development activities; or

“(E) conducting research activities related to the activities described in subparagraphs (A) through (D).

“(3) **INDIAN TRIBE.**—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(4) **REGION.**—The term ‘region’ means the States of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

“SEC. 383B. NORTHERN GREAT PLAINS REGIONAL AUTHORITY.

7 USC 2009bb-1.

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—There is established the Northern Great Plains Regional Authority.

“(2) **COMPOSITION.**—The Authority shall be composed of—

“(A) a Federal member, to be appointed by the President, by and with the advice and consent of the Senate;

“(B) the Governor (or a designee of the Governor) of each State in the region that elects to participate in the Authority; and

“(C) a member of an Indian tribe, who shall be a chairperson of an Indian tribe in the region or a designee of such a chairperson, to be appointed by the President, by and with the advice and consent of the Senate.

“(3) **COCHAIRPERSONS.**—The Authority shall be headed by—

“(A) the Federal member, who shall serve—

“(i) as the Federal cochairperson; and

“(ii) as a liaison between the Federal Government and the Authority;

“(B) a State cochairperson, who—

“(i) shall be a Governor of a participating State in the region; and

“(ii) shall be elected by the State members for a term of not less than 1 year; and

“(C) the member of an Indian tribe, who shall serve—

- “(i) as the tribal cochairperson; and
 “(ii) as a liaison between the governments of Indian tribes in the region and the Authority.
- “(b) ALTERNATE MEMBERS.—
- President. “(1) ALTERNATE FEDERAL COCHAIRPERSON.—The President shall appoint an alternate Federal cochairperson.
- “(2) STATE ALTERNATES.—
- “(A) IN GENERAL.—The State member of a participating State may have a single alternate, who shall be—
- “(i) a resident of that State; and
 “(ii) appointed by the Governor of the State.
- “(B) QUORUM.—A State alternate member shall not be counted toward the establishment of a quorum of the members of the Authority in any case in which a quorum of the State members is required to be present.
- President. “(3) ALTERNATE TRIBAL COCHAIRPERSON.—The President shall appoint an alternate tribal cochairperson, by and with the advice and consent of the Senate.
- “(4) DELEGATION OF POWER.—No power or responsibility of the Authority specified in paragraphs (2) and (3) of subsection (c), and no voting right of any member of the Authority, shall be delegated to any person who is not—
- “(A) a member of the Authority; or
 “(B) entitled to vote in Authority meetings.
- “(c) VOTING.—
- “(1) IN GENERAL.—A decision by the Authority shall require a majority vote of the Authority (not including any member representing a State that is delinquent under subsection (g)(2)(D)) to be effective.
- “(2) QUORUM.—A quorum of State members shall be required to be present for the Authority to make any policy decision, including—
- “(A) a modification or revision of an Authority policy decision;
 “(B) approval of a State or regional development plan; and
 “(C) any allocation of funds among the States.
- “(3) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals shall be—
- “(A) a responsibility of the Authority; and
 “(B) conducted in accordance with section 383I.
- “(4) VOTING BY ALTERNATE MEMBERS.—An alternate member shall vote in the case of the absence, death, disability, removal, or resignation of the Federal, State, or Indian tribe member for whom the alternate member is an alternate.
- “(d) DUTIES.—The Authority shall—
- “(1) develop, on a continuing basis, comprehensive and coordinated plans and programs to establish priorities and approve grants for the economic development of the region, giving due consideration to other Federal, State, tribal, and local planning and development activities in the region;
 “(2) not later than 220 days after the date of enactment of this subtitle, establish priorities in a development plan for the region (including 5-year regional outcome targets);
 “(3) assess the needs and assets of the region based on available research, demonstrations, investigations, assessments, and evaluations of the region prepared by Federal,
- Deadline.

State, tribal, and local agencies, universities, local development districts, and other nonprofit groups;

“(4) formulate and recommend to the Governors and legislatures of States that participate in the Authority forms of interstate cooperation;

“(5) work with State, tribal, and local agencies in developing appropriate model legislation;

“(6)(A) enhance the capacity of, and provide support for, local development districts in the region; or

“(B) if no local development district exists in an area in a participating State in the region, foster the creation of a local development district;

“(7) encourage private investment in industrial, commercial, and other economic development projects in the region; and

“(8) cooperate with and assist State governments with economic development programs of participating States.

“(e) ADMINISTRATION.—In carrying out subsection (d), the Authority may—

“(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute a description of the proceedings and reports on actions by the Authority as the Authority considers appropriate;

“(2) authorize, through the Federal, State, or tribal cochairperson or any other member of the Authority designated by the Authority, the administration of oaths if the Authority determines that testimony should be taken or evidence received under oath;

“(3) request from any Federal, State, tribal, or local agency such information as may be available to or procurable by the agency that may be of use to the Authority in carrying out the duties of the Authority;

“(4) adopt, amend, and repeal bylaws and rules governing the conduct of business and the performance of duties of the Authority;

“(5) request the head of any Federal agency to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

“(6) request the head of any State agency, tribal government, or local government to detail to the Authority such personnel as the Authority requires to carry out duties of the Authority, each such detail to be without loss of seniority, pay, or other employee status;

“(7) provide for coverage of Authority employees in a suitable retirement and employee benefit system by—

“(A) making arrangements or entering into contracts with any participating State government or tribal government; or

“(B) otherwise providing retirement and other employee benefit coverage;

“(8) accept, use, and dispose of gifts or donations of services or real, personal, tangible, or intangible property;

“(9) enter into and perform such contracts, leases, cooperative agreements, or other transactions as are necessary to carry

out Authority duties, including any contracts, leases, or cooperative agreements with—

“(A) any department, agency, or instrumentality of the United States;

“(B) any State (including a political subdivision, agency, or instrumentality of the State);

“(C) any Indian tribe in the region; or

“(D) any person, firm, association, or corporation; and

“(10) establish and maintain a central office and field offices at such locations as the Authority may select.

“(f) FEDERAL AGENCY COOPERATION.—A Federal agency shall—

“(1) cooperate with the Authority; and

“(2) provide, on request of the Federal cochairperson, appropriate assistance in carrying out this subtitle, in accordance with applicable Federal laws (including regulations).

“(g) ADMINISTRATIVE EXPENSES.—

“(1) FEDERAL SHARE.—The Federal share of the administrative expenses of the Authority shall be—

“(A) for fiscal year 2002, 100 percent;

“(B) for fiscal year 2003, 75 percent; and

“(C) for fiscal year 2004 and each fiscal year thereafter, 50 percent.

“(2) NON-FEDERAL SHARE.—

“(A) IN GENERAL.—The non-Federal share of the administrative expenses of the Authority shall be paid by non-Federal sources in the States that participate in the Authority.

“(B) SHARE PAID BY EACH STATE.—The share of administrative expenses of the Authority to be paid by non-Federal sources in each State shall be determined by the Authority.

“(C) NO FEDERAL PARTICIPATION.—The Federal cochairperson shall not participate or vote in any decision under subparagraph (B).

“(D) DELINQUENT STATES.—If a State is delinquent in payment of the State’s share of administrative expenses of the Authority under this subsection—

“(i) no assistance under this subtitle shall be provided to the State (including assistance to a political subdivision or a resident of the State); and

“(ii) no member of the Authority from the State shall participate or vote in any action by the Authority.

“(h) COMPENSATION.—

“(1) FEDERAL AND TRIBAL COCHAIRPERSONS.—The Federal cochairperson and the tribal cochairperson shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level III of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code.

“(2) ALTERNATE FEDERAL AND TRIBAL COCHAIRPERSONS.—The alternate Federal cochairperson and the alternate tribal cochairperson—

“(A) shall be compensated by the Federal Government at the annual rate of basic pay prescribed for level V of the Executive Schedule described in paragraph (1); and

“(B) when not actively serving as an alternate, shall perform such functions and duties as are delegated by

the Federal cochairperson or the tribal cochairperson, respectively.

“(3) STATE MEMBERS AND ALTERNATES.—

“(A) IN GENERAL.—A State shall compensate each member and alternate representing the State on the Authority at the rate established by State law.

“(B) NO ADDITIONAL COMPENSATION.—No State member or alternate member shall receive any salary, or any contribution to or supplementation of salary from any source other than the State for services provided by the member or alternate member to the Authority.

“(4) DETAILED EMPLOYEES.—

“(A) IN GENERAL.—No person detailed to serve the Authority under subsection (e)(6) shall receive any salary or any contribution to or supplementation of salary for services provided to the Authority from—

“(i) any source other than the State, tribal, local, or intergovernmental agency from which the person was detailed; or

“(ii) the Authority.

“(B) VIOLATION.—Any person that violates this paragraph shall be fined not more than \$5,000, imprisoned not more than 1 year, or both.

“(C) APPLICABLE LAW.—The Federal cochairperson, the alternate Federal cochairperson, and any Federal officer or employee detailed to duty on the Authority under subsection (e)(5) shall not be subject to subparagraph (A), but shall remain subject to sections 202 through 209 of title 18, United States Code.

“(5) ADDITIONAL PERSONNEL.—

“(A) COMPENSATION.—

“(i) IN GENERAL.—The Authority may appoint and fix the compensation of an executive director and such other personnel as are necessary to enable the Authority to carry out the duties of the Authority.

“(ii) EXCEPTION.—Compensation under clause (i) shall not exceed the maximum rate for the Senior Executive Service under section 5382 of title 5, United States Code, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of that title.

“(B) EXECUTIVE DIRECTOR.—The executive director shall be responsible for—

“(i) the carrying out of the administrative duties of the Authority;

“(ii) direction of the Authority staff; and

“(iii) such other duties as the Authority may assign.

“(C) NO FEDERAL EMPLOYEE STATUS.—No member, alternate, officer, or employee of the Authority (except the Federal cochairperson of the Authority, the alternate and staff for the Federal cochairperson, and any Federal employee detailed to the Authority under subsection (e)(5)) shall be considered to be a Federal employee for any purpose.

“(i) CONFLICTS OF INTEREST.—

“(1) IN GENERAL.—Except as provided under paragraph (2), no State member, Indian tribe member, State alternate, officer, or employee of the Authority shall participate personally and substantially as a member, alternate, officer, or employee of the Authority, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in any proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other matter in which, to knowledge of the member, alternate, officer, or employee—

“(A) the member, alternate, officer, or employee;

“(B) the spouse, minor child, partner, or organization (other than a State or political subdivision of the State or the Indian tribe) of the member, alternate, officer, or employee, in which the member, alternate, officer, or employee is serving as officer, director, trustee, partner, or employee; or

“(C) any person or organization with whom the member, alternate, officer, or employee is negotiating or has any arrangement concerning prospective employment; has a financial interest.

“(2) DISCLOSURE.—Paragraph (1) shall not apply if the State member, Indian tribe member, alternate, officer, or employee—

“(A) immediately advises the Authority of the nature and circumstances of the proceeding, application, request for a ruling or other determination, contract, claim, controversy, or other particular matter presenting a potential conflict of interest;

“(B) makes full disclosure of the financial interest; and

“(C) before the proceeding concerning the matter presenting the conflict of interest, receives a written determination by the Authority that the interest is not so substantial as to be likely to affect the integrity of the services that the Authority may expect from the State member, Indian tribe member, alternate, officer, or employee.

“(3) VIOLATION.—Any person that violates this subsection shall be fined not more than \$10,000, imprisoned not more than 2 years, or both.

“(j) VALIDITY OF CONTRACTS, LOANS, AND GRANTS.—The Authority may declare void any contract, loan, or grant of or by the Authority in relation to which the Authority determines that there has been a violation of any provision under subsection (h)(4) or subsection (i) of this subtitle, or sections 202 through 209 of title 18, United States Code.

7 USC 2009bb-2.

“SEC. 383C. ECONOMIC AND COMMUNITY DEVELOPMENT GRANTS.

“(a) IN GENERAL.—The Authority may approve grants to States, Indian tribes, local governments, and public and nonprofit organizations for projects, approved in accordance with section 383I—

“(1) to develop the transportation and telecommunication infrastructure of the region for the purpose of facilitating economic development in the region (except that grants for this purpose may be made only to States, Indian tribes, local governments, and nonprofit organizations);

“(2) to assist the region in obtaining the job training, employment-related education, and business development (with an emphasis on entrepreneurship) that are needed to build and maintain strong local economies;

“(3) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for improving basic public services;

“(4) to provide assistance to severely distressed and underdeveloped areas that lack financial resources for equipping industrial parks and related facilities; and

“(5) to otherwise achieve the purposes of this subtitle.

“(b) FUNDING.—

“(1) IN GENERAL.—Funds for grants under subsection (a) may be provided—

“(A) entirely from appropriations to carry out this section;

“(B) in combination with funds available under another Federal grant program; or

“(C) from any other source.

“(2) PRIORITY OF FUNDING.—To best build the foundations for long-term economic development and to complement other Federal, State, and tribal resources in the region, Federal funds available under this subtitle shall be focused on the activities in the following order or priority:

“(A) Basic public infrastructure in distressed counties and isolated areas of distress.

“(B) Transportation and telecommunication infrastructure for the purpose of facilitating economic development in the region.

“(C) Business development, with emphasis on entrepreneurship.

“(D) Job training or employment-related education, with emphasis on use of existing public educational institutions located in the region.

“SEC. 383D. SUPPLEMENTS TO FEDERAL GRANT PROGRAMS.

7 USC 2009bb-3.

“(a) FINDING.—Congress finds that certain States and local communities of the region, including local development districts, may be unable to take maximum advantage of Federal grant programs for which the States and communities are eligible because—

“(1) they lack the economic resources to provide the required matching share; or

“(2) there are insufficient funds available under the applicable Federal law authorizing the Federal grant program to meet pressing needs of the region.

“(b) FEDERAL GRANT PROGRAM FUNDING.—Notwithstanding any provision of law limiting the Federal share, the areas eligible for assistance, or the authorizations of appropriations, under any Federal grant program, and in accordance with subsection (c), the Authority, with the approval of the Federal cochairperson and with respect to a project to be carried out in the region—

“(1) may increase the Federal share of the costs of a project under any Federal grant program to not more than 90 percent (except as provided in section 383F(b)); and

“(2) shall use amounts made available to carry out this subtitle to pay the increased Federal share.

“(c) CERTIFICATIONS.—

“(1) IN GENERAL.—In the case of any project for which all or any portion of the basic Federal share of the costs of the project is proposed to be paid under this section, no Federal contribution shall be made until the Federal official administering the Federal law that authorizes the Federal grant program certifies that the project—

“(A) meets (except as provided in subsection (b)) the applicable requirements of the applicable Federal grant program; and

“(B) could be approved for Federal contribution under the Federal grant program if funds were available under the law for the project.

“(2) CERTIFICATION BY AUTHORITY.—

“(A) IN GENERAL.—The certifications and determinations required to be made by the Authority for approval of projects under this Act in accordance with section 383I—

“(i) shall be controlling; and

“(ii) shall be accepted by the Federal agencies.

“(B) ACCEPTANCE BY FEDERAL COCHAIRPERSON.—In the case of any project described in paragraph (1), any finding, report, certification, or documentation required to be submitted with respect to the project to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the Federal grant program under which the project is carried out shall be accepted by the Federal cochairperson.

7 USC 2009bb-4. **“SEC. 383E. LOCAL DEVELOPMENT DISTRICTS AND ORGANIZATIONS AND NORTHERN GREAT PLAINS INC.**

“(a) DEFINITION OF LOCAL DEVELOPMENT DISTRICT.—In this section, the term ‘local development district’ means an entity—

“(1) that—

“(A) is a planning district in existence on the date of enactment of this subtitle that is recognized by the Economic Development Administration of the Department of Commerce; or

“(B) is—

“(i) organized and operated in a manner that ensures broad-based community participation and an effective opportunity for other nonprofit groups to contribute to the development and implementation of programs in the region;

“(ii) governed by a policy board with at least a simple majority of members consisting of—

“(I) elected officials or employees of a general purpose unit of local government who have been appointed to represent the government; or

“(II) individuals appointed by the general purpose unit of local government to represent the government;

“(iii) certified to the Authority as having a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region—

“(I) by the Governor of each State in which the entity is located; or

“(II) by the State officer designated by the appropriate State law to make the certification; and

“(iv)(I) a nonprofit incorporated body organized or chartered under the law of the State in which the entity is located;

“(II) a nonprofit agency or instrumentality of a State or local government;

“(III) a public organization established before the date of enactment of this subtitle under State law for creation of multi-jurisdictional, area-wide planning organizations; or

“(IV) a nonprofit association or combination of bodies, agencies, and instrumentalities described in subclauses (I) through (III); and

“(2) that has not, as certified by the Federal cochairperson—

“(A) inappropriately used Federal grant funds from any Federal source; or

“(B) appointed an officer who, during the period in which another entity inappropriately used Federal grant funds from any Federal source, was an officer of the other entity.

“(b) GRANTS TO LOCAL DEVELOPMENT DISTRICTS.—

“(1) IN GENERAL.—The Authority may make grants for administrative expenses under this section.

“(2) CONDITIONS FOR GRANTS.—

“(A) MAXIMUM AMOUNT.—The amount of any grant awarded under paragraph (1) shall not exceed 80 percent of the administrative expenses of the local development district receiving the grant.

“(B) MAXIMUM PERIOD.—No grant described in paragraph (1) shall be awarded to a State agency certified as a local development district for a period greater than 3 years.

“(C) LOCAL SHARE.—The contributions of a local development district for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services.

“(c) DUTIES OF LOCAL DEVELOPMENT DISTRICTS.—A local development district shall—

“(1) operate as a lead organization serving multicounty areas in the region at the local level; and

“(2) serve as a liaison between State, tribal, and local governments, nonprofit organizations (including community-based groups and educational institutions), the business community, and citizens that—

“(A) are involved in multijurisdictional planning;

“(B) provide technical assistance to local jurisdictions and potential grantees; and

“(C) provide leadership and civic development assistance.

“(d) NORTHERN GREAT PLAINS INC.—Northern Great Plains Inc., a nonprofit corporation incorporated in the State of Minnesota to implement the recommendations of the Northern Great Plains Rural Development Commission established by the Northern Great

Plains Rural Development Act (7 U.S.C. 2661 note; Public Law 103-318)—

“(1) shall serve as an independent, primary resource for the Authority on issues of concern to the region;

“(2) shall advise the Authority on development of international trade;

“(3) may provide research, education, training, and other support to the Authority; and

“(4) may carry out other activities on its own behalf or on behalf of other entities.

7 USC 2009bb-5. **“SEC. 383F. DISTRESSED COUNTIES AND AREAS AND NONDISTRESSED COUNTIES.**

Deadline.

“(a) DESIGNATIONS.—Not later than 90 days after the date of enactment of this subtitle, and annually thereafter, the Authority, in accordance with such criteria as the Authority may establish, shall designate—

“(1) as distressed counties, counties in the region that are the most severely and persistently distressed and underdeveloped and have high rates of poverty, unemployment, or outmigration;

“(2) as nondistressed counties, counties in the region that are not designated as distressed counties under paragraph (1); and

“(3) as isolated areas of distress, areas located in nondistressed counties (as designated under paragraph (2)) that have high rates of poverty, unemployment, or outmigration.

“(b) DISTRESSED COUNTIES.—

“(1) IN GENERAL.—The Authority shall allocate at least 75 percent of the appropriations made available under section 383M for programs and projects designed to serve the needs of distressed counties and isolated areas of distress in the region.

“(2) FUNDING LIMITATIONS.—The funding limitations under section 383D(b) shall not apply to a project to provide transportation or telecommunication or basic public services to residents of 1 or more distressed counties or isolated areas of distress in the region.

“(c) NONDISTRESSED COUNTIES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no funds shall be provided under this subtitle for a project located in a county designated as a nondistressed county under subsection (a)(2).

“(2) EXCEPTIONS.—

“(A) IN GENERAL.—The funding prohibition under paragraph (1) shall not apply to grants to fund the administrative expenses of local development districts under section 383E(b).

“(B) MULTICOUNTY PROJECTS.—The Authority may waive the application of the funding prohibition under paragraph (1) to—

“(i) a multicounty project that includes participation by a nondistressed county; or

“(ii) any other type of project; if the Authority determines that the project could bring significant benefits to areas of the region outside a nondistressed county.

“(C) ISOLATED AREAS OF DISTRESS.—For a designation of an isolated area of distress for assistance to be effective, the designation shall be supported—

- “(i) by the most recent Federal data available;
- or
- “(ii) if no recent Federal data are available, by the most recent data available through the government of the State in which the isolated area of distress is located.

“(d) TRANSPORTATION, TELECOMMUNICATION, AND BASIC PUBLIC INFRASTRUCTURE.—The Authority shall allocate at least 50 percent of any funds made available under section 383M for transportation, telecommunication, and basic public infrastructure projects authorized under paragraphs (1) and (3) of section 383C(a).

“SEC. 383G. DEVELOPMENT PLANNING PROCESS.

7 USC 2009bb-6.

“(a) STATE DEVELOPMENT PLAN.—In accordance with policies established by the Authority, each State member shall submit a development plan for the area of the region represented by the State member.

“(b) CONTENT OF PLAN.—A State development plan submitted under subsection (a) shall reflect the goals, objectives, and priorities identified in the regional development plan developed under section 383B(d)(2).

“(c) CONSULTATION WITH INTERESTED LOCAL PARTIES.—In carrying out the development planning process (including the selection of programs and projects for assistance), a State may—

“(1) consult with—

“(A) local development districts; and

“(B) local units of government; and

“(2) take into consideration the goals, objectives, priorities, and recommendations of the entities described in paragraph (1).

“(d) PUBLIC PARTICIPATION.—

“(1) IN GENERAL.—The Authority and applicable State and local development districts shall encourage and assist, to the maximum extent practicable, public participation in the development, revision, and implementation of all plans and programs under this subtitle.

“(2) REGULATIONS.—The Authority shall develop guidelines for providing public participation described in paragraph (1), including public hearings.

“SEC. 383H. PROGRAM DEVELOPMENT CRITERIA.

7 USC 2009bb-7.

“(a) IN GENERAL.—In considering programs and projects to be provided assistance under this subtitle, and in establishing a priority ranking of the requests for assistance provided to the Authority, the Authority shall follow procedures that ensure, to the maximum extent practicable, consideration of—

“(1) the relationship of the project or class of projects to overall regional development;

“(2) the per capita income and poverty and unemployment and outmigration rates in an area;

“(3) the financial resources available to the applicants for assistance seeking to carry out the project, with emphasis on ensuring that projects are adequately financed to maximize the probability of successful economic development;

“(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same funds;

“(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic development of the area to be served by the project; and

“(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures and the results of the expenditures may be evaluated.

“(b) NO RELOCATION ASSISTANCE.—No financial assistance authorized by this subtitle shall be used to assist a person or entity in relocating from one area to another, except that financial assistance may be used as otherwise authorized by this title to attract businesses from outside the region to the region.

“(c) MAINTENANCE OF EFFORT.—Funds may be provided for a program or project in a State under this subtitle only if the Authority determines that the level of Federal or State financial assistance provided under a law other than this subtitle, for the same type of program or project in the same area of the State within the region, will not be reduced as a result of funds made available by this subtitle.

7 USC 2009bb-8. **“SEC. 383I. APPROVAL OF DEVELOPMENT PLANS AND PROJECTS.**

“(a) IN GENERAL.—A State or regional development plan or any multistate subregional plan that is proposed for development under this subtitle shall be reviewed by the Authority.

“(b) EVALUATION BY STATE MEMBER.—An application for a grant or any other assistance for a project under this subtitle shall be made through and evaluated for approval by the State member of the Authority representing the applicant.

“(c) CERTIFICATION.—An application for a grant or other assistance for a project shall be approved only on certification by the State member that the application for the project—

“(1) describes ways in which the project complies with any applicable State development plan;

“(2) meets applicable criteria under section 383H;

“(3) provides adequate assurance that the proposed project will be properly administered, operated, and maintained; and

“(4) otherwise meets the requirements of this subtitle.

“(d) VOTES FOR DECISIONS.—On certification by a State member of the Authority of an application for a grant or other assistance for a specific project under this section, an affirmative vote of the Authority under section 383B(c) shall be required for approval of the application.

7 USC 2009bb-9. **“SEC. 383J. CONSENT OF STATES.**

“Nothing in this subtitle requires any State to engage in or accept any program under this subtitle without the consent of the State.

7 USC
2009bb-10. **“SEC. 383K. RECORDS.**

“(a) RECORDS OF THE AUTHORITY.—

“(1) IN GENERAL.—The Authority shall maintain accurate and complete records of all transactions and activities of the Authority.

“(2) AVAILABILITY.—All records of the Authority shall be available for audit and examination by the Comptroller General of the United States and the Inspector General of the Department of Agriculture (including authorized representatives of the Comptroller General and the Inspector General of the Department of Agriculture).

“(b) RECORDS OF RECIPIENTS OF FEDERAL ASSISTANCE.—

“(1) IN GENERAL.—A recipient of Federal funds under this subtitle shall, as required by the Authority, maintain accurate and complete records of transactions and activities financed with Federal funds and report to the Authority on the transactions and activities to the Authority.

“(2) AVAILABILITY.—All records required under paragraph (1) shall be available for audit by the Comptroller General of the United States, the Inspector General of the Department of Agriculture, and the Authority (including authorized representatives of the Comptroller General, the Inspector General of the Department of Agriculture, and the Authority).

“(c) ANNUAL AUDIT.—The Inspector General of the Department of Agriculture shall audit the activities, transactions, and records of the Authority on an annual basis.

“SEC. 383L. ANNUAL REPORT.

“Not later than 180 days after the end of each fiscal year, the Authority shall submit to the President and to Congress a report describing the activities carried out under this subtitle.

Deadline.
7 USC
2009bb-11.

“SEC. 383M. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There is authorized to be appropriated to the Authority to carry out this subtitle \$30,000,000 for each of fiscal years 2002 through 2007, to remain available until expended.

“(b) ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount appropriated under subsection (a) for a fiscal year shall be used for administrative expenses of the Authority.

“(c) MINIMUM STATE SHARE OF GRANTS.—Notwithstanding any other provision of this subtitle, for any fiscal year, the aggregate amount of grants received by a State and all persons or entities in the State under this subtitle shall be not less than $\frac{1}{3}$ of the product obtained by multiplying—

“(1) the aggregate amount of grants under this subtitle for the fiscal year; and

“(2) the ratio that—

“(A) the population of the State (as determined by the Secretary of Commerce based on the most recent decennial census for which data are available); bears to

“(B) the population of the region (as so determined).

7 USC
2009bb-12.

“SEC. 383N. TERMINATION OF AUTHORITY.

“The authority provided by this subtitle terminates effective October 1, 2007.”.

7 USC
2009bb-13.

SEC. 6029. RURAL BUSINESS INVESTMENT PROGRAM.

The Consolidated Farm and Rural Development Act (as amended by section 6028) is amended by adding at the end the following:

“Subtitle H—Rural Business Investment Program

7 USC 2009cc.

“SEC. 384A. DEFINITIONS.

“In this subtitle:

“(1) **ARTICLES.**—The term ‘articles’ means articles of incorporation for an incorporated body or the functional equivalent or other similar documents specified by the Secretary for other business entities.

“(2) **DEVELOPMENTAL VENTURE CAPITAL.**—The term ‘developmental venture capital’ means capital in the form of equity capital investments in rural business investment companies with an objective of fostering economic development in rural areas.

“(3) **EMPLOYEE WELFARE BENEFIT PLAN; PENSION PLAN.**—

“(A) **IN GENERAL.**—The terms ‘employee welfare benefit plan’ and ‘pension plan’ have the meanings given the terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

“(B) **INCLUSIONS.**—The terms ‘employee welfare benefit plan’ and ‘pension plan’ include—

“(i) public and private pension or retirement plans subject to this subtitle; and

“(ii) similar plans not covered by this subtitle that have been established, and that are maintained, by the Federal Government or any State (including by a political subdivision, agency, or instrumentality of the Federal Government or a State) for the benefit of employees.

“(4) **EQUITY CAPITAL.**—The term ‘equity capital’ means common or preferred stock or a similar instrument, including subordinated debt with equity features.

“(5) **LEVERAGE.**—The term ‘leverage’ includes—

“(A) debentures purchased or guaranteed by the Secretary;

“(B) participating securities purchased or guaranteed by the Secretary; and

“(C) preferred securities outstanding as of the date of enactment of this subtitle.

“(6) **LICENSE.**—The term ‘license’ means a license issued by the Secretary as provided in section 384D(e).

“(7) **LIMITED LIABILITY COMPANY.**—The term ‘limited liability company’ means a business entity that is organized and operating in accordance with a State limited liability company law approved by the Secretary.

“(8) **MEMBER.**—The term ‘member’ means, with respect to a rural business investment company that is a limited liability company, a holder of an ownership interest or a person otherwise admitted to membership in the limited liability company.

“(9) **OPERATIONAL ASSISTANCE.**—The term ‘operational assistance’ means management, marketing, and other technical assistance that assists a rural business concern with business development.

“(10) **PARTICIPATION AGREEMENT.**—The term ‘participation agreement’ means an agreement, between the Secretary and a rural business investment company granted final approval

under section 384D(e), that requires the rural business investment company to make investments in smaller enterprises in rural areas.

“(11) PRIVATE CAPITAL.—

“(A) IN GENERAL.—The term ‘private capital’ means the total of—

“(i)(I) the paid-in capital and paid-in surplus of a corporate rural business investment company;

“(II) the contributed capital of the partners of a partnership rural business investment company; or

“(III) the equity investment of the members of a limited liability company rural business investment company; and

“(ii) unfunded binding commitments from investors that meet criteria established by the Secretary to contribute capital to the rural business investment company, except that—

“(I) unfunded commitments may be counted as private capital for purposes of approval by the Secretary of any request for leverage; but

“(II) leverage shall not be funded based on the commitments.

“(B) EXCLUSIONS.—The term ‘private capital’ does not include—

“(i) any funds borrowed by a rural business investment company from any source;

“(ii) any funds obtained through the issuance of leverage; or

“(iii) any funds obtained directly or indirectly from the Federal Government or any State (including by a political subdivision, agency, or instrumentality of the Federal Government or a State), except for—

“(I) funds obtained from the business revenues (excluding any governmental appropriation) of any federally chartered or government-sponsored enterprise established prior to the date of enactment of this subtitle;

“(II) funds invested by an employee welfare benefit plan or pension plan; and

“(III) any qualified nonprivate funds (if the investors of the qualified nonprivate funds do not control, directly or indirectly, the management, board of directors, general partners, or members of the rural business investment company).

“(12) QUALIFIED NONPRIVATE FUNDS.—The term ‘qualified nonprivate funds’ means any—

“(A) funds directly or indirectly invested in any applicant or rural business investment company on or before the date of enactment of this subtitle, by any Federal agency, other than the Department of Agriculture, under a provision of law explicitly mandating the inclusion of those funds in the definition of the term ‘private capital’; and

“(B) funds invested in any applicant or rural business investment company by 1 or more entities of any State (including by a political subdivision, agency, or instrumentality of the State and including any guarantee extended

by those entities) in an aggregate amount that does not exceed 33 percent of the private capital of the applicant or rural business investment company.

“(13) RURAL BUSINESS CONCERN.—The term ‘rural business concern’ means—

“(A) a public, private, or cooperative for-profit or non-profit organization;

“(B) a for-profit or nonprofit business controlled by an Indian tribe on a Federal or State reservation or other federally recognized Indian tribal group; or

“(C) any other person or entity;

that primarily operates in a rural area, as determined by the Secretary.

“(14) RURAL BUSINESS INVESTMENT COMPANY.—The term ‘rural business investment company’ means a company that—

“(A) has been granted final approval by the Secretary under section 384D(e); and

“(B) has entered into a participation agreement with the Secretary.

“(15) SMALLER ENTERPRISE.—The term ‘smaller enterprise’ means any rural business concern that, together with its affiliates—

“(A) has—

“(i) a net financial worth of not more than \$6,000,000, as of the date on which assistance is provided under this subtitle to the rural business concern; and

“(ii) an average net income for the 2-year period preceding the date on which assistance is provided under this subtitle to the rural business concern, of not more than \$2,000,000, after Federal income taxes (excluding any carryover losses), except that, for purposes of this clause, if the rural business concern is not required by law to pay Federal income taxes at the enterprise level, but is required to pass income through to the shareholders, partners, beneficiaries, or other equitable owners of the business concern, the net income of the business concern shall be determined by allowing a deduction in an amount equal to the total of—

“(I) if the rural business concern is not required by law to pay State (and local, if any) income taxes at the enterprise level, the net income (determined without regard to this clause), multiplied by the marginal State income tax rate (or by the combined State and local income tax rates, as applicable) that would have applied if the business concern were a corporation; and

“(II) the net income (so determined) less any deduction for State (and local) income taxes calculated under subclause (I), multiplied by the marginal Federal income tax rate that would have applied if the rural business concern were a corporation; or

“(B) satisfies the standard industrial classification size standards established by the Administrator of the Small

Business Administration for the industry in which the rural business concern is primarily engaged.

“SEC. 384B. PURPOSES.

7 USC 2009cc–1.

“The purposes of the Rural Business Investment Program established under this subtitle are—

“(1) to promote economic development and the creation of wealth and job opportunities in rural areas and among individuals living in those areas by encouraging developmental venture capital investments in smaller enterprises primarily located in rural areas; and

“(2) to establish a developmental venture capital program, with the mission of addressing the unmet equity investment needs of small enterprises located in rural areas, by authorizing the Secretary—

“(A) to enter into participation agreements with rural business investment companies;

“(B) to guarantee debentures of rural business investment companies to enable each rural business investment company to make developmental venture capital investments in smaller enterprises in rural areas; and

“(C) to make grants to rural business investment companies, and to other entities, for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by rural business investment companies.

“SEC. 384C. ESTABLISHMENT.

7 USC 2009cc–2.

“In accordance with this subtitle, the Secretary shall establish a Rural Business Investment Program, under which the Secretary may—

“(1) enter into participation agreements with companies granted final approval under section 384D(e) for the purposes set forth in section 384B;

“(2) guarantee the debentures issued by rural business investment companies as provided in section 384E; and

“(3) make grants to rural business investment companies, and to other entities, under section 384H.

“SEC. 384D. SELECTION OF RURAL BUSINESS INVESTMENT COMPANIES.

7 USC 2009cc–3.

“(a) **ELIGIBILITY.**—A company shall be eligible to apply to participate, as a rural business investment company, in the program established under this subtitle if—

“(1) the company is a newly formed for-profit entity or a newly formed for-profit subsidiary of such an entity;

“(2) the company has a management team with experience in community development financing or relevant venture capital financing; and

“(3) the company will invest in enterprises that will create wealth and job opportunities in rural areas, with an emphasis on smaller enterprises.

“(b) **APPLICATION.**—To participate, as a rural business investment company, in the program established under this subtitle, a company meeting the eligibility requirements of subsection (a) shall submit an application to the Secretary that includes—

“(1) a business plan describing how the company intends to make successful developmental venture capital investments in identified rural areas;

“(2) information regarding the community development finance or relevant venture capital qualifications and general reputation of the management of the company;

“(3) a description of how the company intends to work with community-based organizations and local entities (including local economic development companies, local lenders, and local investors) and to seek to address the unmet equity capital needs of the communities served;

“(4) a proposal describing how the company intends to use the grant funds provided under this subtitle to provide operational assistance to smaller enterprises financed by the company, including information regarding whether the company intends to use licensed professionals, as necessary, on the staff of the company or from an outside entity;

“(5) with respect to binding commitments to be made to the company under this subtitle, an estimate of the ratio of cash to in-kind contributions;

“(6) a description of the criteria to be used to evaluate whether and to what extent the company meets the purposes of the program established under this subtitle;

“(7) information regarding the management and financial strength of any parent firm, affiliated firm, or any other firm essential to the success of the business plan of the company; and

“(8) such other information as the Secretary may require.

Deadline.
Reports.

“(c) STATUS.—Not later than 90 days after the initial receipt by the Secretary of an application under this section, the Secretary shall provide to the applicant a written report describing the status of the application and any requirements remaining for completion of the application.

“(d) MATTERS CONSIDERED.—In reviewing and processing any application under this section, the Secretary—

“(1) shall determine whether—

“(A) the applicant meets the requirements of subsection (e); and

“(B) the management of the applicant is qualified and has the knowledge, experience, and capability necessary to comply with this subtitle;

“(2) shall take into consideration—

“(A) the need for and availability of financing for rural business concerns in the geographic area in which the applicant is to commence business;

“(B) the general business reputation of the owners and management of the applicant; and

“(C) the probability of successful operations of the applicant, including adequate profitability and financial soundness; and

“(3) shall not take into consideration any projected shortage or unavailability of grant funds or leverage.

“(e) APPROVAL; LICENSE.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may approve an applicant to operate as a rural business investment company under this subtitle and license the applicant as a rural business investment company, if—

“(A) the Secretary determines that the application satisfies the requirements of subsection (b);

“(B) the area in which the rural business investment company is to conduct its operations, and establishment of branch offices or agencies (if authorized by the articles), are approved by the Secretary; and

“(C) the applicant enters into a participation agreement with the Secretary.

“(2) CAPITAL REQUIREMENTS.—

“(A) IN GENERAL.—Notwithstanding any other provision of this subtitle, the Secretary may approve an applicant to operate as a rural business investment company under this subtitle and designate the applicant as a rural business investment company, if the Secretary determines that the applicant—

“(i) has private capital of more than \$2,500,000;

“(ii) would otherwise be approved under this subtitle, except that the applicant does not satisfy the requirements of section 384I(c); and

“(iii) has a viable business plan that—

“(I) reasonably projects profitable operations; and

“(II) has a reasonable timetable for achieving a level of private capital that satisfies the requirements of section 384I(c).

“(B) LEVERAGE.—An applicant approved under subparagraph (A) shall not be eligible to receive leverage under this subtitle until the applicant satisfies the requirements of section 384I(c).

“(C) GRANTS.—An applicant approved under subparagraph (A) shall be eligible for grants under section 384H in proportion to the private capital of the applicant, as determined by the Secretary.

“SEC. 384E. DEBENTURES.

7 USC 2009cc-4.

“(a) IN GENERAL.—The Secretary may guarantee the timely payment of principal and interest, as scheduled, on debentures issued by any rural business investment company.

“(b) TERMS AND CONDITIONS.—The Secretary may make guarantees under this section on such terms and conditions as the Secretary considers appropriate, except that the term of any debenture guaranteed under this section shall not exceed 15 years.

“(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—Section 381H(i) shall apply to any guarantee under this section.

Applicability.

“(d) MAXIMUM GUARANTEE.—Under this section, the Secretary may—

“(1) guarantee the debentures issued by a rural business investment company only to the extent that the total face amount of outstanding guaranteed debentures of the rural business investment company does not exceed the lesser of—

“(A) 300 percent of the private capital of the rural business investment company; or

“(B) \$105,000,000; and

“(2) provide for the use of discounted debentures.

“SEC. 384F. ISSUANCE AND GUARANTEE OF TRUST CERTIFICATES.

7 USC 2009cc-5.

“(a) ISSUANCE.—The Secretary may issue trust certificates representing ownership of all or a fractional part of debentures issued

by a rural business investment company and guaranteed by the Secretary under this subtitle, if the certificates are based on and backed by a trust or pool approved by the Secretary and composed solely of guaranteed debentures.

“(b) GUARANTEE.—

“(1) IN GENERAL.—The Secretary may, under such terms and conditions as the Secretary considers appropriate, guarantee the timely payment of the principal of and interest on trust certificates issued by the Secretary or agents of the Secretary for purposes of this section.

“(2) LIMITATION.—Each guarantee under this subsection shall be limited to the extent of principal and interest on the guaranteed debentures that compose the trust or pool.

“(3) PREPAYMENT OR DEFAULT.—

“(A) IN GENERAL.—In the event a debenture in a trust or pool is prepaid, or in the event of default of such a debenture, the guarantee of timely payment of principal and interest on the trust certificates shall be reduced in proportion to the amount of principal and interest the prepaid debenture represents in the trust or pool.

“(B) INTEREST.—Interest on prepaid or defaulted debentures shall accrue and be guaranteed by the Secretary only through the date of payment of the guarantee.

“(C) REDEMPTION.—At any time during its term, a trust certificate may be called for redemption due to prepayment or default of all debentures.

Applicability.

“(c) FULL FAITH AND CREDIT OF THE UNITED STATES.—Section 381H(i) shall apply to any guarantee of a trust certificate issued by the Secretary under this section.

“(d) SUBROGATION AND OWNERSHIP RIGHTS.—

“(1) SUBROGATION.—If the Secretary pays a claim under a guarantee issued under this section, the claim shall be subrogated fully to the rights satisfied by the payment.

“(2) OWNERSHIP RIGHTS.—No Federal, State, or local law shall preclude or limit the exercise by the Secretary of the ownership rights of the Secretary in a debenture residing in a trust or pool against which 1 or more trust certificates are issued under this section.

“(e) MANAGEMENT AND ADMINISTRATION.—

“(1) REGISTRATION.—The Secretary shall provide for a central registration of all trust certificates issued under this section.

“(2) CREATION OF POOLS.—The Secretary may—

“(A) maintain such commercial bank accounts or investments in obligations of the United States as may be necessary to facilitate the creation of trusts or pools backed by debentures guaranteed under this subtitle; and

“(B) issue trust certificates to facilitate the creation of those trusts or pools.

“(3) FIDELITY BOND OR INSURANCE REQUIREMENT.—Any agent performing functions on behalf of the Secretary under this paragraph shall provide a fidelity bond or insurance in such amount as the Secretary considers to be necessary to fully protect the interests of the United States.

“(4) REGULATION OF BROKERS AND DEALERS.—The Secretary may regulate brokers and dealers in trust certificates issued under this section.

“(5) ELECTRONIC REGISTRATION.—Nothing in this subsection prohibits the use of a book-entry or other electronic form of registration for trust certificates issued under this section.

“SEC. 384G. FEES.

7 USC 2009cc-6.

“(a) IN GENERAL.—The Secretary may charge such fees as the Secretary considers appropriate with respect to any guarantee or grant issued under this subtitle.

“(b) TRUST CERTIFICATE.—Notwithstanding subsection (a), the Secretary shall not collect a fee for any guarantee of a trust certificate under section 384F, except that any agent of the Secretary may collect a fee approved by the Secretary for the functions described in section 384F(e)(2).

“(c) LICENSE.—

“(1) IN GENERAL.—The Secretary may prescribe fees to be paid by each applicant for a license to operate as a rural business investment company under this subtitle.

“(2) USE OF AMOUNTS.—Fees collected under this subsection—

“(A) shall be deposited in the account for salaries and expenses of the Secretary; and

“(B) are authorized to be appropriated solely to cover the costs of licensing examinations.

“SEC. 384H. OPERATIONAL ASSISTANCE GRANTS.

7 USC 2009cc-7.

“(a) IN GENERAL.—In accordance with this section, the Secretary may make grants to rural business investment companies and to other entities, as authorized by this subtitle, to provide operational assistance to smaller enterprises financed, or expected to be financed, by the entities.

“(b) TERMS.—Grants made under this section shall be made over a multiyear period (not to exceed 10 years) under such terms as the Secretary may require.

“(c) USE OF FUNDS.—The proceeds of a grant made under this section may be used by the rural business investment company receiving the grant only to provide operational assistance in connection with an equity or prospective equity investment in a business located in a rural area.

“(d) SUBMISSION OF PLANS.—A rural business investment company shall be eligible for a grant under this section only if the rural business investment company submits to the Secretary, in such form and manner as the Secretary may require, a plan for use of the grant.

“(e) GRANT AMOUNT.—

“(1) RURAL BUSINESS INVESTMENT COMPANIES.—The amount of a grant made under this section to a rural business investment company shall be equal to the lesser of—

“(A) 10 percent of the private capital raised by the rural business investment company; or

“(B) \$1,000,000.

“(2) OTHER ENTITIES.—The amount of a grant made under this section to any entity other than a rural business investment company shall be equal to the resources (in cash or in kind) raised by the entity in accordance with the requirements applicable to rural business investment companies under this subtitle.

7 USC 2009cc-8. **“SEC. 384I. RURAL BUSINESS INVESTMENT COMPANIES.**

“(a) ORGANIZATION.—For the purpose of this subtitle, a rural business investment company shall—

“(1) be an incorporated body, a limited liability company, or a limited partnership organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities authorized by this subtitle;

“(2)(A) if incorporated, have succession for a period of not less than 30 years unless earlier dissolved by the shareholders of the rural business investment company; and

“(B) if a limited partnership or a limited liability company, have succession for a period of not less than 10 years; and

“(3) possess the powers reasonably necessary to perform the functions and conduct the activities.

“(b) ARTICLES.—The articles of any rural business investment company—

“(1) shall specify in general terms—

“(A) the purposes for which the rural business investment company is formed;

“(B) the name of the rural business investment company;

“(C) the area or areas in which the operations of the rural business investment company are to be carried out;

“(D) the place where the principal office of the rural business investment company is to be located; and

“(E) the amount and classes of the shares of capital stock of the rural business investment company;

“(2) may contain any other provisions consistent with this subtitle that the rural business investment company may determine appropriate to adopt for the regulation of the business of the rural business investment company and the conduct of the affairs of the rural business investment company; and

“(3) shall be subject to the approval of the Secretary.

“(c) CAPITAL REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the private capital of each rural business investment company shall be not less than—

“(A) \$5,000,000; or

“(B) \$10,000,000, with respect to each rural business investment company authorized or seeking authority to issue participating securities to be purchased or guaranteed by the Secretary under this subtitle.

“(2) EXCEPTION.—The Secretary may, in the discretion of the Secretary and based on a showing of special circumstances and good cause, permit the private capital of a rural business investment company described in paragraph (1)(B) to be less than \$10,000,000, but not less than \$5,000,000, if the Secretary determines that the action would not create or otherwise contribute to an unreasonable risk of default or loss to the Federal Government.

“(3) ADEQUACY.—In addition to the requirements of paragraph (1), the Secretary shall—

“(A) determine whether the private capital of each rural business investment company is adequate to ensure a reasonable prospect that the rural business investment

company will be operated soundly and profitably, and managed actively and prudently in accordance with the articles of the rural business investment company;

“(B) determine that the rural business investment company will be able to comply with the requirements of this subtitle;

“(C) require that at least 75 percent of the capital of each rural business investment company is invested in rural business concerns and not more than 10 percent of the investments shall be made in an area containing a city of over 150,000 in the last decennial census and the Census Bureau defined urbanized area containing or adjacent to that city;

“(D) ensure that the rural business investment company is designed primarily to meet equity capital needs of the businesses in which the rural business investment company invests and not to compete with traditional small business financing by commercial lenders; and

“(E) require that the rural business investment company makes short-term non-equity investments of less than 5 years only to the extent necessary to preserve an existing investment.

“(d) DIVERSIFICATION OF OWNERSHIP.—The Secretary shall ensure that the management of each rural business investment company licensed after the date of enactment of this subtitle is sufficiently diversified from and unaffiliated with the ownership of the rural business investment company so as to ensure independence and objectivity in the financial management and oversight of the investments and operations of the rural business investment company.

“SEC. 384J. FINANCIAL INSTITUTION INVESTMENTS.

7 USC 2009cc-9.

“(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding any other provision of law, the following banks, associations, and institutions are eligible both to establish and invest in any rural business investment company or in any entity established to invest solely in rural business investment companies:

“(1) Any bank or savings association the deposits of which are insured under the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.).

“(2) Any Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)).

“(b) LIMITATION.—No bank, association, or institution described in subsection (a) may make investments described in subsection (a) that are greater than 5 percent of the capital and surplus of the bank, association, or institution.

“(c) LIMITATION ON RURAL BUSINESS INVESTMENT COMPANIES CONTROLLED BY FARM CREDIT SYSTEM INSTITUTIONS.—If a Farm Credit System institution described in section 1.2(a) of the Farm Credit Act of 1971 (12 U.S.C. 2002(a)) holds more than 15 percent of the shares of a rural business investment company, either alone or in conjunction with other System institutions (or affiliates), the rural business investment company shall not provide equity investments in, or provide other financial assistance to, entities that are not otherwise eligible to receive financing from the Farm Credit System under that Act (12 U.S.C. 2001 et seq.).

7 USC
2009cc-10.

“SEC. 384K. REPORTING REQUIREMENTS.

“(a) **RURAL BUSINESS INVESTMENT COMPANIES.**—Each rural business investment company that participates in the program established under this subtitle shall provide to the Secretary such information as the Secretary may require, including—

“(1) information relating to the measurement criteria that the rural business investment company proposed in the program application of the rural business investment company; and

“(2) in each case in which the rural business investment company under this subtitle makes an investment in, or a loan or grant to, a business that is not located in a rural area, a report on the number and percentage of employees of the business who reside in those areas.

“(b) **PUBLIC REPORTS.**—

“(1) **IN GENERAL.**—The Secretary shall prepare and make available to the public an annual report on the program established under this subtitle, including detailed information on—

“(A) the number of rural business investment companies licensed by the Secretary during the previous fiscal year;

“(B) the aggregate amount of leverage that rural business investment companies have received from the Federal Government during the previous fiscal year;

“(C) the aggregate number of each type of leveraged instruments used by rural business investment companies during the previous fiscal year and how each number compares to previous fiscal years;

“(D) the number of rural business investment company licenses surrendered and the number of rural business investment companies placed in liquidation during the previous fiscal year, identifying the amount of leverage each rural business investment company has received from the Federal Government and the type of leverage instruments each rural business investment company has used;

“(E) the amount of losses sustained by the Federal Government as a result of operations under this subtitle during the previous fiscal year and an estimate of the total losses that the Federal Government can reasonably expect to incur as a result of the operations during the current fiscal year;

“(F) actions taken by the Secretary to maximize recoupment of funds of the Federal Government expended to implement and administer the Rural Business Investment Program under this subtitle during the previous fiscal year and to ensure compliance with the requirements of this subtitle (including regulations);

“(G) the amount of Federal Government leverage that each licensee received in the previous fiscal year and the types of leverage instruments each licensee used;

“(H) for each type of financing instrument, the sizes, types of geographic locations, and other characteristics of the small business investment companies using the instrument during the previous fiscal year, including the extent to which the investment companies have used the leverage from each instrument to make loans or equity investments in rural areas; and

“(I) the actions of the Secretary to carry out this subtitle.

“(2) PROHIBITION.—In compiling the report required under paragraph (1), the Secretary may not—

“(A) compile the report in a manner that permits identification of any particular type of investment by an individual rural business investment company or small business concern in which a rural business investment company invests; and

“(B) may not release any information that is prohibited under section 1905 of title 18, United States Code.

“SEC. 384L. EXAMINATIONS.

7 USC
2009cc-11.

“(a) IN GENERAL.—Each rural business investment company that participates in the program established under this subtitle shall be subject to examinations made at the direction of the Secretary in accordance with this section.

“(b) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—An examination under this section may be conducted with the assistance of a private sector entity that has the qualifications and the expertise necessary to conduct such an examination.

“(c) COSTS.—

“(1) IN GENERAL.—The Secretary may assess the cost of an examination under this section, including compensation of the examiners, against the rural business investment company examined.

“(2) PAYMENT.—Any rural business investment company against which the Secretary assesses costs under this paragraph shall pay the costs.

“(d) DEPOSIT OF FUNDS.—Funds collected under this section shall—

“(1) be deposited in the account that incurred the costs for carrying out this section;

“(2) be made available to the Secretary to carry out this section, without further appropriation; and

“(3) remain available until expended.

“SEC. 384M. INJUNCTIONS AND OTHER ORDERS.

7 USC
2009cc-12.

“(a) IN GENERAL.—

“(1) APPLICATION BY SECRETARY.—Whenever, in the judgment of the Secretary, a rural business investment company or any other person has engaged or is about to engage in any act or practice that constitutes or will constitute a violation of a provision of this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), the Secretary may apply to the appropriate district court of the United States for an order enjoining the act or practice, or for an order enforcing compliance with the provision, rule, regulation, order, or participation agreement.

“(2) JURISDICTION; RELIEF.—The court shall have jurisdiction over the action and, on a showing by the Secretary that the rural business investment company or other person has engaged or is about to engage in an act or practice described in paragraph (1), a permanent or temporary injunction, restraining order, or other order, shall be granted without bond.

“(b) JURISDICTION.—

“(1) IN GENERAL.—In any proceeding under subsection (a), the court as a court of equity may, to such extent as the court considers necessary, take exclusive jurisdiction over the rural business investment company and the assets of the rural business investment company, wherever located.

“(2) TRUSTEE OR RECEIVER.—The court shall have jurisdiction in any proceeding described in paragraph (1) to appoint a trustee or receiver to hold or administer the assets.

“(c) SECRETARY AS TRUSTEE OR RECEIVER.—

“(1) AUTHORITY.—The Secretary may act as trustee or receiver of a rural business investment company.

“(2) APPOINTMENT.—On the request of the Secretary, the court shall appoint the Secretary to act as a trustee or receiver of a rural business investment company unless the court considers the appointment inequitable or otherwise inappropriate by reason of any special circumstances involved.

7 USC
2009cc-13.

“SEC. 384N. ADDITIONAL PENALTIES FOR NONCOMPLIANCE.

“(a) IN GENERAL.—With respect to any rural business investment company that violates or fails to comply with this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), the Secretary may, in accordance with this section—

“(1) void the participation agreement between the Secretary and the rural business investment company; and

“(2) cause the rural business investment company to forfeit all of the rights and privileges derived by the rural business investment company under this subtitle.

“(b) ADJUDICATION OF NONCOMPLIANCE.—

“(1) IN GENERAL.—Before the Secretary may cause a rural business investment company to forfeit rights or privileges under subsection (a), a court of the United States of competent jurisdiction must find that the rural business investment company committed a violation, or failed to comply, in a cause of action brought for that purpose in the district, territory, or other place subject to the jurisdiction of the United States, in which the principal office of the rural business investment company is located.

“(2) PARTIES AUTHORIZED TO FILE CAUSES OF ACTION.—Each cause of action brought by the United States under this subsection shall be brought by the Secretary or by the Attorney General.

7 USC
2009cc-14.

“SEC. 384O. UNLAWFUL ACTS AND OMISSIONS; BREACH OF FIDUCIARY DUTY.

“(a) PARTIES DEEMED TO COMMIT A VIOLATION.—Whenever any rural business investment company violates this subtitle (including any rule, regulation, order, or participation agreement under this subtitle), by reason of the failure of the rural business investment company to comply with this subtitle or by reason of its engaging in any act or practice that constitutes or will constitute a violation of this subtitle, the violation shall also be deemed to be a violation and an unlawful act committed by any person that, directly or indirectly, authorizes, orders, participates in, causes, brings about, counsels, aids, or abets in the commission of any acts, practices, or transactions that constitute or will constitute, in whole or in part, the violation.

“(b) FIDUCIARY DUTIES.—It shall be unlawful for any officer, director, employee, agent, or other participant in the management or conduct of the affairs of a rural business investment company to engage in any act or practice, or to omit any act or practice, in breach of the fiduciary duty of the officer, director, employee, agent, or participant if, as a result of the act or practice, the rural business investment company suffers or is in imminent danger of suffering financial loss or other damage.

“(c) UNLAWFUL ACTS.—Except with the written consent of the Secretary, it shall be unlawful—

“(1) for any person to take office as an officer, director, or employee of any rural business investment company, or to become an agent or participant in the conduct of the affairs or management of a rural business investment company, if the person—

“(A) has been convicted of a felony, or any other criminal offense involving dishonesty or breach of trust; or

“(B) has been found liable in a civil action for damages, or has been permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust; and

“(2) for any person to continue to serve in any of the capacities described in paragraph (1), if—

“(A) the person is convicted of a felony or any other criminal offense involving dishonesty or breach of trust; or

“(B) the person is found liable in a civil action for damages, or is permanently or temporarily enjoined by an order, judgment, or decree of a court of competent jurisdiction, by reason of any act or practice involving fraud or breach of trust.

“SEC. 384P. REMOVAL OR SUSPENSION OF DIRECTORS OR OFFICERS.

7 USC
2009cc-15.

“Using the procedures established by the Secretary for removing or suspending a director or an officer of a rural business investment company, the Secretary may remove or suspend any director or officer of any rural business investment company.

“SEC. 384Q. CONTRACTING OF FUNCTIONS.

7 USC
2009cc-16.

“(a) IN GENERAL.—Notwithstanding any other provision of law, to carry out the day-to-day management and operation of the program authorized by this subtitle on behalf of the Secretary, the Secretary shall enter into an interagency agreement under section 1535 of title 31, United States Code, with another Federal agency that has considerable expertise in operating a program under which capital is provided for equity investments in private sector companies.

“(b) FUNDING.—The costs incurred by a Federal agency entering into an agreement under subsection (a) shall be reimbursed in accordance with section 1535 of title 31, United States Code, from amounts made available under section 384S(a)(2).

“SEC. 384R. REGULATIONS.

7 USC
2009cc-17.

“The Secretary may promulgate such regulations as the Secretary considers necessary to carry out this subtitle.

7 USC
2009cc–18.

“SEC. 384S. FUNDING.

“(a) IN GENERAL.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall make available—

“(1) such sums as may be necessary for the cost of guaranteeing \$280,000,000 of debentures under this subtitle; and

“(2) \$44,000,000 to make grants under this subtitle.

“(b) AVAILABILITY OF FUNDS.—Funds transferred under subsection (a) shall remain available until expended.”.

SEC. 6030. RURAL STRATEGIC INVESTMENT PROGRAM.

The Consolidated Farm and Rural Development Act (as amended by section 6029) is amended by adding at the end the following:

**“Subtitle I—Rural Strategic Investment
Program**

7 USC 2009dd.

“SEC. 385A. PURPOSE.

“The purpose of this subtitle is to establish a rural strategic investment program—

“(1) to provide rural communities with flexible resources to develop comprehensive, collaborative, and locally-based strategic planning processes; and

“(2) to implement innovative community and economic development strategies that optimize regional competitive advantages.

7 USC 2009dd–1.

“SEC. 385B. DEFINITIONS.

“In this subtitle:

“(1) BENCHMARK.—The term ‘benchmark’ means an annual set of strategies and goals of a Regional Board established for the purpose of measuring performance in meeting the regional plan of the Regional Board.

“(2) CONFERENCE.—The term ‘Conference’ means the National Conference on Rural America conducted under section 385H.

“(3) ELIGIBLE AREA.—

“(A) IN GENERAL.—The term ‘eligible area’ means a nonmetropolitan county (as defined by the Secretary) that has a population of 50,000 inhabitants or less.

“(B) INCLUSION.—

“(i) IN GENERAL.—Subject to clause (ii), the term ‘eligible area’ includes an unincorporated or other area of a county that has a population of more than 50,000 inhabitants if the unincorporated area or other area is adjacent to an eligible rural area described in subparagraph (A).

“(ii) PARTICIPATION.—An area described in clause (i) may be represented on a Regional Board.

“(C) EXCLUSION.—The term ‘eligible area’ does not include any area designated by the Secretary as a rural empowerment zone or rural enterprise community.

“(4) INNOVATION GRANT.—The term ‘innovation grant’ means an innovation grant made by the National Board to a Regional Board under section 385G.

“(5) NATIONAL BOARD.—The term ‘National Board’ means the National Board on Rural America established under section 385D(a).

“(6) NATIONAL PLAN.—The term ‘national plan’ means a national strategic investment plan of the National Board developed under section 385D(d)(3).

“(7) PLANNING GRANT.—The term ‘planning grant’ means a regional strategic investment planning grant made by the National Board to a Regional Board under section 385F.

“(8) PROGRAM.—The term ‘program’ means the rural strategic investment program established under this subtitle.

“(9) REGION.—The term ‘region’ means the eligible areas that—

“(A) are under the jurisdiction of a Regional Board; and

“(B) meet criteria established by the National Board not later than 1 year after the date of enactment of this subtitle.

“(10) REGIONAL BOARD.—The term ‘Regional Board’ means a Regional Investment Board certified under section 385C(a).

“(11) REGIONAL PLAN.—The term ‘regional plan’ means a regional strategic investment plan of a Regional Board developed under section 385C(b)(3)(B).

“SEC. 385C. REGIONAL INVESTMENT BOARDS.

7 USC 2009dd-2.

“(a) IN GENERAL.—The National Board may certify a group representing the interests described in subsection (b)(2)(A) as a Regional Investment Board created to develop and implement a regional strategic investment plan for grants made under this subtitle to promote investment in eligible areas.

“(b) REQUIREMENTS FOR CERTIFICATION.—

“(1) IN GENERAL.—A Regional Board shall meet the requirements of this subsection for certification.

“(2) COMPOSITION.—

“(A) IN GENERAL.—A Regional Board shall be composed of residents of the region that broadly represent diverse public, nonprofit, and private sector interests in investment in the region, including (to the maximum extent practicable) representatives of—

“(i) units of local government (including multijurisdictional units of local government);

“(ii) in the case of regions with Indian populations, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

“(iii) private nonprofit community-based development organizations;

“(iv) regional development organizations;

“(v) private business organizations;

“(vi) other entities and organizations, as determined by the Regional Board; and

“(vii) consortia of entities and organizations described in clauses (i) through (vii).

“(B) LOCAL PUBLIC-PRIVATE REPRESENTATION.—Of the members of a Regional Board, to the maximum extent practicable—

“(i) $\frac{1}{2}$ of the members shall be representatives of units of local government and Indian tribes described in subparagraph (A); and

“(ii) $\frac{1}{2}$ of the members shall be representatives of nonprofit, regional, private, and other entities and organizations described in subparagraph (A).

“(C) EX-OFFICIO MEMBERS.—

“(i) IN GENERAL.—An officer or employee of a Federal or State agency may serve as an ex-officio, non-voting member of a Regional Board representing the agency.

“(ii) CONFLICTS.—Participation by a Federal officer or employee in activities of the Regional Board shall not constitute a violation of section 205 or 208 of title 18, United States Code.

“(D) CERTIFICATION.—To be certified by the National Board, a Regional Board shall demonstrate to the National Board that the Regional Board is broadly representative of the interests described in subparagraph (A).

“(E) APPEALS.—

“(i) IN GENERAL.—Prior to certification of the Regional Board by the National Board, representatives of interests described in subparagraph (A) that participated in the development of a Regional Board may appeal the composition of the Regional Board to the National Board on the ground that—

“(I) the composition of the Regional Board does not adequately reflect the purposes of the program; or

“(II) the selection process for the Regional Board unfairly disadvantaged those interests.

“(ii) ACTION BY NATIONAL BOARD.—The National Board shall act on any appeal of the composition of a Regional Board before taking action on the certification of the Regional Board.

“(3) DUTIES AND PURPOSE.—The organizational documents of the proposed Regional Board shall demonstrate that, on certification, the Regional Board shall—

“(A) create a collaborative, inclusive public-private planning process;

“(B) develop, and submit to the National Board for approval, a regional strategic investment plan that meets the requirements of section 385F, with benchmarks, to promote investment in eligible areas through the use of grants made available under this subtitle;

“(C) implement the approved regional plan;

“(D) provide annual reports to the Secretary and the National Board on progress made in achieving the benchmarks of the regional plan, including an annual financial statement; and

“(E) select a non-Federal organization (such as a regional development organization) in the local area served by the Regional Board that has previous experience in the management of Federal funds to serve as fiscal manager of any funds of the Regional Board.

Reports.

“SEC. 385D. NATIONAL BOARD ON RURAL AMERICA.

7 USC 2009dd-3.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary shall establish a National Board on Rural America to carry out the rural strategic investment program established under this subtitle.

“(2) SUPERVISION AND DIRECTION.—Except as otherwise provided in this subtitle, the National Board shall be subject to the general supervision and direction of the Secretary.

“(b) COMPOSITION.—**“(1) IN GENERAL.—**

“(A) APPOINTMENT.—In addition to the Secretary or the designee of the Secretary, the National Board shall consist of 14 members appointed by the Secretary from among—

“(i) representatives of nationally recognized entrepreneurship organizations;

“(ii) representatives of regional planning and development organizations;

“(iii) representatives of community-based organizations;

“(iv) elected members of county governments;

“(v) elected members of State legislatures;

“(vi) representatives of the rural philanthropic community; and

“(vii) representatives of Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

“(B) RECOMMENDATIONS.—In appointing the members of the National Board under subparagraph (A), the Secretary shall consider recommendations made by—

“(i) the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

“(ii) the Majority Leader of the Senate; and

“(iii) the Speaker of the House of Representatives.

“(3) TERM OF OFFICE.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term of office of a member of the National Board appointed under paragraph (1)(A) shall be 4 years.

“(B) STAGGERED INITIAL TERMS.—Of the initial members of the National Board appointed under paragraph (1)(A), the term of office of—

“(i) 5 members shall be 4 years;

“(ii) 5 members shall be 3 years; and

“(iii) 4 members shall be 2 years.

“(4) INITIAL APPOINTMENTS.—Not later than 90 days after the date of enactment of this subtitle, the Secretary shall appoint the initial members of the National Board under paragraph (1)(A).

“(5) EX-OFFICIO MEMBERS.—

“(A) SPECIAL ASSISTANT TO THE PRESIDENT FOR RURAL POLICY.—If appointed by the President under section 6406(1) of the Farm Security and Rural Investment Act of 2002, the Special Assistant to the President for Rural Policy shall serve as an ex-officio, non-voting member of the National Board.

“(B) OTHER MEMBERS.—In consultation with the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Secretary may appoint not more than 3 other officers or employees of the Executive Branch to serve as ex-officio, non-voting members of the National Board.

“(6) VACANCIES.—A vacancy on the National Board shall be filled in the same manner as the original appointment.

“(7) COMPENSATION.—A member of the National Board shall receive no compensation for service on the National Board, but shall be reimbursed for travel and other expenses incurred in carrying out the duties of the member of the National Board in accordance with section 5702 and 5703 of title 5, United States Code.

“(8) CHAIRPERSON.—The National Board shall select a chairperson from among the members of the National Board.

“(9) MEETINGS.—

“(A) TIME AND PLACE.—The National Board shall meet at the call of the chairperson.

“(B) QUORUM.—A quorum of the National Board shall consist of a majority of the members.

“(C) MAJORITY VOTE.—A decision of the National Board shall be made by majority vote.

“(10) FEDERAL STATUS.—For purposes of Federal law, a member of the National Board shall be considered a special Government employee (as defined in section 202(a) of title 18, United States Code).

“(11) CONFLICT OF INTEREST.—

“(A) IN GENERAL.—Except as provided in subparagraph (C), no member of the National Board shall vote on any matter respecting any application for a grant or other particular matter pending before the National Board in which, to the knowledge of the member, the member, spouse, or child of the member, partner, or organization in which the member is serving as officer, director, trustee, partner, or employee, or any person or organization with whom the member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

“(B) VIOLATIONS.—A violation of subparagraph (A) by a member of the National Board shall be cause for removal of the member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the National Board in which the member participated.

“(C) EXCEPTION.—Subparagraph (A) shall not apply to the extent a member of the National Board advises the National Board of the nature of the particular matter in which the member proposes to participate, if—

“(i) the member makes a full disclosure of the financial interest; and

“(ii) prior to any participation by the member, the National Board determines, by majority vote of the other members of the National Board, that the financial interest is too remote or too inconsequential to affect the integrity of the services of the member to the National Board in that matter.

“(c) ADMINISTRATIVE SUPPORT.—The Secretary, on a reimbursable basis, may provide such administrative support to the National Board as the Secretary determines is necessary to carry out the duties of the National Board.

“(d) DUTIES.—The National Board shall—

“(1) certify Regional Boards in accordance with section 385C, with the initial certification of Regional Boards occurring not later than 540 days after the date of enactment of this subtitle;

“(2) approve, negotiate, or disapprove each regional plan that is submitted by a Regional Board to the National Board under section 385C;

“(3) develop, and submit to the Secretary for approval, a national strategic investment plan;

“(4) use the amount received from the Secretary under section 385E to make planning grants and innovation grants to Regional Boards and to otherwise carry out the program;

“(5) provide leadership and advice to Regional Boards on issues, best practices, and emerging trends relating to rural development;

“(6) evaluate the progress of each Regional Board in achieving the benchmarks of the regional plan using annual reports submitted under section 385C(b)(3)(D) and any other information that is available to the Regional Board; and

“(7) submit an annual report on the performance of Regional Boards and the program to—

“(A) the Committee on Agriculture of the House of Representatives;

“(B) the Committee on Agriculture, Nutrition, and Forestry of the Senate; and

“(C) the Secretary.

“SEC. 385E. RURAL STRATEGIC INVESTMENT PROGRAM.

7 USC 2009dd-4.

“(a) IN GENERAL.—If the Secretary approves a national strategic investment plan submitted by the National Board, of the funds of the Commodity Credit Corporation, the Secretary shall transfer to the National Board \$100,000,000, to remain available until expended, for the Board to use to make planning grants and innovation grants to Regional Boards and to otherwise carry out this subtitle.

“(b) USE BY NATIONAL BOARD.—Of the amount transferred by the Secretary to the National Board under subsection (a), the National Board shall use—

“(1) not less than \$8,000,000 to make planning grants to Regional Boards under section 385F;

“(2) not less than \$87,000,000 to make innovation grants to Regional Boards under section 385G; and

“(3) the remainder of the funds to carry out section 385H and administer this subtitle (other than section 385H).

“SEC. 385F. REGIONAL STRATEGIC INVESTMENT PLANNING GRANTS.

7 USC 2009dd-5.

“(a) IN GENERAL.—The National Board shall use amounts made available under section 385E(b)(1) to make not fewer than 80 planning grants, on a competitive basis, to applicant Regional Boards to develop, maintain, evaluate, and report progress on regional strategic investment plans in accordance with section 385C and this section.

“(b) **REGIONAL PLANS.**—A regional plan for a region covered by a Regional Board shall, to the maximum extent practicable, cover—

“(1) basic infrastructure needs of the region;

“(2) basic services within the region;

“(3) opportunities for economic diversification and innovation within the region, with particular attention to entrepreneurial support and innovation;

“(4) the current and future human resource capacity of the region;

“(5) access to market-based financing and venture and equity capital in the region;

“(6) the development of innovative public and private collaborations for investments in the region; and

“(7) other appropriate matters, as determined by the National Board and the Secretary.

“(c) **PREFERENCES.**—In awarding planning grants, the National Board shall give a preference to planning grants that will be used to address community capacity building and community sustainability.

“(d) **AMOUNT.**—The total amount of a planning grant made to a Regional Board shall not exceed \$100,000.

“(e) **COST SHARING.**—

“(1) **IN GENERAL.**—Subject to paragraphs (2) and (3), the share of the costs of developing, maintaining, evaluating, and reporting on a regional plan funded by a grant under this section shall not exceed 50 percent.

“(2) **FORM.**—

“(A) **IN GENERAL.** Except as provided in subparagraph (B), a Regional Board shall pay the grantee share of the costs described in paragraph (1) in the form of cash, services, materials, or other in-kind contributions.

“(B) **LIMITATION.**—A grantee shall not pay more than 50 percent of the grantee share in the form of services, materials, or other in-kind contributions.

“(3) **INCREASED SHARE.**—The National Board may increase the share of the costs covered by a planning grant made to a Regional Board under this section if a limited ability of the Regional Board to pay would otherwise create a barrier to full participation in the program.

7 USC 2009dd-6. **“SEC. 385G. INNOVATION GRANTS.**

“(a) **IN GENERAL.**—The National Board shall use amounts made available under section 385E(b)(2) to make innovation grants, on a competitive basis, to Regional Boards to implement projects that are identified in the regional plans of the Regional Boards.

“(b) **ELIGIBILITY.**—

“(1) **IN GENERAL.**—For a Regional Board to be eligible to receive an innovation grant, the National Board shall determine that—

“(A) the regional plan of a Regional Board meets the requirements of this subtitle;

“(B) the management and organizational structure of the Regional Board is sufficient to oversee grant projects;

“(C) the Regional Board will be able to provide the grantee share required under this section; and

“(D) the Regional Board agrees to achieve, to the maximum extent practicable, the performance-based benchmarks of the regional plan.

“(2) RELATIONSHIP TO PLANNING GRANTS.—A Regional Board that meets the requirements of paragraph (1) shall be eligible to receive an innovation grant, regardless of whether the Regional Board receives a planning grant.

“(c) SELECTION.—Subject to subsection (d), of the applications submitted by Regional Boards for innovation grants, the National Board shall, to the maximum extent practicable, select not fewer than 30 regional boards to receive innovation grants.

“(d) PREFERENCES.—In awarding innovation grants, the National Board shall give a preference (in order of priority) to Regional Boards that—

“(1) exhibit collaborative innovation and entrepreneurship, particularly within a public-private partnership;

“(2) represent a broad coalition of interests described in section 385C(b)(2)(A);

“(3) demonstrate a plan to leverage public (Federal and non-federal) and private funds and existing assets, including natural assets and public infrastructure;

“(4) address gaps in existing basic services within a region;

“(5) address economic diversification, including agricultural and non-agriculturally based economies, within a regional framework;

“(6) demonstrate a plan to achieve multijurisdictional regional planning and development, with particular evidence of economic development successes within diverse stakeholder frameworks; or

“(7) meet other community development needs identified by a Regional Board.

“(e) USES.—

“(1) LEVERAGE.—A Regional Board shall prioritize projects, in part, on the degree to which the Regional Board is able to leverage additional funds for the implementation of the projects.

“(2) PURPOSES.—A Regional Board may use an innovation grant provided for a region—

“(A) to support the development of critical infrastructure necessary to facilitate economic development in the region;

“(B) to provide assistance to entities within the region that provide basic public services;

“(C) to assist with job training, workforce development, or other needs related to the development and maintenance of strong local and regional economies;

“(D) to assist in the development of unique new collaborations that link public, private, and philanthropic resources to achieve collaboratively designed regional advancement; and

“(E) to provide support to business investment.

“(3) OTHER DEPARTMENT PROGRAMS.—A Regional Board may not use an innovation grant provided for a region for any purpose for which funding may be obtained under any other rural development program of the Department of Agriculture unless—

“(A) the Regional Board—

“(i) has submitted an application for the funding under the other program; and

“(ii) withdraws the application; and

“(B) the National Board approves use of the innovation grant for that purpose.

“(4) OPERATING EXPENSES.—A Regional Board may use for administrative costs in carrying out programs and activities related to the grant the greater of—

“(A) \$100,000; or

“(B) 5 percent of the amount of an innovation grant provided.

“(f) AMOUNT.—

“(1) IN GENERAL.—The amount of an innovation grant made to a Regional Board shall not exceed \$3,000,000.

“(2) AVAILABILITY.—The amount of an innovation grant made to a Regional Board shall remain available until expended.

“(g) COST SHARING.—

“(1) IN GENERAL.—Subject to paragraphs (2) and (3), the share of the costs of projects covered by an innovation grant made to a Regional Board under this section shall not exceed 75 percent, as determined by the National Board.

“(2) FORM.—A Regional Board may pay the grantee share of the costs of projects covered by an innovation grant in the form of cash or services, materials, or other in-kind contributions.

“(3) WAIVER OF GRANTEE SHARE.—The National Board may waive the grantee share of the costs of projects covered by an innovation grant made to a Regional Board under this section if the National Board determines that such a waiver is appropriate.

“(4) OTHER FEDERAL PROGRAMS.—For the purpose of determining grantee share requirements for any other Federal programs, funds provided for innovation grants shall be considered to be non-Federal funds.

“(h) NEGOTIATION.—The National Board may—

“(1) negotiate with a Regional Board on the substance, size, and scope of a regional plan; and

“(2) approve an innovation grant for an amount that is lower than the amount requested by the Regional Board.

“(i) NONCOMPLIANCE.—If a Regional Board fails to comply with the requirements of this section, the National Board may take such actions as are necessary to obtain reimbursement of unused grant funds.

“(j) OTHER USES.—The National Board may use not more than 5 percent of the amounts made available for innovation grants—

“(1) to provide assistance to interests described in section 385C(b)(2)(A) to obtain certification of a Regional Board;

“(2) to provide assistance for emergent innovative opportunities that are not covered by existing regional plans;

“(3) to provide technical assistance, research, organizational support, and other capacity building infrastructure to support existing Regional Boards;

“(4) to provide assistance for other entrepreneurial opportunities to advance the goals of the program; or

“(5) to advance a more integrative rural policy framework for the United States.

“(k) TRANSFERS.—To ensure maximum use of funds provided under this subtitle, the National Board may transfer not more than 10 percent of the amount of funds made available between planning grants and innovation grants.

“SEC. 385H. NATIONAL CONFERENCE ON RURAL AMERICA.

7 USC 2009dd-7.

“(a) IN GENERAL.—The President shall call and conduct a National Conference on Rural America, which shall be held not earlier than November 1, 2002, and not later than October 30, 2004.

President.
Deadline.

“(b) PURPOSE.—The purpose of the Conference shall be to bring together the resources of governmental agencies and the private and nonprofit sectors to develop—

“(1) policy recommendations and integrative strategies for addressing the unique challenges facing rural areas of the United States; and

“(2) an implementation plan, with outcome-based measurements, for addressing the challenges.

“(c) COMPOSITION.—

“(1) IN GENERAL.—The Conference shall be comprised of—

“(A) representatives of organizations devoted to rural development;

“(B) Members of Congress, including the chairman and ranking member of each of the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate;

“(C) representatives of the Department of Agriculture and other Federal agencies;

“(D) State, local, and tribal elected officials and representatives;

“(E) representatives of colleges and universities, State and tribal extension services, and State rural development councils; and

“(F) individuals with specialized knowledge of and expertise in rural and community development, cooperative business, agricultural credit, venture capital, health care, and rural demography.

“(2) SELECTION.—Of the participants in the Conference described in paragraph (1)—

“(A) $\frac{1}{3}$ of the members shall be selected by the President;

President.

“(B) $\frac{1}{3}$ of the members shall be selected by the Chairman and the ranking member of the Committee on Agriculture of the House of Representatives; and

“(C) $\frac{1}{3}$ of the members shall be selected by the Chairman and the ranking member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

“(3) REPRESENTATION.—In selecting the participants of the Conference, the President and the Chairman of each Committee referred to in paragraph (2) shall ensure, to the maximum extent practicable, that the participants are representative of the ethnic, racial, and linguistic diversity of rural areas of the United States.

“(d) REPORT.—

“(1) REPORT TO PRESIDENT.—Not later than 120 days after the termination of the Conference, the Conference shall submit

Deadline.

to the President a report that contains the findings and recommendations of the Conference, including findings and recommendations to address needs related to—

“(A) telecommunications;

“(B) rural health issues;

“(C) transportation;

“(D) opportunities for economic diversification and innovation within rural America, with particular attention to entrepreneurial support and innovation;

“(E) the current and future human resource capacity of rural America;

“(F) access to market-based financing and venture and equity capital in rural America; and

“(G) the development of innovative public and private collaborations for investments in rural America.

Deadline.

“(2) REPORT MADE PUBLIC AND TO CONGRESS.—Not later than 90 days after receipt by the President, the President shall—

“(A) make the report public; and

“(B) transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a copy of the report and a statement of the President containing recommendations for implementing the report.

“(3) PUBLICATION AND DISTRIBUTION.—

“(A) IN GENERAL.—The Conference shall publish and distribute the report described in paragraph (1).

“(B) MANDATORY DISTRIBUTION.—The Conference shall provide a copy of a report published under subparagraph (A), at no cost, to—

“(i) each Federal depository library; and

“(ii) on request, each State, tribal, and local elected official in a rural area of the United States.

Deadline.

“(e) FUNDING.—Not later than 180 days after the establishment of the National Board, the National Board shall transfer not more than \$2,000,000 to the Office of the President to carry out this section, to remain available until expended.”.

SEC. 6031. FUNDING OF PENDING RURAL DEVELOPMENT LOAN AND GRANT APPLICATIONS.

(a) DEFINITION OF APPLICATION.—In this section, the term “application” does not include an application for a loan or grant that, as of the date of enactment of this Act, is in the preapplication phase of consideration under regulations of the Secretary of Agriculture in effect on the date of enactment of this Act.

(b) USE OF FUNDS.—Subject to subsection (c), the Secretary of Agriculture shall use funds made available under subsection (d) to provide funds for applications that are pending on the date of enactment of this Act for—

(1) water or waste disposal grants or direct loans under paragraph (1) or (2) of section 306(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)); and

(2) emergency community water assistance grants under section 306A of that Act (7 U.S.C. 1926a).

(c) LIMITATIONS.—

(1) APPROPRIATED AMOUNTS.—Funds made available under this section shall be available to the Secretary to provide funds

for applications for loans and grants described in subsection (b) that are pending on the date of enactment of this Act only to the extent that funds for the loans and grants appropriated in the annual appropriations Act for fiscal year 2002 have been exhausted.

(2) PROGRAM REQUIREMENTS.—The Secretary may use funds made available under this section to provide funds for a pending application for a loan or grant described in subsection (b) only if the Secretary processes, reviews, and approves the application in accordance with regulations in effect on the date of enactment of this Act.

(3) PRIORITY.—In providing funding under this section for pending applications for loans or grants described in subsection (b), the Secretary shall provide funding in the following order of priority (until funds made available under this section are exhausted):

(A) Pending applications for water systems.

(B) Pending applications for waste disposal systems.

(d) FUNDING.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall use \$360,000,000 to carry out this section, to remain available until expended.

Subtitle B—Rural Electrification Act of 1936

SEC. 6101. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.

(a) IN GENERAL.—The Rural Electrification Act of 1936 is amended by inserting after section 313 (7 U.S.C. 940c) the following:

“SEC. 313A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR ELECTRIFICATION OR TELEPHONE PURPOSES.

7 USC 940c-1.

“(a) IN GENERAL.—Subject to subsection (b), the Secretary shall guarantee payments on bonds or notes issued by cooperative or other lenders organized on a not-for-profit basis if the proceeds of the bonds or notes are used to make loans for any electrification or telephone purpose eligible for assistance under this Act, including section 4 or 201 or to refinance bonds or notes issued for such purposes.

“(b) LIMITATIONS.—

“(1) OUTSTANDING LOANS.—A lender shall not receive a guarantee under this section for a bond or note if, at the time of the guarantee, the total principal amount of such guaranteed bonds or notes outstanding of the lender would exceed the principal amount of outstanding loans of the lender for electrification or telephone purposes that have been made concurrently with loans approved for such purposes under this Act.

“(2) GENERATION OF ELECTRICITY.—The Secretary shall not guarantee payment on a bond or note issued by a lender, the proceeds of which are used for the generation of electricity.

“(3) QUALIFICATIONS.—The Secretary may deny the request of a lender for the guarantee of a bond or note under this section if the Secretary determines that—

“(A) the lender does not have appropriate expertise or experience or is otherwise not qualified to make loans for electrification or telephone purposes;

“(B) the bond or note issued by the lender would not be investment grade quality without a guarantee; or

“(C) the lender has not provided to the Secretary a list of loan amounts approved by the lender that the lender certifies are for eligible purposes described in subsection (a).

“(4) INTEREST RATE REDUCTION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a lender may not use any amount obtained from the reduction in funding costs as a result of the guarantee of a bond or note under this section to reduce the interest rate on a new or outstanding loan.

“(B) CONCURRENT LOANS.—A lender may use any amount described in subparagraph (A) to reduce the interest rate on a loan if the loan is—

“(i) made by the lender for electrification or telephone projects that are eligible for assistance under this Act; and

“(ii) made concurrently with a loan approved by the Secretary under this Act for such a project, as provided in section 307.

“(c) FEES.—

“(1) IN GENERAL.—A lender that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary.

“(2) AMOUNT.—The amount of an annual fee paid for the guarantee of a bond or note under this section shall be equal to 30 basis points of the amount of the unpaid principal of the bond or note guaranteed under this section.

“(3) PAYMENT.—A lender shall pay the fees required under this subsection on a semiannual basis.

“(4) RURAL ECONOMIC DEVELOPMENT SUBACCOUNT.—Subject to subsection (e)(2), fees collected under this subsection shall be—

“(A) deposited into the rural economic development subaccount maintained under section 313(b)(2)(A), to remain available until expended; and

“(B) used for the purposes described in section 313(b)(2)(B).

“(d) GUARANTEES.—

“(1) IN GENERAL.—A guarantee issued under this section shall—

“(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

“(B) be fully assignable and transferable; and

“(C) represent the full faith and credit of the United States.

“(2) LIMITATION.—To ensure that the Secretary has the resources necessary to properly examine the proposed guarantees, the Secretary may limit the number of guarantees issued under this section to 5 per year.

“(3) DEPARTMENT OPINION.—On the timely request of a lender, the General Counsel of the Department of Agriculture shall provide the Secretary with an opinion regarding the

validity and authority of a guarantee issued to the lender under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated such sums as are necessary to carry out this section.

“(2) FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use up to $\frac{1}{3}$ of the fees collected under subsection (c) for the cost of providing guarantees of bonds and notes under this section before depositing the remainder of the fees into the rural economic development subaccount maintained under section 313(b)(2)(A).

“(f) TERMINATION.—The authority provided under this section shall terminate on September 30, 2007.”.

(b) ADMINISTRATION.—

(1) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate regulations to carry out the amendments made by this section.

(2) IMPLEMENTATION.—Not later than 240 days after the date of enactment of this Act, the Secretary shall implement the amendment made by this section.

7 USC 940c-1
note.
Deadline.

SEC. 6102. EXPANSION OF 911 ACCESS.

Title III of the Rural Electrification Act of 1936 (7 U.S.C. 931 et seq.) is amended by adding at the end the following:

“SEC. 315. EXPANSION OF 911 ACCESS.

7 USC 940e.

“(a) IN GENERAL.—Subject to such terms and conditions as the Secretary may prescribe, the Secretary may make telephone loans under this title to borrowers of loans made by the Rural Utilities Service, State or local governments, Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), or other public entities for facilities and equipment to expand or improve 911 access and integrated emergency communications systems in rural areas.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.”.

SEC. 6103. ENHANCEMENT OF ACCESS TO BROADBAND SERVICE IN RURAL AREAS.

(a) IN GENERAL.—The Rural Electrification Act of 1936 (7 U.S.C. 901 et seq.) is amended by adding at the end the following:

“TITLE VI—RURAL BROADBAND ACCESS

“SEC. 601. ACCESS TO BROADBAND TELECOMMUNICATIONS SERVICES IN RURAL AREAS.

Loans.
7 USC 950bb.

“(a) PURPOSE.—The purpose of this section is to provide loans and loan guarantees to provide funds for the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural communities.

“(b) DEFINITIONS.—In this section:

“(1) BROADBAND SERVICE.—The term ‘broadband service’ means any technology identified by the Secretary as having the capacity to transmit data to enable a subscriber to the

service to originate and receive high-quality voice, data, graphics, and video.

“(2) ELIGIBLE RURAL COMMUNITY.—The term ‘eligible rural community’ means any incorporated or unincorporated place that—

“(A) has not more than 20,000 inhabitants, based on the most recent available population statistics of the Bureau of the Census; and

“(B) is not located in an area designated as a standard metropolitan statistical area.

“(c) LOANS AND LOAN GUARANTEES.—

“(1) IN GENERAL.—The Secretary shall make or guarantee loans to eligible entities described in subsection (d) to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities.

“(2) PRIORITY.—In making or guaranteeing loans under paragraph (1), the Secretary shall give priority to eligible rural communities in which broadband service is not available to residential customers.

“(d) ELIGIBLE ENTITIES.—

“(1) IN GENERAL.—To be eligible to obtain a loan or loan guarantee under this section, an entity shall—

“(A) have the ability to furnish, improve, or extend a broadband service to an eligible rural community; and

“(B) submit to the Secretary a proposal for a project that meets the requirements of this section.

“(2) STATE AND LOCAL GOVERNMENTS.—A State or local government (including any agency, subdivision, or instrumentality thereof (including consortia thereof)) shall be eligible for a loan or loan guarantee under this section to provide broadband services to an eligible rural community only if, not later than 90 days after the Administrator has promulgated regulations to carry out this section, no other eligible entity is already offering, or has committed to offer, broadband services to the eligible rural community.

“(3) SUBSCRIBER LINES.—An entity shall not be eligible to obtain a loan or loan guarantee under this section if the entity serves more than 2 percent of the telephone subscriber lines installed in the aggregate in the United States.

“(e) BROADBAND SERVICE.—The Secretary shall, from time to time as advances in technology warrant, review and recommend modifications of rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b)(1).

“(f) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether or not to make a loan or loan guarantee for a project under this section, the Secretary shall use criteria that are technologically neutral.

“(g) TERMS AND CONDITIONS FOR LOANS AND LOAN GUARANTEES.—Notwithstanding any other provision of law, a loan or loan guarantee under subsection (c) shall—

“(1) bear interest at an annual rate of, as determined by the Secretary—

“(A) in the case of a direct loan—

“(i) the cost of borrowing to the Department of the Treasury for obligations of comparable maturity; or

“(ii) 4 percent; and

“(B) in the case of a guaranteed loan, the current applicable market rate for a loan of comparable maturity; and

“(2) have a term not to exceed the useful life of the assets constructed, improved, or acquired with the proceeds of the loan or extension of credit.

“(h) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this Act, the proceeds of any loan made or guaranteed by the Secretary under this Act may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this Act if the use of the proceeds for that purpose will further the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural communities.

“(i) REPORTS.—Not later than 1 year after the date of enactment of this section, and biennially thereafter, the Administrator shall submit to Congress a report that—

Deadline.

“(1) describes how the Administrator determines under subsection (a)(1) that a service enables a subscriber to originate and receive high-quality voice, data, graphics, and video; and

“(2) provides a detailed list of services that have been granted assistance under this section.

“(j) FUNDING.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section—

“(A) \$20,000,000 for each of fiscal years 2002 through 2005, to remain available until expended; and

“(B) \$10,000,000 for each of fiscal years 2006 and 2007, to remain available until expended.

“(2) TELEVISION FUNDS.—

“(A) IN GENERAL.—The Secretary shall be entitled to receive, shall accept, and shall use to carry out this section, without further appropriation any funds made available under section 1011(a)(2)(B) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1109(a)(2)(B)).

“(B) USE OF TELEVISION FUNDS.—The Secretary shall use any funds received under subparagraph (A) in equal amounts for each remaining fiscal year on receipt of the funds (including the fiscal year of receipt) through fiscal year 2007.

“(3) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise made available under this subsection, there are authorized to be appropriated such sums as necessary to carry out this section for each of fiscal years 2003 through 2007.

“(4) ALLOCATION OF FUNDS.—

“(A) IN GENERAL.—From amounts made available for each fiscal year under this subsection, the Secretary shall—

“(i) establish a national reserve for loans and loan guarantees to eligible entities in States under this section; and

“(ii) allocate amounts in the reserve to each State for each fiscal year for loans and loan guarantees to eligible entities in the State.

“(B) AMOUNT.—The amount of an allocation made to a State for a fiscal year under subparagraph (A) shall bear the same ratio to the amount of allocations made for all States for the fiscal year as the number of communities with a population of 2,500 inhabitants or less in the State bears to the number of communities with a population of 2,500 inhabitants or less in all States, as determined on the basis of the latest available census.

“(C) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (B) that are not obligated by April 1 of the fiscal year shall be available to the Secretary to make loans and loan guarantees under this section to eligible entities in any State, as determined by the Secretary.

“(k) TERMINATION OF AUTHORITY.—No loan or loan guarantee may be made under this section after September 30, 2007.”.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall promulgate such regulations as are necessary to implement the amendment made by subsection (a).

(2) PROCEDURE.—The promulgation of the regulations shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(3) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

7 USC 950bb
note.
Deadline.

Subtitle C—Food, Agriculture, Conservation, and Trade Act of 1990

SEC. 6201. ALTERNATIVE AGRICULTURAL RESEARCH AND COMMERCIALIZATION CORPORATION.

(a) REPEAL OF CORPORATION AUTHORIZATION.—Subtitle G of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5901 et seq.) is repealed.

(b) DISPOSITION OF ASSETS.—On the date of enactment of this Act—

(1) the assets, both tangible and intangible, of the Alternative Agricultural Research and Commercialization Corporation (referred to in this section as the “Corporation”), including the funds in the Alternative Agricultural Research and

7 USC 5901 note.

Commercialization Revolving Fund as of the date of enactment of this Act, are transferred to the Secretary of Agriculture; and

(2) notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and any other law that prescribes procedures for procurement, use, and disposal of property by a Federal agency, the Secretary shall have authority to manage and dispose of the assets transferred under paragraph (1) in a manner that, to the maximum extent practicable, provides the best value to the Federal Government.

(c) USE OF ASSETS.—

7 USC 5901 note.

(1) IN GENERAL.—Funds transferred under subsection (b), and any income from assets or proceeds from the sale of assets transferred under subsection (b), shall be deposited in an account in the Treasury, and shall remain available to the Secretary until expended, without further appropriation, to pay—

(A) any claims against, or obligations of, the Corporation; and

(B) the costs incurred by the Secretary in carrying out this section.

(2) FINAL DISPOSITION.—On final disposition of all assets transferred under subsection (b), any funds remaining in the account described in paragraph (1) shall be transferred into miscellaneous receipts in the Treasury.

(d) CONFORMING AMENDMENTS.—

(1) Section 5315 of title 5, United States Code, is amended by striking “Executive Director of the Alternative Agricultural Research and Commercialization Corporation”.

5 USC 5315.

(2) Section 730 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 5902 note; Public Law 104-127) is repealed.

(3) Section 211(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6911(b)) is amended by striking paragraph (5).

(4) Section 404(d) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(d)) is amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(5) The Herger-Feinstein Quincy Library Group Forest Recovery Act (16 U.S.C. 2104; Public Law 105-277; 112 Stat. 2681-305) is amended by striking subsection (m).

(6) Section 9101(3) of title 31, United States Code, is amended by striking subparagraph (Q).

31 USC 9101.

SEC. 6202. RURAL ELECTRONIC COMMERCE EXTENSION PROGRAM.

Subtitle H of title XVI of the Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 1669 (7 U.S.C. 5922) the following:

“SEC. 1670. RURAL ELECTRONIC COMMERCE EXTENSION PROGRAM.

7 USC 5923.

“(a) DEFINITIONS.—In this section:

“(1) DEVELOPMENT CENTER.—The term ‘development center’ means—

“(A) the North Central Regional Center for Rural Development;

“(B) the Northeast Regional Center for Rural Development or its designee;

“(C) the Southern Rural Development Center; and

“(D) the Western Rural Development Center or its designee.

“(2) EXTENSION PROGRAM.—The term ‘extension program’ means the rural electronic commerce extension program established under subsection (b).

“(3) MICROENTERPRISE.—The term ‘microenterprise’ means a commercial enterprise that has 5 or fewer employees, 1 or more of whom own the enterprise.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Administrator of the Cooperative State Research, Education, and Extension Service.

“(5) SMALL BUSINESS.—The term ‘small business’ has the meaning given the term ‘small-business concern’ by section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

“(b) ESTABLISHMENT.—The Secretary shall establish a rural electronic commerce extension program to expand and enhance electronic commerce practices and technology to be used by small businesses and microenterprises in rural areas.

“(c) GRANTS.—

“(1) IN GENERAL.—The Secretary shall carry out the program established under subsection (b) by making—

“(A) grants to each of the development centers; and

“(B) competitive grants to land-grant colleges and universities (or consortia of land-grant colleges and universities) and to colleges and universities (including community colleges) with agricultural or rural development programs—

“(i) to develop and facilitate innovative rural electronic commerce business strategies; and

“(ii) to assist small businesses and microenterprises in identifying, adapting, implementing, and using electronic commerce business practices and technologies.

“(2) ELIGIBILITY.—The selection criteria established for grants awarded under paragraph (1)(B) shall include—

“(A) the ability of an applicant to provide training and education on best practices, technology transfer, adoption, and use of electronic commerce in rural communities by small businesses and microenterprises;

“(B) the extent and geographic diversity of the area served by the proposed project or activity under the extension program;

“(C) in the case of a land-grant college or university, the extent of participation of the land-grant college or university in the extension program (including any economic benefits that would result from that participation);

“(D) the percentage of funding and in-kind commitments from non-Federal sources that would be needed by and available for a proposed project or activity under the extension program; and

“(E) the extent of participation of low-income and minority businesses or microenterprises in a proposed project or activity under the extension program.

“(3) NON-FEDERAL SHARE.—

“(A) IN GENERAL.—As a condition of the receipt of funds under this section, a development center or grant applicant shall agree to obtain from non-Federal sources (including State, local, nonprofit, or private sector sources) contributions of an amount equal to 50 percent of the grant amount.

“(B) FORM.—The non-Federal share required under subparagraph (A) may be provided in the form of in-kind contributions.

“(C) EXCEPTION.—The non-Federal share required under subparagraph (A) may be reduced to 25 percent if the grant recipient serves low-income or minority-owned businesses or microenterprises, as determined by the Secretary.

“(d) REPORT.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

Deadline.

“(1) the policies, practices, and procedures used to assist rural communities in efforts to adopt and use electronic commerce techniques; and

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$60,000,000 for each of fiscal years 2002 through 2007, of which not less than $\frac{1}{3}$ of the amount made available for each fiscal year shall be used to carry out activities under subsection (c)(1)(A).”.

SEC. 6203. TELEMEDICINE AND DISTANCE LEARNING SERVICES IN RURAL AREAS.

(a) IN GENERAL.—Section 2335A of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 950aaa-5) is amended by striking “2002” and inserting “2007”.

(b) CONFORMING AMENDMENT.—Section 1(b) of Public Law 102-551 (7 U.S.C. 950aaa note) is amended by striking “1997” and inserting “2007”.

Subtitle D—SEARCH Grants for Small Communities

SEC. 6301. DEFINITIONS.

7 USC 2009ee.

In this subtitle:

(1) COUNCIL.—The term “council” means an independent citizens’ council established by a State rural development director under section 6302(c).

(2) ENVIRONMENTAL PROJECT.—

(A) IN GENERAL.—The term “environmental project” means a project that—

(i) improves environmental quality; and

(ii) is necessary to comply with an applicable environmental law (including a regulation).

(B) INCLUSION.—The term “environmental project” includes an initial feasibility study of a project.

(3) REGION.—The term “region” means a geographic area of a State, as determined by the State rural development

director, in coordination with the environmental protection director of the State.

(4) **SEARCH GRANT.**—The term “SEARCH grant” means a grant awarded under section 6302(f).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

(6) **SMALL COMMUNITY.**—The term “small community” means an incorporated or unincorporated rural community with a population of 2,500 inhabitants or less.

(7) **STATE.**—The term “State” has the meaning given the term in section 381A of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009).

7 USC 2009ee-1. **SEC. 6302. SEARCH GRANT PROGRAM.**

(a) **IN GENERAL.**—The Secretary, in coordination with the Administrator of the Environmental Protection Agency, may establish the SEARCH grant program.

Deadline. (b) **ALLOCATION TO STATE RURAL DEVELOPMENT DIRECTORS.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and section 6304(a)(2), not later than 60 days after the date on which the Director of the Office of Management and Budget apportions any amounts made available under this subtitle for any of fiscal years 2002 through 2007, the Secretary, on request of a State rural development director (in coordination with the environmental protection director of the State), shall allocate to the State rural development director an amount not to exceed \$1,000,000, to be used by the State rural development director to award SEARCH grants under subsection (d).

(2) **GRANTS TO STATES.**—The total amount of funds allocated to State rural development directors in all States other than Alaska, Hawaii, or the 48 contiguous States for a fiscal year under this subsection shall not exceed \$1,000,000.

(c) **INDEPENDENT CITIZENS’ COUNCIL.**—

(1) **ESTABLISHMENT.**—The State rural development director of a State shall establish an independent citizens’ council to carry out the duties described in this section.

(2) **COMPOSITION.**—

(A) **IN GENERAL.**—A council shall be composed of 9 members, appointed by the State rural development director, in coordination with the environmental protection director of the State.

(B) **REPRESENTATION; RESIDENCE.**—Each member of a council shall—

(i) represent an individual region of the State, as determined by the State rural development director; and

(ii) reside in a small community in the State.

(d) **ELIGIBILITY.**—A SEARCH grant shall be awarded under this section only to a small community for 1 or more environmental projects for which the small community—

(1) needs funds to carry out initial feasibility or environmental studies as required by Federal or State law before applying to traditional funding sources; and

(2) demonstrates that the small community has been unable to obtain sufficient funding from traditional funding sources.

(e) APPLICATIONS.—To be eligible to receive a SEARCH grant, a small community in a State shall submit to the State rural development director of the State an application that includes—

(1) a description of the proposed environmental project (including an explanation of how the project would assist the small community in complying with a Federal or State environmental law (including a regulation);

(2) an explanation of why the project is important to the small community;

(3) a description of all actions taken with respect to the project as of the date of the application, including any attempt to secure funding; and

(4) a description of demonstrated need for funding for the project.

(f) AWARDS.—

(1) IN GENERAL.—Not later than May 1 of each fiscal year, a State rural development director, in coordination with the council and the environmental protection director of the State, shall— Deadline.

(A) review all applications received by the State rural development director under subsection (e); and

(B) award SEARCH grants to small communities based on—

(i) an evaluation of whether the proposed project meets the eligibility criteria under subsection (d); and

(ii) the content of the application.

(2) ADMINISTRATION.—In awarding a SEARCH grant, a State rural development director—

(A) shall award the funds for any recommended environmental project in a timely and expeditious manner; and

(B) shall not award a SEARCH grant to a grantee or project in violation of any Federal or State law (including a regulation).

(3) MATCHING REQUIREMENT.—A small community that receives a SEARCH grant under this section may be required to provide matching funds.

(g) UNEXPENDED FUNDS.—

(1) IN GENERAL.—If, for any fiscal year, any unexpended funds remain after SEARCH grants are awarded by a State rural development director under subsection (f), the State rural development director, in coordination with the environmental protection director of the State, may repeat the application and review process so that any remaining funds are recommended for award, and awarded, not later than July 30 of the fiscal year. Deadline.

(2) RETENTION OF FUNDS.—

(A) IN GENERAL.—Any unexpended funds that are not awarded under subsection (f) or paragraph (1) shall be retained by the State rural development director for award during the following fiscal year.

(B) LIMITATION.—A State SEARCH account that accumulates a balance of unexpended funds described in subparagraph (A) in excess of \$2,000,000 shall be ineligible to receive additional funds for SEARCH grants until such time as the State rural development director awards grants in the amount of the excess.

Deadline.
7 USC 2009ee–2.

SEC. 6303. REPORT.

Not later than 30 days after the end of the first fiscal year for which SEARCH grants are awarded, and annually thereafter, the Secretary shall submit to the Committee on Energy and Commerce and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that—

(1) describes the number of SEARCH grants awarded during the fiscal year;

(2) identifies each small community that received a SEARCH grant during the fiscal year;

(3) describes the project or purpose for which each SEARCH grant was awarded, including a statement of the benefit to public health or the environment of the environmental project receiving the grant funds; and

(4) describes the status of each project or portion of a project for which a SEARCH grant was awarded, including a project or portion of a project for which a SEARCH grant was awarded for any previous fiscal year.

7 USC 2009ee–3.

SEC. 6304. FUNDING.

(a) ALLOCATION TO STATE RURAL DEVELOPMENT DIRECTORS.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out section 6302(b) \$51,000,000 for each of fiscal years 2002 through 2007, of which not to exceed \$1,000,000 shall be used to make grants under section 6302(b)(2).

(2) ACTUAL APPROPRIATION.—If funds to carry out section 6302(b) are made available for a fiscal year in an amount that is less than the amount authorized under paragraph (1) for the fiscal year, the Secretary shall divide the appropriated funds for the fiscal year equally among the 50 States.

(b) OTHER EXPENSES.—There are authorized to be appropriated such sums as are necessary to carry out this subtitle (other than section 6302(b)).

Subtitle E—Miscellaneous

SEC. 6401. VALUE-ADDED AGRICULTURAL PRODUCT MARKET DEVELOPMENT GRANTS.

(a) IN GENERAL.—Section 231 of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106–224) is amended—

(1) by redesignating subsections (b) through (d) as subsections (c) through (e), respectively;

(2) by striking subsection (a) and inserting the following:

“(a) DEFINITION OF VALUE-ADDED AGRICULTURAL PRODUCT.—

“(1) IN GENERAL.—The term ‘value-added agricultural product’ means any agricultural commodity or product that—

“(A)(i) has undergone a change in physical state;

“(ii) was produced in a manner that enhances the value of the agricultural commodity or product, as demonstrated through a business plan that shows the enhanced value, as determined by the Secretary; or

“(iii) is physically segregated in a manner that results in the enhancement of the value of the agricultural commodity or product; and

“(B) as a result of the change in physical state or the manner in which the agricultural commodity or product was produced or segregated—

“(i) the customer base for the agricultural commodity or product has been expanded; and

“(ii) a greater portion of the revenue derived from the marketing, processing, or physical segregation of the agricultural commodity or product is available to the producer of the commodity or product.

“(2) INCLUSION.—The term ‘value-added agricultural product’ includes farm- or ranch-based renewable energy.

“(b) GRANT PROGRAM.—

“(1) IN GENERAL.—From amounts made available under paragraph (4), the Secretary shall award competitive grants—

“(A) to an eligible independent producer (as determined by the Secretary) of a value-added agricultural product to assist the producer—

“(i) in developing a business plan for viable marketing opportunities for the value-added agricultural product; or

“(ii) in developing strategies that are intended to create marketing opportunities for the producer; and

“(B) to an eligible agricultural producer group, farmer or rancher cooperative, or majority-controlled producer-based business venture (as determined by the Secretary) to assist the entity—

“(i) in developing a business plan for viable marketing opportunities in emerging markets for a value-added agricultural product; or

“(ii) in developing strategies that are intended to create marketing opportunities in emerging markets for the value-added agricultural product.

“(2) AMOUNT OF GRANT.—

“(A) IN GENERAL.—The total amount provided under this subsection to a grant recipient shall not exceed \$500,000.

“(B) MAJORITY-CONTROLLED PRODUCER-BASED BUSINESS VENTURES.—The amount of grants provided to majority-controlled producer-based business ventures under paragraph (1)(B) for a fiscal year may not exceed 10 percent of the amount of funds that are used to make grants for the fiscal year under this subsection.

“(3) GRANTEE STRATEGIES.—A grantee under paragraph (1) shall use the grant—

“(A) to develop a business plan or perform a feasibility study to establish a viable marketing opportunity for a value-added agricultural product; or

“(B) to provide capital to establish alliances or business ventures that allow the producer of the value-added agricultural product to better compete in domestic or international markets.

“(4) FUNDING.—Not later than 30 days after the date of enactment of this paragraph, on October 1, 2002, and on each October 1 thereafter through October 1, 2006, of the funds

Deadline.

of the Commodity Credit Corporation, the Secretary shall make available to carry out this subsection \$40,000,000, to remain available until expended.”;

(3) in subsection (c)(1) (as redesignated by paragraph (1))—

(A) by striking “subsection (a)(2)” and inserting “subsection (b)(2)”;

(B) by striking “\$5,000,000” and inserting “5 percent”; and

(C) by striking “subsection (a)” and inserting “subsection (b)”;

(4) in subsection (d) (as redesignated by paragraph (1)), by striking “subsections (a) and (b)” and inserting “subsections (b) and (c)”.

(b) APPLICABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsection (a) apply beginning on October 1, 2002.

(2) FUNDING.—Funds made available under section 231(b)(4)(A)(i) of the Agricultural Risk Protection Act of 2000 (as amended by subsection (a)(2)) shall be made available not later than 30 days after the date of enactment of this Act.

7 USC 1621 note.
Effective date.

Deadline.

7 USC 1621 note.

SEC. 6402. AGRICULTURE INNOVATION CENTER DEMONSTRATION PROGRAM.

(a) PURPOSE.—The purpose of this section is to direct the Secretary of Agriculture to establish a demonstration program under which agricultural producers are provided—

(1) technical assistance, consisting of engineering services, applied research, scale production, and similar services, to enable the agricultural producers to establish businesses to produce value-added agricultural commodities or products;

(2) assistance in marketing, market development, and business planning; and

(3) organizational, outreach, and development assistance to increase the viability, growth, and sustainability of businesses that produce value-added agricultural commodities or products.

(b) DEFINITIONS.—In this section:

(1) PROGRAM.—The term “Program” means the Agriculture Innovation Center Demonstration Program established under subsection (c).

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(c) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish a demonstration program, to be known as the “Agriculture Innovation Center Demonstration Program” under which the Secretary shall—

(1) make grants to assist eligible entities in establishing Agriculture Innovation Centers to enable agricultural producers to obtain the assistance described in subsection (a); and

(2) provide assistance to eligible entities in establishing Agriculture Innovation Centers through the research and technical services of the Department of Agriculture.

(d) ELIGIBILITY REQUIREMENTS.—

(1) IN GENERAL.—An entity shall be eligible for a grant and assistance described in subsection (c) to establish an Agriculture Innovation Center if—

Grants.

(A) the entity—

(i) has provided services similar to the services described in subsection (a); or

(ii) demonstrates the capability of providing such services;

(B) the application of the entity for the grant and assistance includes a plan, in accordance with regulations promulgated by the Secretary, that outlines—

(i) the support for the entity in the agricultural community;

(ii) the technical and other expertise of the entity; and

(iii) the goals of the entity for increasing and improving the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products;

(C) the entity demonstrates that adequate resources (in cash or in kind) are available, or have been committed to be made available, to the entity, to increase and improve the ability of local agricultural producers to develop markets and processes for value-added agricultural commodities or products; and

(D) the Agriculture Innovation Center of the entity has a board of directors established in accordance with paragraph (2).

(2) BOARD OF DIRECTORS.—Each Agriculture Innovation Center of an eligible entity shall have a board of directors composed of representatives of each of the following groups: Establishment.

(A) The 2 general agricultural organizations with the greatest number of members in the State in which the eligible entity is located.

(B) The department of agriculture, or similar State department or agency, of the State in which the eligible entity is located.

(C) Entities representing the 4 highest grossing commodities produced in the State, determined on the basis of annual gross cash sales.

(e) GRANTS AND ASSISTANCE.—

(1) IN GENERAL.—Subject to subsection (i), under the Program, the Secretary shall make, on a competitive basis, annual grants to eligible entities.

(2) MAXIMUM AMOUNT OF GRANTS.—A grant under paragraph (1) shall be in an amount that does not exceed the lesser of—

(A) \$1,000,000; or

(B) twice the dollar amount of the resources (in cash or in kind) that the eligible entity demonstrates are available, or have been committed to be made available, to the eligible entity in accordance with subsection (d)(1)(C).

(3) MAXIMUM NUMBER OF GRANTS.—

(A) FIRST FISCAL YEAR OF PROGRAM.—In the first fiscal year of the Program, the Secretary shall make grants to not more than 5 eligible entities.

(B) SECOND FISCAL YEAR OF PROGRAM.—In the second fiscal year of the Program, the Secretary may make grants to—

(i) the eligible entities to which grants were made under subparagraph (A); and

(ii) not more than 10 additional eligible entities.

(4) STATE LIMITATION.—

(A) IN GENERAL.—Subject to subparagraph (B), in the first 3 fiscal years of the Program, the Secretary shall not make a grant under the Program to more than 1 entity in any 1 State.

(B) COLLABORATION.—Nothing in subparagraph (A) precludes a recipient of a grant under the Program from collaborating with any other institution with respect to activities conducted using the grant.

(f) USE OF FUNDS.—An eligible entity to which a grant is made under the Program may use the grant only for the following purposes (but only to the extent that the use is not described in section 231(d) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106-224)):

(1) Applied research.

(2) Consulting services.

(3) Hiring of employees, at the discretion of the board of directors of the Agriculture Innovation Center of the eligible entity.

(4) The making of matching grants, each of which shall be in an amount not to exceed \$5,000, to agricultural producers, except that the aggregate amount of all such matching grants made by the eligible entity shall be not more than \$50,000.

(5) Legal services.

(6) Any other related cost, as determined by the Secretary.

(g) RESEARCH ON EFFECTS ON THE AGRICULTURAL SECTOR.—

(1) IN GENERAL.—Of the amount made available under subsection (i) for each fiscal year, the Secretary shall use \$300,000 to support research at a university concerning the effects of projects for value-added agricultural commodities or products on agricultural producers and the commodity markets.

(2) RESEARCH ELEMENTS.—Research under paragraph (1) shall systematically examine, using linked, long-term, global projections of the agricultural sector, the potential effects of projects described in subparagraph (A) on—

(A) demand for agricultural commodities;

(B) market prices;

(C) farm income; and

(D) Federal outlays on commodity programs.

(h) REPORT TO CONGRESS.—

(1) IN GENERAL.—Not later than 3 years after the date on which the last of the first 10 grants is made under the Program, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on—

(A) the effectiveness of the Program in improving and expanding the production of value-added agricultural commodities or products; and

(B) the effects of the Program on the economic viability of agricultural producers.

(2) REQUIRED ELEMENTS.—The report under paragraph (1) shall—

Deadline.

(A) include a description of the best practices and innovations found at each of the Agriculture Innovation Centers established under the Program; and

(B) specify the number and type of activities assisted, and the type of assistance provided, under the Program.

(i) FUNDING.—Of the amount made available under section 231(a)(1) of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 1621 note; Public Law 106-224) for each fiscal year, the Secretary shall use to carry out this section—

(1) not less than \$3,000,000 for fiscal year 2002; and

(2) not less than \$6,000,000 for each of fiscal years 2003 and 2004.

SEC. 6403. FUND FOR RURAL AMERICA.

(a) IN GENERAL.—Section 793 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f) is repealed.

(b) CONFORMING AMENDMENT.—Section 2(b)(8)(B) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(8)(B)) is amended in the second sentence by striking “smaller college or university (as described in section 793(c)(2)(ii) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2204f(c)(2)(ii))” and inserting “college, university, or research foundation maintained by a college or university that ranks in the lowest $\frac{1}{3}$ of such colleges, universities, and research foundations on the basis of Federal research funds received”.

SEC. 6404. RURAL LOCAL TELEVISION BROADCAST SIGNAL LOAN GUARANTEES.

(a) IN GENERAL.—Section 1011(a) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1109(a)) is amended—

(1) by striking “For” and inserting the following:

“(1) AUTHORIZATION OF APPROPRIATIONS.—For”; and

(2) by adding at the end the following:

“(2) COMMODITY CREDIT CORPORATION FUNDS.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, subject to subparagraph (B), in addition to amounts made available under paragraph (1), of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall make available for loan guarantees to carry out this title \$80,000,000 for the period beginning on the date of enactment of this paragraph and ending on December 31, 2006, to remain available until expended.

“(B) BROADBAND LOANS AND LOAN GUARANTEES.—

“(i) IN GENERAL.—Amounts made available under subparagraph (A) that are not obligated as of the release date described in clause (ii) shall be available to the Secretary to make loans and loan guarantees under section 601 of the Rural Electrification Act of 1936.

“(ii) RELEASE DATE.—For purposes of clause (i), the release date is the date that is the earlier of—

“(I) the date the Secretary determines that at least 75 percent of the designated market areas (as defined in section 122(j) of title 17, United States Code) not in the top 40 designated market areas described in section 1004(e)(1)(C)(i) of the

Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1103(e)(1)(C)(i)) have access to local television broadcast signals for virtually all households (as determined by the Secretary); or

“(II) December 31, 2006.

“(C) ADVANCED APPROPRIATIONS.—Subsections (c) and (h)(1)(B) of section 1004 and section 1005(n)(3)(B) shall not apply to amounts made available under this paragraph.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) APPROVAL OF LOAN GUARANTEES.—Section 1004 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1103) is amended—

(A) in subsection (b)(1)—

(i) by striking “section 5” and inserting “section 1005”; and

(ii) by striking “section 11” and inserting “section 1011”;

(B) in subsection (d)(1), by striking “section 3” and inserting “section 1003”; and

(C) in the first sentence of subsection (h)(2)(D), by striking “section 5” and inserting “section 1005”.

(2) ADMINISTRATION OF LOAN GUARANTEES.—Section 1005 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1104) is amended—

(A) in subsection (a), by striking “sections 3 and 4” and inserting “sections 1003 and 1004”;

(B) in subsection (b)—

(i) in paragraph (1)(D), by striking “section 6(a)(2)” and inserting “section 1006(a)(2)”; and

(ii) in paragraph (3), by striking “section 4(d)(3)(B)(iii)” and inserting “section 1004(d)(3)(B)(iii)”; and

(C) in subsection (e)(3), by striking “section 4(g)” and inserting “section 1004(g)”.

7 USC 2655.

SEC. 6405. RURAL FIREFIGHTERS AND EMERGENCY PERSONNEL GRANT PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture may make grants to units of general local government and Indian tribes (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) to pay the cost of training firefighters and emergency medical personnel in firefighting, emergency medical practices, and responding to hazardous materials and bioagents in rural areas.

(b) USE OF FUNDS.—

(1) SCHOLARSHIPS.—

(A) IN GENERAL.—Not less than 60 percent of the amounts made available for competitively-awarded grants under this section shall be used to provide grants to fund partial scholarships for training of individuals at training centers approved by the Secretary.

(B) PRIORITY.—In awarding grants under this paragraph, the Secretary shall give priority to grant applicants that provide for training within the region (or locality) of the applicant.

(2) GRANTS FOR TRAINING CENTERS.—

(A) IN GENERAL.—A grant under subsection (a) may be used to provide financial assistance to State and regional centers that provide training for firefighters and emergency medical personnel for improvements to the training facility, equipment, curricula, and personnel.

(B) LIMITATION.—Not more than \$750,000 shall be provided to any single training center for any fiscal year under this paragraph.

(c) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$10,000,000 for each of fiscal years 2003 through 2007, to remain available until expended.

SEC. 6406. SENSE OF CONGRESS ON RURAL POLICY COORDINATION.

It is the sense of Congress that the President should—

(1) appoint a Special Assistant to the President for Rural Policy;

(2) designate within each Federal agency with jurisdiction over rural programs or activities 1 or more senior officers or employees to provide rural policy leadership for the agency; and

(3) create an intergovernmental rural policy working group comprised of—

(A) the Special Assistant to the President for Rural Policy, who should serve as Chairperson; and

(B) the senior officers and employees designated under paragraph (2).

TITLE VII—RESEARCH AND RELATED MATTERS

Subtitle A—Extensions

SEC. 7101. NATIONAL RURAL INFORMATION CENTER CLEARINGHOUSE.

Section 2381(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 3125b(e)) is amended by striking “2002” and inserting “2007”.

SEC. 7102. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended—

(1) in subsection (a)—

(A) by striking “and” after “economics,”; and

(B) by inserting “, and rural economic, community, and business development” before the period;

(2) in subsection (b)—

(A) in paragraph (1), by inserting “, or in rural economic, community, and business development” before the semicolon;

(B) in paragraph (2), by inserting “, or in rural economic, community, and business development” before the semicolon;

(C) in paragraph (3), by inserting “, or teaching programs emphasizing rural economic, community, and business development” before the semicolon;

(D) in paragraph (4), by inserting “, or programs emphasizing rural economic, community, and business development,” after “programs”; and

(E) in paragraph (5), by inserting “, or professionals in rural economic, community, and business development” before the semicolon;

(3) in subsection (d)—

(A) in paragraph (1), by inserting “, or in rural economic, community, and business development,” after “sciences”; and

(B) in paragraph (2), by inserting “, or in the rural economic, community, and business development workforce,” after “workforce”; and

(4) in subsection (l), by striking “2002” and inserting “2007”.

SEC. 7103. POLICY RESEARCH CENTERS.

Section 1419A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(d)) is amended by striking “2002” and inserting “2007”.

SEC. 7104. HUMAN NUTRITION INTERVENTION AND HEALTH PROMOTION RESEARCH PROGRAM.

Section 1424(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174(d)) is amended by striking “2002” and inserting “2007”.

SEC. 7105. PILOT RESEARCH PROGRAM TO COMBINE MEDICAL AND AGRICULTURAL RESEARCH.

Section 1424A(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3174a(d)) is amended by striking “2002” and inserting “2007”.

SEC. 7106. NUTRITION EDUCATION PROGRAM.

Section 1425(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3175(c)(3)) is amended by striking “2002” and inserting “2007”.

SEC. 7107. CONTINUING ANIMAL HEALTH AND DISEASE RESEARCH PROGRAMS.

Section 1433(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195(a)) is amended by striking “2002” and inserting “2007”.

SEC. 7108. APPROPRIATIONS FOR RESEARCH ON NATIONAL OR REGIONAL PROBLEMS.

Section 1434(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3196(a)) is amended by striking “2002” and inserting “2007”.

SEC. 7109. GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

Section 1447(b) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222b(b)) is amended by striking “\$15,000,000 for each of fiscal years 1996 through 2002”

and inserting “\$25,000,000 for each of fiscal years 2002 through 2007”.

SEC. 7110. NATIONAL RESEARCH AND TRAINING VIRTUAL CENTERS.

(a) **AUTHORIZATION.**—Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended by striking “2002” each place it appears in subsections (a)(1) and (f) and inserting “2007”.

(b) **REDESIGNATION.**—Section 1448 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222c) is amended—

(1) in the section heading, by striking “CENTENNIAL” and inserting “VIRTUAL”; and

(2) by striking “centennial” each place it appears and inserting “virtual”.

SEC. 7111. HISPANIC-SERVING INSTITUTIONS.

Section 1455(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3241(c)) is amended by striking “2002” and inserting “2007”.

SEC. 7112. COMPETITIVE GRANTS FOR INTERNATIONAL AGRICULTURAL SCIENCE AND EDUCATION PROGRAMS.

Section 1459A(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3292b(c)) is amended by striking “2002” and inserting “2007”.

SEC. 7113. UNIVERSITY RESEARCH.

Section 1463 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3311) is amended—

(1) in subsection (a), by striking “\$850,000,000 for each of the fiscal years 1991 through 2002” and inserting “such sums as may be necessary for each of fiscal years 1991 through 2007”; and

(2) in subsection (b), by striking “\$310,000,000 for each of the fiscal years 1991 through 2002” and inserting “such sums as may be necessary for each of fiscal years 1991 through 2007”.

SEC. 7114. EXTENSION SERVICE.

Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended by striking “\$420,000,000 for fiscal year 1991, \$430,000,000 for fiscal year 1992, \$440,000,000 for fiscal year 1993, \$450,000,000 for fiscal year 1994, and \$460,000,000 for each of fiscal years 1995 through 2002” and inserting “such sums as may be necessary for each of fiscal years 1991 through 2007”.

SEC. 7115. SUPPLEMENTAL AND ALTERNATIVE CROPS.

Section 1473D(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d(a)) is amended by striking “2002” and inserting “2007”.

SEC. 7116. AQUACULTURE RESEARCH FACILITIES.

The first sentence of section 1477 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3324) is amended by striking “2002” and inserting “2007”.

SEC. 7117. RANGELAND RESEARCH.

Section 1483(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3336(a)) is amended by striking “2002” and inserting “2007”.

SEC. 7118. NATIONAL GENETICS RESOURCES PROGRAM.

Section 1635(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5844(b)) is amended by striking “2002” and inserting “2007”.

SEC. 7119. HIGH-PRIORITY RESEARCH AND EXTENSION INITIATIVES.

Section 1672(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(h)) is amended by striking “2002” and inserting “2007”.

SEC. 7120. NUTRIENT MANAGEMENT RESEARCH AND EXTENSION INITIATIVE.

Section 1672A(g) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925a(g)) is amended by striking “2002” and inserting “2007”.

SEC. 7121. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

Section 1673(h) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5926(h)) is amended by striking “2002” and inserting “2007”.

SEC. 7122. ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.

Section 1680(c)(1) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(c)(1)) is amended by striking “2002” and inserting “2007”.

SEC. 7123. PARTNERSHIPS FOR HIGH-VALUE AGRICULTURAL PRODUCT QUALITY RESEARCH.

Section 402(g) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7622(g)) is amended by striking “2002” and inserting “2007”.

SEC. 7124. BIOBASED PRODUCTS.

(a) PILOT PROJECT.—Section 404(e)(2) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7624(e)(2)) is amended by striking “2001” and inserting “2007”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 404(h) of such Act (7 U.S.C. 7624(h)) is amended by striking “2002” and inserting “2007”.

SEC. 7125. INTEGRATED RESEARCH, EDUCATION, AND EXTENSION COMPETITIVE GRANTS PROGRAM.

Section 406 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626) is amended—

(1) by redesignating subsection (e) as subsection (f);

(2) by inserting after subsection (d) the following:

“(e) TERM OF GRANT.—A grant under this section shall have a term of not more than 5 years.”; and

(3) in subsection (f) (as so redesignated), by striking “2002” and inserting “2007”.

SEC. 7126. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(f) INSTITUTIONAL CAPACITY BUILDING GRANTS.—Section 535 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) is amended—

(1) in subsection (b)(1), by striking “2002” and inserting “2007”; and

(2) in subsection (c), by striking “\$1,700,000 for each of fiscal years 1996 through 2002” and inserting “such sums as are necessary for each of fiscal years 2002 through 2007”.

SEC. 7127. 1994 INSTITUTION RESEARCH GRANTS.

Section 536(c) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking “2002” and inserting “2007”.

SEC. 7128. ENDOWMENT FOR 1994 INSTITUTIONS.

The first sentence of section 533(b) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking “\$4,600,000” and all that follows through the period and inserting “such sums as are necessary to carry out this section for each of fiscal years 1996 through 2007.”.

SEC. 7129. PRECISION AGRICULTURE.

Section 403(i) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623(i)) is amended by striking “2002” and inserting “2007”.

SEC. 7130. THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.

Section 405(h) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(h)) is amended by striking “2002” and inserting “2007”.

SEC. 7131. SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT, TRITICALE, AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM OR BY TILLETIA INDICA.

Section 408(e) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(e)) is amended—

(1) by striking “\$5,200,000” and inserting “such sums as may be necessary”; and

(2) by striking “2002” and inserting “2007”.

SEC. 7132. OFFICE OF PEST MANAGEMENT POLICY.

Section 614(f) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7653(f)) is amended by striking “2002” and inserting “2007”.

SEC. 7133. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMICS ADVISORY BOARD.

Section 1408(h) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123(h)) is amended by striking “2002” and inserting “2007”.

SEC. 7134. GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

Section 1419(d) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154(d)) is amended by striking “2002” and inserting “2007”.

SEC. 7135. AGRICULTURAL EXPERIMENT STATIONS RESEARCH FACILITIES.

Section 6(a) of the Research Facilities Act (7 U.S.C. 390d(a)) is amended by striking “2002” and inserting “2007”.

SEC. 7136. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS NATIONAL RESEARCH INITIATIVE.

Section 2(b)(10) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(10)) is amended by striking “2002” and inserting “2007”.

SEC. 7137. FEDERAL AGRICULTURAL RESEARCH FACILITIES AUTHORIZATION OF APPROPRIATIONS.

Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1556) is amended by striking “2002” and inserting “2007”.

SEC. 7138. CRITICAL AGRICULTURAL MATERIALS RESEARCH.

Section 16(a) of the Critical Agricultural Materials Act (7 U.S.C. 178n(a)) is amended by striking “2002” and inserting “2007”.

SEC. 7139. AQUACULTURE.

Section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809) is amended by striking “2002” each place it appears and inserting “2007”.

Subtitle B—Modifications

SEC. 7201. EQUITY IN EDUCATIONAL LAND-GRANT STATUS ACT OF 1994.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Section 534(a)(1)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note) is amended by striking “\$50,000” and inserting “\$100,000”.

(b) **CHANGE OF INDIAN STUDENT COUNT FORMULA.**—Section 533(c)(4)(A) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by striking “(as defined in section 390(3) of the Carl D. Perkins Vocational and Applied Technology Education Act, as such section was in effect on the day preceding the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1998 (Oct. 31, 1998)) for each 1994 Institution for the fiscal year” and inserting “(as defined in section 2(a) of the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801(a)))”.

(c) **ACCREDITATION REQUIREMENT FOR RESEARCH GRANTS.**—Section 533(a)(3) of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103–382) is amended by

striking “sections 534 and 535” and inserting “sections 534, 535, and 536”.

(d) TECHNICAL AMENDMENT TO REFLECT NAME CHANGES.—Section 532 of the Equity in Educational Land-Grant Status Act of 1994 (7 U.S.C. 301 note; Public Law 103-382) is amended by striking paragraphs (1) through (30) and inserting the following:

- “(1) Bay Mills Community College.
- “(2) Blackfeet Community College.
- “(3) Cankdeska Cikana Community College.
- “(4) College of Menominee Nation.
- “(5) Crownpoint Institute of Technology.
- “(6) D-Q University.
- “(7) Dine College.
- “(8) Chief Dull Knife Memorial College.
- “(9) Fond du Lac Tribal and Community College.
- “(10) Fort Belknap College.
- “(11) Fort Berthold Community College.
- “(12) Fort Peck Community College.
- “(13) Haskell Indian Nations University.
- “(14) Institute of American Indian and Alaska Native Culture and Arts Development.
- “(15) Lac Courte Oreilles Ojibwa Community College.
- “(16) Leech Lake Tribal College.
- “(17) Little Big Horn College.
- “(18) Little Priest Tribal College.
- “(19) Nebraska Indian Community College.
- “(20) Northwest Indian College.
- “(21) Oglala Lakota College.
- “(22) Salish Kootenai College.
- “(23) Sinte Gleska University.
- “(24) Sisseton Wahpeton Community College.
- “(25) Si Tanka/Huron University.
- “(26) Sitting Bull College.
- “(27) Southwestern Indian Polytechnic Institute.
- “(28) Stone Child College.
- “(29) Turtle Mountain Community College.
- “(30) United Tribes Technical College.
- “(31) White Earth Tribal and Community College.”.

(e) REPORT RECOMMENDING CRITERIA FOR ADDITIONAL ELIGIBLE ENTITIES.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit a report containing recommended criteria for designating additional 1994 Institutions to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

7 USC 301 note.
Deadline.

SEC. 7202. CARRYOVER FOR EXPERIMENT STATIONS.

Section 7 of the Hatch Act of 1887 (7 U.S.C. 361g) is amended by striking subsection (c) and inserting the following:

“(c) CARRYOVER.—

“(1) IN GENERAL.—The balance of any annual funds provided under this Act to a State agricultural experiment station for a fiscal year that remains unexpended at the end of the fiscal year may be carried over for use during the following fiscal year.

“(2) FAILURE TO EXPEND FULL ALLOTMENT.—

“(A) IN GENERAL.—If any unexpended balance carried over by a State is not expended by the end of the second fiscal year, an amount equal to the unexpended balance shall be deducted from the next succeeding annual allotment to the State.

“(B) REDISTRIBUTION.—Federal funds that are deducted under subparagraph (A) for a fiscal year shall be redistributed by the Secretary in accordance with the formula set forth in section 3(c) to those States for which no deduction under subparagraph (A) has been taken for that fiscal year.”.

SEC. 7203. AUTHORIZATION PERCENTAGES FOR RESEARCH AND EXTENSION FORMULA FUNDS.

(a) EXTENSION.—Section 1444(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221(a)) is amended—

(1) by striking “(a) There” and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There”;

(2) by striking the second sentence; and

(3) in the third sentence, by striking “Beginning” through “6 per centum” and inserting the following:

“(2) MINIMUM AMOUNT.—Beginning with fiscal year 2003, there shall be appropriated under this section for each fiscal year an amount that is not less than 15 percent”;

(3) by striking “Funds appropriated” and inserting the following:

“(3) USES.—Funds appropriated”; and

(4) by striking “No more” and inserting the following:

“(4) CARRYOVER.—No more”.

(b) RESEARCH.—Section 1445(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)) is amended—

(1) by striking “(a) There” and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There”;

(2) by striking the second sentence and inserting the following:

“(2) MINIMUM AMOUNT.—Beginning with fiscal year 2003, there shall be appropriated under this section for each fiscal year an amount that is not less than 25 percent of the total appropriations for the fiscal year under section 3 of the Hatch Act of 1887 (7 U.S.C. 361c).”;

(3) by striking “Funds appropriated” and inserting the following:

“(3) USES.—Funds appropriated”;

(4) by striking “The eligible” and inserting the following:

“(4) COORDINATION.—The eligible”; and

(5) by striking “No more” and inserting the following:

“(5) CARRYOVER.—No more”.

SEC. 7204. CARRYOVER FOR ELIGIBLE INSTITUTIONS.

Section 1445(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222(a)) (as amended by section 7203 of this Act) is further amended by striking paragraph (5) and inserting the following:

“(5) CARRYOVER.—

Effective date.

Effective date.

“(A) IN GENERAL.—The balance of any annual funds provided to an eligible institution for a fiscal year under this section that remains unexpended at the end of the fiscal year may be carried over for use during the following fiscal year.

“(B) FAILURE TO EXPEND FULL AMOUNT.—

“(i) IN GENERAL.—If any unexpended balance carried over by an eligible institution is not expended by the end of the second fiscal year, an amount equal to the unexpended balance shall be deducted from the next succeeding annual allotment to the eligible institution.

“(ii) REDISTRIBUTION.—Federal funds that are deducted under clause (i) for a fiscal year shall be redistributed by the Secretary in accordance with the formula set forth in subsection (b)(2)(B) to those eligible institutions for which no deduction under clause (i) has been taken for that fiscal year.”.

SEC. 7205. INITIATIVE FOR FUTURE AGRICULTURE AND FOOD SYSTEMS.

(a) FUNDING.—Section 401(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621(b)) is amended—

(1) in paragraph (1), by striking “2002” and inserting “2001”; and

(2) by adding at the end the following:

“(3) OTHER FUNDING.—Out of funds in the Commodity Credit Corporation, the Secretary shall transfer to the Account—

“(A) on October 1, 2003, \$120,000,000;

“(B) on October 1, 2004, \$140,000,000;

“(C) on October 1, 2005, \$160,000,000; and

“(D) on October 1, 2006, and each October 1 thereafter, \$200,000,000.”.

(2) by amending subsection (c)(1) to read as follows:

“(1) CRITICAL EMERGING AGRICULTURAL AND RURAL ISSUES.—The Secretary shall use the funds in the Account for research, extension, and education grants (referred to in this section as ‘grants’) to address critical emerging agricultural and rural issues related to—

“(A) future food production;

“(B) environmental quality and natural resource management;

“(C) farm income; or

“(D) rural economic and business and community development policy.”; and

(3) in subsection (e)(1), by striking “small and mid-sized” and inserting “small, mid-sized, and minority-serving”.

SEC. 7206. ELIGIBILITY FOR INTEGRATED GRANTS PROGRAM.

Section 406(b) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7626(b)) is amended by inserting “and 1994 Institutions” before “on a competitive basis”.

SEC. 7207. AGRICULTURAL RESEARCH, EXTENSION, AND EDUCATION REFORM ACT OF 1998.

(a) **PRECISION AGRICULTURE.**—Section 403 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7623) is amended—

(1) in subsection (a)—

(A) in paragraph (3)—

(i) in subparagraph (A), inserting “, horticultural,” following “agronomic” the second place it appears; and

(ii) in subparagraph (C), by striking “or” at the end;

(iii) in subparagraph (D), by striking the period at the end and inserting “; or”; and

(iv) by adding at the end the following:

“(E) using such information to enable intelligent mechanized harvesting and sorting systems for horticultural crops.”;

(B) in paragraph (4)—

(i) in subparagraph (C), by striking “or” at the end;

(ii) in subparagraph (D), by striking the period at the end and inserting “; or”; and

(iii) by adding at the end the following:

“(E) robotic and other intelligent machines for use in horticultural cropping systems.”; and

(C) in paragraph (5)(F), by inserting “(including improved use of energy inputs)” after “farm production efficiencies”;

(2) in subsection (c)(2)—

(A) by inserting “or horticultural” after “agronomic”; and

(B) by striking “and meteorological variability” and inserting “product variability, and meteorological variability”;

(3) in subsection (d)—

(A) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) Improve farm energy use efficiencies.”.

(b) **THOMAS JEFFERSON INITIATIVE FOR CROP DIVERSIFICATION.**—Section 405(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7625(a)) is amended by striking “and marketing” and inserting “, marketing, and efficient use”.

(c) **COORDINATED PROGRAM OF RESEARCH, EXTENSION, AND EDUCATION TO IMPROVE VIABILITY OF SMALL- AND MEDIUM-SIZE DAIRY, LIVESTOCK, AND POULTRY OPERATIONS.**—Section 407(b)(3) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7627(b)(3)) is amended by inserting “(including improved use of energy inputs)” after “poultry systems that increase efficiencies”.

(d) **SUPPORT FOR RESEARCH REGARDING DISEASES OF WHEAT, TRITICALE, AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM OR BY TILLETIA INDICA.**—

(1) **RESEARCH GRANT AUTHORIZED.**—Section 408(a) of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7628(a)) is amended to read as follows:

“(a) **RESEARCH GRANT AUTHORIZED.**—The Secretary of Agriculture may make grants to consortia of land-grant colleges and universities to enhance the ability of the consortia to carry out multi-State research projects aimed at understanding and combating diseases of wheat, triticale, and barley caused by *Fusarium graminearum* and related fungi (referred to in this section as ‘wheat scab’) or by *Tilletia indica* and related fungi (referred to in this section as ‘Karnal bunt’).”

(2) **RESEARCH COMPONENTS.**—Section 408(b) of such Act (7 U.S.C. 7628(b)) is amended—

(A) in paragraph (1), by inserting “or of Karnal bunt,” after “epidemiology of wheat scab”;

(B) in paragraph (1), by inserting “, triticale,” after “occurring in wheat”;

(C) in paragraph (2), by inserting “or Karnal bunt” after “wheat scab”;

(D) in paragraph (3)(A), by striking “and barley for the presence of” and inserting “, triticale, and barley for the presence of Karnal bunt or of”;

(E) in paragraph (3)(B), by striking “and barley infected with wheat scab” and inserting “, triticale, and barley infected with wheat scab or with Karnal bunt”;

(F) in paragraph (3)(C), by inserting “wheat scab” after “to render”;

(G) in paragraph (4), by striking “and barley to wheat scab” and inserting “, triticale, and barley to wheat scab and to Karnal bunt”; and

(H) in paragraph (5)—

(i) by inserting “and Karnal bunt” after “wheat scab”; and

(ii) by inserting “, triticale,” after “resistant wheat”.

(3) **COMMUNICATIONS NETWORKS.**—Section 408(c) of such Act (7 U.S.C. 7628(c)) is amended by inserting “or Karnal bunt” after “wheat scab”.

(4) **TECHNICAL AMENDMENTS.**—(A) The section heading for section 408 of such Act is amended by striking “**AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM**” and inserting “, **TRITICALE, AND BARLEY CAUSED BY FUSARIUM GRAMINEARUM OR BY TILLETIA INDICA**”.

(B) The table of sections for such Act is amended by striking “and barley caused by *fusarium graminearum*” in the item relating to section 408 and inserting “, triticale, and barley caused by *Fusarium graminearum* or by *Tilletia indica*”.

(e) **PROGRAM TO CONTROL JOHNE’S DISEASE.**—Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following new section:

“SEC. 409. BOVINE JOHNE’S DISEASE CONTROL PROGRAM.

7 USC 7629.

“(a) **ESTABLISHMENT.**—The Secretary of Agriculture, in coordination with State veterinarians and other appropriate State animal health professionals, may establish a program to conduct research, testing, and evaluation of programs for the control and management of Johne’s disease in livestock.

“(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary such sums as may be necessary

to carry out this section for each of fiscal years 2003 through 2007.”.

SEC. 7208. FOOD, AGRICULTURE, CONSERVATION, AND TRADE ACT OF 1990.

(a) **AGRICULTURAL GENOME INITIATIVE.**—Section 1671(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5924(b)) is amended—

(1) in paragraph (3), by inserting “pathogens and” before “diseases causing economic hardship”;

(2) in paragraph (6), by striking “and” at the end;

(3) by redesignating paragraph (7) as paragraph (8); and

(4) by inserting after paragraph (6) the following new paragraph:

“(7) reducing the economic impact of plant pathogens on commercially important crop plants; and”.

(b) **HIGH-PRIORITY RESEARCH AND EXTENSION INITIATIVES.**—Section 1672(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925) is amended by adding at the end the following new paragraphs:

“(25) **GENETICALLY MODIFIED AGRICULTURE PRODUCTS (GMAP) RESEARCH.**—Research grants may be made under this section for the purposes of providing unbiased, science-based evaluation of the risks and benefits to the public and the environment of specific genetically modified plant and animal products. Grants may be used to form interdisciplinary teams to review and conduct research on scientific, social, economic, and ethical issues during the review process, to answer questions raised by the release of new genetically modified agriculture products, to conduct fundamental studies on the health and environmental safety of genetically modified agriculture products (including quantitative risk assessment, the effect of specific genetically modified agriculture products on human health, and gene flow studies), to communicate the risk of genetically modified agriculture products through extension and education programs, and to engage the public and industry in relevant issues.

“(26) **WIND EROSION RESEARCH AND EXTENSION.**—Research and extension grants may be made under this section for the purpose of validating wind erosion models.

“(27) **CROP LOSS RESEARCH AND EXTENSION.**—Research and extension grants may be made under this section for the purpose of validating crop loss models.

“(28) **LAND USE MANAGEMENT RESEARCH AND EXTENSION.**—Research and extension grants may be made under this section for the purposes of evaluating the environmental benefits of land use management tools such as those provided in the Farmland Protection Program.

“(29) **WATER AND AIR QUALITY RESEARCH AND EXTENSION.**—Research and extension grants may be made under this section for the purpose of better understanding agricultural impacts to air and water quality and means to address them.

“(30) **REVENUE AND INSURANCE TOOLS RESEARCH AND EXTENSION.**—Research and extension grants may be made under this section for the purposes of better understanding the impact of revenue and insurance tools on farm income.

“(31) AGROTOURISM RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of better understanding the economic, environmental, and food systems impacts of agrotourism.

“(32) HARVESTING PRODUCTIVITY FOR FRUITS AND VEGETABLES.—Research and extension grants may be made under this section for the purpose of improving harvesting productivity for fruits and vegetables (including citrus), including the development of mechanical harvesting technologies and effective, economical, and safe abscission compounds.

“(33) NITROGEN-FIXATION BY PLANTS.—Research and extension grants may be made under this section for the purpose of enhancing the nitrogen-fixing ability and efficiency of legumes, developing new varieties of legumes that fix nitrogen more efficiently, and developing new varieties of other commercially important crops that potentially are able to fix nitrogen.

“(34) AGRICULTURAL MARKETING.—Extension grants may be made under this section for the purpose of providing education materials, information, and outreach programs regarding commodity and livestock marketing strategies for agricultural producers and for cooperatives and other marketers of any agricultural commodity, including livestock.

“(35) ENVIRONMENT AND PRIVATE LANDS RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of researching the use of computer models to aid in assessment of best management practices on a watershed basis, working with government, industry, and private landowners to help craft industry-led solutions to identified environmental issues, researching and monitoring water, air, or soil environmental quality to aid in the development of new approaches to local environmental concerns, and working with local, State, and federal officials to help craft effective environmental solutions that respect private property rights and agricultural production realities.

“(36) LIVESTOCK DISEASE RESEARCH AND EXTENSION.—Research and extension grants may be made under this section for the purpose of identifying possible livestock disease threats, educating the public regarding livestock disease threats, training persons to deal with such threats, and conducting related research.

“(37) PLANT GENE EXPRESSION.—Research grants may be made under this section for the purpose of plant gene expression research to accelerate the application of basic plant genomic science to the development and testing of new varieties of enhanced food crops, crops that can be used as renewable energy sources, and other alternative uses of agricultural crops.

“(38) ANIMAL INFECTIOUS DISEASES RESEARCH.—Research and extension grants may be made under this section for the purpose of developing prevention and control methodologies for animal infectious diseases (including evaluation under field conditions in countries in which an animal disease occurs) such as laboratory tests for quicker detection of infected animals and presence of disease, prevention strategies (including vaccination programs), and rapid diagnostic techniques for animal disease agents considered to be risks for agricultural bioterrorism attack.

“(39) PROGRAM TO COMBAT CHILDHOOD OBESITY.—Research and extension grants may be made under this section to institutions of higher education with demonstrated capacity in basic and clinical obesity research, nutrition research, and community health education research to develop and evaluate community-wide strategies that catalyze partnerships between families and health care, education, recreation, mass media, and other community resources to reduce the incidence of childhood obesity.

“(40) INTEGRATED PEST MANAGEMENT.—Research and extension grants may be made under this section to coordinate and improve research, education, and outreach on, and implementation on farms of, integrated pest management.

“(41) BEEF CATTLE GENETICS.—Research and extension grants for beef cattle genetics evaluation research may be made under this section to consortia of institutions of higher education that have expertise in beef cattle genetic evaluation research and technology and that have been actively involved for at least 20 years in the estimation and prediction of progeny differences for publication and use by seed stock producer breed associations.

“(42) DAIRY PIPELINE CLEANER.—Research and extension grants may be made under this section for the purpose of preventing and eliminating the dangers of dairy pipeline cleaner, including development of safer packaging and transfer mechanisms, outlining accident causes and potential prevention measures, and other means of improving efforts to prevent ingestion of dairy pipeline cleaner.

“(43) DEVELOPMENT OF PUBLICLY HELD PLANTS AND ANIMAL VARIETIES.—Research and extension grants may be made under this section for the purpose of development of publicly held plants and animal varieties (including germplasm for identity-preserved markets) and genetic resource conservation activities.

“(44) SUGARCANE GENETICS.—Research grants may be made under this section for the purpose of maintaining acceptable yields under reduced production inputs, implementing marker-assisted breeding strategies and other basic plant genomic technologies to screen for improved plant resistance to diseases, weeds, and insects toward minimizing pesticide use, enhancing food, fiber and energy production, and developing varieties for maximum performance under prevailing conditions, including management for improved soil and water conservation.”.

(c) ASSISTIVE TECHNOLOGY PROGRAM FOR FARMERS WITH DISABILITIES.—Section 1680(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5933(a)) is amended by adding at the end the following new paragraph:

“(6) CONSIDERATION FOR GRANTS FOR NEW PROGRAMS.—For each fiscal year that amounts are made available for grants under this subsection, the Secretary may make grants in a manner that ensures that eligible entities who apply for grants, but have not previously received a grant under this subsection, are given full consideration.”.

SEC. 7209. NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

(a) NATIONAL AGRICULTURAL RESEARCH, EXTENSION, EDUCATION, AND ECONOMIC ADVISORY BOARD.—Section 1408 of the

National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3123) is amended—

(1) in subsection (b)(1), by striking “30 members” and inserting “31 members”;

(2) in subsection (b)(3)—

(A) by redesignating subparagraphs (R) through (DD) as subparagraphs (S) through (EE), respectively; and

(B) by inserting after subparagraph (Q) the following new subparagraph:

“(R) 1 member representing a non-land grant college or university with a historic commitment to research in the food and agricultural sciences.”;

(3) in subsection (c)(1), by striking “and land-grant colleges and universities” and inserting “, land-grant colleges and universities, and the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations of the House of Representatives, and the Subcommittee on Agriculture, Rural Development and Related Agencies of the Committee on Appropriations of the Senate”; and

(4) in subsection (d)(1), inserting “consult with any appropriate agencies of the Department of Agriculture and” after “the Advisory Board shall”.

(b) GRANTS FOR RESEARCH ON PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended—

(1) in subsection (a)(2), by inserting “and animal fats and oils” after “industrial oilseed crops”; and

(2) in subsection (a)(4), by inserting “or triglycerides” after “other industrial hydrocarbons”.

(c) FAS OVERSEAS INTERN PROGRAM.—Section 1458(a) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) by striking “and” at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(10) establish a program, to be coordinated by the Cooperative State Research, Education, and Extension Service and the Foreign Agricultural Service, to place interns from United States colleges and universities at Foreign Agricultural Service field offices overseas.”.

(d) RANGELAND RESEARCH GRANTS.—Section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3333) is amended to read as follows:

“SEC. 1480. RANGELAND RESEARCH GRANTS.

“(a) IN GENERAL.—The Secretary may make grants to—

“(1) land-grant colleges and universities, State agricultural experiment stations, and colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research, as determined by the Secretary, to carry out rangeland research; and

“(2) the Joe Skeen Institute for Rangeland Restoration for the purposes of facilitating and expanding ongoing State-Federal range management, animal husbandry, and agricultural research, education, and extension programs to meet the targeted, emerging, and future needs of western United States rangelands and associated natural resources.

“(b) MATCHING REQUIREMENTS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), this grant program shall be based on a matching formula of 50 percent Federal and 50 percent non-Federal funding.

“(2) EXCEPTION.—Paragraph (1) shall not apply to a grant to a Federal laboratory or a grant under subsection (a)(2).”.

SEC. 7210. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH.

Section 1668 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5921) is amended to read as follows:

“SEC. 1668. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH.

“(a) PURPOSE.—It is the purpose of this section—

“(1) to authorize and support environmental assessment research to help identify and analyze environmental effects of biotechnology; and

“(2) to authorize research to help regulators develop long-term policies concerning the introduction of such technology.

“(b) GRANT PROGRAM.—The Secretary of Agriculture shall establish a grant program within the Cooperative State Research, Education, and Extension Service and the Agricultural Research Service to provide the necessary funding for environmental assessment research concerning the introduction of genetically engineered animals, plants, and microorganisms into the environment.

“(c) RESEARCH PRIORITIES.— The following types of research shall be given priority for funding:

“(1) Research designed to identify and develop appropriate management practices to minimize physical and biological risks associated with genetically engineered animals, plants, and microorganisms.

“(2) Research designed to develop methods to monitor the dispersal of genetically engineered animals, plants, and microorganisms.

“(3) Research designed to further existing knowledge with respect to the characteristics, rates, and methods of gene transfer that may occur between genetically engineered animals, plants, and microorganisms and related wild and agricultural organisms.

“(4) Environmental assessment research designed to provide analysis which compares the relative impacts of animals, plants, and microorganisms modified through genetic engineering to other types of production systems.

“(5) Other areas of research designed to further the purposes of this section.

“(d) ELIGIBILITY REQUIREMENTS.—Grants under this section shall be—

“(1) made on the basis of the quality of the proposed research project; and

“(2) available to any public or private research or educational institution or organization.

“(e) CONSULTATION.— In considering specific areas of research for funding under this section, the Secretary of Agriculture shall

consult with the Administrator of the Animal and Plant Health Inspection Service and the National Agricultural Research, Extension, Education, and Economics Advisory Board.

“(f) PROGRAM COORDINATION.—The Secretary of Agriculture shall coordinate research funded under this section with the Office of Research and Development of the Environmental Protection Agency in order to avoid duplication of research activities.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated such sums as necessary to carry out this section.

“(2) WITHHOLDINGS FROM BIOTECHNOLOGY OUTLAYS.—The Secretary of Agriculture shall withhold from outlays of the Department of Agriculture for research on biotechnology, as defined and determined by the Secretary, at least 2 percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment.

“(3) APPLICATION OF FUNDS.—Funds made available under this subsection shall be applied, to the maximum extent practicable, to risk assessment research on all categories identified in subsection (c).”.

SEC. 7211. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

Section 2(b)(2) of the Competitive, Special, and Facilities Research Grant Act (7 U.S.C. 450i(b)(2)) is amended by striking “in—” and inserting the following: “in the areas described in subparagraphs (A) through (F). Such needs shall be determined by the Secretary, in consultation with the National Agricultural Research, Extension, Education, and Economics Advisory Board, not later than July 1 of each fiscal year for the purposes of the following fiscal year.”.

Deadline.

SEC. 7212. MATCHING FUNDS REQUIREMENT FOR RESEARCH AND EXTENSION ACTIVITIES OF 1890 INSTITUTIONS.

Section 1449 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3222d) is amended—

(1) by amending subsection (c) to read as follows:

“(c) MATCHING FORMULA.—Notwithstanding any other provision of this subtitle, for each of fiscal years 2003 through 2007, the State shall provide matching funds from non-Federal sources. Such matching funds shall be for an amount equal to not less than—

“(1) 60 percent of the formula funds to be distributed to the eligible institution for fiscal year 2003;

“(2) 70 percent of the formula funds to be distributed to the eligible institution for fiscal year 2004;

“(3) 80 percent of the formula funds to be distributed to the eligible institution for fiscal year 2005;

“(4) 90 percent of the formula funds to be distributed to the eligible institution for fiscal year 2006; and

“(5) 100 percent of the formula funds to be distributed to the eligible institution for fiscal year 2007 and each fiscal year thereafter.”; and

(2) by amending subsection (d) to read as follows:

“(d) WAIVER AUTHORITY.—Notwithstanding subsection (f), the Secretary may waive the matching funds requirement under subsection (c) above the 50 percent level for any fiscal year for an eligible institution of a State if the Secretary determines that the State will be unlikely to satisfy the matching requirement.”.

SEC. 7213. MATCHING REQUIREMENTS FOR RESEARCH AND EXTENSION FORMULA FUNDS FOR INSULAR AREA LAND-GRANT INSTITUTIONS.

(a) **EXPERIMENT STATIONS.**—Section 3(d) of the Hatch Act of 1887 (7 U.S.C. 361c(d)) is amended by striking paragraph (4) and inserting the following:

Effective date. “(4) **EXCEPTION FOR INSULAR AREAS.**—
 “(A) **IN GENERAL.**—Effective beginning for fiscal year 2003, in lieu of the matching funds requirement of paragraph (1), the insular areas of the Commonwealth of Puerto Rico, Guam, and the Virgin Islands of the United States shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds distributed by the Secretary to each of the insular areas, respectively, under this section.
 “(B) **WAIVERS.**—The Secretary may waive the matching fund requirement of subparagraph (A) for any fiscal year if the Secretary determines that the government of the insular area will be unlikely to meet the matching requirement for the fiscal year.”.

(b) **COOPERATIVE AGRICULTURAL EXTENSION.**—Section 3(e) of the Smith-Lever Act (7 U.S.C. 343(e)) is amended by striking paragraph (4) and inserting the following:

Effective date. “(4) **EXCEPTION FOR INSULAR AREAS.**—
 “(A) **IN GENERAL.**—Effective beginning for fiscal year 2003, in lieu of the matching funds requirement of paragraph (1), the insular areas of the Commonwealth of Puerto Rico, Guam, and the Virgin Islands of the United States shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the formula funds distributed by the Secretary to each of the insular areas, respectively, under this section.
 “(B) **WAIVERS.**—The Secretary may waive the matching fund requirement of subparagraph (A) for any fiscal year if the Secretary determines that the government of the insular area will be unlikely to meet the matching requirement for the fiscal year.”.

SEC. 7214. DEFINITION OF FOOD AND AGRICULTURAL SCIENCES.

Section 2(3) of the Research Facilities Act (7 U.S.C. 390(2)(3)) is amended to read as follows:

“(3) **FOOD AND AGRICULTURAL SCIENCES.**—The term ‘food and agricultural sciences’ has the meaning given that term in section 1404(8) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(8)).”.

SEC. 7215. FEDERAL EXTENSION SERVICE.

Section 3(b)(3) of the Smith-Lever Act (7 U.S.C. 343(b)(3)) is amended—

(1) by striking “\$5,000,000” and inserting “such sums as are necessary”; and

(2) by adding after the first sentence the following new sentence: “The balance of any annual funds provided under the preceding sentence for a fiscal year that remains unexpended at the end of that fiscal year shall remain available without fiscal year limitation.”.

SEC. 7216. POLICY RESEARCH CENTERS.

Section 1419A(c)(3) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3155(c)(3)) is amended by striking “collect and analyze” and inserting “collect, analyze, and disseminate”.

SEC. 7217. AVAILABILITY OF COMPETITIVE GRANT FUNDS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1469 (7 U.S.C. 3315) the following:

“SEC. 1469A. AVAILABILITY OF COMPETITIVE GRANT FUNDS.

7 USC 3315a.

“Except as otherwise provided by law, funds made available to the Secretary to carry out a competitive agricultural research, education, or extension grant program under this or any other Act shall be available for obligation for a 2-year period beginning on October 1 of the fiscal year for which the funds are made available.”.

SEC. 7218. ORGANIC AGRICULTURE RESEARCH AND EXTENSION INITIATIVE.

Section 1672B of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925b) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “, breeding,” after “production”;

(B) in paragraph (2), by striking “and” at the end;

(C) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(D) by adding at the end the following:

“(4) determining desirable traits for organic commodities;

“(5) identifying marketing and policy constraints on the expansion of organic agriculture; and

“(6) conducting advanced on-farm research and development that emphasizes observation of, experimentation with, and innovation for working organic farms, including research relating to production and marketing and to socioeconomic conditions.”; and

(2) by amending subsection (e) to read as follows:

“(e) FUNDING.—On October 1, 2003, and each October 1 thereafter through October 1, 2007, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer \$3,000,000 to the Secretary of Agriculture for this section.”.

Effective date.

SEC. 7219. SENIOR SCIENTIFIC RESEARCH SERVICE.

Subtitle B of title VI of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7651 et seq.) is amended by adding at the end the following:

“SEC. 620. SENIOR SCIENTIFIC RESEARCH SERVICE.Establishment.
7 USC 7657.

“(a) IN GENERAL.—There is established in the Department of Agriculture the Senior Scientific Research Service (referred to in this section as the ‘Service’).

“(b) MEMBERS.—

“(1) IN GENERAL.—Subject to paragraphs (2) through (4), the Secretary shall appoint the members of the Service.

“(2) QUALIFICATIONS.—To be eligible for appointment to the Service, an individual shall—

“(A) have conducted outstanding research in the field of agriculture or forestry;

“(B) have earned a doctoral level degree at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)); and

“(C) meet qualification standards prescribed by the Director of the Office of Personnel Management for appointment to a position at level GS-15 of the General Schedule.

“(3) NUMBER.—Not more than 100 individuals may serve as members of the Service at any 1 time.

“(4) OTHER REQUIREMENTS.—

“(A) IN GENERAL.—Subject to subparagraph (B) and subsection (d)(2), the Secretary may appoint and employ a member of the Service without regard to—

“(i) the provisions of title 5, United States Code, governing appointments in the competitive service;

“(ii) the provisions of subchapter I of chapter 35 of title 5, United States Code, relating to retention preference;

“(iii) the provisions of chapter 43 of title 5, United States Code, relating to performance appraisal and performance actions;

“(iv) the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates; and

“(v) the provisions of chapter 75 of title 5, United States Code, relating to adverse actions.

“(B) EXCEPTION.—A member of the Service appointed and employed by the Secretary under subparagraph (A) shall have the same right of appeal to the Merit Systems Protection Board and the same right to file a complaint with the Office of Special Counsel as an employee appointed to a position at level GS-15 of the General Schedule.

“(c) PERFORMANCE APPRAISAL SYSTEM.—The Secretary shall develop a performance appraisal system for members of the Service that is designed to—

“(1) provide for the systematic appraisal of the employment performance of the members; and

“(2) encourage excellence in employment performance by the members.

“(d) COMPENSATION.—

“(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall determine the compensation of members of the Service.

“(2) LIMITATIONS.—The rate of pay for a member of the Service shall—

“(A) not be less than the minimum rate payable for a position at level GS-15 of the General Schedule; and

“(B) not be more than the rate payable for a position at level I of the Executive Schedule, unless the rate is approved by the President under section 5377(d)(2) of title 5, United States Code.

“(e) RETIREMENT CONTRIBUTIONS.—

“(1) IN GENERAL.—On the request of a member of the Service who was an employee of an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) immediately prior to appointment as a member of the Service and who retains the right to

continue to make contributions to the retirement system of the institution, the Secretary may contribute an amount not to exceed 10 percent of the basic pay of the member to the retirement system of the institution on behalf of the member.

“(2) FEDERAL RETIREMENT SYSTEM.—

“(A) IN GENERAL.—Subject to subparagraph (B), a member for whom a contribution is made under paragraph (1) shall not, as a result of serving as a member of the Service, be covered by, or earn service credit under, chapter 83 or 84 of title 5, United States Code.

“(B) ANNUAL LEAVE.—Service of a member of the Service described in subparagraph (A) shall be creditable for determining years of service under section 6303(a) of title 5, United States Code.

“(f) INVOLUNTARY SEPARATION.—

“(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding the provisions of title 5, United States Code, governing appointment in the competitive service, in the case of an individual who is separated from the Service involuntarily and without cause—

“(A) the Secretary may appoint the individual to a position in the competitive civil service at level GS-15 of the General Schedule; and

“(B) the appointment shall be a career appointment.

“(2) EXCEPTED CIVIL SERVICE.—In the case of an individual described in paragraph (1) who immediately prior to appointment as a member of the Service was not a career appointee in the civil service or the Senior Executive Service, the appointment of the individual under paragraph (1)—

“(A) shall be to the excepted civil service; and

“(B) may not exceed a period of 2 years.”.

SEC. 7220. TERMINATION OF CERTAIN SCHEDULE A APPOINTMENTS.

(a) TERMINATION.—Not later than January 31, 2003, the Secretary of Agriculture shall terminate each appointment listed as an excepted position under schedule A of the General Schedule made by the Secretary to the Federal civil service of an individual who holds dual government appointments, and who carries out agricultural extension work in a program at a college or university eligible to receive funds, under—

Deadline.

(1) the Smith-Lever Act (7 U.S.C. 341 et seq.);

(2) section 1444 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3221); or

(3) section 208(e) of the District of Columbia Public Postsecondary Education Reorganization Act (88 Stat. 1428).

(b) CONTINUATION OF CERTAIN FEDERAL BENEFITS.—

(1) IN GENERAL.—Notwithstanding title 5, United States Code, and subject to paragraph (2), an individual described in subsection (a), during the period the individual is employed in an agricultural extension program described in subsection (a) without a break in service, shall continue to—

(A) be eligible to participate, to the same extent that the individual was eligible to participate (on the day before the date of enactment of this Act), in—

(i) the Federal Employee Health Benefits Program;

(ii) the Federal Employee Group Life Insurance Program;

(iii) the Civil Service Retirement System;

(iv) the Federal Employee Retirement System;

(v) the Thrift Savings Plan; and

(vi) the Federal Long Term Care Insurance Program; and

(B) receive Federal Civil Service employment credit to the same extent that the individual was receiving such credit on the day before the date of enactment of this Act.

(2) LIMITATIONS.—An individual may continue to be eligible for the benefits described in paragraph (1) if—

(A) in the case of an individual who remains employed in the agricultural extension program described in subsection (a) on the date of enactment of this Act, the employing college or university continues to fulfill the administrative and financial responsibilities (including making agency contributions) associated with providing those benefits, as determined by the Secretary of Agriculture; and

(B) in the case of an individual who changes employment to a second college or university described in subsection (a)—

(i) the individual continues to work in an agricultural extension program described in subsection (a), as determined by the Secretary of Agriculture;

(ii) the second college or university—

(I) fulfills the administrative and financial responsibilities (including making agency contributions) associated with providing those benefits, as determined by the Secretary of Agriculture; and

(II) within 1 year before the date of the employment of the individual, had employed a different individual described in subsection (a) who had performed the same duties of employment; and

(iii) the individual was eligible for those benefits on the day before the date of enactment of this Act.

SEC. 7221. BIOSECURITY PLANNING AND RESPONSE PROGRAMS.

(a) BIOSECURITY.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by adding at the end the following:

“Subtitle N—Biosecurity

7 USC 3351.

“SEC. 1484. SPECIAL AUTHORIZATION FOR BIOSECURITY PLANNING AND RESPONSE.

“(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts for agricultural research, extension, and education under this Act, there are authorized to be appropriated for agricultural research, education, and extension activities for biosecurity planning and response such sums as are necessary for each of fiscal years 2002 through 2007.

“(b) USE OF FUNDS.—Using any authority available to the Secretary, the Secretary shall use funds made available under this

section to carry out agricultural research, education, and extension activities (including through competitive grants) for the following:

“(1) To reduce the vulnerability of the United States food and agricultural system to chemical or biological attack.

“(2) To continue partnerships with institutions of higher education and other institutions to help form stable, long-term programs to enhance the biosecurity of the United States, including the coordination of the development, implementation, and enhancement of diverse capabilities for addressing threats to the Nation’s agricultural economy and food supply with special emphasis on planning, training, outreach, and research activities related to vulnerability analyses, incident response, and detection and prevention technologies.

“(3) To make competitive grants to universities and qualified research institutions for research on counterbioterrorism.

“(4) To counter or otherwise respond to chemical or biological attack.

“SEC. 1485. AGRICULTURE RESEARCH FACILITY EXPANSION AND SECURITY UPGRADES.

Grants.
7 USC 3352.

“(a) IN GENERAL.—To enhance the security of agriculture in the United States against threats posed by bioterrorism, the Secretary shall make expansion or security upgrade grants on a competitive basis to colleges and universities (as defined in section 1404(4)).

“(b) LIMITATION ON GRANTS.—Grants to a recipient under this section shall not exceed \$10,000,000 in any fiscal year.

“(c) REQUIREMENTS FOR GRANTS.—The Secretary shall make a grant under this section only if the grant applicant provides satisfactory assurances to the Secretary that—

“(1) sufficient funds are available to pay the non-Federal share of the cost of the proposed expansion or security upgrades; and

“(2) the proposed expansion or security upgrades meet such reasonable qualifications as may be established by the Secretary with respect to biosafety and biosecurity requirements necessary to protect facility staff, members of the public, and the food supply.

“(d) ADDITIONAL REQUIREMENTS FOR GRANTS FOR FACILITY EXPANSION.—The Secretary shall make a grant under this section for the expansion, renovation, remodeling, or alteration (collectively referred to in this section as “expansion”) of a facility only if the grant applicant provides such assurances as the Secretary determines to be satisfactory to ensure the following:

“(1) For not less than 20 years after the grant is awarded, the facility shall be used for the purposes of the research for which the facility was expanded, as described in the grant application.

“(2) Sufficient funds will be available, as of the date of completion of the expansion, for the effective use of the facility for the purposes of the research for which the facility was expanded.

“(3) The proposed expansion—

“(A) will increase the capability of the applicant to conduct research for which the facility was expanded; or

“(B) is necessary to improve the quality of the research of the applicant.

“(e) AMOUNT OF GRANT.—The amount of a grant awarded under this section shall be determined by the Secretary.

“(f) FEDERAL SHARE.—The Federal share of the cost of any expansion or security upgrade carried out using funds from a grant provided under this section shall not exceed 50 percent.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as are necessary for each fiscal year.”.

(b) SENSE OF CONGRESS ON INCREASING CAPACITY FOR RESEARCH ON BIOSECURITY AND ANIMAL AND PLANT HEALTH DISEASES.—It is the sense of Congress that funding for the Agricultural Research Service, the Animal and Plant Health Inspection Service, and other agencies of the Department of Agriculture with responsibilities for biosecurity should be increased as necessary to improve the capacity of the agencies to conduct research and analysis of, and respond to, bioterrorism and animal and plant diseases.

SEC. 7222. INDIRECT COSTS FOR SMALL BUSINESS INNOVATION RESEARCH GRANTS.

Section 1462 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3310) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Except”; and

(2) by adding at the end the following:

“(b) EXCEPTION.—Subsection (a) shall not apply to a grant awarded competitively under section 9 of the Small Business Act (15 U.S.C. 638).”.

SEC. 7223. CARBON CYCLE RESEARCH.

Section 221 of the Agricultural Risk Protection Act of 2000 (Public Law 106-224; 114 Stat. 407), as amended by section 9009 of this Act, is amended—

(1) in subsection (a), by striking “Of the amount” and all that follows through “to provide” and inserting “To the extent funds are made available for this purpose, the Secretary shall provide”;

(2) in subsection (f), by striking “under subsection (a)” and inserting “for this section”; and

(3) by adding at the end the following new subsection:

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal years 2002 through 2007 such sums as may be necessary to carry out this section.”.

Subtitle C—Repeal of Certain Activities and Authorities

SEC. 7301. FOOD SAFETY RESEARCH INFORMATION OFFICE AND NATIONAL CONFERENCE.

(a) REPEAL.—Subsections (b) and (c) of section 615 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7654(b) and (c)) are repealed.

(b) CONFORMING AMENDMENTS.—

(1) GENERALLY.—Section 615 of such Act is amended—

(A) in the section heading, by striking “AND NATIONAL CONFERENCE”;

(B) by striking “(a) FOOD SAFETY RESEARCH INFORMATION OFFICE.—”;

(C) by redesignating paragraphs (1), (2), and (3) as subsections (a), (b), and (c), respectively, and moving the margins 2 ems to the left;

(D) in subsection (b) (as so redesignated), by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively, and moving the margins 2 ems to the left; and

(E) in subsection (c) (as so redesignated), by striking “this subsection” and inserting “this section”.

(2) TABLE OF SECTIONS.—The table of sections for such Act is amended by striking “and National Conference” in the item relating to section 615.

SEC. 7302. REIMBURSEMENT OF EXPENSES UNDER SHEEP PROMOTION, RESEARCH, AND INFORMATION ACT OF 1994.

Section 617 of the Agricultural Research, Extension, and Education Reform Act of 1998 (Public Law 105–185; 112 Stat. 607) is repealed.

SEC. 7303. MARKET EXPANSION RESEARCH.

Section 1436 of the Food Security Act of 1985 (7 U.S.C. 1632) is repealed.

SEC. 7304. NATIONAL ADVISORY BOARD ON AGRICULTURAL WEATHER.

(a) REPEAL.—Section 1639 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5853) is repealed.

(b) CONFORMING AMENDMENT.—Section 1640(b) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5854(b)) is amended by striking “take into” and all that follows through “Weather and”.

SEC. 7305. AGRICULTURAL INFORMATION EXCHANGE WITH IRELAND.

Section 1420 of the National Agricultural Research, Extension and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1551) is repealed.

SEC. 7306. PESTICIDE RESISTANCE STUDY.

Section 1437 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1558) is repealed.

SEC. 7307. EXPANSION OF EDUCATION STUDY.

Section 1438 of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99–198; 99 Stat. 1559) is repealed.

SEC. 7308. TASK FORCE ON 10-YEAR STRATEGIC PLAN FOR AGRICULTURAL RESEARCH FACILITIES.

(a) REPEAL.—Section 4 of the Research Facilities Act (7 U.S.C. 390b) is repealed.

(b) CONFORMING AMENDMENT.—Section 2 of such Act (7 U.S.C. 390) is amended by striking paragraph (5).

Subtitle D—New Authorities

SEC. 7401. SUBTITLE DEFINITIONS.

In this subtitle:

7 USC 3319f
note.

(1) DEPARTMENT.—The term “Department” means the Department of Agriculture.

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

SEC. 7402. RESEARCH EQUIPMENT GRANTS.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1462 (7 U.S.C. 3310) the following:

7 USC 3310a.

“SEC. 1462A. RESEARCH EQUIPMENT GRANTS.

“(a) IN GENERAL.—The Secretary may make competitive grants for the acquisition of special purpose scientific research equipment for use in the food and agricultural sciences programs of eligible institutions described in subsection (b).

“(b) ELIGIBLE INSTITUTIONS.—The Secretary may make a grant under this section to—

“(1) a college or university; or

“(2) a State cooperative institution.

“(c) MAXIMUM AMOUNT.—The amount of a grant made to an eligible institution under this section may not exceed \$500,000.

“(d) PROHIBITION ON CHARGE OF EQUIPMENT AS INDIRECT COSTS.—The cost of acquisition or depreciation of equipment purchased with a grant under this section shall not be—

“(1) charged as an indirect cost against another Federal grant; or

“(2) included as part of the indirect cost pool for purposes of calculating the indirect cost rate of an eligible institution.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.”.

7 USC 3319b
note.

SEC. 7403. JOINT REQUESTS FOR PROPOSALS.

(a) PURPOSES.—The purposes of this section are—

(1) to reduce the duplication of administrative functions relating to grant awards and administration among Federal agencies conducting similar types of research, education, and extension programs;

(2) to maximize the use of peer review resources in research, education, and extension programs; and

(3) to reduce the burden on potential recipients that may offer similar proposals to receive competitive grants under different Federal programs in overlapping subject areas.

(b) AUTHORITY.—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1473A (7 U.S.C. 3319a) the following:

7 USC 3319b.

“SEC. 1473B. JOINT REQUESTS FOR PROPOSALS.

“(a) IN GENERAL.—In carrying out any competitive agricultural research, education, or extension grant program authorized under this or any other Act, the Secretary may cooperate with 1 or more other Federal agencies (including the National Science Foundation) in issuing joint requests for proposals, awarding grants, and administering grants, for similar or related research, education, or extension projects or activities.

“(b) ADMINISTRATION.—

“(1) SECRETARY.—The Secretary may delegate authority to issue requests for proposals, make grant awards, or administer grants, in whole or in part, to a cooperating Federal agency.

“(2) COOPERATING FEDERAL AGENCY.—The cooperating Federal agency may delegate to the Secretary authority to issue requests for proposals, make grant awards, or administer grants, in whole or in part.

“(c) REGULATIONS.—The Secretary and a cooperating Federal agency may agree to make applicable to recipients of grants—

“(1) the post-award grant administration regulations applicable to recipients of grants from the Secretary; or

“(2) the post-award grant administration regulations applicable to recipients of grants from the cooperating Federal agency.

“(d) JOINT PEER REVIEW PANELS.—Subject to section 1413B, the Secretary and a cooperating Federal agency may establish joint peer review panels for the purpose of evaluating grant proposals.”.

SEC. 7404. REVIEW OF AGRICULTURAL RESEARCH SERVICE.

7 USC 3101 note.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary shall establish a task force to—

Deadline.
Establishment.

(1) conduct a review of the Agricultural Research Service; and

(2) evaluate the merits of establishing one or more National Institutes focused on disciplines important to the progress of food and agricultural science.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Task Force shall consist of 8 members, appointed by the Secretary, that—

(A) have a broad-based background in plant, animal, and agricultural sciences research, food, nutrition, biotechnology, crop production methods, environmental science, or related disciplines; and

(B) are familiar with the role and infrastructure used to conduct Federal and private research, including—

(i) the Agricultural Research Service;

(ii) the National Institutes of Health;

(iii) the National Science Foundation;

(iv) the National Aeronautics and Space Administration;

(v) the Department of Energy laboratory system; or

(vi) the Cooperative State Research, Education, and Extension Service.

(2) PRIVATE SECTOR.—Of the members appointed under paragraph (1), the Secretary shall appoint at least 6 members that are members of the private sector or come from institutions of higher education.

(3) PLANT AND AGRICULTURAL SCIENCES RESEARCH.—Of the members appointed under paragraph (1), the Secretary shall appoint at least 3 members that have an extensive background and preeminence in the field of plant, animal, and agricultural sciences research.

(4) CHAIRPERSON.—Of the members appointed under paragraph (1), the Secretary shall designate a Chairperson that

has significant leadership experience in educational and research institutions and indepth knowledge of the research enterprises of the United States.

(5) CONSULTATION.—Before appointing members of the Task Force under this subsection, the Secretary shall consult with the National Academy of Sciences and the Office of Science and Technology Policy.

(c) DUTIES.—The Task Force shall—

(1) conduct a review of the purpose, efficiency, effectiveness, and impact on agricultural research of the Agricultural Research Service;

(2) conduct a review and evaluation of the merits of establishing one or more National Institutes (such as National Institutes for Plant and Agricultural Sciences) focused on disciplines important to the progress of food and agricultural sciences, and, if establishment of one or more National Institutes is recommended, provide further recommendations to the Secretary, including the structure for establishing each Institute, the multistate area location of each Institute, and the amount of funding necessary to establish each Institute; and

(3) submit the reports required by subsection (d).

Deadline.

(d) REPORTS.—Not later than 12 months after the date of enactment of this Act, the Task Force shall submit to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Secretary—

(1) a report on the review and evaluation required under subsection (c)(1); and

(2) a report on the review and evaluation required under subsection (c)(2).

(e) FUNDING.—The Secretary shall use to carry out this section not more than 0.1 percent of the amount of appropriations available to the Agricultural Research Service for fiscal year 2003.

7 USC 3319f.

SEC. 7405. BEGINNING FARMER AND RANCHER DEVELOPMENT PROGRAM.

(a) DEFINITION OF BEGINNING FARMER OR RANCHER.—In this section, the term “beginning farmer or rancher” means a person that—

(1)(A) has not operated a farm or ranch; or

(B) has operated a farm or ranch for not more than 10 years; and

(2) meets such other criteria as the Secretary may establish.

(b) PROGRAM.—The Secretary shall establish a beginning farmer and rancher development program to provide training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers.

(c) GRANTS.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall make competitive grants to support new and established local and regional training, education, outreach, and technical assistance initiatives for beginning farmers or ranchers, including programs and services (as appropriate) relating to—

(A) mentoring, apprenticeships, and internships;

(B) resources and referral;

(C) assisting beginning farmers or ranchers in acquiring land from retiring farmers and ranchers;
(D) innovative farm and ranch transfer strategies;
(E) entrepreneurship and business training;
(F) model land leasing contracts;
(G) financial management training;
(H) whole farm planning;
(I) conservation assistance;
(J) risk management education;
(K) diversification and marketing strategies;
(L) curriculum development;
(M) understanding the impact of concentration and globalization;
(N) basic livestock and crop farming practices;
(O) the acquisition and management of agricultural credit;
(P) environmental compliance;
(Q) information processing; and
(R) other similar subject areas of use to beginning farmers or ranchers.

(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, the recipient shall be a collaborative State, tribal, local, or regionally-based network or partnership of public or private entities, which may include—

(A) a State cooperative extension service;
(B) a Federal, State, or tribal agency;
(C) a community-based and nongovernmental organization;
(D) a college or university (including an institution awarding an associate's degree) or foundation maintained by a college or university; or
(E) any other appropriate partner, as determined by the Secretary.

(3) TERM OF GRANT.—The term of a grant under this subsection shall not exceed 3 years.

(4) MATCHING REQUIREMENT.—To be eligible to receive a grant under this subsection, a recipient shall provide a match in the form of cash or in-kind contributions in an amount equal to 25 percent of the funds provided by the grant.

(5) SET-ASIDE.—Not less than 25 percent of funds used to carry out this subsection for a fiscal year shall be used to support programs and services that address the needs of—

(A) limited resource beginning farmers or ranchers (as defined by the Secretary);
(B) socially disadvantaged beginning farmers or ranchers (as defined in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)); and
(C) farmworkers desiring to become farmers or ranchers.

(6) PROHIBITION.—A grant made under this subsection may not be used for the planning, repair, rehabilitation, acquisition, or construction of a building or facility.

(7) ADMINISTRATIVE COSTS.—The Secretary shall use not more than 4 percent of the funds made available to carry out this subsection for administrative costs incurred by the Secretary in carrying out this section.

(d) EDUCATION TEAMS.—

Establishment.

(1) IN GENERAL.—In carrying out this section, the Secretary shall establish beginning farmer and rancher education teams to develop curricula and conduct educational programs and workshops for beginning farmers or ranchers in diverse geographical areas of the United States.

(2) CURRICULUM.—In promoting the development of curricula, the Secretary shall, to the maximum extent practicable, include modules tailored to specific audiences of beginning farmers or ranchers, based on crop or regional diversity.

(3) COMPOSITION.—In establishing an education team for a specific program or workshop, the Secretary shall, to the maximum extent practicable—

(A) obtain the short-term services of specialists with knowledge and expertise in programs serving beginning farmers or ranchers; and

(B) use officers and employees of the Department with direct experience in programs of the Department that may be taught as part of the curriculum for the program or workshop.

(4) COOPERATION.—

(A) IN GENERAL.—In carrying out this subsection, the Secretary shall cooperate, to the maximum extent practicable, with—

(i) State cooperative extension services;

(ii) Federal and State agencies;

(iii) community-based and nongovernmental organizations;

(iv) colleges and universities (including an institution awarding an associate's degree) or foundations maintained by a college or university; and

(v) other appropriate partners, as determined by the Secretary.

(B) COOPERATIVE AGREEMENT.—Notwithstanding chapter 63 of title 31, United States Code, the Secretary may enter into a cooperative agreement to reflect the terms of any cooperation under subparagraph (A).

(e) CURRICULUM AND TRAINING CLEARINGHOUSE.—The Secretary shall establish an online clearinghouse that makes available to beginning farmers or ranchers education curricula and training materials and programs, which may include online courses for direct use by beginning farmers or ranchers.

(f) STAKEHOLDER INPUT.—In carrying out this section, the Secretary shall seek stakeholder input from—

(1) beginning farmers and ranchers;

(2) national, State, tribal, and local organizations and other persons with expertise in operating beginning farmer and rancher programs; and

(3) the Advisory Committee on Beginning Farmers and Ranchers established under section 5 of the Agricultural Credit Improvement Act of 1992 (7 U.S.C. 1929 note; Public Law 102-554).

(g) PARTICIPATION BY OTHER FARMERS AND RANCHERS.—Nothing in this section prohibits the Secretary from allowing farmers and ranchers who are not beginning farmers or ranchers from participating in programs authorized under this section to the extent that the Secretary determines that such participation

is appropriate and will not detract from the primary purpose of educating beginning farmers and ranchers.

(h) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.

SEC. 7406. SENSE OF CONGRESS REGARDING DOUBLING OF FUNDING FOR AGRICULTURAL RESEARCH.

It is the sense of Congress that—

(1) Federal funding for food and agricultural research has been essentially constant for 2 decades, putting at risk the scientific base on which food and agricultural advances have been made;

(2) the resulting increase in the relative proportion of private sector, industry investments in food and agricultural research has led to questions about the independence and objectivity of research and outreach conducted by the Federal and university research sectors; and

(3) funding for food and agricultural research should be at least doubled over the next 5 fiscal years—

(A) to restore the balance between public and private sector funding for food and agricultural research; and

(B) to maintain the scientific base on which food and agricultural advances are made.

SEC. 7407. ORGANIC PRODUCTION AND MARKET DATA INITIATIVES. 7 USC 5925c.

The Secretary shall ensure that segregated data on the production and marketing of organic agricultural products is included in the ongoing baseline of data collection regarding agricultural production and marketing.

SEC. 7408. INTERNATIONAL ORGANIC RESEARCH COLLABORATION. 7 USC 5925d.

The Secretary, acting through the Agricultural Research Service (including the National Agricultural Library) and the Economic Research Service, shall facilitate access by research and extension professionals, farmers, and other interested persons in the United States to, and the use by those persons of, organic research conducted outside the United States.

SEC. 7409. REPORT ON PRODUCERS AND HANDLERS OF ORGANIC AGRICULTURAL PRODUCTS. 7 USC 5925b note.

Not later than 1 year after funds are made available to carry out this section, the Secretary shall submit to Congress a report that—

(1) describes—

(A) the extent to which producers and handlers of organic agricultural products are contributing to research and promotion programs of the Department;

(B) the extent to which producers and handlers of organic agricultural products are surveyed for ideas for research and promotion;

(C) ways in which the programs reflect the contributions made by producers and handlers of organic agricultural products and directly benefit the producers and handlers; and

(D) the implementation of initiatives that directly benefit organic producers and handlers; and

Deadline.

(2) evaluates industry and other proposals for improving the treatment of certified organic agricultural products under Federal marketing orders, including proposals to target additional resources for research and promotion of organic products and to differentiate between certified organic and other products in new or existing volume limitations or other orderly marketing requirements.

Deadline.

SEC. 7410. REPORT ON GENETICALLY MODIFIED PEST-PROTECTED PLANTS.

It is the sense of Congress that, not later than 1 year after the date of enactment of this Act, the Secretary should—

(1) review the recommendations of the Committee on Genetically Modified Pest-Protected Plants of the Board on Agriculture and Natural Resources of the National Research Council made during 2000 and the Committee on Environmental Impacts Associated with Commercialization of Transgenic Plants made during 2002, concerning food safety, ecological research, monitoring needs for transgenic crops with plant incorporated protectants, and the environmental effects of transgenic plants; and

(2) submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes actions taken to implement those recommendations by agencies within the Department, including agencies that develop or implement programs or objectives relating to marketing, regulation, food safety, research, education, or economics.

7 USC 5925a
note.

SEC. 7411. STUDY OF NUTRIENT BANKING.

(a) IN GENERAL.—The Secretary may conduct a study to evaluate nutrient banking for the purpose of enhancing the health and viability of watersheds in areas with large concentrations of animal producing units.

(b) COMPONENTS.—In conducting any study under subsection (a), the Secretary shall evaluate the costs, needs, and means by which litter may be collected and distributed outside the applicable watershed to reduce potential point source and nonpoint source phosphorous pollution.

(c) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of any study conducted under subsection (a).

SEC. 7412. GRANTS FOR YOUTH ORGANIZATIONS.

Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) (as amended by section 7206(e)) is amended by adding at the end the following:

7 USC 7630.

“SEC. 410. GRANTS FOR YOUTH ORGANIZATIONS.

“(a) IN GENERAL.—The Secretary, acting through the Administrator of the Cooperative State Research, Education, and Extension Service, shall make grants to the Girl Scouts of the United States of America, the Boy Scouts of America, the National 4-H Council, and the National FFA Organization to establish pilot projects to expand the programs carried out by the organizations in rural areas and small towns (including, with respect to the National

4–H Council, activities provided for in Public Law 107–19 (115 Stat. 153)).

“(b) FUNDING.—Of the funds of the Commodity Credit Corporation, the Secretary shall make available \$8,000,000 for fiscal year 2002, which shall remain available until expended.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as are necessary for each of fiscal years 2003 through 2007.”.

Subtitle E—Miscellaneous

SEC. 7501. RESIDENT INSTRUCTION AND DISTANCE EDUCATION AT INSTITUTIONS OF HIGHER EDUCATION IN UNITED STATES INSULAR AREAS. 7 USC 3361 note.

(a) PURPOSE.—It is the purpose of this subtitle to promote and strengthen higher education in the food and agricultural sciences at institutions of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a))) that have demonstrable capacity to carry out teaching and extension programs in food and agricultural sciences and that are located in the insular areas of the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, or the Republic of Palau by formulating and administering programs to enhance teaching programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agriculture production and delivery systems.

SEC. 7502. DEFINITIONS.

(a) IN GENERAL.—Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) by redesignating paragraphs (10) through (17) as paragraphs (11) through (18), respectively;

(2) by inserting after paragraph (9) the following:

“(10) INSULAR AREA.—The term ‘insular area’ means—

“(A) the Commonwealth of Puerto Rico;

“(B) Guam;

“(C) American Samoa;

“(D) the Commonwealth of the Northern Mariana Islands;

“(E) the Federated States of Micronesia;

“(F) the Republic of the Marshall Islands;

“(G) the Republic of Palau; and

“(H) the Virgin Islands of the United States.”; and

(3) by striking paragraph (13) (as so redesignated) and inserting the following:

“(13) STATE.—The term ‘State’ means—

“(A) a State;

“(B) the District of Columbia; and

“(C) any insular area.”.

(b) EFFECT OF AMENDMENTS.—The amendments made by subsection (a) shall not affect any basis for distribution of funds by formula (in effect on the date of enactment of this Act) to— 7 USC 3103 note.

(1) the Federated States of Micronesia;

- (2) the Republic of the Marshall Islands; or
- (3) the Republic of Palau.

SEC. 7503. RESIDENT INSTRUCTION AND DISTANCE EDUCATION GRANTS PROGRAM FOR INSULAR AREA INSTITUTIONS OF HIGHER EDUCATION.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by adding at the end the following:

“Subtitle O—Institutions of Higher Education in Insular Areas

7 USC 3361.

“SEC. 1489. DEFINITION.

“For the purposes of this subtitle, the term ‘eligible institution’ means an institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) in an insular area that has demonstrable capacity to carry out teaching and extension programs in the food and agricultural sciences.

7 USC 3362.

“SEC. 1490. DISTANCE EDUCATION GRANTS FOR INSULAR AREAS.

“(a) IN GENERAL.—The Secretary may make competitive or noncompetitive grants to eligible institutions in insular areas to strengthen the capacity of such institutions to carry out distance food and agricultural education programs using digital network technologies.

“(b) USE.—Grants made under this section shall be used—

“(1) to acquire the equipment, instrumentation, networking capability, hardware and software, digital network technology, and infrastructure necessary to teach students and teachers about technology in the classroom;

“(2) to develop and provide educational services (including faculty development) to prepare students or faculty seeking a degree or certificate that is approved by the State or a regional accrediting body recognized by the Secretary of Education;

“(3) to provide teacher education, library and media specialist training, and preschool and teacher aid certification to individuals who seek to acquire or enhance technology skills in order to use technology in the classroom or instructional process;

“(4) to implement a joint project to provide education regarding technology in the classroom with a local educational agency, community-based organization, national nonprofit organization, or business; or

“(5) to provide leadership development to administrators, board members, and faculty of eligible institutions with institutional responsibility for technology education.

“(c) LIMITATION ON USE OF GRANT FUNDS.—Funds provided under this section shall not be used for the planning, acquisition, construction, rehabilitation, or repair of a building or facility.

“(d) ADMINISTRATION OF PROGRAM.—The Secretary may carry out this section in a manner that recognizes the different needs and opportunities for eligible institutions in the Atlantic and Pacific Oceans.

“(e) MATCHING REQUIREMENT.—

“(1) IN GENERAL.—The Secretary may establish a requirement that an eligible institution receiving a grant under this section shall provide matching funds from non-Federal sources in an amount equal to not less than 50 percent of the grant.

“(2) WAIVERS.—If the Secretary establishes a matching requirement under paragraph (1), the Secretary shall retain an option to waive the requirement for an eligible institution for any fiscal year if the Secretary determines that the institution will be unlikely to meet the matching requirement for the fiscal year.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2007.

“SEC. 1491. RESIDENT INSTRUCTION GRANTS FOR INSULAR AREAS. 7 USC 3363.

“(a) IN GENERAL.—The Secretary of Agriculture shall make competitive grants to eligible institutions to—

“(1) strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international education needs in the food and agricultural sciences;

“(2) attract and support undergraduate and graduate students in order to educate them in identified areas of national need in the food and agriculture sciences;

“(3) facilitate cooperative initiatives between two or more insular area eligible institutions, or between those institutions and units of State Government or organizations in the private sector, to maximize the development and use of resources such as faculty, facilities, and equipment to improve food and agricultural sciences teaching programs; and

“(4) conduct undergraduate scholarship programs to assist in meeting national needs for training food and agricultural scientists.

“(b) GRANT REQUIREMENTS.—

“(1) The Secretary of Agriculture shall ensure that each eligible institution, prior to receiving grant funds under subsection (a), shall have a significant demonstrable commitment to higher education programs in the food and agricultural sciences and to each specific subject area for which grant funds under this section are to be used.

“(2) The Secretary of Agriculture may require that any grant awarded under this section contain provisions that require funds to be targeted to meet the needs identified in section 1402.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary for each of the fiscal years 2002 through 2007 to carry out this section.”.

SEC. 7504. DECLARATION OF EXTRAORDINARY EMERGENCY AND RESULTING AUTHORITIES.

(a) REVIEW OF PAYMENT OF COMPENSATION.—Section 415(e) of the Plant Protection Act (7 U.S.C. 7715(e)) is amended by inserting before the final period the following: “or a review of longer than 60 days by any officer or employee of the Federal

Government other than the Secretary or the designee of the Secretary”.

(b) REVIEW OF CERTAIN DECISIONS.—Section 442 of the Plant Protection Act (7 U.S.C. 7772) is amended by adding at the end the following new subsection:

“(c) SECRETARIAL DISCRETION.—The action of any officer, employee, or agent of the Secretary in carrying out this Act, including determining the amount of and making any payment authorized to be made under this title, shall not be subject to a review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.”.

(c) METHYL BROMIDE.—The Plant Protection Act (7 U.S.C. 7701 et seq.) is amended by inserting after section 418 the following new section:

7 USC 7719.

“SEC. 419. METHYL BROMIDE.

“(a) IN GENERAL.—The Secretary, upon request of State, local, or tribal authorities, shall determine whether methyl bromide treatments or applications required by State, local, or tribal authorities to prevent the introduction, establishment, or spread of plant pests (including diseases) or noxious weeds should be authorized as an official control or official requirement. The Secretary shall not authorize such treatments or applications unless the Secretary finds there is no other registered, effective, and economically feasible alternative available.

“(b) METHYL BROMIDE ALTERNATIVE.—The Secretary, in consultation with State, local and tribal authorities, shall establish a program to identify alternatives to methyl bromide for treatment and control of plant pests and weeds. For uses where no registered, effective, economically feasible alternatives available can currently be identified, the Secretary shall initiate research programs to develop alternative methods of control and treatment.

Deadline.
Publication.

“(c) REGISTRY.—Not later than 180 days after the date of enactment of this section, the Secretary shall publish, and thereafter maintain, a registry of State, local, and tribal requirements authorized by the Secretary under this section.

Deadline.

“(d) ADMINISTRATION.—

“(1) TIMELINE FOR DETERMINATION.—Upon the promulgation of regulations to carry out this section, the Secretary shall make the determination required by subsection (a) not later than 90 days after receiving the request for such a determination.

“(2) CONSTRUCTION.—Nothing in this section shall be construed to alter or modify the authority of the Administrator of the Environmental Protection Agency or to provide any authority to the Secretary of Agriculture under the Clean Air Act or regulations promulgated under the Clean Air Act.”.

SEC. 7505. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES.

Title IV of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7621 et seq.) is amended by adding at the end the following:

“SEC. 411. AGRICULTURAL BIOTECHNOLOGY RESEARCH AND DEVELOPMENT FOR DEVELOPING COUNTRIES. 7 USC 7631.

“(a) ELIGIBLE ENTITY.—In this section, the term ‘eligible entity’ means—

“(A) an institution of higher education that offers a curriculum in agriculture or the biosciences;

“(B) a nonprofit organization; or

“(C) a consortium of for-profit institutions and agricultural research institutions.

“(b) GRANT PROGRAM.—

“(1) IN GENERAL.—The Secretary (acting through the Foreign Agricultural Service) shall establish and administer a program to make competitive grants to eligible entities to develop agricultural biotechnology for developing countries.

“(2) USE OF FUNDS.—Funds provided to an eligible entity under this section may be used for projects that use biotechnology to—

“(A) enhance the nutritional content of agricultural products that can be grown in developing countries;

“(B) increase the yield and safety of agricultural products that can be grown in developing countries;

“(C) increase the yield of agricultural products that are drought- and stress-resistant and that can be grown in developing countries;

“(D) extend the growing range of crops that can be grown in developing countries;

“(E) enhance the shelf-life of fruits and vegetables grown in developing countries;

“(F) develop environmentally sustainable agricultural products that can be grown in developing countries; and

“(G) develop vaccines to immunize against life-threatening illnesses and other medications that can be administered by consuming genetically-engineered agricultural products.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section for each of fiscal years 2002 through 2007.”.

SEC. 7506. LAND ACQUISITION AUTHORITY, NATIONAL PEANUT RESEARCH LABORATORY, DAWSON, GEORGIA.

The limitation on the authority of the Agricultural Research Service to acquire lands by purchase using funds appropriated under the heading AGRICULTURAL RESEARCH SERVICE-SALARIES AND EXPENSES in the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002 (Public Law 107-76; 115 Stat. 708), shall not apply to the purchase of land for a research farm for the National Peanut Research Laboratory in Dawson, Georgia, for which a lease with an option to purchase has been entered into before the date of enactment of this Act.

TITLE VIII—FORESTRY**Subtitle A—Cooperative Forestry
Assistance Act of 1978****SEC. 8001. REPEAL OF FORESTRY INCENTIVES PROGRAM AND
STEWARDSHIP INCENTIVE PROGRAM.**

(a) REPEAL.—The Cooperative Forestry Assistance Act of 1978 is amended by striking section 4 (16 U.S.C. 2103) and section 6 (16 U.S.C. 2103b).

16 USC 2103
note.

(b) USE OF REMAINING FUNDS.—Notwithstanding the amendment made by subsection (a), the Secretary of Agriculture may use funds appropriated for fiscal year 2002 for the forestry incentives program or the stewardship incentive program, but not expended before the date of enactment of this Act, to carry out sections 4 and 6 of the Cooperative Forestry Assistance Act of 1978, as in effect on the date before the date of enactment of this Act.

**SEC. 8002. ESTABLISHMENT OF FOREST LAND ENHANCEMENT PRO-
GRAM.**

16 USC 2103
note.

(a) PURPOSES.—The purposes of this section are—

(1) to strengthen the commitment of the Secretary of Agriculture to sustainable forest management to enhance the productivity of timber, fish and wildlife habitat, soil and water quality, wetland, recreational resources, and aesthetic values of forest land; and

(2) to establish a coordinated and cooperative Federal, State, and local sustainable forestry program for the establishment, management, maintenance, enhancement, and restoration of forests on nonindustrial private forest land.

(b) FOREST LAND ENHANCEMENT PROGRAM.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 3 (16 U.S.C. 2102) the following:

16 USC 2103.

“SEC. 4. FOREST LAND ENHANCEMENT PROGRAM.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—The Secretary of Agriculture shall establish a forest land enhancement program—

“(A) to provide financial assistance to State foresters; and

“(B) to encourage the long-term sustainability of nonindustrial private forest lands in the United States by assisting the owners of nonindustrial private forest lands, through State foresters, in more actively managing the nonindustrial private forest lands and related resources of those owners through the use of State, Federal, and private sector resource management expertise, financial assistance, and educational programs.

“(2) COORDINATION AND CONSULTATION.—The Secretary, acting through State foresters, shall implement the program—

“(A) in coordination with the State Forest Stewardship Coordinating Committees; and

“(B) in consultation with other Federal, State, and local natural resource management agencies, institutions

of higher education, and a broad range of private sector interests.

“(b) PROGRAM OBJECTIVES.—In implementing the program, the Secretary shall target resources to achieve the following objectives:

“(1) Investing in practices to establish, restore, protect, manage, maintain, and enhance the health and productivity of the nonindustrial private forest lands in the United States for timber, habitat for flora and fauna, soil, water, and air quality, wetlands, and riparian buffers.

“(2) Ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and nontimber forest resources to help meet future public demand for all forest resources and provide environmental benefits.

“(3) Reducing the risks and helping restore, recover, and mitigate the damage to forests caused by fire, insects, invasive species, disease, and damaging weather.

“(4) Increasing and enhancing carbon sequestration opportunities.

“(5) Enhancing implementation of agroforestry practices.

“(6) Maintaining and enhancing the forest landbase and leverage State and local financial and technical assistance to owners that promote the same conservation and environmental values.

“(7) Preserving the aesthetic quality of nonindustrial private forest lands and providing opportunities for outdoor recreation.

“(c) STATE PRIORITY PLAN.—

“(1) DEVELOPMENT.—The State Forester and State Forest Stewardship Coordinating Committee of a State shall jointly develop and submit to the Secretary a State priority plan that is intended to promote forest management objectives in that State.

“(2) REPORT.—Not later than September 30, 2006, each State that implemented a State priority plan shall submit to the Secretary a report describing the status of all activities and practices funded under the program as of that date.

Deadline.

“(d) OWNER ELIGIBILITY FOR ASSISTANCE.—

“(1) ELIGIBILITY CRITERIA.—To be eligible for cost-share assistance under the program, an owner of nonindustrial private forest lands shall agree—

“(A) to develop and implement, in cooperation with a State forester, another State official, or a professional resources manager, a management plan that—

“(i) except as provided in paragraph (2) or (3), provides for the treatment of not more than 1,000 acres of nonindustrial private forest lands;

“(ii) is approved by the State forester; and

“(iii) addresses site specific activities and practices;

and

“(B) to implement approved activities and practices in a manner consistent with the management plan for a period of not less than 10 years, unless the State forester approves a modification to the plan.

“(2) PUBLIC BENEFIT EXCEPTION.—The Secretary may increase the acreage limitation specified in paragraph (1)(A)(i) to not more than 5,000 acres for an owner of nonindustrial private forest lands if the Secretary, in consultation with the State forester, determines that significant public benefits will accrue as a result of the provision of cost-share assistance under the program for the treatment of the additional acreage.

“(3) PLAN DEVELOPMENT EXCEPTION.—An owner may receive cost-share assistance under the program for the purpose of developing a management plan under subsection (e) that provides for the treatment of acreage in excess of the acreage limitations specified in paragraphs (1)(A)(i) and (2), except that the owner’s eligibility for cost-share assistance to implement approved activities and practices under the management plan remains subject to the acreage limitation specified in paragraph (1)(A)(i) or, if the Secretary makes the determination described in paragraph (2), the acreage limitation specified in that paragraph.

“(e) MANAGEMENT PLAN.—

“(1) SUBMISSION AND CONTENT.—An owner of nonindustrial private forest lands that seeks to participate in the program shall submit to the State forester of the State in which the lands are located a management plan that—

“(A) identifies and describes projects and activities to be carried out by the owner to protect or enhance soil, water, air, range and aesthetic quality, recreation, timber, water, wetland, or fish and wildlife resources on the lands in a manner that is compatible with the objectives of the owner;

“(B) addresses any criteria established by the State and the applicable Committee; and

“(C) meets the other requirements of this section.

“(2) LANDS COVERED.—At a minimum, the management plan shall apply to those portions of the nonindustrial private forest lands of the owner on which any project or activity funded under the program will be carried out. In a case in which a project or activity may affect acreage outside the portion of the land on which the project or activity is carried out, the management plan shall apply to all lands of the owner that are in forest cover and may be affected by the project or activity.

“(f) APPROVED ACTIVITIES.—

“(1) STATE LIST.—The Secretary shall develop for each State a list of approved forest activities and practices eligible for cost-share assistance that meets the purposes of the program. The Secretary shall develop the list for a State in consultation with the State forester and the Committee for that State.

“(2) TYPES OF ACTIVITIES.—Approved activities and practices under paragraph (1) may consist of activities and practices for the following purposes:

“(A) The establishment, management, maintenance, and restoration of forests for shelterbelts, windbreaks, aesthetic quality, and other conservation purposes.

“(B) The sustainable growth and management of forests for timber production.

“(C) The restoration, use, and enhancement of forest wetland and riparian areas.

“(D) The protection of water quality and watersheds through—

“(i) the planting of trees in riparian areas; and

“(ii) the enhanced management and maintenance of native vegetation on land vital to water quality.

“(E) The management, maintenance, restoration, or development of habitat for plants, fish, and wildlife.

“(F) The control, detection, monitoring, and prevention of the spread of invasive species and pests on nonindustrial private forest lands.

“(G) The restoration of nonindustrial private forest land affected by invasive species and pests.

“(H) The conduct of other management activities, such as the reduction of hazardous fuels, that reduce the risks to forests posed by, and that restore, recover, and mitigate the damage to forests caused by, fire or any other catastrophic event, as determined by the Secretary.

“(I) The development of management plans;

“(J) The conduct of energy conservation and carbon sequestration activities.

“(K) The conduct of other activities approved by the Secretary, in consultation with the State forester and the appropriate Committees.

“(g) REIMBURSEMENT OF ELIGIBLE ACTIVITIES.—

“(1) IN GENERAL.—In the case of an eligible owner that has an approved management plan, the Secretary shall share the cost of implementing the approved activities and practices that the Secretary determines are appropriate.

“(2) RATE.—The Secretary shall determine the appropriate reimbursement rate for cost-share payments under paragraph (1) and the schedule for making those payments.

“(3) MAXIMUM COST SHARE.—The Secretary shall not make cost-share payments under this subsection to an owner in an amount in excess of 75 percent, or a lower percentage as determined by the State forester, of the total cost to the owner to implement the approved activities and practices under the management plan.

“(4) AGGREGATE PAYMENT LIMIT.—The Secretary shall determine the maximum aggregate amount of cost-share payments that an owner may receive under the program.

“(5) CONSULTATION.—The Secretary shall make determinations under this subsection in consultation with the State forester.

“(h) RECAPTURE.—

“(1) IN GENERAL.—The Secretary shall establish and implement a mechanism to recapture payments made to an owner in the event that the owner fails to implement an approved activity or practice specified in the management plan for which the owner received cost-share payments.

“(2) ADDITIONAL REMEDY.—The remedy provided in paragraph (1) is in addition to any other remedy available to the Secretary.

“(i) DISTRIBUTION OF COST-SHARE FUNDS.—The Secretary, acting through the State foresters, shall distribute funds available for cost sharing under the program only after giving appropriate consideration to the following factors:

“(1) The public benefits that would result from the distribution.

“(2) The total acreage of nonindustrial private forest lands in each State.

“(3) The potential productivity of those lands, as determined by the Secretary.

“(4) The number of owners eligible for cost sharing in each State.

“(5) The opportunities to enhance nontimber resources on those lands, including—

“(A) the protection of riparian buffers and forest wetland;

“(B) the preservation of fish and wildlife habitat;

“(C) the enhancement of soil, air, and water quality; and

“(D) the preservation of aesthetic quality and opportunities for outdoor recreation.

“(6) The anticipated demand for timber and nontimber resources in each State.

“(7) The need to improve forest health to minimize the damaging effects of catastrophic fire, insects, disease, or weather.

“(8) The need and demand for agroforestry practices in each State.

“(9) The need to maintain and enhance the forest landbase.

“(10) The need for afforestation, reforestation, and timber stand improvement.

“(j) AVAILABILITY OF FUNDS.—The Secretary shall use \$100,000,000 of funds of the Commodity Credit Corporation to carry out the Program during the period beginning on the date of enactment of the Farm Security and Rural Investment Act of 2002 and ending on September 30, 2007.

“(k) DEFINITIONS.—In this section:

“(1) NONINDUSTRIAL PRIVATE FOREST LANDS.—The term ‘nonindustrial private forest lands’ means rural lands, as determined by the Secretary, that—

“(A) have existing tree cover or are suitable for growing trees; and

“(B) are owned by any nonindustrial private individual, group, association, corporation, Indian tribe, or other private legal entity so long as the individual, group, association, corporation, tribe, or entity has definitive decision-making authority over the lands.

“(2) COMMITTEE.—The terms ‘State Forest Stewardship Coordinating Committee’ and ‘Committee’ means a State Forest Stewardship Coordinating Committee established under section 19(b).

“(3) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

“(4) OWNER.—The term ‘owner’ means an owner of non-industrial private forest land.

“(5) PROGRAM.—The term ‘program’ means the forest land enhancement program established by this section.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.

“(7) STATE FORESTER.—The term ‘State forester’ means the director or other head of a State Forestry Agency or equivalent State official.”

(c) CONFORMING AMENDMENT.—Section 246(b)(2) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6962(b)(2)) is amended by striking “forestry incentive program” and inserting “forest land enhancement program”.

SEC. 8003. ENHANCED COMMUNITY FIRE PROTECTION.

16 USC 2106c
note.

(a) FINDINGS.—Congress finds the following:

(1) The severity and intensity of wildland fires has increased dramatically over the past few decades as a result of past fire and land management policies.

(2) The record 2000 fire season is a prime example of what can be expected if action is not taken.

(3) Wildland fires threaten not only the forested resources of the United States, but also the thousands of communities intermingled with the wildlands in the wildland-urban interface.

(4) The National Fire Plan, if implemented to achieve appropriate priorities, is the proper, coordinated, and most effective means to address the issue of wildfires.

(5) While adequate authorities exist to tackle the wildfire issues at the landscape level on Federal lands, there is limited authority to take action on most private lands, and the largest threat to life and property exists on private lands.

(6) There is a significant Federal interest in enhancing community protection from wildfire.

(b) ENHANCED PROTECTION.—The Cooperative Forestry Assistance Act of 1978 is amended by inserting after section 10 (16 U.S.C. 2106) the following:

“SEC. 10A. ENHANCED COMMUNITY FIRE PROTECTION.

16 USC 2106c.

“(a) COOPERATIVE MANAGEMENT RELATED TO WILDFIRE THREATS.—The Secretary may cooperate with State foresters and equivalent State officials in the management of lands in the United States for the following purposes:

“(1) Aid in wildfire prevention and control.

“(2) Protect communities from wildfire threats.

“(3) Enhance the growth and maintenance of trees and forests that promote overall forest health.

“(4) Ensure the continued production of all forest resources, including timber, outdoor recreation opportunities, wildlife habitat, and clean water, through conservation of forest cover on watersheds, shelterbelts, and windbreaks.

“(b) COMMUNITY AND PRIVATE LAND FIRE ASSISTANCE PROGRAM.—

“(1) ESTABLISHMENT; PURPOSE.—The Secretary shall establish a Community and Private Land Fire Assistance program (in this subsection referred to as the ‘Program’)—

“(A) to focus the Federal role in promoting optimal firefighting efficiency at the Federal, State, and local levels;

“(B) to augment Federal projects that establish landscape level protection from wildfires;

“(C) to expand outreach and education programs to homeowners and communities about fire prevention; and

“(D) to establish space around homes and property of private landowners that is defensible against wildfires.

“(2) ADMINISTRATION AND IMPLEMENTATION.—The Program shall be administered by the Forest Service and implemented through State foresters or equivalent State officials.

“(3) COMPONENTS.—In coordination with existing authorities under this Act, the Secretary, in consultation with the State forester or equivalent State official, may undertake on non-Federal lands—

“(A) fuel hazard mitigation and prevention;

“(B) invasive species management;

“(C) multiresource wildfire planning;

“(D) community protection planning;

“(E) community and landowner education enterprises, including the program known as FIREWISE;

“(F) market development and expansion;

“(G) improved wood utilization; and

“(H) special restoration projects.

“(4) CONSENT REQUIRED.—Program activities undertaken by the Secretary on non-Federal lands shall be undertaken only with the consent of the owner of the lands.

“(5) CONSIDERATIONS.—The Secretary shall use persons in the local community wherever possible to carry out projects under the Program.

“(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Administrator of the United States Fire Administration, the Director of the National Institute of Standards and Technology, and the heads of other Federal agencies, as necessary.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated to the Secretary to carry out this section—

“(1) \$35,000,000 for each of fiscal years 2002 through 2007;

and

“(2) such sums as are necessary for fiscal years thereafter.”.

Subtitle B—Amendments to Other Laws

SEC. 8101. SUSTAINABLE FORESTRY OUTREACH INITIATIVE; RENEWABLE RESOURCES EXTENSION ACTIVITIES.

(a) SUSTAINABLE FORESTRY OUTREACH INITIATIVE.—The Renewable Resources Extension Act of 1978 is amended by inserting after section 5A (16 U.S.C. 1674a) the following:

16 USC 1674b.

“SEC. 5B. SUSTAINABLE FORESTRY OUTREACH INITIATIVE.

“The Secretary shall establish a program, to be known as the ‘Sustainable Forestry Outreach Initiative’, to educate landowners concerning the following:

“(1) The value and benefits of practicing sustainable forestry.

“(2) The importance of professional forestry advice in achieving sustainable forestry objectives.

“(3) The variety of public and private sector resources available to assist the landowners in planning for and practicing sustainable forestry.”.

(b) RENEWABLE RESOURCES EXTENSION ACTIVITIES.—

(1) AUTHORIZATION OF APPROPRIATIONS.—Section 6 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1675)

is amended by striking the first sentence and inserting the following: “There is authorized to be appropriated to carry out this Act \$30,000,000 for each of fiscal years 2002 through 2007.”.

(2) **TERMINATION DATE.**—Section 8 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1671 note; Public Law 95–306) is amended by striking “2000” and inserting “2007”.

SEC. 8102. OFFICE OF INTERNATIONAL FORESTRY.

Section 2405(d) of the Global Climate Change Prevention Act of 1990 (7 U.S.C. 6704(d)) is amended by striking “2002” and inserting “2007”.

Subtitle C—Miscellaneous Provisions

SEC. 8201. MCINTIRE-STENNIS COOPERATIVE FORESTRY RESEARCH PROGRAM.

It is the sense of Congress to reaffirm the importance of Public Law 87–788 (16 U.S.C. 582a et seq.), commonly known as the “McIntire-Stennis Cooperative Forestry Act”.

TITLE IX—ENERGY

SEC. 9001. DEFINITIONS.

7 USC 8101.

In this title:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) **BIOBASED PRODUCT.**—The term “biobased product” means a product determined by the Secretary to be a commercial or industrial product (other than food or feed) that is composed, in whole or in significant part, of biological products or renewable domestic agricultural materials (including plant, animal, and marine materials) or forestry materials.

(3) **BIOMASS.**—

(A) **IN GENERAL.**—The term “biomass” means any organic material that is available on a renewable or recurring basis.

(B) **INCLUSIONS.**—The term “biomass” includes—

- (i) agricultural crops;
- (ii) trees grown for energy production;
- (iii) wood waste and wood residues;
- (iv) plants (including aquatic plants and grasses);
- (v) residues;
- (vi) fibers;
- (vii) animal wastes and other waste materials; and
- (viii) fats, oils, and greases (including recycled fats, oils, and greases).

(C) **EXCLUSIONS.**—The term “biomass” does not include—

- (i) paper that is commonly recycled; or
- (ii) unsegregated solid waste.

(4) **RENEWABLE ENERGY.**—The term “renewable energy” means energy derived from—

- (A) a wind, solar, biomass, or geothermal source; or

(B) hydrogen derived from biomass or water using an energy source described in subparagraph (A).

(5) **RURAL SMALL BUSINESS.**—The term “rural small business” has the meaning that the Secretary shall prescribe by regulation.

(6) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

7 USC 8102.

SEC. 9002. FEDERAL PROCUREMENT OF BIOBASED PRODUCTS.

(a) **APPLICATION OF SECTION.**—Except as provided in subsection (c), each Federal agency shall comply with the requirements set forth in this section and any regulations issued under this section, with respect to any purchase or acquisition of a procurement item where the purchase price of the item exceeds \$10,000 or where the quantity of such items or of functionally equivalent items purchased or acquired in the course of the preceding fiscal year was \$10,000 or more.

(b) **PROCUREMENT SUBJECT TO OTHER LAW.**—Any procurement, by any Federal agency, which is subject to regulations of the Administrator under section 6002 of the Solid Waste Disposal Act (42 U.S.C. 6962), shall not be subject to the requirements of this section to the extent that such requirements are inconsistent with such regulations.

(c) **PROCUREMENT PREFERENCE.**—(1) Except as provided in paragraph (2), after the date specified in applicable guidelines prepared pursuant to subsection (e) of this section, each Federal agency which procures any items designated in such guidelines shall, in making procurement decisions, give preference to such items composed of the highest percentage of biobased products practicable, consistent with maintaining a satisfactory level of competition, considering such guidelines.

(2) **AGENCY FLEXIBILITY.**—Notwithstanding paragraph (1), an agency may decide not to procure such items if the agency determines that the items—

(A) are not reasonably available within a reasonable period of time;

(B) fail to meet the performance standards set forth in the applicable specifications or fail to meet the reasonable performance standards of the procuring agencies; or

(C) are available only at an unreasonable price.

(3) After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting offices shall require that, with respect to biobased products, vendors certify that the biobased products to be used in the performance of the contract will comply with the applicable specifications or other contractual requirements.

(d) **SPECIFICATIONS.**—All Federal agencies that have the responsibility for drafting or reviewing specifications for procurement items procured by Federal agencies shall, within one year after the date of publication of applicable guidelines under subsection (e), or as otherwise specified in such guidelines, assure that such specifications require the use of biobased products consistent with the requirements of this section.

(e) **GUIDELINES.**—

(1) **IN GENERAL.**—The Secretary, after consultation with the Administrator, the Administrator of General Services, and the Secretary of Commerce (acting through the Director of

the National Institute of Standards and Technology), shall prepare, and from time to time revise, guidelines for the use of procuring agencies in complying with the requirements of this section. Such guidelines shall—

(A) designate those items which are or can be produced with biobased products and whose procurement by procuring agencies will carry out the objectives of this section;

(B) set forth recommended practices with respect to the procurement of biobased products and items containing such materials and with respect to certification by vendors of the percentage of biobased products used; and

(C) provide information as to the availability, relative price, performance, and environmental and public health benefits, of such materials and items and where appropriate shall recommend the level of biobased material to be contained in the procured product.

(2) CONSIDERATIONS.—In making the designation under paragraph (1)(A), the Secretary shall, at a minimum, consider—

(A) the availability of such items; and

(B) the economic and technological feasibility of using such items, including life cycle costs.

(3) FINAL GUIDELINES.—The Secretary shall prepare final guidelines under this section within 180 days after the date of enactment of this Act.

Deadline.

(f) OFFICE OF FEDERAL PROCUREMENT POLICY.—The Office of Federal Procurement Policy, in cooperation with the Secretary, shall implement the requirements of this section. It shall be the responsibility of the Office of Federal Procurement Policy to coordinate this policy with other policies for Federal procurement to implement the requirements of this section, and, every two years beginning in 2003, to report to the Congress on actions taken by Federal agencies and the progress made in the implementation of this section, including agency compliance with subsection (d).

Reports.

(g) PROCUREMENT PROGRAM.—(1) Within one year after the date of publication of applicable guidelines under subsection (e), each Federal agency shall develop a procurement program which will assure that items composed of biobased products will be purchased to the maximum extent practicable and which is consistent with applicable provisions of Federal procurement law.

Deadline.

(2) Each procurement program required under this subsection shall, at a minimum, contain—

(A) a biobased products preference program;

(B) an agency promotion program to promote the preference program adopted under subparagraph (A); and

(C) annual review and monitoring of the effectiveness of an agency's procurement program.

(3) In developing the preference program, the following options shall be considered for adoption:

(A) CASE-BY-CASE POLICY DEVELOPMENT.—Subject to the limitations of subsection (c)(2) (A) through (C), a policy of awarding contracts to the vendor offering an item composed of the highest percentage of biobased products practicable. Subject to such limitations, agencies may make an award to a vendor offering items with less than the maximum biobased products content.

(B) MINIMUM CONTENT STANDARDS.—Minimum biobased products content specifications which are set in such a way

as to assure that the biobased products content required is consistent with the requirements of this section, without violating the limitations of subsection (c)(2) (A) through (C).

Federal agencies shall adopt one of the options set forth in subparagraphs (A) and (B) or a substantially equivalent alternative, for inclusion in the procurement program.

(h) LABELING.—

(1) IN GENERAL.—The Secretary, in consultation with the Administrator, shall establish a voluntary program under which the Secretary authorizes producers of biobased products to use the label “U.S.D.A. Certified Biobased Product”.

Deadline.

(2) ELIGIBILITY CRITERIA.—Within one year after the date of enactment of this Act, the Secretary, in consultation with the Administrator, shall issue criteria for determining which products may qualify to receive the label under paragraph (1). The criteria shall encourage the purchase of products with the maximum biobased content, and should, to the maximum extent possible, be consistent with the guidelines issued under subsection (e).

(3) USE OF THE LABEL.—The Secretary shall ensure that the label referred to in paragraph (1) is used only on products that meet the criteria issued pursuant to paragraph (2).

(4) RECOGNITION.—The Secretary shall establish a voluntary program to recognize Federal agencies and private entities that use a substantial amount of biobased products.

(i) LIMITATION.—Nothing in this section shall apply to the procurement of motor vehicle fuels or electricity.

(j) FUNDING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

(2) FUNDING FOR TESTING OF BIOBASED PRODUCTS.—

(A) IN GENERAL.—Of the funds of the Commodity Credit Corporation, the Secretary shall use \$1,000,000 for each of fiscal years 2002 through 2007 to support testing of biobased products to carry out this section.

(B) USE OF FUNDS.—Amounts made available under subparagraph (A) may be used to support contracts or cooperative agreements with entities that have experience and special skills to conduct such testing.

(C) PRIORITY.—At the discretion of the Secretary, the Secretary may give priority to the testing of products for which private sector firms provide cost sharing for the testing.

7 USC 8103.

SEC. 9003. BIOREFINERY DEVELOPMENT GRANTS.

(a) PURPOSE.—The purpose of this section is to assist in the development of new and emerging technologies for the use of biomass, including lignocellulosic biomass, so as to—

(1) develop transportation and other fuels, chemicals, and energy from renewable sources;

(2) increase the energy independence of the United States;

(3) provide beneficial effects on conservation, public health, and the environment;

(4) diversify markets for raw agricultural and forestry products; and

(5) create jobs and enhance the economic development of the rural economy.

(b) DEFINITIONS.—In this section:

(1) ADVISORY COMMITTEE.—The term “Advisory Committee” means the Biomass Research and Development Technical Advisory Committee established by section 306 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224).

(2) BIOREFINERY.—The term “biorefinery” means equipment and processes that—

(A) convert biomass into fuels and chemicals; and

(B) may produce electricity.

(3) BOARD.—The term “Board” means the Biomass Research and Development Board established by section 305 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224).

(4) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(c) GRANTS.—The Secretary shall award grants to eligible entities to assist in paying the cost of development and construction of biorefineries to carry out projects to demonstrate the commercial viability of 1 or more processes for converting biomass to fuels or chemicals.

(d) ELIGIBLE ENTITIES.—An individual, corporation, farm cooperative, association of farmers, national laboratory, institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)), State or local energy agency or office, Indian tribe, or consortium comprised of any of those entities shall be eligible to receive a grant under subsection (c).

(e) COMPETITIVE BASIS FOR AWARDS.—

(1) IN GENERAL.—The Secretary shall award grants under subsection (c) on a competitive basis after consulting the Board and Advisory Committee.

(2) SELECTION CRITERIA.—

(A) IN GENERAL.—In selecting projects to receive grants under subsection (c), the Secretary—

(i) shall select projects based on the likelihood that the projects will demonstrate the commercial viability of a new and emerging process for converting biomass into fuels, chemicals, or energy; and

(ii) may consider the likelihood that the projects will produce electricity.

(B) FACTORS.—The factors to be considered under subparagraph (A) may include—

(i) the potential market for the product or products;

(ii) the level of financial participation by the applicants;

(iii) the availability of adequate funding from other sources;

(iv) the beneficial impact on resource conservation, public health, and the environment;

(v) the participation of producer associations and cooperatives;

(vi) the timeframe in which the project will be operational;

(vii) the potential for rural economic development;

(viii) the participation of multiple eligible entities;
and

(ix) the potential for developing advanced industrial biotechnology approaches.

(f) **COST SHARING.**—

(1) **IN GENERAL.**—The amount of a grant for a project awarded under subsection (c) shall not exceed 30 percent of the cost of the project.

(2) **FORM OF GRANTEE SHARE.**—

(A) **IN GENERAL.**—The grantee share of the cost of a project may be made in the form of cash or the provision of services, material, or other in-kind contributions.

(B) **LIMITATION.**—The amount of the grantee share of the cost of a project that is made in the form of the provision of services, material, or other in-kind contributions shall not exceed 25 percent of the amount of the grantee share determined under paragraph (1).

(g) **CONSULTATION.**—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.

7 USC 8104.

SEC. 9004. BIODIESEL FUEL EDUCATION PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary shall, under such terms and conditions as are appropriate, make competitive grants to eligible entities to educate governmental and private entities that operate vehicle fleets, other interested entities (as determined by the Secretary), and the public about the benefits of biodiesel fuel use.

(b) **ELIGIBLE ENTITIES.**—To receive a grant under subsection (a), an entity—

(1) shall be a nonprofit organization or institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001));

(2) shall have demonstrated knowledge of biodiesel fuel production, use, or distribution; and

(3) shall have demonstrated the ability to conduct educational and technical support programs.

(c) **CONSULTATION.**—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(d) **FUNDING.**—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$1,000,000 for each of fiscal years 2003 through 2007.

7 USC 8105.

SEC. 9005. ENERGY AUDIT AND RENEWABLE ENERGY DEVELOPMENT PROGRAM.

Grants.

(a) **IN GENERAL.**—The Secretary shall make competitive grants to eligible entities to carry out a program to assist farmers, ranchers, and rural small businesses in becoming more energy efficient and in using renewable energy technology and resources.

(b) **ELIGIBLE ENTITIES.**—Entities eligible to carry out a program under subsection (a) are—

(1) a State energy or agricultural office;

(2) a regional or State-based energy organization or energy organization of an Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b));

(3) a land-grant college or university (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)) or other institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001));

(4) a rural electric cooperative or utility;

(5) a nonprofit organization; and

(6) any other entity, as determined by the Secretary.

(c) MERIT REVIEW.—

Establishment.

(1) MERIT REVIEW PROCESS.—The Secretary shall establish a merit review process to review applications for grants under subsection (a) that uses the expertise of other Federal agencies, industry, and nongovernmental organizations.

(2) SELECTION CRITERIA.—In reviewing applications of eligible entities to receive grants under subsection (a), the Secretary shall consider—

(A) the ability and expertise of the eligible entity in providing professional energy audits and renewable energy assessments;

(B) the geographic scope of the program proposed by the eligible entity;

(C) the number of farmers, ranchers, and rural small businesses to be assisted by the program;

(D) the potential for energy savings and environmental and public health benefits resulting from the program; and

(E) the plan of the eligible entity for educating farmers, ranchers, and rural small businesses on the benefits of energy efficiency and renewable energy development.

(d) USE OF GRANT FUNDS.—

(1) REQUIRED USES.—A recipient of a grant under subsection (a) shall use the grant funds to conduct and promote energy audits for farmers, ranchers, and rural small businesses to provide farmers, ranchers, and rural small businesses recommendations on how to improve energy efficiency and use renewable energy technology and resources.

(2) PERMITTED USES.—In addition to the uses described in paragraph (1), a recipient of a grant may use the grant funds to make farmers, ranchers, and rural small businesses aware of, and ensure that they have access to—

(A) financial assistance under section 9006; and

(B) other Federal, State, and local financial assistance programs for which farmers, ranchers, and rural small businesses may be eligible.

(e) COST SHARING.—A recipient of a grant under subsection (a) that conducts an energy audit for a farmer, rancher, or rural small business under subsection (d)(1) shall require that, as a condition of the energy audit, the farmer, rancher, or rural small business pay at least 25 percent of the cost of the audit.

(f) USE OF COST-SHARE FUNDS.—Funds collected by a recipient of a grant under subsection (e) as a result of activities carried out using the grant funds shall be used to conduct activities authorized under this section, as approved by the Secretary.

(g) CONSULTATION.—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

Deadline.

(h) **REPORTS.**—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the implementation of this section.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.

7 USC 8106.

SEC. 9006. RENEWABLE ENERGY SYSTEMS AND ENERGY EFFICIENCY IMPROVEMENTS.

(a) **IN GENERAL.**—In addition to exercising authority to make loans and loan guarantees under other law, the Secretary shall make loans, loan guarantees, and grants to farmers, ranchers, and rural small businesses to—

- (1) purchase renewable energy systems; and
- (2) make energy efficiency improvements.

(b) **ELIGIBILITY.**—To be eligible to receive a grant under subsection (a), a farmer, rancher, or rural small business shall demonstrate financial need as determined by the Secretary.

(c) **COST SHARING.**—

(1) **IN GENERAL.**—

(A) **GRANTS.**—The amount of a grant shall not exceed 25 percent of the cost of the activity funded under subsection (a).

(B) **MAXIMUM AMOUNT OF COMBINED GRANT AND LOAN.**—The combined amount of a grant and loan made or guaranteed shall not exceed 50 percent of the cost of the activity funded under subsection (a).

(2) **FACTORS.**—In determining the amount of a grant or loan, the Secretary shall take into consideration, as applicable—

(A) the type of renewable energy system to be purchased;

(B) the estimated quantity of energy to be generated by the renewable energy system;

(C) the expected environmental benefits of the renewable energy system;

(D) the extent to which the renewable energy system will be replicable;

(E) the amount of energy savings expected to be derived from the activity, as demonstrated by an energy audit comparable to an energy audit under section 9005;

(F) the estimated length of time it would take for the energy savings generated by the activity to equal the cost of the activity; and

(G) other factors as appropriate.

(d) **INTEREST RATE.**—

(1) **IN GENERAL.**—A loan made by the Secretary under subsection (a) shall bear interest at the rate equivalent to the rate of interest charged on Treasury securities of comparable maturity on the date the loan is approved.

(2) **DURATION.**—The interest rate for each loan will remain in effect for the term of the loan.

(e) **CONSULTATION.**—In carrying out this section, the Secretary shall consult with the Secretary of Energy.

(f) **FUNDING.**—Of the funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this section \$23,000,000 for each of fiscal years 2003 through 2007.

SEC. 9007. HYDROGEN AND FUEL CELL TECHNOLOGIES.

7 USC 8107.

(a) **IN GENERAL.**—The Secretary and the Secretary of Energy shall enter into a memorandum of understanding under which the Secretary and the Secretary of Energy shall cooperate in the application of hydrogen and fuel cell technology programs for rural communities and agricultural producers.

Memorandum.

(b) **DISSEMINATION OF INFORMATION.**—Under the memorandum of understanding, the Secretary shall work with the Secretary of Energy to disseminate information to rural communities and agricultural producers on potential applications of hydrogen and fuel cell technologies.

SEC. 9008. BIOMASS RESEARCH AND DEVELOPMENT.

(a) **FUNDING.**—The Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224) is amended—

- (1) in section 307, by striking subsection (f);
- (2) by redesignating section 310 as section 311; and
- (3) by inserting after section 309 the following:

26 USC 7624
note.
26 USC 7624
note.

“SEC. 310. FUNDING.

“(a) **FUNDING.**—Of funds of the Commodity Credit Corporation, the Secretary shall make available to carry out this title—

“(1) \$5,000,000 for fiscal year 2002; and

“(2) \$14,000,000 for each of fiscal years 2003 through 2007; to remain available until expended.

“(b) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts transferred under subsection (a), there are authorized to be appropriated to carry out this title \$49,000,000 for each of fiscal years 2002 through 2007.”.

(b) **TERMINATION OF AUTHORITY.**—Section 311 of the Biomass Research and Development Act of 2000 (7 U.S.C. 7624 note; Public Law 106-224) (as redesignated by subsection (a)) is amended by striking “December 31, 2005” and inserting “September 30, 2007”.

SEC. 9009. COOPERATIVE RESEARCH AND EXTENSION PROJECTS.

Section 221 of the Agricultural Risk Protection Act of 2000 (114 Stat. 407) is amended—

7 USC 6711.

- (1) by redesignating subsection (d) as subsection (f); and
- (2) by inserting after subsection (c) the following:

“(d) **COOPERATIVE RESEARCH.**—

“(1) **IN GENERAL.**—Subject to the availability of appropriations, the Secretary, in cooperation with departments and agencies participating in the U.S. Global Change Research Program (which may use any of their statutory authorities) and with eligible entities, may carry out research to promote understanding of—

“(A) the flux of carbon in soils and plants (including trees); and

“(B) the exchange of other greenhouse gases from agriculture.

“(2) **ELIGIBLE ENTITIES.**—Research under this subsection may be carried out through the competitive awarding of grants and cooperative agreements to colleges and universities (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 1303)).

“(3) **COOPERATIVE RESEARCH PURPOSES.**—Research conducted under this subsection shall encourage collaboration among scientists with expertise in the areas of soil science,

agronomy, agricultural economics, forestry, and other agricultural sciences to focus on—

“(A) developing data addressing carbon losses and gains in soils and plants (including trees) and the exchange of methane and nitrous oxide from agriculture;

“(B) understanding how agricultural and forestry practices affect the sequestration of carbon in soils and plants (including trees) and the exchange of other greenhouse gases, including the effects of new technologies such as biotechnology and nanotechnology;

“(C) developing cost-effective means of measuring and monitoring changes in carbon pools in soils and plants (including trees), including computer models;

“(D) evaluating the linkage between federal conservation programs and carbon sequestration;

“(E) developing methods, including remote sensing, to measure the exchange of carbon and other greenhouse gases sequestered, and to evaluate leakage, performance, and permanence issues; and

“(F) assessing the applicability of the results of research conducted under this subsection for developing methods to account for the impact of agricultural activities (including forestry) on the exchange of greenhouse gases.

“(4) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2002 through 2007.

“(e) EXTENSION PROJECTS.—

“(1) IN GENERAL.—The Secretary, in cooperation with departments and agencies participating in the U.S. Global Change Research Program (which may use any of their statutory authorities), and local extension agents, experts from institutions of higher education that offer a curriculum in agricultural and biological sciences, and other local agricultural or conservation organizations, may implement extension projects (including on-farm projects with direct involvement of agricultural producers) that combine measurement tools and modeling techniques into integrated packages to monitor the carbon sequestering benefits of conservation practices and the exchange of greenhouse gas emissions from agriculture which demonstrate the feasibility of methods of measuring and monitoring—

“(A) changes in carbon content and other carbon pools in soils and plants (including trees); and

“(B) the exchange of other greenhouse gases.

“(2) EXTENSION PROJECT RESULTS.—The Secretary may disseminate to farmers, ranchers, private forest landowners, and appropriate State agencies in each State information concerning—

“(A) the results of projects under this subsection; and

“(B) the manner in which the methods used in the projects might be applicable to the operations of the farmers, ranchers, private forest landowners, and State agencies.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this subsection for each of fiscal years 2002 through 2007.”

SEC. 9010. CONTINUATION OF BIOENERGY PROGRAM.

7 USC 8108.

(a) **DEFINITIONS.**—In this section:(1) **BIOENERGY.**—The term “bioenergy” means—

(A) biodiesel; and

(B) fuel grade ethanol.

(2) **BIODIESEL.**—The term “biodiesel” means a monoalkyl ester that meets the requirements of an appropriate American Society for Testing and Materials standard.(3) **ELIGIBLE COMMODITY.**—The term “eligible commodity” means—

(A) wheat, corn, grain sorghum, barley, oats, rice, soybeans, sunflower seed, rapeseed, canola, safflower, flaxseed, mustard, crambe, sesame seed, and cottonseed;

(B) a cellulosic commodity (such as hybrid poplar and switch grass);

(C) fats, oils, and greases (including recycled fats, oils, and greases) derived from an agricultural product; and

(D) any animal byproduct (in addition to oils, fats, and greases) that may be used to produce bioenergy, as determined by the Secretary.

(4) **ELIGIBLE PRODUCER.**—The term “eligible producer” means a producer that uses an eligible commodity to produce bioenergy.(b) **BIOENERGY PROGRAM.**—(1) **CONTINUATION.**—The Secretary shall continue the program under part 1424 of title 7, Code of Federal Regulations (or any successor regulation), under which the Secretary makes payments to eligible producers to encourage increased purchases of eligible commodities for the purpose of expanding production of such bioenergy and supporting new production capacity for such bioenergy.(2) **CONTRACTS.**—To be eligible to receive a payment, an eligible producer shall—

(A) enter into a contract with the Secretary to increase bioenergy production for 1 or more fiscal years; and

(B) submit to the Secretary such records as the Secretary may require as evidence of increased purchase and use of eligible commodities for the production of bioenergy.

(3) **PAYMENT.**—(A) **IN GENERAL.**—Under the program, the Secretary shall make payments to eligible producers, based on the quantity of bioenergy produced by the eligible producer during a fiscal year that exceeds the quantity of bioenergy produced by the eligible producer during the preceding fiscal year.(B) **PAYMENT RATE.**—(i) **PRODUCERS OF LESS THAN 65,000,000 GALLONS.**—

An eligible producer that produces less than 65,000,000 gallons of bioenergy shall be reimbursed 1 feedstock unit for every 2.5 feedstock units of eligible commodity used for increased production.

(ii) **PRODUCERS OF 65,000,000 OR MORE GALLONS.**—

An eligible producer that produces 65,000,000 or more gallons of bioenergy shall be reimbursed 1 feedstock unit for every 3.5 feedstock units of eligible commodity used for increased production.

(C) **QUARTERLY PAYMENTS.**—The Secretary shall make payments to an eligible producer for each quarter of the fiscal year.

(4) **PRORATION.**—If the amount made available for a fiscal year under subsection (c) is insufficient to allow the payment of the amount of the payments that eligible producers (that apply for the payments) otherwise would receive under this subsection, the Secretary shall prorate the amount of the funds among all such eligible producers.

(5) **OVERPAYMENTS.**—If the total amount of payments that an eligible producer receives for a fiscal year under this section exceeds the amount that the eligible producer should have received under this subsection, the eligible producer shall repay the amount of the overpayment to the Secretary, with interest (as determined by the Secretary).

(6) **LIMITATION.**—No eligible producer shall receive more than 5 percent of the total amount made available under subsection (c) for a fiscal year.

(7) **OTHER REQUIREMENTS.**—To be eligible to receive a payment under this subsection, an eligible producer shall meet other requirements of Federal law (including regulations) applicable to the production of bioenergy.

(c) **FUNDING.**—Of the funds of the Commodity Credit Corporation, the Secretary shall use to carry out this section—

(1) not more than \$150,000,000 for each of fiscal years 2003 through 2006; and

(2) \$0 for fiscal year 2007.

TITLE X—MISCELLANEOUS

Subtitle A—Crop Insurance

SEC. 10001. EQUAL CROP INSURANCE TREATMENT OF POTATOES AND SWEET POTATOES.

Section 508(a)(2) of the Federal Crop Insurance Act (7 U.S.C. 1508(a)(2)) is amended in the first sentence by striking “and potatoes” and inserting “, potatoes, and sweet potatoes”.

SEC. 10002. CONTINUOUS COVERAGE.

Section 508(e)(4) of the Federal Crop Insurance Act (7 U.S.C. 1508(e)(4)) is amended—

(1) in the paragraph heading, by striking “TEMPORARY PROHIBITION” and inserting “PROHIBITION”; and

(2) by striking “through 2005” and inserting “and subsequent”.

SEC. 10003. QUALITY LOSS ADJUSTMENT PROCEDURES.

Section 508(m) of the Federal Crop Insurance Act (7 U.S.C. 1508(m)) is amended—

(1) in paragraph (3)—

(A) by striking “The Corporation” and inserting the following:

“(A) **REVIEW.**—The Corporation”; and

(B) by striking “Based on” and inserting the following:

“(B) **PROCEDURES.**—Effective beginning not later than the 2004 reinsurance year, based on”; and

Effective date.

(2) by adding at the end the following:

“(4) **QUALITY OF AGRICULTURAL COMMODITIES DELIVERED TO WAREHOUSE OPERATORS.**—In administering this title, the Secretary shall accept, in the same manner and under the same terms and conditions, evidence of the quality of agricultural commodities delivered to—

“(A) warehouse operators that are licensed under the United States Warehouse Act (7 U.S.C. 241 et seq.);

“(B) warehouse operators that—

“(i) are licensed under State law; and

“(ii) have entered into a storage agreement with the Commodity Credit Corporation; and

“(C) warehouse operators that—

“(i) are not licensed under State law but are in compliance with State law regarding warehouses; and

“(ii) have entered into a commodity storage agreement with the Commodity Credit Corporation.”.

SEC. 10004. ADJUSTED GROSS REVENUE INSURANCE PILOT PROGRAM.

Section 523 of the Federal Crop Insurance Act (7 U.S.C. 1523) is amended by adding at the end the following:

“(e) **ADJUSTED GROSS REVENUE INSURANCE PILOT PROGRAM.**—

“(1) **IN GENERAL.**—The Corporation shall carry out, through at least the 2004 reinsurance year, the adjusted gross revenue insurance pilot program in effect for the 2002 reinsurance year.

“(2) **ADDITIONAL COUNTIES.**—

“(A) **IN GENERAL.**—In addition to counties otherwise included in the pilot program, the Corporation shall include in the pilot program for the 2003 reinsurance year at least 8 counties in the State of California and at least 8 counties in the State of Pennsylvania.

“(B) **SELECTION CRITERIA.**—In carrying out subparagraph (A), the Corporation shall work with the respective State Departments of Agriculture to establish criteria to determine which counties to include in the pilot program.”.

SEC. 10005. SENSE OF CONGRESS ON EXPANSION OF CROP INSURANCE COVERAGE.

It is the sense of Congress that the Federal Crop Insurance Corporation should address needs of producers through the expansion of pilot programs and coverage under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), including—

(1) crop revenue insurance for the producers of pecans in the State of Georgia; and

(2) coverage for continuous crops of wheat produced in the State of Kansas.

SEC. 10006. REPORT ON SPECIALTY CROP INSURANCE.

Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

Deadline.

(1) the progress made by the Federal Crop Insurance Corporation in research and development of innovative risk management products to include cost of production insurance

that provides coverage for specialty crops, paying special attention to apples, asparagus, blueberries (wild and domestic), cabbage, canola, carrots, cherries, Christmas trees, citrus fruits, cucumbers, dry beans, eggplants, floriculture, grapes, greenhouse and nursery agricultural commodities, green peas, green peppers, hay, lettuce, maple, mushrooms, pears, potatoes, pumpkins, snap beans, spinach, squash, strawberries, sugar beets, and tomatoes; and

(2) the progress made by the Corporation in increasing the use of risk management products offered through the Corporation by producers of specialty crops, by small- and moderate-sized farms, and in areas that are underserved, as determined by the Secretary.

Subtitle B—Disaster Assistance

SEC. 10101. REFERENCE TO SEA GRASS AND SEA OATS AS CROPS COVERED BY NONINSURED CROP DISASTER ASSISTANCE PROGRAM.

Section 196(a)(2)(B) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333(a)(2)(B)) is amended by inserting “sea grass and sea oats,” after “fish,”.

SEC. 10102. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

Section 2281(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a(a)) is amended by striking “, not to exceed \$20,000,000 annually,”.

SEC. 10103. EMERGENCY LOANS FOR SEED PRODUCERS.

Section 253(b)(5)(B) of the Agricultural Risk Protection Act of 2000 (Public Law 106–224; 114 Stat. 423) is amended by striking “18 months” and inserting “36 months”.

7 USC 1472.

SEC. 10104. ASSISTANCE FOR LIVESTOCK PRODUCERS.

(a) AVAILABILITY OF ASSISTANCE.—In such amounts as are provided in advance in appropriation Acts, the Secretary of Agriculture may provide assistance to dairy and other livestock producers to cover economic losses incurred by such producers in connection with the production of livestock.

(b) TYPES OF ASSISTANCE.—The assistance provided to livestock producers may be in the following forms:

(1) Indemnity payments to livestock producers who incur livestock mortality losses.

(2) Livestock feed assistance to livestock producers affected by shortages of feed.

(3) Compensation for sudden increases in production costs.

(4) Such other assistance, and for such other economic losses, as the Secretary considers appropriate.

(c) LIMITATIONS.—The Secretary may not use the funds of the Commodity Credit Corporation to provide assistance under this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

SEC. 10105. MARKET LOSS ASSISTANCE FOR APPLE PRODUCERS.

(a) **IN GENERAL.**—Of the funds of the Commodity Credit Corporation, the Secretary of Agriculture shall use \$94,000,000 for fiscal year 2002 to make payments, as soon as practicable after the date of enactment of this Act, to apple producers for the loss of markets during the 2000 crop year.

(b) **PAYMENT QUANTITY.**—The payment quantity of apples for which the producers on a farm are eligible for payments under this section shall be equal to the lesser of—

(1) the quantity of the 2000 crop of apples produced by the producers on the farm; or

(2) 5,000,000 pounds of apples produced on the farm.

(c) **LIMITATIONS.**—Subject to subsection (b)(2), the Secretary shall not establish a payment limitation, or income eligibility limitation, with respect to payments made under this section.

(d) **REGULATIONS.**—

(1) **IN GENERAL.**—The Secretary shall promulgate such regulations as are necessary to implement this section.

(2) **PROCEDURE.**—The promulgation of the regulations and administration of this section shall be made without regard to—

(A) the notice and comment provisions of section 553 of title 5, United States Code;

(B) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(C) chapter 35 of title 44, United States Code (commonly known as the “Paperwork Reduction Act”).

(3) **CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.**—In carrying out this subsection, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. 10106. MARKET LOSS ASSISTANCE FOR ONION PRODUCERS.

The Secretary of Agriculture shall use \$10,000,000 of the funds of the Commodity Credit Corporation to make a grant to the State of New York to be used to support onion producers in Orange County, New York, that have suffered losses to onion crops during 1 or more of the 1996 through 2000 crop years.

Grants.
New York.

SEC. 10107. COMMERCIAL FISHERIES FAILURE.

(a) **IN GENERAL.**—The Secretary of Agriculture, in consultation with the Secretary of Commerce, shall provide emergency disaster assistance for the commercial fishery failure under section 308(b)(1) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(b)(1)) with respect to Northeast multispecies fisheries.

(b) **PROGRAM REQUIREMENTS.**—Amounts made available to carry out this section shall be used to support a voluntary fishing capacity reduction program in the Northeast multispecies fishery that—

(1) is certified by the Secretary of Commerce to be consistent with section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)); and

(2) permanently revokes multispecies limited access fishing permits so as to obtain the maximum sustained reduction in fishing capacity at the least cost and in the minimum period

Disaster
assistance.

of time and to prevent the replacement of fishing capacity removed by the program.

(c) APPLICATION OF REGULATIONS.—The program shall be carried out in accordance with the regulations codified at part 648 of title 50, Code of Federal Regulations, and any corresponding rule issued in accordance with the regulations.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

(e) TERMINATION OF AUTHORITY.—The authority provided under this section terminates on the date that is 1 year after the date of enactment of this Act.

SEC. 10108. STUDY OF FEASIBILITY OF PRODUCER INDEMNIFICATION FROM GOVERNMENT-CAUSED DISASTERS.

(a) FINDINGS.—Congress finds that the implementation of Federal disaster assistance programs fails to adequately address situations in which disaster conditions are caused primarily by Federal action.

(b) AUTHORITY.—The Secretary of Agriculture shall conduct a study of the feasibility of expanding eligibility for crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), and noninsured crop assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333), to agricultural producers experiencing disaster conditions caused primarily by Federal agency action restricting access to irrigation water, including any lack of access to an adequate supply of water caused by failure by the Secretary of the Interior to fulfill a contract in accordance with the Central Valley Project Improvement Act (106 Stat. 4706).

Deadline.

(c) REPORT.—Not later than 150 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the results of the study, including any recommendations.

Subtitle C—Tree Assistance Program

7 USC 8201.

SEC. 10201. DEFINITIONS.

In this subtitle:

(1) ELIGIBLE ORCHARDIST.—The term “eligible orchardist” means a person that produces annual crops from trees for commercial purposes.

(2) NATURAL DISASTER.—The term “natural disaster” means plant disease, insect infestation, drought, fire, freeze, flood, earthquake, lightning, and other occurrence, as determined by the Secretary.

(3) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(4) TREE.—The term “tree” includes a tree, bush, and vine.

7 USC 8202.

SEC. 10202. ELIGIBILITY.

(a) LOSS.—Subject to subsection (b), the Secretary shall provide assistance under section 10203 to eligible orchardists that planted trees for commercial purposes but lost the trees as a result of a natural disaster, as determined by the Secretary.

(b) **LIMITATION.**—An eligible orchardist shall qualify for assistance under subsection (a) only if the tree mortality of the eligible orchardist, as a result of damaging weather or related condition, exceeds 15 percent (adjusted for normal mortality).

SEC. 10203. ASSISTANCE.

7 USC 8203.

Subject to section 10204, the assistance provided by the Secretary to eligible orchardists for losses described in section 10202 shall consist of—

(1) reimbursement of 75 percent of the cost of replanting trees lost due to a natural disaster, as determined by the Secretary, in excess of 15 percent mortality (adjusted for normal mortality); or

(2) at the option of the Secretary, sufficient seedlings to reestablish a stand.

SEC. 10204. LIMITATIONS ON ASSISTANCE.

7 USC 8204.

(a) **AMOUNT.**—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed \$75,000, or an equivalent value in tree seedlings.

(b) **ACRES.**—The total quantity of acres planted to trees or tree seedlings for which a person shall be entitled to receive payments under this subtitle may not exceed 500 acres.

(c) **REGULATIONS.**—The Secretary shall promulgate regulations—

(1) defining the term “person” for the purposes of this subtitle, which shall conform, to the maximum extent practicable, to the regulations defining the term “person” promulgated under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308); and

(2) promulgating such regulations as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 10205. AUTHORIZATION OF APPROPRIATIONS.

7 USC 8205.

There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

Subtitle D—Animal Welfare

SEC. 10301. DEFINITION OF ANIMAL UNDER THE ANIMAL WELFARE ACT.

Section 2(g) of the Animal Welfare Act (7 U.S.C. 2132(g)) is amended in the first sentence by striking “excludes horses not used for research purposes and” and inserting the following: “excludes (1) birds, rats of the genus *Rattus*, and mice of the genus *Mus*, bred for use in research, (2) horses not used for research purposes, and (3)”.

SEC. 10302. PROHIBITION ON INTERSTATE MOVEMENT OF ANIMALS FOR ANIMAL FIGHTING.

(a) **IN GENERAL.**—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) **SPONSORING OR EXHIBITING AN ANIMAL IN AN ANIMAL FIGHTING VENTURE.**—

“(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly sponsor or exhibit an animal in an animal fighting venture, if any animal in the venture was moved in interstate or foreign commerce.

“(2) SPECIAL RULE FOR CERTAIN STATES.—With respect to fighting ventures involving live birds in a State where it would not be in violation of the law, it shall be unlawful under this subsection for a person to sponsor or exhibit a bird in the fighting venture only if the person knew that any bird in the fighting venture was knowingly bought, sold, delivered, transported, or received in interstate or foreign commerce for the purpose of participation in the fighting venture.”;

(2) in subsection (b), by striking “or deliver to another person or receive from another person” and inserting “deliver, or receive”; and

(3) in subsection (d), by striking “subsections (a), (b), or (c) of this section” and inserting “subsection (c)”.

7 USC 2156 note.

(b) EFFECTIVE DATE.—The amendments made by this section take effect 1 year after the date of enactment of this Act.

SEC. 10303. PENALTIES AND FOREIGN COMMERCE PROVISIONS OF THE ANIMAL WELFARE ACT.

(a) IN GENERAL.—Section 26 of the Animal Welfare Act (7 U.S.C. 2156) is amended—

(1) in subsection (e)—

(A) by inserting “PENALTIES.—” after “(e)”; and

(B) by striking “\$5,000” and inserting “\$15,000”; and

(2) in subsection (g)(2)(B), by inserting before the semicolon at the end the following: “or from any State into any foreign country”.

7 USC 2156 note.

(b) EFFECTIVE DATE.—The amendment made by this section takes effect 1 year after the date of enactment of this Act.

7 USC 2132 note.

SEC. 10304. REPORT ON RATS, MICE, AND BIRDS.

Deadline.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the National Research Council shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the implications of including rats, mice, and birds within the definition of animal under the regulations promulgated under the Animal Welfare Act (7 U.S.C. 2131 et seq.).

(b) REQUIREMENTS.—The report under subsection (a) shall—

(1) be completed with input, consultation, and recommendations from—

(A) the Secretary of Agriculture;

(B) the Secretary of Health and Human Services; and

(C) the Institute for Animal Laboratory Research within the National Academy of Sciences;

(2) contain an estimate of—

(A) the number and types of entities that use rats, mice, and birds for research purposes; and

(B) which of the entities—

(i) are subject to regulations of the Department of Agriculture;

(ii) are subject to regulations or guidelines of the Department of Health and Human Services; or

- (iii) voluntarily comply with the accreditation requirements of the Association for Assessment and Accreditation of Laboratory Animal Care;
- (3) contain an estimate of the numbers of rats, mice, and birds used in research facilities, with an indication of which of the facilities—
 - (A) are subject to regulations of the Department of Agriculture;
 - (B) are subject to regulations or guidelines of the Department of Health and Human Services; or
 - (C) voluntarily comply with the accreditation requirements of the Association for Assessment and Accreditation of Laboratory Animal Care;
- (4) contain an estimate of the additional costs likely to be incurred by breeders and research facilities resulting from the additional regulatory requirements needed in order to afford the same level of protection to rats, mice, and birds as is provided for species regulated by the Department of Agriculture, detailing the costs associated with individual regulatory requirements;
- (5) contain recommendations for minimizing such costs, including—
 - (A) an estimate of the cost savings that would result from providing a different level of protection to rats, mice, and birds than is provided for species regulated by the Department of Agriculture; and
 - (B) an estimate of the cost savings that would result if new regulatory requirements were substantially equivalent to, and harmonized with, guidelines of the National Institutes of Health;
- (6) contain an estimate of the additional funding that the Animal and Plant Health Inspection Service would require to be able to ensure that the level of compliance with respect to other regulated animals is not diminished by the increase in the number of facilities that would require inspections if a rule extending the regulatory definition of animal to rats, mice, and birds were to become effective; and
- (7) contain recommendations for—
 - (A) minimizing the regulatory burden on facilities subject to—
 - (i) regulations of the Department of Agriculture;
 - (ii) regulations or guidelines of the Department of Health and Human Services; or
 - (iii) accreditation requirements of the Association for Assessment and Accreditation of Laboratory Animal Care; and
 - (B) preventing any duplication of regulatory requirements.

SEC. 10305. ENFORCEMENT OF HUMANE METHODS OF SLAUGHTER ACT OF 1958. 7 USC 1901 note.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Agriculture should—

- (1) continue tracking the number of violations of Public Law 85-765 (7 U.S.C. 1901 et seq.; commonly known as the “Humane Methods of Slaughter Act of 1958”) and report the results and relevant trends annually to Congress; and

(2) fully enforce Public Law 85–765 by ensuring that humane methods in the slaughter of livestock—

(A) prevent needless suffering;

(B) result in safer and better working conditions for persons engaged in slaughtering operations;

(C) bring about improvement of products and economies in slaughtering operations; and

(D) produce other benefits for producers, processors, and consumers that tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce.

(b) UNITED STATES POLICY.—It is the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods, as provided by Public Law 85–765.

Animal Health
Protection Act.

Subtitle E—Animal Health Protection

7 USC 8301 note.

SEC. 10401. SHORT TITLE.

This subtitle may be cited as the “Animal Health Protection Act”.

7 USC 8301.

SEC. 10402. FINDINGS.

Congress finds that—

(1) the prevention, detection, control, and eradication of diseases and pests of animals are essential to protect—

(A) animal health;

(B) the health and welfare of the people of the United States;

(C) the economic interests of the livestock and related industries of the United States;

(D) the environment of the United States; and

(E) interstate commerce and foreign commerce of the United States in animals and other articles;

(2) animal diseases and pests are primarily transmitted by animals and articles regulated under this subtitle;

(3) the health of animals is affected by the methods by which animals and articles are transported in interstate commerce and foreign commerce;

(4) the Secretary must continue to conduct research on animal diseases and pests that constitute a threat to the livestock of the United States; and

(5)(A) all animals and articles regulated under this subtitle are in or affect interstate commerce or foreign commerce; and

(B) regulation by the Secretary and cooperation by the Secretary with foreign countries, States or other jurisdictions, or persons are necessary—

(i) to prevent and eliminate burdens on interstate commerce and foreign commerce;

(ii) to regulate effectively interstate commerce and foreign commerce; and

(iii) to protect the agriculture, environment, economy, and health and welfare of the people of the United States.

7 USC 8302.

SEC. 10403. DEFINITIONS.

In this subtitle:

(1) ANIMAL.—The term “animal” means any member of the animal kingdom (except a human).

(2) ARTICLE.—The term “article” means any pest or disease or any material or tangible object that could harbor a pest or disease.

(3) DISEASE.—The term “disease” has the meaning given the term by the Secretary.

(4) ENTER.—The term “enter” means to move into the commerce of the United States.

(5) EXPORT.—The term “export” means to move from a place within the territorial limits of the United States to a place outside the territorial limits of the United States.

(6) FACILITY.—The term “facility” means any structure.

(7) IMPORT.—The term “import” means to move from a place outside the territorial limits of the United States to a place within the territorial limits of the United States.

(8) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(9) INTERSTATE COMMERCE.—The term “interstate commerce” means trade, traffic, or other commerce—

(A) between a place in a State and a place in another State, or between places within the same State but through any place outside that State; or

(B) within the District of Columbia or any territory or possession of the United States.

(10) LIVESTOCK.—The term “livestock” means all farm-raised animals.

(11) MEANS OF CONVEYANCE.—The term “means of conveyance” means any personal property used for or intended for use for the movement of any other personal property.

(12) MOVE.—The term “move” means—

(A) to carry, enter, import, mail, ship, or transport;

(B) to aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting;

(C) to offer to carry, enter, import, mail, ship, or transport;

(D) to receive in order to carry, enter, import, mail, ship, or transport;

(E) to release into the environment; or

(F) to allow any of the activities described in this paragraph.

(13) PEST.—The term “pest” means any of the following that can directly or indirectly injure, cause damage to, or cause disease in livestock:

(A) A protozoan.

(B) A plant.

(C) A bacteria.

(D) A fungus.

(E) A virus or viroid.

(F) An infectious agent or other pathogen.

(G) An arthropod.

(H) A parasite.

(I) A prion.

(J) A vector.

(K) Any organism similar to or allied with any of the organisms described in this paragraph.

(14) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(15) STATE.—The term “State” means any of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States, or any territory or possession of the United States.

(16) THIS SUBTITLE.—Except when used in this section, the term “this subtitle” includes any regulation or order issued by the Secretary under the authority of this subtitle.

(17) UNITED STATES.—The term “United States” means all of the States.

7 USC 8303.

SEC. 10404. RESTRICTION ON IMPORTATION OR ENTRY.

(a) IN GENERAL.—With notice to the Secretary of the Treasury and public notice as soon as practicable, the Secretary may prohibit or restrict—

(1) the importation or entry of any animal, article, or means of conveyance, or use of any means of conveyance or facility, if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock;

(2) the further movement of any animal that has strayed into the United States if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock; and

(3) the use of any means of conveyance in connection with the importation or entry of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement of livestock.

(b) REGULATIONS.—

(1) RESTRICTIONS ON IMPORT AND ENTRY.—The Secretary may issue such orders and promulgate such regulations as are necessary to carry out subsection (a).

(2) POST IMPORTATION QUARANTINE.—The Secretary may promulgate regulations requiring that any animal imported or entered be raised or handled under post-importation quarantine conditions by or under the supervision of the Secretary for the purpose of determining whether the animal is or may be affected by any pest or disease of livestock.

(c) DESTRUCTION OR REMOVAL.—

(1) IN GENERAL.—The Secretary may order the destruction or removal from the United States of—

(A) any animal, article, or means of conveyance that has been imported but has not entered the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock;

(B) any animal or progeny of any animal, article, or means of conveyance that has been imported or entered in violation of this subtitle; or

(C) any animal that has strayed into the United States if the Secretary determines that destruction or removal from the United States is necessary to prevent the introduction into or dissemination within the United States of any pest or disease of livestock.

(2) REQUIREMENTS OF OWNERS.—

(A) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—

(i) a means of conveyance used in connection with the importation of an animal;

(ii) an individual involved in the importation of an animal and personal articles of the individual; and

(iii) any article used in the importation of an animal.

(B) FAILURE TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—

(i) take remedial action, destroy, or remove from the United States the animal or progeny of any animal, article, or means of conveyance as authorized under paragraph (1); and

(ii) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary in connection with the remedial action, destruction, or removal.

SEC. 10405. EXPORTATION.

7 USC 8304.

(a) IN GENERAL.—The Secretary may prohibit or restrict—

(1) the exportation of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock;

(2) the exportation of any livestock if the Secretary determines that the livestock is unfit to be moved;

(3) the use of any means of conveyance or facility in connection with the exportation of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination from or within the United States of any pest or disease of livestock; or

(4) the use of any means of conveyance in connection with the exportation of livestock if the Secretary determines that the prohibition or restriction is necessary because the means of conveyance has not been maintained in a clean and sanitary condition or does not have accommodations for the safe and proper movement and humane treatment of livestock.

(b) REQUIREMENTS OF OWNERS.—

(1) ORDERS TO DISINFECT.—The Secretary may require the disinfection of—

(A) a means of conveyance used in connection with the exportation of an animal;

(B) an individual involved in the exportation of an animal and personal articles of the individual; and

(C) any article used in the exportation of an animal.

(2) FAILURE TO COMPLY WITH ORDERS.—If an owner fails to comply with an order of the Secretary under this section, the Secretary may—

(A) take remedial action with respect to the animal, article, or means of conveyance referred to in paragraph (1); and

(B) recover from the owner the costs of any care, handling, disposal, or other action incurred by the Secretary in connection with the remedial action.

(c) **CERTIFICATION.**—The Secretary may certify the classification, quality, quantity, condition, processing, handling, or storage of any animal or article intended for export.

7 USC 8305.

SEC. 10406. INTERSTATE MOVEMENT.

The Secretary may prohibit or restrict—

(1) the movement in interstate commerce of any animal, article, or means of conveyance if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock; and

(2) the use of any means of conveyance or facility in connection with the movement in interstate commerce of any animal or article if the Secretary determines that the prohibition or restriction is necessary to prevent the introduction or dissemination of any pest or disease of livestock.

7 USC 8306.

SEC. 10407. SEIZURE, QUARANTINE, AND DISPOSAL.

(a) **IN GENERAL.**—The Secretary may hold, seize, quarantine, treat, destroy, dispose of, or take other remedial action with respect to—

(1) any animal or progeny of any animal, article, or means of conveyance that—

(A) is moving or has been moved in interstate commerce or has been imported and entered; and

(B) the Secretary has reason to believe may carry, may have carried, or may have been affected with or exposed to any pest or disease of livestock at the time of movement or that is otherwise in violation of this subtitle;

(2) any animal or progeny of any animal, article, or means of conveyance that is moving or is being handled, or has moved or has been handled, in interstate commerce in violation of this subtitle;

(3) any animal or progeny of any animal, article, or means of conveyance that has been imported, and is moving or is being handled or has moved or has been handled, in violation of this subtitle; or

(4) any animal or progeny of any animal, article, or means of conveyance that the Secretary finds is not being maintained, or has not been maintained, in accordance with any post-importation quarantine, post-importation condition, post-movement quarantine, or post-movement condition in accordance with this subtitle.

(b) **EXTRAORDINARY EMERGENCIES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), if the Secretary determines that an extraordinary emergency exists because of the presence in the United States of a pest or disease of livestock and that the presence of the pest or disease threatens the livestock of the United States, the Secretary may—

(A) hold, seize, treat, apply other remedial actions to, destroy (including preventative slaughter), or otherwise dispose of, any animal, article, facility, or means of conveyance if the Secretary determines the action is necessary to prevent the dissemination of the pest or disease; and

(B) prohibit or restrict the movement or use within a State, or any portion of a State of any animal or article, means of conveyance, or facility if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of the pest or disease.

(2) STATE ACTION.—

(A) IN GENERAL.—The Secretary may take action in a State under this subsection only on finding that measures being taken by the State are inadequate to control or eradicate the pest or disease, after review and consultation with—

“(i) the Governor or an appropriate animal health official of the State; or

“(ii) in the case of any animal, article, facility, or means of conveyance under the jurisdiction of an Indian tribe, the head of the Indian tribe.

(B) NOTICE.—Subject to subparagraph (C), before any action is taken in a State under subparagraph (A), the Secretary shall—

(i) notify the Governor, an appropriate animal health official of the State, or head of the Indian tribe of the proposed action;

(ii) issue a public announcement of the proposed action; and

(iii) publish in the Federal Register—

(I) the findings of the Secretary;

(II) a description of the proposed action; and

(III) a statement of the reasons for the proposed action.

(C) NOTICE AFTER ACTION.—If it is not practicable to publish in the Federal Register the information required under subparagraph (B)(iii) before taking action under subparagraph (A), the Secretary shall publish the information as soon as practicable, but not later than 10 business days, after commencement of the action.

(c) QUARANTINE, DISPOSAL, OR OTHER REMEDIAL ACTION.—

(1) IN GENERAL.—The Secretary, in writing, may order the owner of any animal, article, facility, or means of conveyance referred to in subsection (a) or (b) to maintain in quarantine, dispose of, or take other remedial action with respect to the animal, article, facility, or means of conveyance, in a manner determined by the Secretary.

(2) FAILURE TO COMPLY WITH ORDERS.—If the owner fails to comply with the order of the Secretary, the Secretary may—

(A) seize, quarantine, dispose of, or take other remedial action with respect to the animal, article, facility, or means of conveyance under subsection (a) or (b); and

(B) recover from the owner the costs of any care, handling, disposal, or other remedial action incurred by the Secretary in connection with the seizure, quarantine, disposal, or other remedial action.

(d) COMPENSATION.—

Public
information.
Federal Register,
publication.

(1) **IN GENERAL.**—Except as provided in paragraph (3), the Secretary shall compensate the owner of any animal, article, facility, or means of conveyance that the Secretary requires to be destroyed under this section.

(2) **AMOUNT.**—

(A) **IN GENERAL.**—Subject to subparagraphs (B) and (C), the compensation shall be based on the fair market value, as determined by the Secretary, of the destroyed animal, article, facility, or means of conveyance.

(B) **LIMITATION.**—Compensation paid any owner under this subsection shall not exceed the difference between—

(i) the fair market value of the destroyed animal, article, facility, or means of conveyance; and

(ii) any compensation received by the owner from a State or other source for the destroyed animal, article, facility, or means of conveyance.

(C) **REVIEWABILITY.**—The determination by the Secretary of the amount to be paid under this subsection shall be final and not subject to judicial review or review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(3) **EXCEPTIONS.**—No payment shall be made by the Secretary under this subsection for—

(A) any animal, article, facility, or means of conveyance that has been moved or handled by the owner in violation of an agreement for the control and eradication of diseases or pests or in violation of this subtitle;

(B) any progeny of any animal or article, which animal or article has been moved or handled by the owner of the animal or article in violation of this subtitle;

(C) any animal, article, or means of conveyance that is refused entry under this subtitle; or

(D) any animal, article, facility, or means of conveyance that becomes or has become affected with or exposed to any pest or disease of livestock because of a violation of an agreement for the control and eradication of diseases or pests or a violation of this subtitle by the owner.

7 USC 8307.

SEC. 10408. INSPECTIONS, SEIZURES, AND WARRANTS.

(a) **GUIDELINES.**—The activities authorized by this section shall be carried out consistent with guidelines approved by the Attorney General.

(b) **WARRANTLESS INSPECTIONS.**—The Secretary may stop and inspect, without a warrant, any person or means of conveyance moving—

(1) into the United States, to determine whether the person or means of conveyance is carrying any animal or article regulated under this subtitle;

(2) in interstate commerce, on probable cause to believe that the person or means of conveyance is carrying any animal or article regulated under this subtitle; or

(3) in intrastate commerce from any State, or any portion of a State, quarantined under section 10407(b), on probable cause to believe that the person or means of conveyance is carrying any animal or article quarantined under section 10407(b).

(c) **INSPECTIONS WITH WARRANTS.**—

(1) **IN GENERAL.**—The Secretary may enter, with a warrant, any premises in the United States for the purpose of making inspections and seizures under this subtitle.

(2) **APPLICATION AND ISSUANCE OF WARRANTS.**—

(A) **IN GENERAL.**—On proper oath or affirmation showing probable cause to believe that there is on certain premises any animal, article, facility, or means of conveyance regulated under this subtitle, a United States judge, a judge of a court of record in the United States, or a United States magistrate judge may issue a warrant for the entry on premises within the jurisdiction of the judge or magistrate to make any inspection or seizure under this subtitle.

(B) **EXECUTION.**—The warrant may be applied for and executed by the Secretary or any United States marshal.

SEC. 10409. DETECTION, CONTROL, AND ERADICATION OF DISEASES AND PESTS. 7 USC 8308.

(a) **IN GENERAL.**—The Secretary may carry out operations and measures to detect, control, or eradicate any pest or disease of livestock (including the drawing of blood and diagnostic testing of animals), including animals at a slaughterhouse, stockyard, or other point of concentration.

(b) **COMPENSATION.**—

(1) **IN GENERAL.**—The Secretary may pay a claim arising out of the destruction of any animal, article, or means of conveyance consistent with the purposes of this subtitle.

(2) **REVIEWABILITY.**—The action of the Secretary in carrying out paragraph (1) shall not be subject to review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

SEC. 10410. VETERINARY ACCREDITATION PROGRAM.

7 USC 8309.

(a) **IN GENERAL.**—The Secretary may establish a veterinary accreditation program that is consistent with this subtitle, including the establishment of standards of conduct for accredited veterinarians.

(b) **CONSULTATION.**—The Secretary shall consult with State animal health officials and veterinary professionals regarding the establishment of the veterinary accreditation program.

(c) **SUSPENSION OR REVOCATION OF ACCREDITATION.**—

(1) **IN GENERAL.**—The Secretary may, after notice and opportunity for a hearing on the record, suspend or revoke the accreditation of any veterinarian accredited under this title who violates this subtitle.

(2) **FINAL ORDER.**—The order of the Secretary suspending or revoking accreditation shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(3) **SUMMARY SUSPENSION.**—

(A) **IN GENERAL.**—The Secretary may summarily suspend the accreditation of a veterinarian whom the Secretary has reason to believe knowingly violated this subtitle.

(B) **HEARINGS.**—The Secretary shall provide the veterinarian with a subsequent notice and an opportunity for a prompt post-suspension hearing on the record.

(d) APPLICATION OF PENALTY PROVISIONS.—The criminal and civil penalties described in section 10414 shall not apply to a violation of this section that is not a violation of any other provision of this subtitle.

7 USC 8310.

SEC. 10411. COOPERATION.

(a) IN GENERAL.—To carry out this subtitle, the Secretary may cooperate with other Federal agencies, States or political subdivisions of States, national governments of foreign countries, local governments of foreign countries, domestic or international organizations, domestic or international associations, Indian tribes, and other persons.

(b) RESPONSIBILITY.—The person or other entity cooperating with the Secretary shall be responsible for the authority necessary to carry out operations or measures—

(1) on all land and property within a foreign country or State, or under the jurisdiction of an Indian tribe, other than on land and property owned or controlled by the United States; and

(2) using other facilities and means, as determined by the Secretary.

(c) SCREWORMS.—

(1) IN GENERAL.—The Secretary may, independently or in cooperation with national governments of foreign countries or international organizations or associations, produce and sell sterile screwworms to any national government of a foreign country or international organization or association, if the Secretary determines that the livestock industry and related industries of the United States will not be adversely affected by the production and sale.

(2) PROCEEDS.—

(A) INDEPENDENT PRODUCTION AND SALE.—If the Secretary independently produces and sells sterile screwworms under paragraph (1), the proceeds of the sale shall be—

(i) deposited into the Treasury of the United States; and

(ii) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(B) COOPERATIVE PRODUCTION AND SALE.—

(i) IN GENERAL.—If the Secretary cooperates to produce and sell sterile screwworms under paragraph (1), the proceeds of the sale shall be divided between the United States and the cooperating national government or international organization or association in a manner determined by the Secretary.

(ii) ACCOUNT.—The United States portion of the proceeds shall be—

(I) deposited into the Treasury of the United States; and

(II) credited to the account from which the operating expenses of the facility producing the sterile screwworms have been paid.

(d) COOPERATION IN PROGRAM ADMINISTRATION.—The Secretary may cooperate with State authorities, Indian tribe authorities, or other persons in the administration of regulations for the improvement of livestock and livestock products.

(e) CONSULTATION AND COORDINATION WITH OTHER FEDERAL AGENCIES.—

(1) IN GENERAL.—The Secretary shall consult and coordinate with the head of a Federal agency with respect to any activity that is under the jurisdiction of the Federal agency.

(2) LEAD AGENCY.—Subject to the consultation and coordination requirement in paragraph (1), the Department of Agriculture shall be the lead agency with respect to issues related to pests and diseases of livestock.

SEC. 10412. REIMBURSABLE AGREEMENTS.

7 USC 8311.

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—The Secretary may enter into reimbursable fee agreements with persons for preclearance of animals or articles at locations outside the United States for movement into the United States.

(b) FUNDS COLLECTED FOR PRECLEARANCE.—Funds collected for preclearance activities shall—

(1) be credited to accounts that may be established by the Secretary for carrying out this section; and

(2) remain available until expended for the preclearance activities, without fiscal year limitation.

(c) PAYMENT OF EMPLOYEES.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary may pay an officer or employee of the Department of Agriculture performing services under this subtitle relating to imports into and exports from the United States for all overtime, night, or holiday work performed by the officer or employee at a rate of pay determined by the Secretary.

(2) REIMBURSEMENT.—

(A) IN GENERAL.—The Secretary may require a person for whom the services are performed to reimburse the Secretary for any expenses paid by the Secretary for the services under this subsection.

(B) USE OF FUNDS.—All funds collected under this subsection shall—

(i) be credited to the account that incurs the costs; and

(ii) remain available until expended, without fiscal year limitation.

(d) LATE PAYMENT PENALTIES.—

(1) COLLECTION.—On failure by a person to reimburse the Secretary in accordance with this section, the Secretary may assess a late payment penalty against the person, including interest on overdue funds, as required by section 3717 of title 31, United States Code.

(2) USE OF FUNDS.—Any late payment penalty and any accrued interest shall—

(A) be credited to the account that incurs the costs; and

(B) remain available until expended, without fiscal year limitation.

SEC. 10413. ADMINISTRATION AND CLAIMS.

7 USC 8312.

(a) ADMINISTRATION.—To carry out this subtitle, the Secretary may—

(1) acquire and maintain real or personal property;

(2) employ a person;

(3) make a grant; and

(4) notwithstanding chapter 63 of title 31, United States Code, enter into a contract, cooperative agreement, memorandum of understanding, or other agreement.

(b) TORT CLAIMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary may pay a tort claim, in the manner authorized by the first paragraph of section 2672 of title 28, United States Code, if the claim arises outside the United States in connection with an activity authorized under this subtitle.

(2) REQUIREMENTS.—A claim may not be allowed under this subsection unless the claim is presented in writing to the Secretary not later than 2 years after the date on which the claim arises.

7 USC 8313.

SEC. 10414. PENALTIES.

(a) CRIMINAL PENALTIES.—

(1) OFFENSES.—

(A) IN GENERAL.—A person that knowingly violates this subtitle, or knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this subtitle shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

(B) DISTRIBUTION OR SALE.—A person that knowingly imports, enters, exports, or moves any animal or article, for distribution or sale, in violation of this subtitle, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

(2) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of this subtitle under paragraph (1), the person shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.

(b) CIVIL PENALTIES.—

(1) IN GENERAL.—Except as provided in section 10410(d), any person that violates this subtitle, or that forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided under this subtitle may, after notice and opportunity for a hearing on the record, be assessed a civil penalty by the Secretary that does not exceed the greater of—

(A)(i) \$50,000 in the case of any individual, except that the civil penalty may not exceed \$1,000 in the case of an initial violation of this subtitle by an individual moving regulated articles not for monetary gain;

(ii) \$250,000 in the case of any other person for each violation; and

(iii) \$500,000 for all violations adjudicated in a single proceeding; or

(B) twice the gross gain or gross loss for any violation or forgery, counterfeiting, or unauthorized use, alteration, defacing or destruction of a certificate, permit, or other document provided under this subtitle that results in the person's deriving pecuniary gain or causing pecuniary loss to another person.

(2) FACTORS IN DETERMINING CIVIL PENALTY.—In determining the amount of a civil penalty, the Secretary shall take

into account the nature, circumstance, extent, and gravity of the violation or violations and the Secretary may consider, with respect to the violator—

- (A) the ability to pay;
- (B) the effect on ability to continue to do business;
- (C) any history of prior violations;
- (D) the degree of culpability; and
- (E) such other factors as the Secretary considers to be appropriate.

(3) SETTLEMENT OF CIVIL PENALTIES.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that may be assessed under this subsection.

(4) FINALITY OF ORDERS.—

(A) FINAL ORDER.—The order of the Secretary assessing a civil penalty shall be treated as a final order reviewable under chapter 158 of title 28, United States Code.

(B) REVIEW.—The validity of the order of the Secretary may not be reviewed in an action to collect the civil penalty.

(C) INTEREST.—Any civil penalty not paid in full when due under an order assessing the civil penalty shall thereafter accrue interest until paid at the rate of interest applicable to civil judgments of the courts of the United States.

(c) LIABILITY FOR ACTS OF AGENTS.—In the construction and enforcement of this subtitle, the act, omission, or failure of any officer, agent, or person acting for or employed by any other person within the scope of the employment or office of the officer, agent, or person, shall be deemed also to be the act, omission, or failure of the other person.

(d) GUIDELINES FOR CIVIL PENALTIES.—Subject to the approval of the Attorney General, the Secretary shall establish guidelines to determine under what circumstances the Secretary may issue a civil penalty or suitable notice of warning in lieu of prosecution by the Attorney General of a violation of this subtitle.

SEC. 10415. ENFORCEMENT.

7 USC 8314.

(a) COLLECTION OF INFORMATION.—

(1) IN GENERAL.—The Secretary may gather and compile information and conduct any inspection or investigation that the Secretary considers to be necessary for the administration or enforcement of this subtitle.

(2) SUBPOENAS.—

(A) IN GENERAL.—The Secretary shall have power to issue a subpoena to compel the attendance and testimony of any witness and the production of any documentary evidence relating to the administration or enforcement of this subtitle or any matter under investigation in connection with this subtitle.

(B) LOCATION OF PRODUCTION.—The attendance of any witness and production of documentary evidence relevant to the inquiry may be required from any place in the United States.

(C) ENFORCEMENT.—

(i) IN GENERAL.—In case of disobedience to a subpoena by any person, the Secretary may request the Attorney General to invoke the aid of any court of the United States within the jurisdiction in which the

investigation is conducted, or where the person resides, is found, transacts business, is licensed to do business, or is incorporated, to require the attendance and testimony of any witness and the production of documentary evidence.

(ii) NONCOMPLIANCE.—In case of a refusal to obey a subpoena issued to any person, a court may order the person to appear before the Secretary and give evidence concerning the matter in question or to produce documentary evidence.

(iii) CONTEMPT.—Any failure to obey the order of the court may be punished by the court as contempt of the court.

(D) COMPENSATION.—

(i) WITNESSES.—A witness summoned by the Secretary under this subtitle shall be paid the same fees and mileage that are paid to a witness in a court of the United States.

(ii) DEPOSITIONS.—A witness whose deposition is taken, and the person taking the deposition, shall be entitled to the same fees that are paid for similar services in a court of the United States.

(E) PROCEDURES.—

(i) PUBLICATION.—The Secretary shall publish procedures for the issuance of subpoenas under this section.

(ii) REVIEW.—The procedures shall include a requirement that subpoenas be reviewed for legal sufficiency and, to be effective, be signed by the Secretary.

(iii) DELEGATION.—If the authority to sign a subpoena is delegated to an agency other than the Office of Administrative Law Judges, the agency receiving the delegation shall seek review of the subpoena for legal sufficiency outside that agency.

(b) AUTHORITY OF ATTORNEY GENERAL.—The Attorney General may—

(1) prosecute, in the name of the United States, all criminal violations of this subtitle that are referred to the Attorney General by the Secretary or are brought to the notice of the Attorney General by any person;

(2) bring an action to enjoin the violation of or to compel compliance with this subtitle, or to enjoin any interference by any person with the Secretary in carrying out this subtitle, in any case in which the Secretary has reason to believe that the person has violated, or is about to violate this subtitle or has interfered, or is about to interfere, with the actions of the Secretary; or

(3) bring an action for the recovery of any unpaid civil penalty, funds under a reimbursable agreement, late payment penalty, or interest assessed under this subtitle.

(c) COURT JURISDICTION.—

(1) IN GENERAL.—The United States district courts, the District Court of Guam, the District Court of the Northern Mariana Islands, the District Court of the Virgin Islands, the highest court of American Samoa, and the United States courts of the other territories and possessions are vested with jurisdiction in all cases arising under this subtitle.

(2) **VENUE.**—Any action arising under this subtitle may be brought, and process may be served, in the judicial district where a violation or interference occurred or is about to occur, or where the person charged with the violation, interference, impending violation, impending interference, or failure to pay resides, is found, transacts business, is licensed to do business, or is incorporated.

(3) **EXCEPTION.**—Paragraphs (1) and (2) do not apply to sections 10410(c) and 10414(b).

SEC. 10416. REGULATIONS AND ORDERS.

7 USC 8315.

The Secretary may promulgate such regulations, and issue such orders, as the Secretary determines necessary to carry out this subtitle.

SEC. 10417. AUTHORIZATION OF APPROPRIATIONS.

7 USC 8316.

(a) **IN GENERAL.**—There are authorized to be appropriated such sums as are necessary to carry out this subtitle.

(b) **TRANSFER OF FUNDS.**—

(1) **IN GENERAL.**—In connection with an emergency under which a pest or disease of livestock threatens any segment of agricultural production in the United States, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department of Agriculture such funds as the Secretary determines are necessary for the arrest, control, eradication, or prevention of the spread of the pest or disease of livestock and for related expenses.

(2) **AVAILABILITY.**—Any funds transferred under this subsection shall remain available until expended, without fiscal year limitation.

(3) **REVIEWABILITY.**—The action of any officer, employee, or agent of the Secretary in carrying out this section (including determining the amount of and making any payment authorized to be made under this subtitle) shall not be subject to review of longer than 60 days by any officer or employee of the Federal Government other than the Secretary or the designee of the Secretary.

(c) **USE OF FUNDS.**—In carrying out this subtitle, the Secretary may use funds made available to carry out this subtitle for—

(1) the employment of civilian nationals in foreign countries; and

(2) the construction and operation of research laboratories, quarantine stations, and other buildings and facilities for special purposes.

SEC. 10418. REPEALS AND CONFORMING AMENDMENTS.

(a) **REPEALS.**—The following provisions of law are repealed:

(1) Public Law 97–46 (7 U.S.C. 147b).

21 USC 129a
and note.

(2) Section 101(b) of the Act of September 21, 1944 (7 U.S.C. 429).

(3) The Act of August 28, 1950 (7 U.S.C. 2260).

(4) Section 919 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2260a).

(5) Section 306 of the Tariff Act of 1930 (19 U.S.C. 1306).

(6) Sections 6 through 8 and 10 of the Act of August 30, 1890 (21 U.S.C. 102 through 105).

(7) The Act of February 2, 1903 (21 U.S.C. 111, 120 through 122).

21 USC 111–113,
120–122.

(8) Sections 2 through 9, 11, and 13 of the Act of May 29, 1884 (21 U.S.C. 112, 113, 114, 114a, 114a-1, 115 through 120, 130).

(9) The first section and sections 2, 3, and 5 of the Act of February 28, 1947 (21 U.S.C. 114b, 114c, 114d, 114d-1).

(10) The Act of June 16, 1948 (21 U.S.C. 114e, 114f).

(11) Public Law 87-209 (21 U.S.C. 114g, 114h).

(12) The third and fourth provisos of the fourth paragraph under the heading “BUREAU OF ANIMAL INDUSTRY” of the Act of May 31, 1920 (21 U.S.C. 116).

(13) The first section and sections 2, 3, 4, and 6 of the Act of March 3, 1905 (21 U.S.C. 123 through 127).

(14) The first proviso under the heading “GENERAL EXPENSES, BUREAU OF ANIMAL INDUSTRY” under the heading “BUREAU OF ANIMAL INDUSTRY” of the Act of June 30, 1914 (21 U.S.C. 128).

(15) The fourth proviso under the heading “SALARIES AND EXPENSES” under the heading “ANIMAL AND PLANT HEALTH INSPECTION SERVICE” of title I of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (21 U.S.C. 129).

(16) The third paragraph under the heading “MISCELLANEOUS” of the Act of May 26, 1910 (21 U.S.C. 131).

(17) The first section and sections 2 through 6 and 11 through 13 of Public Law 87-518 (21 U.S.C. 134 through 134h).

(18) Public Law 91-239 (21 U.S.C. 135 through 135b).

(19) Sections 12 through 14 of the Federal Meat Inspection Act (21 U.S.C. 612 through 614).

(20) Chapter 39 of title 46, United States Code.

(b) CONFORMING AMENDMENTS.—

(1) Section 414(b) of the Plant Protection Act (7 U.S.C. 7714(b)) is amended—

(A) in paragraph (1), by striking “, or the owner’s agent,”; and

(B) in paragraph (2), by striking “or agent of the owner” each place it appears.

(2) Section 423 of the Plant Protection Act (7 U.S.C. 7733) is amended—

(A) by striking subsection (b) and inserting the following:

“(b) LOCATION OF PRODUCTION.—The attendance of any witness and production of documentary evidence relevant to the inquiry may be required from any place in the United States.”;

(B) in the third sentence of subsection (e), by inserting “to an agency other than the Office of Administrative Law Judges” after “is delegated”; and

(C) by striking subsection (f).

(3) Section 11(h) of the Endangered Species Act of 1973 (16 U.S.C. 1540(h)) is amended in the first sentence by striking “animal quarantine laws (21 U.S.C. 101-105, 111-135b, and 612-614)” and inserting “animal quarantine laws (as defined in section 2509(f) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a(f))”.

(4) Section 18 of the Federal Meat Inspection Act (21 U.S.C. 618) is amended by striking “of the cattle” and all that follows through “as herein described” and inserting “of the carcasses

and products of cattle, sheep, swine, goats, horses, mules, and other equines”.

(5) Section 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a) is amended—

(A) in subsection (c), by inserting after paragraph (1) the following:

“(2) VETERINARY DIAGNOSTICS.—The Secretary may prescribe and collect fees to recover the costs of carrying out the provisions of the Animal Health Protection Act that relate to veterinary diagnostics.”; and

(B) in subsection (f)(1), by striking subparagraphs (B) through (O) and inserting the following:

“(B) section 9 of the Act of August 30, 1890 (21 U.S.C. 101);

“(C) the Animal Health Protection Act; or

“(D) any other Act administered by the Secretary relating to plant or animal diseases or pests.”.

(c) EFFECT ON REGULATIONS.—A regulation issued under a provision of law repealed by subsection (a) shall remain in effect until the Secretary issues a regulation under section 10404(b) or 10416 that supersedes the earlier regulation. 7 USC 8317.

Subtitle F—Livestock

SEC. 10501. TRANSPORTATION OF POULTRY AND OTHER ANIMALS.

Section 5402(d)(2) of title 39, United States Code, is amended—

(1) in subparagraph (A), by inserting “, honeybees,” after “poultry”; and

(2) by striking subparagraph (C).

SEC. 10502. SWINE CONTRACTORS.

(a) DEFINITIONS.—Section 2(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 182(a)), is amended by adding at the end the following:

“(12) SWINE CONTRACTOR.—The term ‘swine contractor’ means any person engaged in the business of obtaining swine under a swine production contract for the purpose of slaughtering the swine or selling the swine for slaughter, if—

“(A) the swine is obtained by the person in commerce;

or

“(B) the swine (including products from the swine) obtained by the person is sold or shipped in commerce.

“(13) SWINE PRODUCTION CONTRACT.—The term ‘swine production contract’ means any growout contract or other arrangement under which a swine production contract grower raises and cares for the swine in accordance with the instructions of another person.

“(14) SWINE PRODUCTION CONTRACT GROWER.—The term ‘swine production contract grower’ means any person engaged in the business of raising and caring for swine in accordance with the instructions of another person.”.

(b) SWINE CONTRACTORS.—

(1) IN GENERAL.—The Packers and Stockyards Act, 1921, is amended by striking “packer” each place it appears in sections 202, 203, 204, and 205 (7 U.S.C. 192, 193, 194, 195)

(other than section 202(c)) and inserting “packer or swine contractor”.

(2) CONFORMING AMENDMENTS.—

(A) Section 202(c) of the Packers and Stockyards Act, 1921 (7 U.S.C. 192(c)), is amended by inserting “, swine contractor,” after “other packer” each place it appears.

(B) Section 308(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 209(a)), is amended by inserting “or swine production contract” after “poultry growing arrangement”.

(C) Sections 401 and 403 of the Packers and Stockyards Act, 1921 (7 U.S.C. 221, 223), are amended by inserting “any swine contractor, and” after “packer,” each place it appears.

7 USC 229b.

SEC. 10503. RIGHT TO DISCUSS TERMS OF CONTRACT.

(a) DEFINITIONS.—In this section:

(1) PRODUCER.—The term “producer” means any person engaged in the raising and caring for livestock or poultry for slaughter.

(2) PROCESSOR.—The term “processor” means any person engaged in the business of obtaining livestock or poultry for the purpose of slaughtering the livestock or poultry.

(b) NO PROHIBITION OF DISCUSSION.—Notwithstanding a provision in any contract between a producer and a processor for the production of livestock or poultry, or in any marketing agreement between a producer and a processor for the sale of livestock or poultry for a term of 1 year or more, that provides that information contained in the contract is confidential, a party to the contract shall not be prohibited from discussing any terms or details of the contract with—

- (1) a Federal or State agency;
- (2) a legal adviser to the party;
- (3) a lender to the party;
- (4) an accountant hired by the party;
- (5) an executive or manager of the party;
- (6) a landlord of the party; or
- (7) a member of the immediate family of the party.

(c) EFFECT ON STATE LAWS.—Subsection (b) does not—

(1) preempt any State law that addresses confidentiality provisions in contracts for the sale or production of livestock or poultry, except any provision of State law that makes lawful a contract provision that prohibits a party from, or limits a party in, engaging in discussion that subsection (b) requires to be permitted; or

(2) deprive any State court of jurisdiction under any such State law.

(d) APPLICABILITY.—This section applies to each contract described in subsection (b) that is entered into, amended, renewed, or extended after the date of enactment of this Act.

7 USC 8318.

SEC. 10504. VETERINARY TRAINING.

The Secretary of Agriculture may develop a program to maintain in all regions of the United States a sufficient number of Federal and State veterinarians who are well trained in recognition and diagnosis of exotic and endemic animal diseases.

SEC. 10505. PSEUDORABIES ERADICATION PROGRAM.

Section 2506(d) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 114i(d)) is amended by striking “2002” and inserting “2007”.

Subtitle G—Specialty Crops

SEC. 10601. MARKETING ORDERS FOR CANEBERRIES.

(a) **IN GENERAL.**—Section 8c of the Agricultural Adjustment Act (7 U.S.C. 608c), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) in subsection (2)(A), by inserting “canberries (including raspberries, blackberries, and loganberries),” after “other than pears, olives, grapefruit, cherries,”; and

(2) in subsection (6)(I), by striking “tomatoes,” and inserting “tomatoes, canberries (including raspberries, blackberries, and loganberries).”

(b) **CONFORMING AMENDMENT.**—Section 8e(a) of the Agricultural Adjustment Act (7 U.S.C. 608e–1(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the first sentence by striking “or apples” and inserting “apples, or canberries (including raspberries, blackberries, and loganberries)”.

SEC. 10602. AVAILABILITY OF SECTION 32 FUNDS.

The second undesignated paragraph of section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), is amended by striking “\$300,000,000” and inserting “\$500,000,000”.

SEC. 10603. PURCHASE OF SPECIALTY CROPS.

7 USC 612c–4.

(a) **GENERAL PURCHASE AUTHORITY.**—Of the funds made available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), for fiscal year 2002 and each subsequent fiscal year, the Secretary of Agriculture shall use not less than \$200,000,000 each fiscal year to purchase fruits, vegetables, and other specialty food crops.

(b) **PURCHASE AUTHORITY.**—

(1) **PURCHASE.**—Of the amount specified in subsection (a), the Secretary of Agriculture shall use not less than \$50,000,000 each fiscal year for the purchase of fresh fruits and vegetables for distribution to schools and service institutions in accordance with section 6(a) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1755(a)).

(2) **SERVICING AGENCY.**—The Secretary of Agriculture shall provide for the Secretary of Defense to serve as the servicing agency for the procurement of the fresh fruits and vegetables under this subsection on the same terms and conditions as provided in the memorandum of agreement entered into between the Agricultural Marketing Service, the Food and Consumer Service, and the Defense Personnel Support Center during August 1995 (or any successor memorandum of agreement).

(c) **DEFINITIONS.**—In this section, the terms “fruits”, “vegetables”, and “other specialty food crops” shall have the meaning given the terms by the Secretary of Agriculture.

SEC. 10604. PROTECTION FOR PURCHASERS OF FARM PRODUCTS.

(a) **DEFINITION OF EFFECTIVE FINANCING STATEMENT.**—Section 1324(c)(4) of the Food Security Act of 1985 (7 U.S.C. 1631(c)(4)) is amended—

(1) in subparagraph (B), by striking “signed” and inserting “signed, authorized, or otherwise authenticated by the debtor,”;

(2) by striking subparagraph (C);

(3) in subparagraph (D)—

(A) in clause (iii), by adding “and” after the semicolon at the end; and

(B) in clause (iv), by striking “applicable,” and all that follows and inserting “applicable, and the name of each county or parish in which the farm products are produced or located,”;

(4) in subparagraph (E), by striking “signed” and inserting “signed, authorized, or otherwise authenticated by the debtor,”;

(5) in subparagraph (G), by striking “notice signed” and inserting “notice signed, authorized, or otherwise authenticated,”; and

(6) by redesignating subparagraphs (D) through (I) as subparagraphs (C) through (H), respectively.

(b) **PURCHASES SUBJECT TO SECURITY INTERESTS.**—Section 1324(e) of the Food Security Act of 1985 (7 U.S.C. 1631(e)) is amended—

(1) in paragraph (1)(A)(ii)—

(A) in subclause (III), by adding “and” after the semicolon at the end; and

(B) in subclause (IV), by striking “crop year,” and all that follows and inserting “crop year, and the name of each county or parish in which the farm products are produced or located,”;

(2) in paragraph (1)(A)(iii), by striking “similarly signed” and inserting “similarly signed, authorized, or otherwise authenticated,”;

(3) in paragraph (1)(A)(iv), by striking “notice signed” and inserting “notice signed, authorized, or otherwise authenticated,”;

(4) in paragraph (1)(A)(v), by inserting “contains” before “any payment”; and

(5) in paragraph (3)—

(A) in subparagraph (A), by striking “subparagraph” and inserting “subsection”; and

(B) in subparagraph (B), by striking “; and” and inserting a period.

(c) **CERTAIN SALES SUBJECT TO SECURITY INTEREST.**—Section 1324(g)(2)(A) of the Food Security Act of 1985 (7 U.S.C. 1631(g)(2)(A)) is amended—

(1) in clause (ii)—

(A) in subclause (III), by adding “and” after the semicolon at the end; and

(B) in subclause (IV), by striking “crop year,” and all that follows and inserting “crop year, and the name of each county or parish in which the farm products are produced or located,”;

(2) in clause (iii), by striking “similarly signed” and inserting “similarly signed, authorized, or otherwise authenticated,”;

(3) in clause (iv), by striking “notice signed” and inserting “notice signed, authorized, or otherwise authenticated”; and
(4) in clause (v), by inserting “contains” before “any payment”.

SEC. 10605. FARMERS’ MARKET PROMOTION PROGRAM.

(a) IN GENERAL.—The Farmer-to-Consumer Direct Marketing Act of 1976 is amended by inserting after section 5 (7 U.S.C. 3004) the following:

“SEC. 6. FARMERS’ MARKET PROMOTION PROGRAM.

7 USC 3005.

“(a) ESTABLISHMENT.—The Secretary shall carry out a program, to be known as the ‘Farmers’ Market Promotion Program’ (referred to in this section as the ‘Program’), to make grants to eligible entities for projects to establish, expand, and promote farmers’ markets.

“(b) PROGRAM PURPOSES.—

“(1) IN GENERAL.—The purposes of the Program are—

“(A) to increase domestic consumption of agricultural commodities by improving and expanding, or assisting in the improvement and expansion of, domestic farmers’ markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer market opportunities; and

“(B) to develop, or aid in the development of, new farmers’ markets, roadside stands, community-supported agriculture programs, and other direct producer-to-consumer infrastructure.

“(2) LIMITATIONS.—An eligible entity may not use a grant or other assistance provided under the Program for the purchase, construction, or rehabilitation of a building or structure.

“(c) ELIGIBLE ENTITIES.—An entity shall be eligible to receive a grant under the Program if the entity is—

“(1) an agricultural cooperative;

“(2) a local government;

“(3) a nonprofit corporation;

“(4) a public benefit corporation;

“(5) an economic development corporation;

“(6) a regional farmers’ market authority; or

“(7) such other entity as the Secretary may designate.

“(d) CRITERIA AND GUIDELINES.—The Secretary shall establish criteria and guidelines for the submission, evaluation, and funding of proposed projects under the Program.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) SURVEY.—Section 4 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3003) is amended—

(A) in the first sentence, by striking “a continuing” and inserting “an annual”; and

(B) by striking the second sentence.

(2) DIRECT MARKETING ASSISTANCE.—Section 5 of the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3004) is amended—

(A) in subsection (a)—

(i) in the first sentence, by striking “Extension Service of the United States Department of Agriculture” and inserting “Secretary”; and

(ii) in the second sentence—

(I) by striking “Extension Service” and inserting “Secretary”; and

(II) by striking “and on the basis of which of these two agencies, or combination thereof, can best perform these activities” and inserting “, as determined by the Secretary”;

(B) by redesignating subsection (b) as subsection (c);

and

(C) by inserting after subsection (a) the following:

“(b) DEVELOPMENT OF FARMERS’ MARKETS.—The Secretary shall—

“(1) work with the Governor of a State, and a State agency designated by the Governor, to develop programs to train managers of farmers’ markets;

“(2) develop opportunities to share information among managers of farmers’ markets;

“(3) establish a program to train cooperative extension service employees in the development of direct marketing techniques; and

“(4) work with producers to develop farmers’ markets.”.

7 USC 6523.

SEC. 10606. NATIONAL ORGANIC CERTIFICATION COST-SHARE PROGRAM.

(a) IN GENERAL.—Of funds of the Commodity Credit Corporation, the Secretary of Agriculture (acting through the Agricultural Marketing Service) shall use \$5,000,000 for fiscal year 2002, to remain available until expended, to establish a national organic certification cost-share program to assist producers and handlers of agricultural products in obtaining certification under the national organic production program established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

(b) FEDERAL SHARE.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall pay under this section not more than 75 percent of the costs incurred by a producer or handler in obtaining certification under the national organic production program, as certified to and approved by the Secretary.

(2) MAXIMUM AMOUNT.—The maximum amount of a payment made to a producer or handler under this section shall be \$500.

SEC. 10607. EXEMPTION OF CERTIFIED ORGANIC PRODUCTS FROM ASSESSMENTS.

(a) IN GENERAL.—Section 501 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401) is amended by adding at the end the following:

“(e) EXEMPTION OF CERTIFIED ORGANIC PRODUCTS FROM ASSESSMENTS.—

“(1) IN GENERAL.—Notwithstanding any provision of a commodity promotion law, a person that produces and markets solely 100 percent organic products, and that does not produce any conventional or nonorganic products, shall be exempt from the payment of an assessment under a commodity promotion law with respect to any agricultural commodity that is produced

on a certified organic farm (as defined in section 2103 of the Organic Foods Production Act of 1990 (7 U.S.C. 6502)).

“(2) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall promulgate regulations concerning eligibility and compliance for an exemption under paragraph (1).” Deadline.

(b) TECHNICAL AMENDMENTS.—Section 501(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7401(a)) is amended—

- (1) in paragraph (17), by striking “or”;
- (2) in paragraph (18), by striking the period and inserting “; or”; and
- (3) by adding at the end the following:

“(19) any other provision of law enacted after April 4, 1996, that provides for the establishment and operation of a promotion program described in the first sentence.”.

SEC. 10608. CRANBERRY ACREAGE RESERVE PROGRAM.

16 USC 3801
note.

(a) DEFINITIONS.—In this section:

(1) ELIGIBLE AREA.—The term “eligible area” means a wetland or buffer strip adjacent to a wetland that, as determined by the Secretary—

(A)(i) is used, and has a history of being used, for the cultivation of cranberries; or

(ii) is an integral component of a cranberry-growing operation;

(B) is located in an environmentally sensitive area.

(2) SECRETARY.—The term “Secretary” means the Secretary of Agriculture.

(b) PROGRAM.—The Secretary shall establish a program to purchase permanent easements in eligible areas from willing sellers.

(c) PURCHASE PRICE.—The Secretary shall ensure, to the maximum extent practicable, that each easement purchased under this section is for an amount that appropriately reflects the range of values for agricultural and nonagricultural land in the region in which the eligible area subject to the easement is located (including whether that land is located in 1 or more environmentally sensitive areas, as determined by the Secretary).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$10,000,000.

Subtitle H—Administration

SEC. 10701. INITIAL RATE OF BASIC PAY FOR EMPLOYEES OF COUNTY COMMITTEES.

Section 5334 of title 5, United States Code, is amended by striking subsection (e) and inserting the following:

“(e) An employee of a county committee established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) may, on appointment to a position subject to this subchapter, have the initial rate of basic pay of the employee fixed at—

- “(1) the lowest rate of the higher grade that exceeds the rate of basic pay of the employee with the county committee by not less than 2 step-increases of the grade from which the employee was promoted, if the Federal Civil Service position

under this subchapter is at a higher grade than the last grade the employee had while an employee of the county committee;

“(2) the same step of the grade as the employee last held during service with the county committee, if the Federal Civil Service position under this subchapter is at the same grade as the last grade the employee had while an employee of the county committee; or

“(3) the lowest step of the Federal grade for which the rate of basic pay is equal to or greater than the highest previous rate of pay of the employee, if the Federal Civil Service position under this subchapter is at a lower grade than the last grade the employee had while an employee of the county committee.”.

SEC. 10702. COMMODITY FUTURES TRADING COMMISSION PAY COMPARABILITY.

(a) APPOINTMENT AND COMPENSATION OF EMPLOYEES OF THE COMMISSION.—Section 2(a) of the Commodity Exchange Act (7 U.S.C. 2(a)) is amended—

(1) by redesignating paragraphs (7) through (11) as paragraphs (8) through (12), respectively; and

(2) by inserting after paragraph (6) the following:

“(7) APPOINTMENT AND COMPENSATION.—

“(A) IN GENERAL.—The Commission may appoint and fix the compensation of such officers, attorneys, economists, examiners, and other employees as may be necessary for carrying out the functions of the Commission under this Act.

“(B) RATES OF PAY.—Rates of basic pay for all employees of the Commission may be set and adjusted by the Commission without regard to chapter 51 or subchapter III of chapter 53 of title 5, United States Code.

“(C) COMPARABILITY.—

“(i) IN GENERAL.—The Commission may provide additional compensation and benefits to employees of the Commission if the same type of compensation or benefits are provided by any agency referred to in section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)) or could be provided by such an agency under applicable provisions of law (including rules and regulations).

“(ii) CONSULTATION.—In setting and adjusting the total amount of compensation and benefits for employees, the Commission shall consult with, and seek to maintain comparability with, the agencies referred to in section 1206(a) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b(a)).”.

(b) REPORTING OF INFORMATION BY THE COMMISSION.—Section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b) is amended—

(1) by striking “The Federal” and inserting the following:

“(a) IN GENERAL.—The Federal”; and

(2) by adding at the end the following:

“(b) COMMODITY FUTURES TRADING COMMISSION.—In establishing and adjusting schedules of compensation and benefits for

employees of the Commodity Futures Trading Commission under applicable provisions of law, the Commission shall—

“(1) inform the heads of the agencies referred to in subsection (a) and Congress of such compensation and benefits; and

“(2) seek to maintain comparability with those agencies regarding compensation and benefits.”.

(c) CONFORMING AMENDMENTS.—

(1) Section 3132(a)(1) of title 5, United States Code, is amended—

(A) in subparagraph (C), by striking “or” at the end;

(B) in subparagraph (D), by adding “or” at the end;

and

(C) by adding at the end the following:

“(E) the Commodity Futures Trading Commission;”.

(2) Section 5316 of title 5, United States Code, is amended—

(A) by striking “General Counsel, Commodity Futures Trading Commission.”; and

(B) by striking “Executive Director, Commodity Futures Trading Commission.”.

(3) Section 5373(a) of title 5, United States Code, is amended—

(A) in paragraph (2), by striking “or” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following:

“(4) section 2(a)(7) of the Commodity Exchange Act (7 U.S.C. 2(a)(7)).”.

SEC. 10703. OVERTIME AND HOLIDAY PAY.

7 USC 2219a.

(a) IN GENERAL.—The Secretary of Agriculture may—

(1) pay employees of the Department of Agriculture employed in an establishment subject to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) or the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) for all overtime and holiday work performed at the establishment at rates determined by the Secretary, subject to applicable law relating to minimum wages and maximum hours; and

(2) accept from the establishment reimbursement for any sums paid by the Secretary for the overtime and holiday work, at rates determined under paragraph (1).

(b) AVAILABILITY.—Sums received by the Secretary under this section shall remain available until expended without further appropriation and without fiscal year limitation, to carry out subsection (a).

(c) CONFORMING AMENDMENTS.—

(1) Section 25 of the Poultry Products Inspection Act (21 U.S.C. 468) is amended by striking “except that the cost” and all that follows and inserting “except the cost of overtime and holiday pay paid pursuant to the section 10703 of the Farm Security and Rural Investment Act of 2002.”.

(2) The Act of June 5, 1948 (21 U.S.C. 695), is amended by striking “overtime” and all that follows and inserting “overtime and holiday pay paid pursuant to section 10703 of the Farm Security and Rural Investment Act of 2002.”.

7 USC 394.

(3) The matter under the heading “BUREAU OF ANIMAL INDUSTRY” of the Act of July 24, 1919, is amended by striking the next to the last paragraph (7 U.S.C. 394).

(4) Section 5549 of title 5, United States Code is amended by striking paragraph (1) and inserting the following:

“(1) section 10703 of the Farm Security and Rural Investment Act of 2002;”.

SEC. 10704. ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.

(a) IN GENERAL.—Section 218 of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 6918) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “and” at the end;

(B) in paragraph (2), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(3) Assistant Secretary of Agriculture for Civil Rights.”;

and

(2) by striking subsections (d) and (e) and inserting the following:

“(d) DUTIES OF ASSISTANT SECRETARY OF AGRICULTURE FOR CIVIL RIGHTS.—The Secretary may delegate to the Assistant Secretary for Civil Rights responsibility for—

“(1) ensuring compliance with all civil rights and related laws by all agencies and under all programs of the Department;

“(2) coordinating administration of civil rights laws (including regulations) within the Department for employees of, and participants in, programs of the Department; and

“(3) ensuring that necessary and appropriate civil rights components are properly incorporated into all strategic planning initiatives of the Department and agencies of the Department.”.

(b) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of Agriculture (2)” and inserting “Assistant Secretaries of Agriculture (3)”.

(c) CONFORMING AMENDMENTS.—Section 296(b) of the Department of Agriculture Reorganization Act of 1994 (7 U.S.C. 7014(b)) is amended—

(1) in paragraph (3), by striking “or” at the end;

(2) in paragraph (4), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(5) the authority of the Secretary to establish within the Department the position of Assistant Secretary of Agriculture for Civil Rights, and delegate duties to the Assistant Secretary, under section 218.”.

SEC. 10705. OPERATION OF GRADUATE SCHOOL OF DEPARTMENT OF AGRICULTURE.

(a) AUDITS OF RECORDS.—Section 921 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 2279b) is amended by adding at the end the following:

“(k) AUDITS OF RECORDS.—The financial records of the Graduate School (including records relating to contracts or agreements entered into under subsection (c)) shall be made available to the Comptroller General for purposes of conducting an audit.”.

(b) CONFORMING REPEAL.—Section 1669 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5922) is repealed.

(c) EFFECTIVE DATE.—The amendments made by this section take effect on October 1, 2002. 7 USC 2279b note.

SEC. 10706. IMPLEMENTATION FUNDING AND INFORMATION MANAGEMENT. 7 USC 8002.

(a) ADDITIONAL FUNDS FOR ADMINISTRATIVE COSTS.—

(1) IN GENERAL.—The Secretary of Agriculture, acting through the Farm Service Agency, may use not more than \$55,000,000 of funds of the Commodity Credit Corporation to cover administrative costs associated with the implementation of title I and the amendments made by that title.

(2) AVAILABILITY.—The funds referred to in paragraph (1) shall remain available to the Secretary until expended.

(3) SET-ASIDE.—Of the amount specified in paragraph (1), the Secretary shall use not less than \$5,000,000, but not more than \$8,000,000, to carry out subsection (b).

(b) INFORMATION MANAGEMENT.—

(1) DEVELOPMENT OF SYSTEM.—The Secretary of Agriculture shall develop a comprehensive information management system, using appropriate technologies, to be used in implementing the programs administered by the Federal Crop Insurance Corporation and the Farm Service Agency.

(2) ELEMENTS.—The information management system developed under this subsection shall be designed to—

(A) improve access by agricultural producers to programs described in paragraph (1);

(B) improve and protect the integrity of the information collected;

(C) meet the needs of the agencies that require the data in the administration of their programs;

(D) improve the timeliness of the collection of the information;

(E) contribute to the elimination of duplication of information collection;

(F) lower the overall cost to the Department of Agriculture for information collection; and

(G) achieve such other goals as the Secretary considers appropriate.

(3) RECONCILIATION OF CURRENT INFORMATION MANAGEMENT.—The Secretary shall ensure that all current information of the Federal Crop Insurance Corporation and the Farm Service Agency is combined, reconciled, redefined, and reformatted in such a manner so that the agencies can use the common information management system developed under this subsection.

(4) ASSISTANCE FOR DEVELOPMENT OF SYSTEM.—The Secretary shall enter into an agreement or contract with a non-Federal entity to assist the Secretary in the development of the information management system. The Secretary shall give preference in entering into an agreement or contract to entities that have—

(A) prior experience with the information and management systems of the Federal Crop Insurance Corporation; and

Contracts.

(B) collaborated with the Corporation in the development of the identification procedures required by section 515(f) of the Federal Crop Insurance Act (7 U.S.C. 1515(f)).

(5) USE.—The information collected using the information management system developed under this subsection may be made available to—

(A) any Federal agency that requires the information to carry out the functions of the agency; and

(B) any approved insurance provider, as defined in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)), with respect to producers insured by the approved insurance provider.

(6) RELATION TO OTHER ACTIVITIES.—This subsection shall not interfere with, or delay, existing agreements or requests for proposals of the Federal Crop Insurance Corporation or the Farm Service Agency regarding the information management activities known as data mining or data warehousing.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts made available under subsection (a)(3), there are authorized to be appropriated such sums as are necessary to carry out subsection (b) for each of fiscal years 2003 through 2008.

SEC. 10707. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

(a) DEFINITIONS.—Section 2501(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279(e)) is amended by adding at the end the following:

“(4) DEPARTMENT.—The term ‘Department’ means the Department of Agriculture.

“(5) ELIGIBLE ENTITY.—The term ‘eligible entity’ means any of the following:

“(A) Any community-based organization, network, or coalition of community-based organizations that—

“(i) has demonstrated experience in providing agricultural education or other agriculturally related services to socially disadvantaged farmers and ranchers;

“(ii) has provided to the Secretary documentary evidence of work with socially disadvantaged farmers and ranchers during the 2-year period preceding the submission of an application for assistance under subsection (a); and

“(iii) does not engage in activities prohibited under section 501(c)(3) of the Internal Revenue Code of 1986.

“(B) An 1890 institution or 1994 institution (as defined in section 2 of the Agricultural Research, Extension, and Education Reform Act of 1998 (7 U.S.C. 7601)), including West Virginia State College.

“(C) An Indian tribal community college or an Alaska Native cooperative college.

“(D) An Hispanic-serving institution (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103)).

“(E) Any other institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) that has demonstrated experience in providing agriculture education or other agriculturally

related services to socially disadvantaged farmers and ranchers in a region.

“(F) An Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)) or a national tribal organization that has demonstrated experience in providing agriculture education or other agriculturally related services to socially disadvantaged farmers and ranchers in a region.

“(G) An organization or institution that received funding under subsection (a) before January 1, 1996, but only with respect to projects that the Secretary considers are similar to projects previously carried out by the organization or institution under such subsection.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Agriculture.”

(b) OUTREACH AND ASSISTANCE.—Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended by striking subsection (a) and inserting the following:

“(a) OUTREACH AND ASSISTANCE.—

“(1) PROGRAM.—The Secretary of Agriculture shall carry out an outreach and technical assistance program to encourage and assist socially disadvantaged farmers and ranchers—

“(A) in owning and operating farms and ranches; and

“(B) in participating equitably in the full range of agricultural programs offered by the Department.

“(2) REQUIREMENTS.—The outreach and technical assistance program under paragraph (1) shall—

“(A) enhance coordination of the outreach, technical assistance, and education efforts authorized under various agriculture programs; and

“(B) include information on, and assistance with—

“(i) commodity, conservation, credit, rural, and business development programs;

“(ii) application and bidding procedures;

“(iii) farm and risk management;

“(iv) marketing; and

“(v) other activities essential to participation in agricultural and other programs of the Department.

“(3) GRANTS AND CONTRACTS.—

“(A) IN GENERAL.—The Secretary may make grants to, and enter into contracts and other agreements with, an eligible entity to provide information and technical assistance under this subsection.

“(B) RELATIONSHIP TO OTHER LAW.—The authority to carry out this section shall be in addition to any other authority provided in this or any other Act.

“(C) OTHER PROJECTS.—Notwithstanding paragraph (1), the Secretary may make grants to, and enter into contracts and other agreements with, an organization or institution that received funding under this section before January 1, 1996, to carry out a project that is similar to a project for which the organization or institution received such funding.

“(4) FUNDING.—

“(A) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this subsection \$25,000,000 for each of fiscal years 2002 through 2007.

“(B) INTERAGENCY FUNDING.—In addition to funds authorized to be appropriated under subparagraph (A), any agency of the Department may participate in any grant, contract, or agreement entered into under this subsection by contributing funds, if the agency determined that the objectives of the grant, contract, or agreement will further the authorized programs of the contributing agency.”.

(c) CONFORMING AMENDMENTS.—Section 2501 of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 2279) is amended—

(1) in subsection (d)(1), by striking “of Agriculture” after “Department”; and

(2) in subsection (g)(1), by striking “of Agriculture” after “Department”.

SEC. 10708. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS; PUBLIC DISCLOSURE REQUIREMENTS FOR COUNTY COMMITTEE ELECTIONS.

(a) TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.—The Food, Agriculture, Conservation, and Trade Act of 1990 is amended by inserting after section 2501 (7 U.S.C. 2279) the following:

7 USC 2279-1.

“SEC. 2501A. TRANSPARENCY AND ACCOUNTABILITY FOR SOCIALLY DISADVANTAGED FARMERS AND RANCHERS.

“(a) PURPOSE.—The purpose of this section is to ensure compilation and public disclosure of data to assess and hold the Department of Agriculture accountable for the nondiscriminatory participation of socially disadvantaged farmers and ranchers in programs of the Department.

“(b) DEFINITION OF SOCIALLY DISADVANTAGED FARMER OR RANCHER.—In this section, the term ‘socially disadvantaged farmer or rancher’ has the meaning given the term in section 355(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)).

“(c) COMPILATION OF PROGRAM PARTICIPATION DATA.—

“(1) ANNUAL REQUIREMENT.—For each county and State in the United States, the Secretary shall compute annually the participation rate of socially disadvantaged farmers and ranchers as a percentage of the total participation of all farmers and ranchers for each program of the Department of Agriculture established for farmers or ranchers.

“(2) REPORTING PARTICIPATION.—In reporting the rates of participation under paragraph (1), the Secretary shall report the participation rate of socially disadvantaged farmers and ranchers according to race, ethnicity, and gender.”.

(b) PUBLIC DISCLOSURE REQUIREMENTS FOR COUNTY COMMITTEE ELECTIONS.—Section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) is amended by striking subparagraph (B) and inserting the following:

“(B) ESTABLISHMENT AND ELECTIONS FOR COUNTY, AREA, OR LOCAL COMMITTEES.—

“(i) ESTABLISHMENT.—

“(I) IN GENERAL.—In each county or area in which activities are carried out under this section, the Secretary shall establish a county or area committee.

“(II) LOCAL ADMINISTRATIVE AREAS.—The Secretary may designate local administrative areas within a county or a larger area under the jurisdiction of a committee established under subclause (I).

“(ii) COMPOSITION OF COUNTY, AREA, OR LOCAL COMMITTEES.—A committee established under clause (i) shall consist of not fewer than 3 nor more than 5 members that—

“(I) are fairly representative of the agricultural producers within the area covered by the county, area, or local committee; and

“(II) are elected by the agricultural producers that participate or cooperate in programs administered within the area under the jurisdiction of the county, area, or local committee.

“(iii) ELECTIONS.—

“(I) IN GENERAL.—Subject to subclauses (II) through (V), the Secretary shall establish procedures for nominations and elections to county, area, or local committees.

“(II) NONDISCRIMINATION STATEMENT.—Each solicitation of nominations for, and notice of elections of, a county, area, or local committee shall include the nondiscrimination statement used by the Secretary.

“(III) NOMINATIONS.—

“(aa) ELIGIBILITY.—To be eligible for nomination and election to the applicable county, area, or local committee, as determined by the Secretary, an agricultural producer shall be located within the area under the jurisdiction of a county, area, or local committee, and participate or cooperate in programs administered within that area.

“(bb) OUTREACH.—In addition to such nominating procedures as the Secretary may prescribe, the Secretary shall solicit and accept nominations from organizations representing the interests of socially disadvantaged groups (as defined in section 355(e)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(e)(1))).

“(IV) OPENING OF BALLOTS.—

“(aa) PUBLIC NOTICE.—At least 10 days before the date on which ballots are to be opened and counted, a county, area, or local committee shall announce the date, time, and place at which election ballots will be opened and counted.

“(bb) OPENING OF BALLOTS.—Election ballots shall not be opened until the date and time announced under item (aa).

“(cc) OBSERVATION.—Any person may observe the opening and counting of the election ballots.

Deadline.

“(V) REPORT OF ELECTION.—Not later than 20 days after the date on which an election is held, a county, area, or local committee shall file an election report with the Secretary and the State office of the Farm Service Agency that includes—

“(aa) the number of eligible voters in the area covered by the county, area, or local committee;

“(bb) the number of ballots cast in the election by eligible voters (including the percentage of eligible voters that cast ballots);

“(cc) the number of ballots disqualified in the election;

“(dd) the percentage that the number of ballots disqualified is of the number of ballots received;

“(ee) the number of nominees for each seat up for election;

“(ff) the race, ethnicity, and gender of each nominee, as provided through the voluntary self-identification of each nominee; and

“(gg) the final election results (including the number of ballots received by each nominee).

Deadline.

“(VI) NATIONAL REPORT.—Not later than 90 days after the date on which the first election of a county, area, or local committee that occurs after the date of enactment of the Farm Security and Rural Investment Act of 2002 is held, the Secretary shall complete a report that consolidates all the election data reported to the Secretary under subclause (V).

“(VII) ELECTION REFORM.—

“(aa) ANALYSIS.—If determined necessary by the Secretary after analyzing the data contained in the report under subclause (VI), the Secretary shall promulgate and publish in the Federal Register proposed uniform guidelines for conducting elections for members and alternate members of county, area, and local committees not later than 1 year after the date of completion of the report.

“(bb) INCLUSION.—The procedures promulgated by the Secretary under item (aa) shall ensure fair representation of socially disadvantaged groups described in subclause (III)(bb) in an area covered by the county, area, or local committee, in cases in which those groups are underrepresented on the county, area, or local committee for that area.

“(cc) METHODS OF INCLUSION.—Notwithstanding clause (ii), the Secretary may ensure inclusion of socially disadvantaged farmers and ranchers through provisions allowing for appointment of 1 additional voting member to a county, area, or local committee or through other methods.

“(iv) TERM OF OFFICE.—The term of office for a member of a county, area, or local committee shall not exceed 3 years.

“(v) PUBLIC AVAILABILITY AND REPORT TO CONGRESS.—

“(I) PUBLIC DISCLOSURE.—The Secretary shall maintain and make readily available to the public, via website and otherwise in electronic and paper form, all data required to be collected and computed under section 2501A(c) of the Food, Agriculture, Conservation, and Trade Act of 1990 and clause (iii)(V) collected annually since the most recent Census of Agriculture.

Internet.

“(II) REPORT TO CONGRESS.—After each Census of Agriculture, the Secretary shall report to Congress the rate of loss or gain in participation by each socially disadvantaged group, by race, ethnicity, and gender, since the previous Census.”.

Subtitle I—General Provisions

SEC. 10801. COTTON CLASSIFICATION SERVICES.

(a) EXTENSION OF AUTHORITY TO PROVIDE SERVICES.—The first sentence of section 3a of the Act of March 3, 1927 (commonly known as the “Cotton Statistics and Estimates Act”; 7 U.S.C. 473a), is amended by striking “2002” and inserting “2007”.

(b) REPEAL OF OBSOLETE EFFECTIVE DATE PROVISIONS.—

(1) 1984 AMENDMENT.—The first section of Public Law 98-403 (98 Stat. 1479) is amended by striking “, effective for the period beginning October 1, 1984, and ending September 30, 1988,”.

7 USC 473a note.

(2) 1987 AMENDMENTS.—Section 2 of the Uniform Cotton Classing Fees Act of 1987 (Public Law 100-108; 101 Stat. 728) is amended by striking “Effective for the period beginning on the date of enactment of this Act and ending September 30, 1992, section” and inserting “Section”.

7 USC 473a note.

(3) 1991 AMENDMENTS.—Section 120 of the Food, Agriculture, Conservation, and Trade Act Amendments of 1991 (Public Law 102-237; 105 Stat. 1842) is amended by striking subsection (e).

7 USC 473a note.

SEC. 10802. PROGRAM OF PUBLIC EDUCATION REGARDING USE OF BIOTECHNOLOGY IN PRODUCING FOOD FOR HUMAN CONSUMPTION.

7 USC 5921a.

(a) PUBLIC INFORMATION CAMPAIGN.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall develop and implement a program to communicate with the public regarding the use of biotechnology in producing food for human consumption. The information provided under the program shall include the following:

Deadline.

(1) Science-based evidence on the safety of foods produced with biotechnology.

(2) Scientific data on the human outcomes of the use of biotechnology to produce food for human consumption.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section for each of fiscal years 2002 through 2007.

SEC. 10803. CHINO DAIRY PRESERVE PROJECT.

Notwithstanding any other provision of law, the Secretary of Agriculture, acting through the Natural Resources Conservation Service, may provide financial and technical assistance to the Chino Dairy Preserve Project, San Bernadino County, California.

SEC. 10804. GRAZINGLANDS RESEARCH LABORATORY.

Notwithstanding any other provision of law, before December 31, 2007, the Federal land and facilities at El Reno, Oklahoma, currently administered by the Secretary of Agriculture as the Grazinglands Research Laboratory shall not, without specific authorization by Congress—

(1) be declared to be excess or surplus under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); or

(2) be conveyed or otherwise transferred in whole or in part.

SEC. 10805. FOOD AND AGRICULTURAL POLICY RESEARCH INSTITUTE.

(a) **AUTHORITY.**—The Secretary of Agriculture may award grants to the Food and Agricultural Policy Research Institute for the purpose of funding prospective, independent research on the effects of alternative domestic, foreign, and trade policies, on the agricultural sector, including research on the effects of those policies on—

(1) commodity prices for—

(A) feed; and

(B) food grains, oilseeds, cotton, livestock, and products thereof;

(2) supply and demand conditions for similar products;

(3) costs to the Federal Government;

(4) farm income;

(5) food costs;

(6) the volume and value of trade in agricultural commodities; and

(7) exporter and importer supply, demand, and trade.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$6,000,000 for each of fiscal years 2003 through 2007.

21 USC 321d.

SEC. 10806. MARKET NAMES FOR CATFISH AND GINSENG.

(a) **CATFISH LABELING.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of law, for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)—

(A) the term “catfish” may only be considered to be a common or usual name (or part thereof) for fish classified within the family Ictaluridae; and

(B) only labeling or advertising for fish classified within that family may include the term “catfish”.

(2) **AMENDMENT.**—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

“(t) If it purports to be or is represented as catfish, unless it is fish classified within the family Ictaluridae.”.

(b) GINSENG LABELING.—

(1) IN GENERAL.—Notwithstanding any other provision of law, for purposes of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.)—

(A) the term “ginseng” may only be considered to be a common or usual name (or part thereof) for any herb or herbal ingredient derived from a plant classified within the genus *Panax*; and

(B) only labeling or advertising for herbs or herbal ingredients classified within that genus may include the term “ginseng”.

(2) AMENDMENT.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) (as amended by subsection (a)(2)) is amended by adding at the end the following:

“(u) If it purports to be or is represented as ginseng, unless it is an herb or herbal ingredient derived from a plant classified within the genus *Panax*.”.

SEC. 10807. FOOD SAFETY COMMISSION.

21 USC 341 note.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established a commission to be known as the “Food Safety Commission” (referred to in this section as the “Commission”).

(2) MEMBERSHIP.—

President.

(A) COMPOSITION.—The Commission shall be composed of 15 members (including a Chairperson, appointed by the President.

(B) ELIGIBILITY.—

(i) IN GENERAL.—Members of the Commission—

(I) shall have specialized training or significant experience in matters under the jurisdiction of the Commission; and

(II) shall represent, at a minimum—

- (aa) consumers;
- (bb) food scientists;
- (cc) the food industry; and
- (dd) health professionals.

(ii) FEDERAL EMPLOYEES.—Not more than 3 members of the Commission may be Federal employees.

(C) DATE OF APPOINTMENTS.—The appointment of the members of the Commission shall be made as soon as practicable after the date on which funds authorized to be appropriated under subsection (e)(1) are made available.

(D) VACANCIES.—A vacancy on the Commission—

(i) shall not affect the powers of the Commission; and

(ii) shall be filled—

(I) not later than 60 days after the date on which the vacancy occurs; and

(II) in the same manner as the original appointment was made.

(3) MEETINGS.—

Deadline.

(A) INITIAL MEETING.—The initial meeting of the Commission shall be conducted not later than 30 days

after the date of appointment of the final member of the Commission.

(B) OTHER MEETINGS.—The Commission shall meet at the call of the Chairperson.

(4) QUORUM; STANDING RULES.—

(A) QUORUM.—A majority of the members of the Commission shall constitute a quorum to conduct business.

(B) STANDING RULES.—At the first meeting of the Commission, the Commission shall adopt standing rules of the Commission to guide the conduct of business and decisionmaking of the Commission.

(b) DUTIES.—

(1) RECOMMENDATIONS.—The Commission shall make specific recommendations to enhance the food safety system of the United States, including a description of how each recommendation would improve food safety.

(2) COMPONENTS.—Recommendations made by the Commission under paragraph (1) shall address all food available commercially in the United States.

(3) REPORT.—Not later than 1 year after the date on which the Commission first meets, the Commission shall submit to the President and Congress—

(A) the findings, conclusions, and recommendations of the Commission, including a description of how each recommendation would improve food safety;

(B) a summary of any other material used by the Commission in the preparation of the report under this paragraph; and

(C) if requested by 1 or more members of the Commission, a statement of the minority views of the Commission.

(c) POWERS OF THE COMMISSION.—

(1) HEARINGS.—The Commission may, for the purpose of carrying out this section, hold such hearings, meet and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable.

(2) INFORMATION FROM FEDERAL AGENCIES.—

(A) IN GENERAL.—The Commission may secure directly, from any Federal agency, such information as the Commission considers necessary to carry out this section.

(B) PROVISION OF INFORMATION.—

(i) IN GENERAL.—Subject to subparagraph (C), on the request of the Commission, the head of a Federal agency described in subparagraph (A) may furnish information requested by the Commission to the Commission.

(ii) ADMINISTRATION.—The furnishing of information by a Federal agency to the Commission shall not be considered a waiver of any exemption available to the agency under section 552 of title 5, United States Code.

(C) INFORMATION TO BE KEPT CONFIDENTIAL.—

(i) IN GENERAL.—For purposes of section 1905 of title 18, United States Code—

(I) the Commission shall be considered an agency of the Federal Government; and

(II) any individual employed by an individual, entity, or organization that is a party to a contract

Deadline.

with the Commission under this section shall be considered an employee of the Commission.

(ii) PROHIBITION ON DISCLOSURE.—Information obtained by the Commission, other than information that is available to the public, shall not be disclosed to any person in any manner except to an employee of the Commission as described in clause (i), for the purpose of receiving, reviewing, or processing the information.

(d) COMMISSION PERSONNEL MATTERS.—

(1) MEMBERS.—

(A) COMPENSATION.—A member of the Commission shall serve without compensation for the services of the member on the Commission.

(B) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(2) STAFF.—

(A) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate the appointment of an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(B) CONFIRMATION OF EXECUTIVE DIRECTOR.—The employment of an executive director shall be subject to confirmation by the Commission.

(C) COMPENSATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(ii) MAXIMUM RATE OF PAY.—The rate of pay for the executive director and other personnel shall not exceed the rate payable for level II of the Executive Schedule under section 5316 of title 5, United States Code.

(3) DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.—

(A) IN GENERAL.—An employee of the Federal Government may be detailed to the Commission, without reimbursement, for such period of time as is permitted by law.

(B) CIVIL SERVICE STATUS.—The detail of the employee shall be without interruption or loss of civil service status or privilege.

(4) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services in accordance with section 3109(b) of title 5, United States Code, at rates for individuals that do not exceed the daily equivalent of the annual rate

of basic pay prescribed for level II of the Executive Schedule under section 5316 of that title.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as are necessary to carry out this section.

(2) LIMITATION.—No payment may be made under subsection (d) except to the extent provided for in advance in an appropriations Act.

(f) TERMINATION.—The Commission shall terminate on the date that is 60 days after the date on which the Commission submits the recommendations and report under subsection (b)(3).

21 USC 679b.

SEC. 10808. PASTEURIZATION.

(a) PASTEURIZATION OF MEAT AND POULTRY.—

Effective date.
Deadline.

(1) IN GENERAL.—Effective beginning not later than 30 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct an education program regarding the availability and safety of processes and treatments that eliminate or substantially reduce the level of pathogens on meat, meat food products, poultry, and poultry products.

(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary to carry out this subsection.

(b) PASTEURIZATION OF FOOD AS PASTEURIZED.—Section 403(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(h)) is amended—

(1) by striking “or” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting “; or”; and

(3) by adding at the end the following:

“(3) a food that is pasteurized unless—

“(A) such food has been subjected to a safe process or treatment that is prescribed as pasteurization for such food in a regulation promulgated under this Act; or

“(B)(i) such food has been subjected to a safe process or treatment that—

“(I) is reasonably certain to achieve destruction or elimination in the food of the most resistant microorganisms of public health significance that are likely to occur in the food;

“(II) is at least as protective of the public health as a process or treatment described in subparagraph (A);

“(III) is effective for a period that is at least as long as the shelf life of the food when stored under normal and moderate abuse conditions; and

“(IV) is the subject of a notification to the Secretary, including effectiveness data regarding the process or treatment; and

“(ii) at least 120 days have passed after the date of receipt of such notification by the Secretary without the Secretary making a determination that the process or treatment involved has not been shown to meet the requirements of subclauses (I) through (III) of clause (i).

For purposes of paragraph (3), a determination by the Secretary that a process or treatment has not been shown to meet the requirements of subclauses (I) through (III) of subparagraph (B)(i) shall constitute final agency action under such subclauses.”.

SEC. 10809. RULEMAKING ON LABELING OF IRRADIATED FOOD; CERTAIN PETITIONS.

21 USC 343 note.

The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall publish a proposed rule and, with due consideration to public comment, a final rule to revise, as appropriate, the current regulation governing the labeling of foods that have been treated to reduce pest infestation or pathogens by treatment by irradiation using radioactive isotope, electronic beam, or x-ray. Pending promulgation of the final rule required by this subsection, any person may petition the Secretary for approval of labeling, which is not false or misleading in any material respect, of a food which has been treated by irradiation using radioactive isotope, electronic beam, or x-ray. The Secretary shall approve or deny such a petition within 180 days of receipt of the petition, or the petition shall be deemed denied, except to the extent additional agency review is mutually agreed upon by the Secretary and the petitioner. Any denial of a petition under this subsection shall constitute final agency action subject to judicial review by the United States Court of Appeals for the District of Columbia Circuit. Any labeling approved through the foregoing petition process shall be subject to the provisions of the final rule referred to in the first sentence of the subparagraph on the effective date of such final rule.

Deadline.

SEC. 10810. PENALTIES FOR VIOLATIONS OF PLANT PROTECTION ACT.

Section 424 of the Plant Protection Act (7 U.S.C. 7734) is amended by striking subsection (a) and inserting the following:

“(a) CRIMINAL PENALTIES.—

“(1) OFFENSES.—

“(A) IN GENERAL.—A person that knowingly violates this title, or knowingly forges, counterfeits, or, without authority from the Secretary, uses, alters, defaces, or destroys any certificate, permit, or other document provided for in this title shall be fined under title 18, United States Code, imprisoned not more than 1 year, or both.

“(B) MOVEMENT.—A person that knowingly imports, enters, exports, or moves any plant, plant product, biological control organism, plant pest, noxious weed, or article, for distribution or sale, in violation of this title, shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both.

“(2) MULTIPLE VIOLATIONS.—On the second and any subsequent conviction of a person of a violation of this title under paragraph (1), the person shall be fined under title 18, United States Code, imprisoned not more than 10 years, or both.”.

SEC. 10811. PRECLEARANCE QUARANTINE INSPECTIONS.

7 USC 8307 note.

(a) PRECLEARANCE INSPECTIONS REQUIRED.—The Secretary of Agriculture, acting through the Administrator of the Animal and Plant Health Inspection Service, shall conduct preclearance quarantine inspections of persons, baggage, cargo, and any other articles destined for movement from the State of Hawaii to any of the following—

- (1) The continental United States.
- (2) Guam.
- (3) Puerto Rico.
- (4) The United States Virgin Islands.

(b) **INSPECTION LOCATIONS.**—The preclearance quarantine inspections required by subsection (a) shall be conducted at all direct departure and interline airports in the State of Hawaii.

(c) **LIMITATION.**—The Secretary shall not implement this section unless appropriations for necessary expenses of the Animal and Plant Health Inspection Service for inspection, quarantine, and regulatory activities are increased by an amount not less than \$3,000,000 in an Act making appropriations for fiscal year 2003.

SEC. 10812. CONNECTICUT RIVER ATLANTIC SALMON COMMISSION.

Section 3(2) of Public Law 98-138 (Public Law 98-138; 97 Stat. 870) is amended by striking “twenty” and inserting “40”.

SEC. 10813. PINE POINT SCHOOL.

115 Stat. 1949. Section 802(b)(2) of the No Child Left Behind Act of 2001 (Public Law 107-110) is amended by striking “2002” each place it appears and inserting “2000”.

SEC. 10814. 7-MONTH EXTENSION OF CHAPTER 12 OF TITLE 11 OF THE UNITED STATES CODE.

11 USC
1201–1208,
1221–1231,
1201 note. (a) **AMENDMENTS.**—Section 149 of title I of division C of Public Law 105-277 is amended—

(1) by striking “June 1, 2002” each place it appears and inserting “January 1, 2003”; and

(2) in subsection (a)—

(A) by striking “September 30, 2001” and inserting “May 31, 2002”; and

(B) by striking “October 1, 2001” and inserting “June 1, 2002”.

11 USC 1201
note. (b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on June 1, 2002.

7 USC 1967. **SEC. 10815. PRACTICES INVOLVING NONAMBULATORY LIVESTOCK.**

(a) **REPORT.**—The Secretary of Agriculture shall investigate and submit to Congress a report on—

(1) the scope of nonambulatory livestock;

(2) the causes that render livestock nonambulatory;

(3) the humane treatment of nonambulatory livestock; and

(4) the extent to which nonambulatory livestock may present handling and disposition problems for stockyards, market agencies, and dealers.

(b) **AUTHORITY.**—Based on the findings of the report, if the Secretary determines it necessary, the Secretary shall promulgate regulations to provide for the humane treatment, handling, and disposition of nonambulatory livestock by stockyards, market agencies, and dealers.

Applicability. (c) **ADMINISTRATION AND ENFORCEMENT.**—For the purpose of administering and enforcing any regulations promulgated under subsection (b), the authorities provided under sections 10414 and 10415 shall apply to the regulations in a similar manner as those sections apply to the Animal Health Protection Act. Any person that violates regulations promulgated under subsection (b) shall be subject to penalties provided in section 10414.

SEC. 10816. COUNTRY OF ORIGIN LABELING.

The Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.) is amended by adding at the end the following:

“Subtitle D—Country of Origin Labeling**“SEC. 281. DEFINITIONS.**

7 USC 1638.

“In this subtitle:

“(1) **BEEF.**—The term ‘beef’ means meat produced from cattle (including veal).

“(2) **COVERED COMMODITY.**—

“(A) **IN GENERAL.**—The term ‘covered commodity’ means—

“(i) muscle cuts of beef, lamb, and pork;

“(ii) ground beef, ground lamb, and ground pork;

“(iii) farm-raised fish;

“(iv) wild fish;

“(v) a perishable agricultural commodity; and

“(vi) peanuts.

“(B) **EXCLUSIONS.**—The term ‘covered commodity’ does not include an item described in subparagraph (A) if the item is an ingredient in a processed food item.

“(3) **FARM-RAISED FISH.**—The term ‘farm-raised fish’ includes—

“(A) farm-raised shellfish; and

“(B) fillets, steaks, nuggets, and any other flesh from a farm-raised fish or shellfish.

“(4) **FOOD SERVICE ESTABLISHMENT.**—The term ‘food service establishment’ means a restaurant, cafeteria, lunch room, food stand, saloon, tavern, bar, lounge, or other similar facility operated as an enterprise engaged in the business of selling food to the public.

“(5) **LAMB.**—The term ‘lamb’ means meat, other than mutton, produced from sheep.

“(6) **PERISHABLE AGRICULTURAL COMMODITY; RETAILER.**—The terms ‘perishable agricultural commodity’ and ‘retailer’ have the meanings given the terms in section 1(b) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499a(b)).

“(7) **PORK.**—The term ‘pork’ means meat produced from hogs.

“(8) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Agriculture, acting through the Agricultural Marketing Service.

“(9) **WILD FISH.**—

“(A) **IN GENERAL.**—The term ‘wild fish’ means naturally-born or hatchery-raised fish and shellfish harvested in the wild.

“(B) **INCLUSIONS.**—The term ‘wild fish’ includes a fillet, steak, nugget, and any other flesh from wild fish or shellfish.

“(C) **EXCLUSIONS.**—The term ‘wild fish’ excludes net-pen aquacultural or other farm-raised fish.

“SEC. 282. NOTICE OF COUNTRY OF ORIGIN.

7 USC 1638a.

“(a) **IN GENERAL.**—

“(1) REQUIREMENT.—Except as provided in subsection (b), a retailer of a covered commodity shall inform consumers, at the final point of sale of the covered commodity to consumers, of the country of origin of the covered commodity.

“(2) UNITED STATES COUNTRY OF ORIGIN.—A retailer of a covered commodity may designate the covered commodity as having a United States country of origin only if the covered commodity—

“(A) in the case of beef, is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States (including from an animal exclusively born and raised in Alaska or Hawaii and transported for a period not to exceed 60 days through Canada to the United States and slaughtered in the United States);

“(B) in the case of lamb and pork, is exclusively from an animal that is exclusively born, raised, and slaughtered in the United States;

“(C) in the case of farm-raised fish, is hatched, raised, harvested, and processed in the United States;

“(D) in the case of wild fish, is—

“(i) harvested in waters of the United States, a territory of the United States, or a State; and

“(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof; and

“(E) in the case of a perishable agricultural commodity or peanuts, is exclusively produced in the United States.

“(3) WILD FISH AND FARM-RAISED FISH.—The notice of country of origin for wild fish and farm-raised fish shall distinguish between wild fish and farm-raised fish.

“(b) EXEMPTION FOR FOOD SERVICE ESTABLISHMENTS.—Subsection (a) shall not apply to a covered commodity if the covered commodity is—

“(1) prepared or served in a food service establishment; and

“(2)(A) offered for sale or sold at the food service establishment in normal retail quantities; or

“(B) served to consumers at the food service establishment.

“(c) METHOD OF NOTIFICATION.—

“(1) IN GENERAL.—The information required by subsection (a) may be provided to consumers by means of a label, stamp, mark, placard, or other clear and visible sign on the covered commodity or on the package, display, holding unit, or bin containing the commodity at the final point of sale to consumers.

“(2) LABELED COMMODITIES.—If the covered commodity is already individually labeled for retail sale regarding country of origin, the retailer shall not be required to provide any additional information to comply with this section.

“(d) AUDIT VERIFICATION SYSTEM.—The Secretary may require that any person that prepares, stores, handles, or distributes a covered commodity for retail sale maintain a verifiable record-keeping audit trail that will permit the Secretary to verify compliance with this subtitle (including the regulations promulgated under section 284(b)).

“(e) INFORMATION.—Any person engaged in the business of supplying a covered commodity to a retailer shall provide information

to the retailer indicating the country of origin of the covered commodity.

“(f) CERTIFICATION OF ORIGIN.—

“(1) MANDATORY IDENTIFICATION.—The Secretary shall not use a mandatory identification system to verify the country of origin of a covered commodity.

“(2) EXISTING CERTIFICATION PROGRAMS.—To certify the country of origin of a covered commodity, the Secretary may use as a model certification programs in existence on the date of enactment of this Act, including—

“(A) the carcass grading and certification system carried out under this Act;

“(B) the voluntary country of origin beef labeling system carried out under this Act;

“(C) voluntary programs established to certify certain premium beef cuts;

“(D) the origin verification system established to carry out the child and adult care food program established under section 17 of the Richard B. Russell National School Lunch Act (42 U.S.C. 1766); or

“(E) the origin verification system established to carry out the market access program under section 203 of the Agricultural Trade Act of 1978 (7 U.S.C. 5623).

“SEC. 283. ENFORCEMENT.

7 USC 1638b.

“(a) IN GENERAL.—Except as provided in subsections (b) and (c), section 253 shall apply to a violation of this subtitle.

Applicability.

“(b) WARNINGS.—If the Secretary determines that a retailer is in violation of section 282, the Secretary shall—

“(1) notify the retailer of the determination of the Secretary; and

“(2) provide the retailer a 30-day period, beginning on the date on which the retailer receives the notice under paragraph (1) from the Secretary, during which the retailer may take necessary steps to comply with section 282.

“(c) FINES.—If, on completion of the 30-day period described in subsection (b)(2), the Secretary determines that the retailer has willfully violated section 282, after providing notice and an opportunity for a hearing before the Secretary with respect to the violation, the Secretary may fine the retailer in an amount of not more than \$10,000 for each violation.

“SEC. 284. REGULATIONS.

Deadlines.
7 USC 1638c.

“(a) GUIDELINES.—Not later than September 30, 2002, the Secretary shall issue guidelines for the voluntary country of origin labeling of covered commodities based on the requirements of section 282.

“(b) REGULATIONS.—Not later than September 30, 2004, the Secretary shall promulgate such regulations as are necessary to implement this subtitle.

“(c) PARTNERSHIPS WITH STATES.—In promulgating the regulations, the Secretary shall, to the maximum extent practicable, enter into partnerships with States with enforcement infrastructure to assist in the administration of this subtitle.

“SEC. 285. APPLICABILITY.

Effective date.
7 USC 1638d.

“This subtitle shall apply to the retail sale of a covered commodity beginning September 30, 2004.”.

Deadlines.

Subtitle J—Miscellaneous Studies and Reports

7 USC 612c note. SEC. 10901. REPORT ON SPECIALTY CROP PURCHASES.

Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the quantity and type of—

- (1) fruits, vegetables, and other specialty food crops that are purchased under section 10603; and
- (2) other commodities that are purchased under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c).

SEC. 10902. REPORT ON POUCHED AND CANNED SALMON.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall submit to Congress a report on efforts to expand the promotion, marketing, and purchasing of pouched and canned salmon harvested and processed in the United States under food and nutrition programs administered by the Secretary.

(b) COMPONENTS.—The report under subsection (a) shall include—

- (1) an analysis of pouched and canned salmon inventories in the United States that, as of the date on which the report is submitted, are available for purchase;
- (2) an analysis of the demand for pouched and canned salmon and value-added products (such as salmon “nuggets”) by—
 - (A) partners of the Department of Agriculture (including other appropriate Federal agencies); and
 - (B) consumers; and
- (3) an analysis of impediments to additional purchases of pouched and canned salmon, including—
 - (A) any marketing issues; and
 - (B) recommendations for methods to resolve those impediments.

SEC. 10903. STUDY ON UPDATING YIELDS.

(a) IN GENERAL.—The Comptroller General shall conduct a study and make findings and recommendations with respect to determining how producer income would be affected by updating yield bases, including—

- (1) whether crop yields have increased over the past 20 crop years for program crops and oilseeds;
- (2) whether program payments would be disbursed differently under title I if yield bases were updated further;
- (3) what impact the target prices under title I would have on producer income if the yield bases of the target prices were further updated; and
- (4) what impact lower target prices with updated yield bases would have on producer income, as compared with the impact of target prices under title I.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to Congress

a report on the study, findings, and recommendations required by subsection (a).

SEC. 10904. REPORT ON EFFECT OF FARM PROGRAM PAYMENTS.

(a) **IN GENERAL.**—The Secretary of Agriculture shall conduct a review of the effects that payments under production flexibility contracts and market loss assistance payments have had, and that direct payments and counter-cyclical payments are likely to have, on the economic viability of producers and the farming infrastructure, particularly in areas where climate, soil types, and other agronomic conditions severely limit the covered crops that producers can choose to successfully and profitably produce.

(b) **CASE STUDY RELATED TO RICE PRODUCTION.**—The review shall include a case study of the effects that the payments described in subsection (a), and the forecast effects of increasing these or other fixed payments, are likely to have on rice producers (including tenant rice producers), the rice milling industry, and the economies of rice farming areas in Texas, where harvested rice acreage has fallen from 320,000 acres in 1995 to only 211,000 acres in 2001.

(c) **REPORT AND RECOMMENDATIONS.**—

(1) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report describing the information collected for the review and the case study and any findings made on the basis of the information.

(2) **RECOMMENDATIONS.**—The report shall include recommendations for minimizing the adverse effects on producers, with a special focus on—

- (A) producers who are tenants;
- (B) the agricultural economies in farming areas generally;
- (C) particular areas described in subsection (a); and
- (D) on the area that is the subject of the case study conducted under subsection (b).

SEC. 10905. CHILOQUIN DAM FISH PASSAGE FEASIBILITY STUDY.

Oregon.

(a) **IN GENERAL.**—The Secretary of the Interior, in collaboration with all interested parties (including the Modoc Point Irrigation District, the Klamath Tribes, and the Oregon Department of Fish and Wildlife), shall conduct a study of the feasibility of providing adequate upstream and downstream passage for fish at the Chiloquin Dam on the Sprague River, Oregon.

(b) **SUBJECTS.**—The study shall include—

- (1) a review of all alternatives for providing passage described in subsection (a), including the removal of the dam;
- (2) the determination of the most appropriate alternative;
- (3) the development of recommendations for implementing that alternative; and
- (4) examination of mitigation needed for upstream and downstream water users, and for Klamath tribal nonconsumptive uses, as a result of the implementation of the alternative.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of the Interior shall submit to Congress a report that describes the findings, conclusions, and recommendations of the study.

7 USC 2204 note. **SEC. 10906. REPORT ON GEOGRAPHICALLY DISADVANTAGED FARMERS AND RANCHERS.**

(a) DEFINITION OF GEOGRAPHICALLY DISADVANTAGED FARMER OR RANCHER.—In this section, the term “geographically disadvantaged farmer or rancher” means a farmer or rancher in—

(1) an insular area (as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) (as amended by section 7502(a)); or

(2) a State other than 1 of the 48 contiguous States.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes—

(1) barriers to efficient and competitive transportation of inputs and products by geographically disadvantaged farmers and ranchers; and

(2) means of encouraging and assisting geographically disadvantaged farmers and ranchers—

(A) to own and operate farms and ranches; and

(B) to participate equitably in the full range of agricultural programs offered by the Department of Agriculture.

7 USC 3191 note. **SEC. 10907. STUDIES ON AGRICULTURAL RESEARCH AND TECHNOLOGY.**

(a) SCIENTIFIC STUDIES.—

(1) IN GENERAL.—The Secretary of Agriculture may conduct scientific studies on—

(A) the transmission of spongiform encephalopathy in deer, elk, and moose; and

(B) chronic wasting disease (including the risks that chronic wasting disease poses to livestock).

(2) REPORT.—The Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the results of any scientific studies conducted under paragraph (1).

(b) VACCINES.—

(1) VACCINE STORAGE STUDY.—The Secretary may—

(A) conduct a study to determine the number of doses of livestock disease vaccines that should be available to protect against livestock diseases that could be introduced into the United States; and

(B) compare that number with the number of doses of the livestock disease vaccines that are available as of that date.

(2) STOCKPILING OF VACCINES.—If, after conducting the study and comparison described in paragraph (1), the Secretary determines that there is an insufficient number of doses of a particular vaccine referred to in that paragraph, the Secretary may take such actions as are necessary to obtain the required additional doses of the vaccine.

31 USC 712 note. **SEC. 10908. REPORT ON TOBACCO SETTLEMENT AGREEMENT.**

Not later than December 31, 2002, and annually thereafter through 2006, the Comptroller General shall submit to Congress

a report that describes all programs and activities that States have carried out using funds received under all phases of the Master Settlement Agreement of 1997.

SEC. 10909. REPORT ON SALE AND USE OF PESTICIDES FOR AGRICULTURAL USES.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the manner in which the Agency is applying regulations of the Agency governing the sale and use of pesticides for agricultural use to electronic commerce transactions.

SEC. 10910. REVIEW OF OPERATION OF AGRICULTURAL AND NATURAL RESOURCE PROGRAMS ON TRIBAL TRUST LAND. 7 USC 2204 note.

(a) **REVIEW.**—The Secretary of Agriculture (referred to in this section as the “Secretary”) shall conduct a review of the operation of agricultural and natural resource programs available to farmers and ranchers operating on tribal and trust land, including—

(1) agricultural commodity, price support, and farm income support programs (collectively referred to in this section as “agricultural commodity programs”);

(2) conservation programs (including financial and technical assistance);

(3) agricultural credit programs;

(4) rural development programs; and

(5) forestry programs.

(b) **CRITERIA FOR REVIEW.**—In carrying out the review under subsection (a), the Secretary shall consider—

(1) the extent to which agricultural commodity programs and conservation programs are consistent with tribal goals and priorities regarding the sustainable use of agricultural land;

(2) strategies for increasing tribal participation in agricultural commodity programs and conservation programs;

(3) the educational and training opportunities available to Indian tribes and members of Indian tribes in the practical, technical, and professional aspects of agriculture and land management; and

(4) the development and management of agricultural land under the jurisdiction of Indian tribes in accordance with integrated resource management plans that—

(A) ensure proper management of the land;

(B) produce increased economic returns;

(C) promote employment opportunities; and

(D) improve the social and economic well-being of Indian tribes and members of Indian tribes.

(c) **CONSULTATION.**—In carrying out this section, the Secretary shall consult with—

(1) the Secretary of the Interior;

(2) local officers and employees of the Department of Agriculture; and

(3) program recipients.

(d) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report that contains—

- (1) a description of the results of the review conducted under this section;
- (2) recommendations for program improvements; and
- (3) a description of actions that will be taken to carry out the improvements.

Approved May 13, 2002.

LEGISLATIVE HISTORY—H.R. 2646 (S. 1731):

HOUSE REPORTS: Nos. 107–191, Pts. 1 and 2 (both from Comm. on Agriculture) and Pt. 3 (Comm. on International Relations) and 107–424 (Comm. of Conference).

SENATE REPORTS: No. 107–117 accompanying S. 1731 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 3–5, considered and passed House.

Vol. 148 (2002): Feb. 13, considered and passed Senate, amended, in lieu of S. 1731.

May 2, House agreed to conference report.

May 7, 8, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

May 13, Presidential remarks.



Public Law 107–172
107th Congress

An Act

To amend the Public Health Service Act to provide for research, information, and education with respect to blood cancer.

May 14, 2002

[S. 1094]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Hematological Cancer Research Investment and Education Act of 2002”.

SEC. 2. FINDINGS.

Congress finds that:

(1) An estimated 109,500 people in the United States will be diagnosed with leukemia, lymphoma, and multiple myeloma in 2001.

(2) New cases of the blood cancers described in paragraph (1) account for 8.6 percent of new cancer cases.

(3) Those devastating blood cancers will cause the deaths of an estimated 60,300 persons in the United States in 2001. Every 9 minutes, a person in the United States dies from leukemia, lymphoma, or multiple myeloma.

(4) While less than 5 percent of Federal funds for cancer research are spent on those blood cancers, those blood cancers cause 11 percent of all cancer deaths in the United States.

(5) Increased Federal support of research into leukemia, lymphoma, and multiple myeloma has resulted and will continue to result in significant advances in the treatment, and ultimately the cure, of those blood cancers as well as other cancers.

SEC. 3. RESEARCH, INFORMATION, AND EDUCATION WITH RESPECT TO BLOOD CANCER.

Part C of title IV of the Public Health Service Act (42 U.S.C. 285 et seq.) is amended by inserting after section 419C the following:

“SEC. 417D. RESEARCH, INFORMATION, AND EDUCATION WITH RESPECT TO BLOOD CANCER.

Hematological
Cancer Research
Investment and
Education Act of
2002.
42 USC 201 note.
42 USC 285a–10
note

42 USC 285a–10.

“(a) JOE MOAKLEY RESEARCH EXCELLENCE PROGRAM.—

“(1) IN GENERAL.—The Director of NIH shall expand, intensify, and coordinate programs for the conduct and support of research with respect to blood cancer, and particularly with respect to leukemia, lymphoma, and multiple myeloma.

“(2) ADMINISTRATION.—The Director of NIH shall carry out this subsection through the Director of the National Cancer Institute and in collaboration with any other agencies that the Director determines to be appropriate.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there is authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each subsequent fiscal year. Such authorizations of appropriations are in addition to other authorizations of appropriations that are available for such purpose.

“(b) GERALDINE FERRARO CANCER EDUCATION PROGRAM.—

“(1) IN GENERAL.—The Secretary shall direct the appropriate agency within the Department of Health and Human Services, in collaboration with the Director of NIH, to establish and carry out a program to provide information and education for patients and the general public with respect to blood cancer, and particularly with respect to the treatment of leukemia, lymphoma, and multiple myeloma.

“(2) ADMINISTRATION.—The Agency determined by the Secretary under paragraph (1) shall carry out this subsection in collaboration with private health organizations that have national education and patient assistance programs on blood-related cancers.

“(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there is authorized to be appropriated such sums as may be necessary for fiscal year 2002 and each subsequent fiscal year. Such authorizations of appropriations are in addition to other authorizations of appropriations that are available for such purpose.”.

Approved May 14, 2002.

LEGISLATIVE HISTORY—S. 1094:

CONGRESSIONAL RECORD, Vol. 147 (2001):

Nov. 16, considered and passed Senate.

Apr. 30, considered and passed House.



Public Law 107–173
107th Congress

An Act

To enhance the border security of the United States, and for other purposes.

May 14, 2002

[H.R. 3525]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

(a) **SHORT TITLE.**—This Act may be cited as the “Enhanced Border Security and Visa Entry Reform Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Enhanced Border
Security and Visa
Entry Reform Act
of 2002.
Aliens.
8 USC 1701 note.

Sec. 1. Short title.
Sec. 2. Definitions.

TITLE I—FUNDING

Sec. 101. Authorization of appropriations for hiring and training Government personnel.
Sec. 102. Authorization of appropriations for improvements in technology and infrastructure.
Sec. 103. Machine-readable visa fees.

TITLE II—INTERAGENCY INFORMATION SHARING

Sec. 201. Interim measures for access to and coordination of law enforcement and other information.
Sec. 202. Interoperable law enforcement and intelligence data system with name-matching capacity and training.
Sec. 203. Commission on interoperable data sharing.
Sec. 204. Personnel management authorities for positions involved in the development and implementation of the interoperable electronic data system (“Chimera system”).

TITLE III—VISA ISSUANCE

Sec. 301. Electronic provision of visa files.
Sec. 302. Implementation of an integrated entry and exit data system.
Sec. 303. Machine-readable, tamper-resistant entry and exit documents.
Sec. 304. Terrorist lookout committees.
Sec. 305. Improved training for consular officers.
Sec. 306. Restriction on issuance of visas to nonimmigrants who are from countries that are state sponsors of international terrorism.
Sec. 307. Designation of program countries under the Visa Waiver Program.
Sec. 308. Tracking system for stolen passports.
Sec. 309. Identification documents for certain newly admitted aliens.

TITLE IV—INSPECTION AND ADMISSION OF ALIENS

Sec. 401. Study of the feasibility of a North American National Security Program.
Sec. 402. Passenger manifests.
Sec. 403. Time period for inspections.
Sec. 404. Joint United States-Canada projects for alternative inspections services.

TITLE V—FOREIGN STUDENTS AND EXCHANGE VISITORS

Sec. 501. Foreign student monitoring program.
Sec. 502. Review of institutions and other entities authorized to enroll or sponsor certain nonimmigrants.

TITLE VI—MISCELLANEOUS PROVISIONS

- Sec. 601. Extension of deadline for improvement in border crossing identification cards.
- Sec. 602. General Accounting Office study.
- Sec. 603. International cooperation.
- Sec. 604. Statutory construction.
- Sec. 605. Report on aliens who fail to appear after release on own recognizance.
- Sec. 606. Retention of nonimmigrant visa applications by the Department of State.

8 USC 1701.

SEC. 2. DEFINITIONS.**In this Act:**

(1) **ALIEN.**—The term “alien” has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(2) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means the following:

(A) The Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate.

(B) The Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives.

(3) **CHIMERA SYSTEM.**—The term “Chimera system” means the interoperable electronic data system required to be developed and implemented by section 202(a)(2).

(4) **FEDERAL LAW ENFORCEMENT AGENCIES.**—The term “Federal law enforcement agencies” means the following:

(A) The United States Secret Service.

(B) The Drug Enforcement Administration.

(C) The Federal Bureau of Investigation.

(D) The Immigration and Naturalization Service.

(E) The United States Marshall Service.

(F) The Naval Criminal Investigative Service.

(G) The Coastal Security Service.

(H) The Diplomatic Security Service.

(I) The United States Postal Inspection Service.

(J) The Bureau of Alcohol, Tobacco, and Firearms.

(K) The United States Customs Service.

(L) The National Park Service.

(5) **INTELLIGENCE COMMUNITY.**—The term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(6) **PRESIDENT.**—The term “President” means the President of the United States, acting through the Assistant to the President for Homeland Security, in coordination with the Secretary of State, the Commissioner of Immigration and Naturalization, the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Secretary of Transportation, the Commissioner of Customs, and the Secretary of the Treasury.

(7) **USA PATRIOT ACT.**—The term “USA PATRIOT Act” means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56).

TITLE I—FUNDING**SEC. 101. AUTHORIZATION OF APPROPRIATIONS FOR HIRING AND TRAINING GOVERNMENT PERSONNEL.** 8 USC 1711.**(a) ADDITIONAL PERSONNEL.—**

(1) **INS INSPECTORS.**—Subject to the availability of appropriations, during each of the fiscal years 2003 through 2006, the Attorney General shall increase the number of inspectors and associated support staff in the Immigration and Naturalization Service by the equivalent of at least 200 full-time employees over the number of inspectors and associated support staff in the Immigration and Naturalization Service authorized by the USA PATRIOT Act.

(2) **INS INVESTIGATIVE PERSONNEL.**—Subject to the availability of appropriations, during each of the fiscal years 2003 through 2006, the Attorney General shall increase the number of investigative and associated support staff of the Immigration and Naturalization Service by the equivalent of at least 200 full-time employees over the number of investigators and associated support staff in the Immigration and Naturalization Service authorized by the USA PATRIOT Act.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this subsection, including such sums as may be necessary to provide facilities, attorney personnel and support staff, and other resources needed to support the increased number of inspectors, investigative staff, and associated support staff.

(b) AUTHORIZATION OF APPROPRIATIONS FOR INS STAFFING.—

(1) **IN GENERAL.**—There are authorized to be appropriated for the Department of Justice such sums as may be necessary to provide an increase in the annual rate of basic pay effective October 1, 2002—

(A) for all journeyman Border Patrol agents and inspectors who have completed at least one year's service and are receiving an annual rate of basic pay for positions at GS-9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS-9 of the General Schedule under such section 5332, to an annual rate of basic pay payable for positions at GS-11 of the General Schedule under such section 5332;

(B) for inspections assistants, from the annual rate of basic pay payable for positions at GS-5 of the General Schedule under section 5332 of title 5, United States Code, to an annual rate of basic pay payable for positions at GS-7 of the General Schedule under such section 5332; and

(C) for the support staff associated with the personnel described in subparagraphs (A) and (B), at the appropriate GS level of the General Schedule under such section 5332.

(c) AUTHORIZATION OF APPROPRIATIONS FOR TRAINING.—There are authorized to be appropriated such sums as may be necessary—

(1) to appropriately train Immigration and Naturalization Service personnel on an ongoing basis—

(A) to ensure that their proficiency levels are acceptable to protect the borders of the United States; and

(B) otherwise to enforce and administer the laws within their jurisdiction;

(2) to provide adequate continuing cross-training to agencies staffing the United States border and ports of entry to effectively and correctly apply applicable United States laws;

(3) to fully train immigration officers to use the appropriate lookout databases and to monitor passenger traffic patterns; and

(4) to expand the Carrier Consultant Program described in section 235(b) of the Immigration and Nationality Act (8 U.S.C. 1225A(b)).

(d) **AUTHORIZATION OF APPROPRIATIONS FOR CONSULAR FUNCTIONS.**—

(1) **RESPONSIBILITIES.**—The Secretary of State shall—

(A) implement enhanced security measures for the review of visa applicants;

(B) staff the facilities and programs associated with the activities described in subparagraph (A); and

(C) provide ongoing training for consular officers and diplomatic security agents.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for the Department of State such sums as may be necessary to carry out paragraph (1).

8 USC 1712.

SEC. 102. AUTHORIZATION OF APPROPRIATIONS FOR IMPROVEMENTS IN TECHNOLOGY AND INFRASTRUCTURE.

(a) **FUNDING OF TECHNOLOGY.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to funds otherwise available for such purpose, there are authorized to be appropriated \$150,000,000 to the Immigration and Naturalization Service for purposes of—

(A) making improvements in technology (including infrastructure support, computer security, and information technology development) for improving border security;

(B) expanding, utilizing, and improving technology to improve border security; and

(C) facilitating the flow of commerce and persons at ports of entry, including improving and expanding programs for preenrollment and preclearance.

(2) **WAIVER OF FEES.**—Federal agencies involved in border security may waive all or part of enrollment fees for technology-based programs to encourage participation by United States citizens and aliens in such programs. Any agency that waives any part of any such fee may establish its fees for other services at a level that will ensure the recovery from other users of the amounts waived.

(3) **OFFSET OF INCREASES IN FEES.**—The Attorney General may, to the extent reasonable, increase land border fees for the issuance of arrival-departure documents to offset technology costs.

(b) **IMPROVEMENT AND EXPANSION OF INS, STATE DEPARTMENT, AND CUSTOMS FACILITIES.**—There are authorized to be appropriated to the Immigration and Naturalization Service and the Department of State such sums as may be necessary to improve and expand facilities for use by the personnel of those agencies.

SEC. 103. MACHINE-READABLE VISA FEES.

8 USC 1713.

(a) **RELATION TO SUBSEQUENT AUTHORIZATION ACTS.**—Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236) is amended by striking paragraph (3).

8 USC 1351 note.

(b) **FEE AMOUNT.**—The machine-readable visa fee charged by the Department of State shall be the higher of \$65 or the cost of the machine-readable visa service, as determined by the Secretary of State after conducting a study of the cost of such service.

(c) **SURCHARGE.**—The Department of State is authorized to charge a surcharge of \$10, in addition to the machine-readable visa fee, for issuing a machine-readable visa in a nonmachine-readable passport.

(d) **AVAILABILITY OF COLLECTED FEES.**—Notwithstanding any other provision of law, amounts collected as fees described in this section shall be credited as an offsetting collection to any appropriation for the Department of State to recover costs of providing consular services. Amounts so credited shall be available, until expended, for the same purposes as the appropriation to which credited.

TITLE II—INTERAGENCY INFORMATION SHARING

SEC. 201. INTERIM MEASURES FOR ACCESS TO AND COORDINATION OF LAW ENFORCEMENT AND OTHER INFORMATION.

8 USC 1721.

(a) **INTERIM DIRECTIVE.**—Until the plan required by subsection (c) is implemented, Federal law enforcement agencies and the intelligence community shall, to the maximum extent practicable, share any information with the Department of State and the Immigration and Naturalization Service relevant to the admissibility and deportability of aliens, consistent with the plan described in subsection (c).

(b) **REPORT IDENTIFYING LAW ENFORCEMENT AND INTELLIGENCE INFORMATION.**—

(1) **IN GENERAL.**—Not later than 120 days after the date of enactment of this Act, the President shall submit to the appropriate committees of Congress a report identifying Federal law enforcement and the intelligence community information needed by the Department of State to screen visa applicants, or by the Immigration and Naturalization Service to screen applicants for admission to the United States, and to identify those aliens inadmissible or deportable under the Immigration and Nationality Act.

Deadline.
President.

(2) **REPEAL.**—Section 414(d) of the USA PATRIOT Act is hereby repealed.

8 USC 1365a
note.

(c) **COORDINATION PLAN.**—

(1) **REQUIREMENT FOR PLAN.**—Not later than one year after the date of enactment of the USA PATRIOT Act, the President shall develop and implement a plan based on the findings of the report under subsection (b) that requires Federal law enforcement agencies and the intelligence community to provide to the Department of State and the Immigration and Naturalization Service all information identified in that report as expeditiously as practicable.

Deadline.
President.

President.

(2) CONSULTATION REQUIREMENT.—In the preparation and implementation of the plan under this subsection, the President shall consult with the appropriate committees of Congress.

(3) PROTECTIONS REGARDING INFORMATION AND USES THEREOF.—The plan under this subsection shall establish conditions for using the information described in subsection (b) received by the Department of State and Immigration and Naturalization Service—

(A) to limit the redissemination of such information;

(B) to ensure that such information is used solely to determine whether to issue a visa to an alien or to determine the admissibility or deportability of an alien to the United States, except as otherwise authorized under Federal law;

(C) to ensure the accuracy, security, and confidentiality of such information;

(D) to protect any privacy rights of individuals who are subjects of such information;

(E) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information; and

(F) in a manner that protects the sources and methods used to acquire intelligence information as required by section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6)).

(4) CRIMINAL PENALTIES FOR MISUSE OF INFORMATION.—Any person who obtains information under this subsection without authorization or exceeding authorized access (as defined in section 1030(e) of title 18, United States Code), and who uses such information in the manner described in any of the paragraphs (1) through (7) of section 1030(a) of such title, or attempts to use such information in such manner, shall be subject to the same penalties as are applicable under section 1030(c) of such title for violation of that paragraph.

8 USC 1379.

(5) ADVANCING DEADLINES FOR A TECHNOLOGY STANDARD AND REPORT.—Section 403(c) of the USA PATRIOT Act is amended—

(A) in paragraph (1), by striking “2 years” and inserting “15 months”; and

(B) in paragraph (4), by striking “18 months” and inserting “one year”.

8 USC 1722.

SEC. 202. INTEROPERABLE LAW ENFORCEMENT AND INTELLIGENCE DATA SYSTEM WITH NAME-MATCHING CAPACITY AND TRAINING.

(a) INTEROPERABLE LAW ENFORCEMENT AND INTELLIGENCE ELECTRONIC DATA SYSTEM.—

(1) REQUIREMENT FOR INTEGRATED IMMIGRATION AND NATURALIZATION DATA SYSTEM.—The Immigration and Naturalization Service shall fully integrate all databases and data systems maintained by the Service that process or contain information on aliens. The fully integrated data system shall be an interoperable component of the electronic data system described in paragraph (2).

President.

(2) REQUIREMENT FOR INTEROPERABLE DATA SYSTEM.—Upon the date of commencement of implementation of the plan required by section 201(c), the President shall develop and

implement an interoperable electronic data system to provide current and immediate access to information in databases of Federal law enforcement agencies and the intelligence community that is relevant to determine whether to issue a visa or to determine the admissibility or deportability of an alien (also known as the “Chimera system”).

(3) CONSULTATION REQUIREMENT.—In the development and implementation of the data system under this subsection, the President shall consult with the Director of the National Institute of Standards and Technology (NIST) and any such other agency as may be deemed appropriate.

(4) TECHNOLOGY STANDARD.—

(A) IN GENERAL.—The data system developed and implemented under this subsection, and the databases referred to in paragraph (2), shall utilize the technology standard established pursuant to section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5) and subparagraph (B).

(B) CONFORMING AMENDMENT.—Section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5), is further amended—

(i) in paragraph (1), by inserting “, including appropriate biometric identifier standards,” after “technology standard”; and

(ii) in paragraph (2) —

(I) by striking “INTEGRATED” and inserting “INTEROPERABLE”; and

(II) by striking “integrated” and inserting “interoperable”.

(5) ACCESS TO INFORMATION IN DATA SYSTEM.—Subject to paragraph (6), information in the data system under this subsection shall be readily and easily accessible—

(A) to any consular officer responsible for the issuance of visas;

(B) to any Federal official responsible for determining an alien’s admissibility to or deportability from the United States; and

(C) to any Federal law enforcement or intelligence officer determined by regulation to be responsible for the investigation or identification of aliens.

(6) LIMITATION ON ACCESS.—The President shall, in accordance with applicable Federal laws, establish procedures to restrict access to intelligence information in the data system under this subsection, and the databases referred to in paragraph (2), under circumstances in which such information is not to be disclosed directly to Government officials under paragraph (5).

(b) NAME-SEARCH CAPACITY AND SUPPORT.—

(1) IN GENERAL.—The interoperable electronic data system required by subsection (a) shall—

(A) have the capacity to compensate for disparate name formats among the different databases referred to in subsection (a);

(B) be searchable on a linguistically sensitive basis;

(C) provide adequate user support;

(D) to the extent practicable, utilize commercially available technology; and

(E) be adjusted and improved, based upon experience with the databases and improvements in the underlying technologies and sciences, on a continuing basis.

(2) LINGUISTICALLY SENSITIVE SEARCHES.—

(A) IN GENERAL.—To satisfy the requirement of paragraph (1)(B), the interoperable electronic database shall be searchable based on linguistically sensitive algorithms that—

(i) account for variations in name formats and transliterations, including varied spellings and varied separation or combination of name elements, within a particular language; and

(ii) incorporate advanced linguistic, mathematical, statistical, and anthropological research and methods.

(B) LANGUAGES REQUIRED.—

(i) PRIORITY LANGUAGES.—Linguistically sensitive algorithms shall be developed and implemented for no fewer than 4 languages designated as high priorities by the Secretary of State, after consultation with the Attorney General and the Director of Central Intelligence.

(ii) IMPLEMENTATION SCHEDULE.—Of the 4 linguistically sensitive algorithms required to be developed and implemented under clause (i)—

(I) the highest priority language algorithms shall be implemented within 18 months after the date of enactment of this Act; and

(II) an additional language algorithm shall be implemented each succeeding year for the next three years.

Procedures.

(3) ADEQUATE USER SUPPORT.—The Secretary of State and the Attorney General shall jointly prescribe procedures to ensure that consular and immigration officers can, as required, obtain assistance in resolving identity and other questions that may arise about the names of aliens seeking visas or admission to the United States that may be subject to variations in format, transliteration, or other similar phenomenon.

Deadline.
President.

(4) INTERIM REPORTS.—Six months after the date of enactment of this Act, the President shall submit a report to the appropriate committees of Congress on the progress in implementing each requirement of this section.

Deadlines.

(5) REPORTS BY INTELLIGENCE AGENCIES.—

(A) CURRENT STANDARDS.—Not later than 60 days after the date of enactment of this Act, the Director of Central Intelligence shall complete the survey and issue the report previously required by section 309(a) of the Intelligence Authorization Act for Fiscal Year 1998 (50 U.S.C. 403-3 note).

(B) GUIDELINES.—Not later than 120 days after the date of enactment of this Act, the Director of Central Intelligence shall issue the guidelines and submit the copy of those guidelines previously required by section 309(b) of the Intelligence Authorization Act for Fiscal Year 1998 (50 U.S.C. 403-3 note).

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out the provisions of this subsection.

SEC. 203. COMMISSION ON INTEROPERABLE DATA SHARING.

8 USC 1723.

(a) **ESTABLISHMENT.**—Not later than one year after the date of enactment of the USA PATRIOT Act, the President shall establish a Commission on Interoperable Data Sharing (in this section referred to as the “Commission”). The purposes of the Commission shall be to—

Deadlines.
President.

- (1) monitor the protections described in section 201(c)(3);
- (2) provide oversight of the interoperable electronic data system described in section 202; and
- (3) report to Congress annually on the Commission’s findings and recommendations.

Reports.

(b) **COMPOSITION.**—The Commission shall consist of nine members, who shall be appointed by the President, as follows:

President.

- (1) One member, who shall serve as Chair of the Commission.

- (2) Eight members, who shall be appointed from a list of nominees jointly provided by the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the Majority Leader of the Senate, and the Minority Leader of the Senate.

(c) **CONSIDERATIONS.**—The Commission shall consider recommendations regarding the following issues:

- (1) Adequate protection of privacy concerns inherent in the design, implementation, or operation of the interoperable electronic data system.

- (2) Timely adoption of security innovations, consistent with generally accepted security standards, to protect the integrity and confidentiality of information to prevent the risks of accidental or unauthorized loss, access, destruction, use modification, or disclosure of information.

- (3) The adequacy of mechanisms to permit the timely correction of errors in data maintained by the interoperable data system.

- (4) Other protections against unauthorized use of data to guard against the misuse of the interoperable data system or the data maintained by the system, including recommendations for modifications to existing laws and regulations to sanction misuse of the system.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out this section.

SEC. 204. PERSONNEL MANAGEMENT AUTHORITIES FOR POSITIONS INVOLVED IN THE DEVELOPMENT AND IMPLEMENTATION OF THE INTEROPERABLE ELECTRONIC DATA SYSTEM (“CHIMERA SYSTEM”).

8 USC 1724.

(a) **IN GENERAL.**—Notwithstanding any other provision of law relating to position classification or employee pay or performance, the Attorney General may hire and fix the compensation of necessary scientific, technical, engineering, and other analytical personnel for the purpose of the development and implementation of the interoperable electronic data system described in section 202(a)(2) (also known as the “Chimera system”).

(b) **LIMITATION ON RATE OF PAY.**—Except as otherwise provided by law, no employee compensated under subsection (a) may be paid at a rate in excess of the rate payable for a position at level III of the Executive Schedule.

- Deadline.
- (c) **LIMITATION ON TOTAL CALENDAR YEAR PAYMENTS.**—Total payments to employees under any system established under this section shall be subject to the limitation on payments to employees under section 5307 of title 5, United States Code.
- (d) **OPERATING PLAN.**—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit to the Committee on Appropriations, the Committee on the Judiciary, the Select Committee on Intelligence, and the Committee on Foreign Relations of the Senate and the Committee on Appropriations, the Committee on the Judiciary, the Permanent Select Committee on Intelligence, and the Committee on International Relations of the House of Representatives an operating plan—
- (1) describing the Attorney General's intended use of the authority under this section; and
 - (2) identifying any provisions of title 5, United States Code, being waived for purposes of the development and implementation of the Chimera system.
- (e) **TERMINATION DATE.**—The authority of this section shall terminate upon the implementation of the Chimera system.

TITLE III—VISA ISSUANCE

SEC. 301. ELECTRONIC PROVISION OF VISA FILES.

Section 221(a) of the Immigration and Nationality Act (8 U.S.C. 1201(a)) is amended—

- (1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;
- (2) by inserting “(1)” immediately after “(a)”; and
- (3) by adding at the end the following:

“(2) The Secretary of State shall provide to the Service an electronic version of the visa file of each alien who has been issued a visa to ensure that the data in that visa file is available to immigration inspectors at the United States ports of entry before the arrival of the alien at such a port of entry.”.

8 USC 1731.

SEC. 302. IMPLEMENTATION OF AN INTEGRATED ENTRY AND EXIT DATA SYSTEM.

(a) **DEVELOPMENT OF SYSTEM.**—In developing the integrated entry and exit data system for the ports of entry, as required by the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106–215), the Attorney General and the Secretary of State shall—

- (1) implement, fund, and use a technology standard under section 403(c) of the USA PATRIOT Act (as amended by sections 201(c)(5) and 202(a)(4)(B)) at United States ports of entry and at consular posts abroad;
 - (2) establish a database containing the arrival and departure data from machine-readable visas, passports, and other travel and entry documents possessed by aliens; and
 - (3) make interoperable all security databases relevant to making determinations of admissibility under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182).
- (b) **IMPLEMENTATION.**—In implementing the provisions of subsection (a), the Immigration and Naturalization Service and the Department of State shall—

(1) utilize technologies that facilitate the lawful and efficient cross-border movement of commerce and persons without compromising the safety and security of the United States; and

(2) consider implementing the North American National Security Program described in section 401.

SEC. 303. MACHINE-READABLE, TAMPER-RESISTANT ENTRY AND EXIT DOCUMENTS.

Deadlines.
8 USC 1732.

(a) REPORT.—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Attorney General, the Secretary of State, and the National Institute of Standards and Technology (NIST), acting jointly, shall submit to the appropriate committees of Congress a comprehensive report assessing the actions that will be necessary, and the considerations to be taken into account, to achieve fully, not later than October 26, 2004—

(A) implementation of the requirements of subsections (b) and (c); and

(B) deployment of the equipment and software to allow biometric comparison and authentication of the documents described in subsections (b) and (c).

(2) **ESTIMATES.**—In addition to the assessment required by paragraph (1), the report required by that paragraph shall include an estimate of the costs to be incurred, and the personnel, man-hours, and other support required, by the Department of Justice, the Department of State, and NIST to achieve the objectives of subparagraphs (A) and (B) of paragraph (1).

(b) REQUIREMENTS.—

(1) **IN GENERAL.**—Not later than October 26, 2004, the Attorney General and the Secretary of State shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers. The Attorney General and the Secretary of State shall jointly establish document authentication standards and biometric identifiers standards to be employed on such visas and other travel and entry documents from among those biometric identifiers recognized by domestic and international standards organizations.

Standards.

(2) READERS AND SCANNERS AT PORTS OF ENTRY.—

(A) **IN GENERAL.**—Not later than October 26, 2004, the Attorney General, in consultation with the Secretary of State, shall install at all ports of entry of the United States equipment and software to allow biometric comparison and authentication of all United States visas and other travel and entry documents issued to aliens, and passports issued pursuant to subsection (c)(1).

(B) **USE OF READERS AND SCANNERS.**—The Attorney General, in consultation with the Secretary of State, shall utilize biometric data readers and scanners that—

(i) domestic and international standards organizations determine to be highly accurate when used to verify identity;

(ii) can read the biometric identifiers utilized under subsections (b)(1) and (c)(1); and

(iii) can authenticate the document presented to verify identity.

(3) **USE OF TECHNOLOGY STANDARD.**—The systems employed to implement paragraphs (1) and (2) shall utilize the technology standard established pursuant to section 403(c) of the USA PATRIOT Act, as amended by section 201(c)(5) and 202(a)(4)(B).

(c) **TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.**—

(1) **CERTIFICATION REQUIREMENT.**—Not later than October 26, 2004, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act shall certify, as a condition for designation or continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and document authentication identifiers that comply with applicable biometric and document identifying standards established by the International Civil Aviation Organization. This paragraph shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act.

(2) **USE OF TECHNOLOGY STANDARD.**—On and after October 26, 2004, any alien applying for admission under the visa waiver program under section 217 of the Immigration and Nationality Act shall present a passport that meets the requirements of paragraph (1) unless the alien's passport was issued prior to that date.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section, including reimbursement to international and domestic standards organizations.

8 USC 1733.

SEC. 304. TERRORIST LOOKOUT COMMITTEES.

(a) **ESTABLISHMENT.**—The Secretary of State shall require a terrorist lookout committee to be maintained within each United States mission to a foreign country.

(b) **PURPOSE.**—The purpose of each committee established under subsection (a) shall be—

(1) to utilize the cooperative resources of all elements of the United States mission in the country in which the consular post is located to identify known or potential terrorists and to develop information on those individuals;

(2) to ensure that such information is routinely and consistently brought to the attention of appropriate United States officials for use in administering the immigration laws of the United States; and

(3) to ensure that the names of known and suspected terrorists are entered into the appropriate lookout databases.

(c) **COMPOSITION; CHAIR.**—The Secretary shall establish rules governing the composition of such committees.

(d) **MEETINGS.**—Each committee established under subsection (a) shall meet at least monthly to share information pertaining to the committee's purpose as described in subsection (b)(2).

(e) **PERIODIC REPORTS TO THE SECRETARY OF STATE.**—Each committee established under subsection (a) shall submit monthly reports to the Secretary of State describing the committee's activities, whether or not information on known or suspected terrorists was developed during the month.

(f) **REPORTS TO CONGRESS.**—The Secretary of State shall submit a report on a quarterly basis to the appropriate committees of Congress on the status of the committees established under subsection (a).

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 305. IMPROVED TRAINING FOR CONSULAR OFFICERS.

8 USC 1734.

(a) **TRAINING.**—The Secretary of State shall require that all consular officers responsible for adjudicating visa applications, before undertaking to perform consular responsibilities, receive specialized training in the effective screening of visa applicants who pose a potential threat to the safety or security of the United States. Such officers shall be specially and extensively trained in the identification of aliens inadmissible under section 212(a)(3) (A) and (B) of the Immigration and Nationality Act, interagency and international intelligence sharing regarding terrorists and terrorism, and cultural-sensitivity toward visa applicants.

(b) **USE OF FOREIGN INTELLIGENCE INFORMATION.**—As an ongoing component of the training required in subsection (a), the Secretary of State shall coordinate with the Assistant to the President for Homeland Security, Federal law enforcement agencies, and the intelligence community to compile and disseminate to the Bureau of Consular Affairs reports, bulletins, updates, and other current unclassified information relevant to terrorists and terrorism and to screening visa applicants who pose a potential threat to the safety or security of the United States.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 306. RESTRICTION ON ISSUANCE OF VISAS TO NONIMMIGRANTS FROM COUNTRIES THAT ARE STATE SPONSORS OF INTERNATIONAL TERRORISM.

8 USC 1735.

(a) **IN GENERAL.**—No nonimmigrant visa under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) shall be issued to any alien from a country that is a state sponsor of international terrorism unless the Secretary of State determines, in consultation with the Attorney General and the heads of other appropriate United States agencies, that such alien does not pose a threat to the safety or national security of the United States. In making a determination under this subsection, the Secretary of State shall apply standards developed by the Secretary of State, in consultation with the Attorney General and the heads of other appropriate United States agencies, that are applicable to the nationals of such states.

Applicability.

(b) **STATE SPONSOR OF INTERNATIONAL TERRORISM DEFINED.**—

(1) **IN GENERAL.**—In this section, the term “state sponsor of international terrorism” means any country the government of which has been determined by the Secretary of State under any of the laws specified in paragraph (2) to have repeatedly provided support for acts of international terrorism.

(2) **LAWS UNDER WHICH DETERMINATIONS WERE MADE.**—The laws specified in this paragraph are the following:

(A) Section 6(j)(1)(A) of the Export Administration Act of 1979 (or successor statute).

(B) Section 40(d) of the Arms Export Control Act.

(C) Section 620A(a) of the Foreign Assistance Act of 1961.

SEC. 307. DESIGNATION OF PROGRAM COUNTRIES UNDER THE VISA WAIVER PROGRAM.

(a) **REPORTING PASSPORT THEFTS.**—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(1) by adding at the end of subsection (c)(2) the following new subparagraph:

“(D) **REPORTING PASSPORT THEFTS.**—The government of the country certifies that it reports to the United States Government on a timely basis the theft of blank passports issued by that country.”; and

(2) in subsection (c)(5)(A)(i), by striking “5 years” and inserting “2 years”; and

(3) by adding at the end of subsection (f) the following new paragraph:

“(5) **FAILURE TO REPORT PASSPORT THEFTS.**—If the Attorney General and the Secretary of State jointly determine that the program country is not reporting the theft of blank passports, as required by subsection (c)(2)(D), the Attorney General shall terminate the designation of the country as a program country.”.

8 USC 1736.

(b) **CHECK OF LOOKOUT DATABASES.**—Prior to the admission of an alien under the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187), the Immigration and Naturalization Service shall determine that the applicant for admission does not appear in any of the appropriate lookout databases available to immigration inspectors at the time the alien seeks admission to the United States.

8 USC 1737.

SEC. 308. TRACKING SYSTEM FOR STOLEN PASSPORTS.

(a) **ENTERING STOLEN PASSPORT IDENTIFICATION NUMBERS IN THE INTEROPERABLE DATA SYSTEM.**—

Deadline.

(1) **IN GENERAL.**—Beginning with implementation under section 202 of the law enforcement and intelligence data system, not later than 72 hours after receiving notification of the loss or theft of a United States or foreign passport, the Attorney General and the Secretary of State, as appropriate, shall enter into such system the corresponding identification number for the lost or stolen passport.

(2) **ENTRY OF INFORMATION ON PREVIOUSLY LOST OR STOLEN PASSPORTS.**—To the extent practicable, the Attorney General, in consultation with the Secretary of State, shall enter into such system the corresponding identification numbers for the United States and foreign passports lost or stolen prior to the implementation of such system.

(b) **TRANSITION PERIOD.**—Until such time as the law enforcement and intelligence data system described in section 202 is fully implemented, the Attorney General shall enter the data described in subsection (a) into an existing data system being used to determine the admissibility or deportability of aliens.

8 USC 1738.

SEC. 309. IDENTIFICATION DOCUMENTS FOR CERTAIN NEWLY ADMITTED ALIENS.

Deadline.

Not later than 180 days after the date of enactment of this Act, the Attorney General shall ensure that, immediately upon the arrival in the United States of an individual admitted under

section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or immediately upon an alien being granted asylum under section 208 of such Act (8 U.S.C. 1158), the alien will be issued an employment authorization document. Such document shall, at a minimum, contain the fingerprint and photograph of such alien.

TITLE IV—INSPECTION AND ADMISSION OF ALIENS

SEC. 401. STUDY OF THE FEASIBILITY OF A NORTH AMERICAN NATIONAL SECURITY PROGRAM.

President.
Canada.
Mexico.
8 USC 1751.

(a) IN GENERAL.—The President shall conduct a study of the feasibility of establishing a North American National Security Program to enhance the mutual security and safety of the United States, Canada, and Mexico.

(b) STUDY ELEMENTS.—In conducting the study required by subsection (a), the President shall consider the following:

(1) PRECLEARANCE.—The feasibility of establishing a program enabling foreign national travelers to the United States to submit voluntarily to a preclearance procedure established by the Department of State and the Immigration and Naturalization Service to determine whether such travelers are admissible to the United States under section 212 of the Immigration and Nationality Act (8 U.S.C. 1182). Consideration shall be given to the feasibility of expanding the preclearance program to include the preclearance both of foreign nationals traveling to Canada and foreign nationals traveling to Mexico.

(2) PREINSPECTION.—The feasibility of expanding preinspection facilities at foreign airports as described in section 235A of the Immigration and Nationality Act (8 U.S.C. 1225). Consideration shall be given to the feasibility of expanding preinspections to foreign nationals on air flights destined for Canada and Mexico, and the cross training and funding of inspectors from Canada and Mexico.

(3) CONDITIONS.—A determination of the measures necessary to ensure that the conditions required by section 235A(a)(5) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(5)) are satisfied, including consultation with experts recognized for their expertise regarding the conditions required by that section.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the President shall submit to the appropriate committees of Congress a report setting forth the findings of the study conducted under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 402. PASSENGER MANIFESTS.

(a) IN GENERAL.—Section 231 of the Immigration and Nationality Act (8 U.S.C. 1221(a)) is amended—

(1) by striking subsections (a), (b), (d), and (e);

(2) by redesignating subsection (c) as subsection (j); and

(3) by striking “SEC. 231.” and inserting the following:

“SEC. 231. (a) ARRIVAL MANIFESTS.—For each commercial vessel or aircraft transporting any person to any seaport or airport of

the United States from any place outside the United States, it shall be the duty of an appropriate official specified in subsection (d) to provide to any United States border officer (as defined in subsection (i)) at that port manifest information about each passenger, crew member, and other occupant transported on such vessel or aircraft prior to arrival at that port.

“(b) DEPARTURE MANIFESTS.—For each commercial vessel or aircraft taking passengers on board at any seaport or airport of the United States, who are destined to any place outside the United States, it shall be the duty of an appropriate official specified in subsection (d) to provide any United States border officer (as defined in subsection (i)) before departure from such port manifest information about each passenger, crew member, and other occupant to be transported.

“(c) CONTENTS OF MANIFEST.—The information to be provided with respect to each person listed on a manifest required to be provided under subsection (a) or (b) shall include—

- “(1) complete name;
 - “(2) date of birth;
 - “(3) citizenship;
 - “(4) sex;
 - “(5) passport number and country of issuance;
 - “(6) country of residence;
 - “(7) United States visa number, date, and place of issuance, where applicable;
 - “(8) alien registration number, where applicable;
 - “(9) United States address while in the United States;
- and

“(10) such other information the Attorney General, in consultation with the Secretary of State, and the Secretary of Treasury determines as being necessary for the identification of the persons transported and for the enforcement of the immigration laws and to protect safety and national security.

“(d) APPROPRIATE OFFICIALS SPECIFIED.—An appropriate official specified in this subsection is the master or commanding officer, or authorized agent, owner, or consignee, of the commercial vessel or aircraft concerned.

“(e) DEADLINE FOR REQUIREMENT OF ELECTRONIC TRANSMISSION OF MANIFEST INFORMATION.—Not later than January 1, 2003, manifest information required to be provided under subsection (a) or (b) shall be transmitted electronically by the appropriate official specified in subsection (d) to an immigration officer.

“(f) PROHIBITION.—No operator of any private or public carrier that is under a duty to provide manifest information under this section shall be granted clearance papers until the appropriate official specified in subsection (d) has complied with the requirements of this subsection, except that, in the case of commercial vessels or aircraft that the Attorney General determines are making regular trips to the United States, the Attorney General may, when expedient, arrange for the provision of manifest information of persons departing the United States at a later date.

“(g) PENALTIES AGAINST NONCOMPLYING SHIPMENTS, AIRCRAFT, OR CARRIERS.—If it shall appear to the satisfaction of the Attorney General that an appropriate official specified in subsection (d), any public or private carrier, or the agent of any transportation line, as the case may be, has refused or failed to provide manifest information required by subsection (a) or (b), or that the manifest

information provided is not accurate and full based on information provided to the carrier, such official, carrier, or agent, as the case may be, shall pay to the Commissioner the sum of \$1,000 for each person with respect to whom such accurate and full manifest information is not provided, or with respect to whom the manifest information is not prepared as prescribed by this section or by regulations issued pursuant thereto. No commercial vessel or aircraft shall be granted clearance pending determination of the question of the liability to the payment of such penalty, or while it remains unpaid, and no such penalty shall be remitted or refunded, except that clearance may be granted prior to the determination of such question upon the deposit with the Commissioner of a bond or undertaking approved by the Attorney General or a sum sufficient to cover such penalty.

“(h) **WAIVER.**—The Attorney General may waive the requirements of subsection (a) or (b) upon such circumstances and conditions as the Attorney General may by regulation prescribe.

“(i) **UNITED STATES BORDER OFFICER DEFINED.**—In this section, the term ‘United States border officer’ means, with respect to a particular port of entry into the United States, any United States official who is performing duties at that port of entry.”.

(b) **EXTENSION TO LAND CARRIERS.**—

President.
8 USC 1221 note.

(1) **STUDY.**—The President shall conduct a study regarding the feasibility of extending the requirements of subsections (a) and (b) of section 231 of the Immigration and Nationality Act (8 U.S.C. 1221), as amended by subsection (a), to any commercial carrier transporting persons by land to or from the United States. The study shall focus on the manner in which such requirement would be implemented to enhance the national security of the United States and the efficient cross-border flow of commerce and persons.

(2) **REPORT.**—Not later than two years after the date of enactment of this Act, the President shall submit to Congress a report setting forth the findings of the study conducted under paragraph (1).

Deadline.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall apply with respect to persons arriving in, or departing from, the United States on or after the date of enactment of this Act.

Applicability.
8 USC 1221 note.

SEC. 403. TIME PERIOD FOR INSPECTIONS.

(a) **REPEAL OF TIME LIMITATION ON INSPECTIONS.**—Section 286(g) of the Immigration and Nationality Act (8 U.S.C. 1356(g)) is amended by striking “, within forty-five minutes of their presentation for inspection,”.

(b) **STAFFING LEVELS AT PORTS OF ENTRY.**—The Immigration and Naturalization Service shall staff ports of entry at such levels that would be adequate to meet traffic flow and inspection time objectives efficiently without compromising the safety and security of the United States. Estimated staffing levels under workforce models for the Immigration and Naturalization Service shall be based on the goal of providing immigration services described in section 286(g) of such Act within 45 minutes of a passenger’s presentation for inspection.

8 USC 1752.

8 USC 1753.

SEC. 404. JOINT UNITED STATES-CANADA PROJECTS FOR ALTERNATIVE INSPECTIONS SERVICES.

(a) **IN GENERAL.**—United States border inspections agencies, including the Immigration and Naturalization Service, acting jointly and under an agreement of cooperation with the Government of Canada, may conduct joint United States-Canada inspections projects on the international border between the two countries. Each such project may provide alternative inspections services and shall undertake to harmonize the criteria for inspections applied by the two countries in implementing those projects.

(b) **ANNUAL REPORT.**—The Attorney General and the Secretary of the Treasury shall prepare and submit annually to Congress a report on the joint United States-Canada inspections projects conducted under subsection (a).

Federal Register,
publication.

(c) **EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT AND PAPERWORK REDUCTION ACT.**—Subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the “Administrative Procedure Act”) and chapter 35 of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”) shall not apply to fee setting for services and other administrative requirements relating to projects described in subsection (a), except that fees and forms established for such projects shall be published as a notice in the Federal Register.

TITLE V—FOREIGN STUDENTS AND EXCHANGE VISITORS

8 USC 1761.

SEC. 501. FOREIGN STUDENT MONITORING PROGRAM.

(a) **STRENGTHENING REQUIREMENTS FOR IMPLEMENTATION OF MONITORING PROGRAM.**—

(1) **MONITORING AND VERIFICATION OF INFORMATION.**—Section 641(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(a)) is amended by adding at the end the following:

“(3) **ALIENS FOR WHOM A VISA IS REQUIRED.**—The Attorney General, in consultation with the Secretary of State, shall establish an electronic means to monitor and verify—

“(A) the issuance of documentation of acceptance of a foreign student by an approved institution of higher education or other approved educational institution, or of an exchange visitor program participant by a designated exchange visitor program;

“(B) the transmittal of the documentation referred to in subparagraph (A) to the Department of State for use by the Bureau of Consular Affairs;

“(C) the issuance of a visa to a foreign student or an exchange visitor program participant;

“(D) the admission into the United States of the foreign student or exchange visitor program participant;

“(E) the notification to an approved institution of higher education, other approved educational institution, or exchange visitor program sponsor that the foreign student or exchange visitor participant has been admitted into the United States;

“(F) the registration and enrollment of that foreign student in such approved institution of higher education or other approved educational institution, or the participation of that exchange visitor in such designated exchange visitor program, as the case may be; and

“(G) any other relevant act by the foreign student or exchange visitor program participant, including a changing of school or designated exchange visitor program and any termination of studies or participation in a designated exchange visitor program.

“(4) REPORTING REQUIREMENTS.—Not later than 30 days after the deadline for registering for classes for an academic term of an approved institution of higher education or other approved educational institution for which documentation is issued for an alien as described in paragraph (3)(A), or the scheduled commencement of participation by an alien in a designated exchange visitor program, as the case may be, the institution or program, respectively, shall report to the Immigration and Naturalization Service any failure of the alien to enroll or to commence participation.”. Deadline.

(2) ADDITIONAL REQUIREMENTS FOR DATA TO BE COLLECTED.—Section 641(c)(1) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)(1)) is amended—

(A) by striking “and” at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph

(D) and inserting “; and”; and

(C) by adding at the end the following:

“(E) the date of entry and port of entry;

“(F) the date of the alien’s enrollment in an approved institution of higher education, other approved educational institution, or designated exchange visitor program in the United States;

“(G) the degree program, if applicable, and field of study; and

“(H) the date of the alien’s termination of enrollment and the reason for such termination (including graduation, disciplinary action or other dismissal, and failure to re-enroll).”.

(3) REPORTING REQUIREMENTS.—Section 641(c) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372(c)) is amended by adding at the end the following new paragraph:

“(5) REPORTING REQUIREMENTS.—The Attorney General shall prescribe by regulation reporting requirements by taking into account the curriculum calendar of the approved institution of higher education, other approved educational institution, or exchange visitor program.”. Regulations.

(b) INFORMATION REQUIRED OF THE VISA APPLICANT.—Prior to the issuance of a visa under subparagraph (F), subparagraph (M), or, with respect to an alien seeking to attend an approved institution of higher education, subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), each alien applying for such visa shall provide to a consular officer the following information:

(1) The alien’s address in the country of origin.

(2) The names and addresses of the alien's spouse, children, parents, and siblings.

(3) The names of contacts of the alien in the alien's country of residence who could verify information about the alien.

(4) Previous work history, if any, including the names and addresses of employers.

Deadlines.

(c) TRANSITIONAL PROGRAM.—

Applicability.

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act and until such time as the system described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act (as amended by subsection (a)) is fully implemented, the following requirements shall apply:

(A) RESTRICTIONS ON ISSUANCE OF VISAS.—A visa may not be issued to an alien under subparagraph (F), subparagraph (M), or, with respect to an alien seeking to attend an approved institution of higher education, subparagraph (J) of section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)), unless—

(i) the Department of State has received from an approved institution of higher education or other approved educational institution electronic evidence of documentation of the alien's acceptance at that institution; and

(ii) the consular officer has adequately reviewed the applicant's visa record.

(B) NOTIFICATION UPON VISA ISSUANCE.—Upon the issuance of a visa under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F) or (M)) to an alien, the Secretary of State shall transmit to the Immigration and Naturalization Service a notification of the issuance of that visa.

(C) NOTIFICATION UPON ADMISSION OF ALIEN.—The Immigration and Naturalization Service shall notify the approved institution of higher education or other approved educational institution that an alien accepted for such institution or program has been admitted to the United States.

(D) NOTIFICATION OF FAILURE OF ENROLLMENT.—Not later than 30 days after the deadline for registering for classes for an academic term, the approved institution of higher education or other approved educational institution shall inform the Immigration and Naturalization Service through data-sharing arrangements of any failure of any alien described in subparagraph (C) to enroll or to commence participation.

(2) REQUIREMENT TO SUBMIT LIST OF APPROVED INSTITUTIONS.—Not later than 30 days after the date of enactment of this Act, the Attorney General shall provide the Secretary of State with a list of all approved institutions of higher education and other approved educational institutions that are authorized to receive nonimmigrants under section 101(a)(15) (F) or (M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F) or (M)).

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection.

SEC. 502. REVIEW OF INSTITUTIONS AND OTHER ENTITIES AUTHORIZED TO ENROLL OR SPONSOR CERTAIN NON-IMMIGRANTS. 8 USC 1762.

(a) **PERIODIC REVIEW OF COMPLIANCE.**—Not later than two years after the date of enactment of this Act, and every two years thereafter, the Commissioner of Immigration and Naturalization, in consultation with the Secretary of Education, shall conduct a review of the institutions certified to receive nonimmigrants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)). Each review shall determine whether the institutions are in compliance with—

Deadline.

(1) recordkeeping and reporting requirements to receive nonimmigrants under section 101(a)(15) (F), (M), or (J) of that Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)); and

(2) recordkeeping and reporting requirements under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(b) **PERIODIC REVIEW OF SPONSORS OF EXCHANGE VISITORS.**—

(1) **REQUIREMENT FOR REVIEWS.**—Not later than two years after the date of enactment of this Act, and every two years thereafter, the Secretary of State shall conduct a review of the entities designated to sponsor exchange visitor program participants under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)).

Deadline.

(2) **DETERMINATIONS.**—On the basis of reviews of entities under paragraph (1), the Secretary shall determine whether the entities are in compliance with—

(A) recordkeeping and reporting requirements to receive nonimmigrant exchange visitor program participants under section 101(a)(15)(J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(J)); and

(B) recordkeeping and reporting requirements under section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372).

(c) **EFFECT OF MATERIAL FAILURE TO COMPLY.**—Material failure of an institution or other entity to comply with the recordkeeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants under section 101(a)(15) (F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15) (F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), shall result in the suspension for at least one year or termination, at the election of the Commissioner of Immigration and Naturalization, of the institution's approval to receive such students, or result in the suspension for at least one year or termination, at the election of the Secretary of State, of the other entity's designation to sponsor exchange visitor program participants, as the case may be.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. EXTENSION OF DEADLINE FOR IMPROVEMENT IN BORDER CROSSING IDENTIFICATION CARDS.

Section 104(b)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1101 note) is amended by striking “5 years” and inserting “6 years”.

8 USC 1771.

SEC. 602. GENERAL ACCOUNTING OFFICE STUDY.

(a) REQUIREMENT FOR STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the feasibility and utility of implementing a requirement that each nonimmigrant alien in the United States submit to the Commissioner of Immigration and Naturalization each year a current address and, where applicable, the name and address of an employer.

(2) NONIMMIGRANT ALIEN DEFINED.—In paragraph (1), the term “nonimmigrant alien” means an alien described in section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)).

Deadline.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to Congress a report on the results of the study under subsection (a). The report shall include the Comptroller General’s findings, together with any recommendations that the Comptroller General considers appropriate.

8 USC 1772.

SEC. 603. INTERNATIONAL COOPERATION.

(a) INTERNATIONAL ELECTRONIC DATA SYSTEM.—The Secretary of State and the Commissioner of Immigration and Naturalization, in consultation with the Assistant to the President for Homeland Security, shall jointly conduct a study of the alternative approaches (including the costs of, and procedures necessary for, each alternative approach) for encouraging or requiring Canada, Mexico, and countries treated as visa waiver program countries under section 217 of the Immigration and Nationality Act to develop an intergovernmental network of interoperable electronic data systems that—

(1) facilitates real-time access to that country’s law enforcement and intelligence information that is needed by the Department of State and the Immigration and Naturalization Service to screen visa applicants and applicants for admission into the United States to identify aliens who are inadmissible or deportable under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.);

(2) is interoperable with the electronic data system implemented under section 202; and

(3) performs in accordance with implementation of the technology standard referred to in section 202(a).

Deadline.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of State and the Attorney General shall submit to the appropriate committees of Congress a report setting forth the findings of the study conducted under subsection (a).

SEC. 604. STATUTORY CONSTRUCTION.

8 USC 1773.

Nothing in this Act shall be construed to impose requirements that are inconsistent with the North American Free Trade Agreement or to require additional documents for aliens for whom documentary requirements are waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

SEC. 605. ANNUAL REPORT ON ALIENS WHO FAIL TO APPEAR AFTER RELEASE ON OWN RECOGNIZANCE.Deadlines.
8 USC 1774.

(a) **REQUIREMENT FOR REPORT.**—Not later than January 15 of each year, the Attorney General shall submit to the appropriate committees of Congress a report on the total number of aliens who, during the preceding year, failed to attend a removal proceeding after having been arrested outside a port of entry, served a notice to appear under section 239(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1229(a)(1)), and released on the alien's own recognizance. The report shall also take into account the number of cases in which there were defects in notices of hearing or the service of notices of hearing, together with a description and analysis of the effects, if any, that the defects had on the attendance of aliens at the proceedings.

(b) **INITIAL REPORT.**—Notwithstanding the time for submission of the annual report provided in subsection (a), the report for 2001 shall be submitted not later than 6 months after the date of enactment of this Act.

SEC. 606. RETENTION OF NONIMMIGRANT VISA APPLICATIONS BY THE DEPARTMENT OF STATE.

8 USC 1775.

The Department of State shall retain, for a period of seven years from the date of application, every application for a non-immigrant visa under section 101(a)(15) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)) in a form that will be admissible in the courts of the United States or in administrative proceedings, including removal proceedings under such Act, without regard to whether the application was approved or denied.

Approved May 14, 2002.

LEGISLATIVE HISTORY—H.R. 3525:**CONGRESSIONAL RECORD:**

Vol. 147 (2001): Dec. 19, considered and passed House.

Vol. 148 (2002): Apr. 12, 15, 17, considered and passed Senate, amended.

May 7, 8, House considered and concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

May 14, Presidential remarks.



Public Law 107–174
107th Congress

An Act

May 15, 2002
[H.R. 169]

Notification and
Federal
Employee
Antidiscrimina-
tion and
Retaliation Act of
2002.
5 USC 2301 note.

To require that Federal agencies be accountable for violations of antidiscrimination and whistleblower protection laws; to require that each Federal agency post quarterly on its public Web site, certain statistical data relating to Federal sector equal employment opportunity complaints filed with such agency; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings.
Sec. 102. Sense of Congress.
Sec. 103. Definitions.
Sec. 104. Effective date.

TITLE II—FEDERAL EMPLOYEE DISCRIMINATION AND RETALIATION

Sec. 201. Reimbursement requirement.
Sec. 202. Notification requirement.
Sec. 203. Reporting requirement.
Sec. 204. Rules and guidelines.
Sec. 205. Clarification of remedies.
Sec. 206. Studies by General Accounting Office on exhaustion of remedies and certain Department of Justice costs.

**TITLE III—EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT DATA
DISCLOSURE**

Sec. 301. Data to be posted by employing Federal agencies.
Sec. 302. Data to be posted by the Equal Employment Opportunity Commission.
Sec. 303. Rules.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS.

Congress finds that—

(1) Federal agencies cannot be run effectively if those agencies practice or tolerate discrimination;

(2) Congress has heard testimony from individuals, including representatives of the National Association for the Advancement of Colored People and the American Federation of Government Employees, that point to chronic problems of discrimination and retaliation against Federal employees;

(3) in August 2000, a jury found that the Environmental Protection Agency had discriminated against a senior social scientist, and awarded that scientist \$600,000;

(4) in October 2000, an Occupational Safety and Health Administration investigation found that the Environmental Protection Agency had retaliated against a senior scientist for disagreeing with that agency on a matter of science and for helping Congress to carry out its oversight responsibilities;

(5) there have been several recent class action suits based on discrimination brought against Federal agencies, including the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco, and Firearms, the Drug Enforcement Administration, the Immigration and Naturalization Service, the United States Marshals Service, the Department of Agriculture, the United States Information Agency, and the Social Security Administration;

(6) notifying Federal employees of their rights under discrimination and whistleblower laws should increase Federal agency compliance with the law;

(7) requiring annual reports to Congress on the number and severity of discrimination and whistleblower cases brought against each Federal agency should enable Congress to improve its oversight over compliance by agencies with the law; and

(8) requiring Federal agencies to pay for any discrimination or whistleblower judgment, award, or settlement should improve agency accountability with respect to discrimination and whistleblower laws.

SEC. 102. SENSE OF CONGRESS.

It is the sense of Congress that—

(1) Federal agencies should not retaliate for court judgments or settlements relating to discrimination and whistleblower laws by targeting the claimant or other employees with reductions in compensation, benefits, or workforce to pay for such judgments or settlements;

(2) the mission of the Federal agency and the employment security of employees who are blameless in a whistleblower incident should not be compromised;

(3) Federal agencies should not use a reduction in force or furloughs as means of funding a reimbursement under this Act;

(4)(A) accountability in the enforcement of employee rights is not furthered by terminating—

(i) the employment of other employees; or

(ii) the benefits to which those employees are entitled through statute or contract; and

(B) this Act is not intended to authorize those actions;

(5)(A) nor is accountability furthered if Federal agencies react to the increased accountability under this Act by taking unfounded disciplinary actions against managers or by violating the procedural rights of managers who have been accused of discrimination; and

(B) Federal agencies should ensure that managers have adequate training in the management of a diverse workforce and in dispute resolution and other essential communication skills; and

(6)(A) Federal agencies are expected to reimburse the General Fund of the Treasury within a reasonable time under this Act; and

(B) a Federal agency, particularly if the amount of reimbursement under this Act is large relative to annual appropriations for that agency, may need to extend reimbursement over several years in order to avoid—

- (i) reductions in force;
- (ii) furloughs;
- (iii) other reductions in compensation or benefits for the workforce of the agency; or
- (iv) an adverse effect on the mission of the agency.

SEC. 103. DEFINITIONS.

For purposes of this Act—

(1) the term “applicant for Federal employment” means an individual applying for employment in or under a Federal agency;

(2) the term “basis of alleged discrimination” shall have the meaning given such term under section 303;

(3) the term “Federal agency” means an Executive agency (as defined in section 105 of title 5, United States Code), the United States Postal Service, or the Postal Rate Commission;

(4) the term “Federal employee” means an individual employed in or under a Federal agency;

(5) the term “former Federal employee” means an individual formerly employed in or under a Federal agency; and

(6) the term “issue of alleged discrimination” shall have the meaning given such term under section 303.

SEC. 104. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on the 1st day of the 1st fiscal year beginning more than 180 days after the date of the enactment of this Act.

TITLE II—FEDERAL EMPLOYEE DISCRIMINATION AND RETALIATION

SEC. 201. REIMBURSEMENT REQUIREMENT.

(a) **APPLICABILITY.**—This section applies with respect to any payment made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code (relating to judgments, awards, and compromise settlements) to any Federal employee, former Federal employee, or applicant for Federal employment, in connection with any proceeding brought by or on behalf of such employee, former employee, or applicant under—

(1) any provision of law cited in subsection (c); or

(2) any other provision of law which prohibits any form of discrimination, as identified under rules issued under section 204.

(b) **REQUIREMENT.**—An amount equal to the amount of each payment described in subsection (a) shall be reimbursed to the fund described in section 1304 of title 31, United States Code, out of any appropriation, fund, or other account (excluding any part of such appropriation, of such fund, or of such account available

for the enforcement of any Federal law) available for operating expenses of the Federal agency to which the discriminatory conduct involved is attributable as determined under section 204.

(c) SCOPE.—The provisions of law cited in this subsection are the following:

(1) Section 2302(b) of title 5, United States Code, as applied to discriminatory conduct described in paragraphs (1) and (8), or described in paragraph (9) of such section as applied to discriminatory conduct described in paragraphs (1) and (8), of such section.

(2) The provisions of law specified in section 2302(d) of title 5, United States Code.

SEC. 202. NOTIFICATION REQUIREMENT.

(a) IN GENERAL.—Written notification of the rights and protections available to Federal employees, former Federal employees, and applicants for Federal employment (as the case may be) in connection with the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) shall be provided to such employees, former employees, and applicants—

(1) in accordance with otherwise applicable provisions of law; or

(2) if, or to the extent that, no such notification would otherwise be required, in such time, form, and manner as shall under section 204 be required in order to carry out the requirements of this section.

(b) POSTING ON THE INTERNET.—Any written notification under this section shall include, but not be limited to, the posting of the information required under paragraph (1) or (2) (as applicable) of subsection (a) on the Internet site of the Federal agency involved.

(c) EMPLOYEE TRAINING.—Each Federal agency shall provide to the employees of such agency training regarding the rights and remedies applicable to such employees under the laws cited in section 201(c).

SEC. 203. REPORTING REQUIREMENT.

Deadline.

(a) ANNUAL REPORT.—Subject to subsection (b), not later than 180 days after the end of each fiscal year, each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, each committee of Congress with jurisdiction relating to the agency, the Equal Employment Opportunity Commission, and the Attorney General an annual report which shall include, with respect to the fiscal year—

(1) the number of cases arising under each of the respective provisions of law covered by paragraphs (1) and (2) of section 201(a) in which discrimination on the part of such agency was alleged;

(2) the status or disposition of cases described in paragraph (1);

(3) the amount of money required to be reimbursed by such agency under section 201 in connection with each of such cases, separately identifying the aggregate amount of such reimbursements attributable to the payment of attorneys' fees, if any;

(4) the number of employees disciplined for discrimination, retaliation, harassment, or any other infraction of any provision of law referred to in paragraph (1);

(5) the final year-end data posted under section 301(c)(1)(B) for such fiscal year (without regard to section 301(c)(2));

(6) a detailed description of—

(A) the policy implemented by that agency relating to appropriate disciplinary actions against a Federal employee who—

(i) discriminated against any individual in violation of any of the laws cited under section 201(a)(1) or (2); or

(ii) committed another prohibited personnel practice that was revealed in the investigation of a complaint alleging a violation of any of the laws cited under section 201(a)(1) or (2); and

(B) with respect to each of such laws, the number of employees who are disciplined in accordance with such policy and the specific nature of the disciplinary action taken;

(7) an analysis of the information described under paragraphs (1) through (6) (in conjunction with data provided to the Equal Employment Opportunity Commission in compliance with part 1614 of title 29 of the Code of Federal Regulations) including—

(A) an examination of trends;

(B) causal analysis;

(C) practical knowledge gained through experience; and

(D) any actions planned or taken to improve complaint or civil rights programs of the agency; and

(8) any adjustment (to the extent the adjustment can be ascertained in the budget of the agency) to comply with the requirements under section 201.

(b) **FIRST REPORT.**—The 1st report submitted under subsection (a) shall include for each item under subsection (a) data for each of the 5 immediately preceding fiscal years (or, if data are not available for all 5 fiscal years, for each of those 5 fiscal years for which data are available).

SEC. 204. RULES AND GUIDELINES.

President.

(a) **ISSUANCE OF RULES AND GUIDELINES.**—The President (or the designee of the President) shall issue—

(1) rules to carry out this title;

(2) rules to require that a comprehensive study be conducted in the executive branch to determine the best practices relating to the appropriate disciplinary actions against Federal employees who commit the actions described under clauses (i) and (ii) of section 203(a)(6)(A); and

(3) based on the results of such study, advisory guidelines incorporating best practices that Federal agencies may follow to take such actions against such employees.

Deadline.

(b) **AGENCY NOTIFICATION REGARDING IMPLEMENTATION OF GUIDELINES.**—Not later than 30 days after the issuance of guidelines under subsection (a), each Federal agency shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity

Commission, and the Attorney General a written statement specifying in detail—

- (1) whether such agency has adopted and will fully follow such guidelines;
- (2) if such agency has not adopted such guidelines; the reasons for the failure to adopt such guidelines; and
- (3) if such agency will not fully follow such guidelines, the reasons for the decision not to fully follow such guidelines and an explanation of the extent to which such agency will not follow such guidelines.

SEC. 205. CLARIFICATION OF REMEDIES.

Consistent with Federal law, nothing in this title shall prevent any Federal employee, former Federal employee, or applicant for Federal employment from exercising any right otherwise available under the laws of the United States.

SEC. 206. STUDIES BY GENERAL ACCOUNTING OFFICE ON EXHAUSTION OF ADMINISTRATIVE REMEDIES AND ON ASCERTAINMENT OF CERTAIN DEPARTMENT OF JUSTICE COSTS.

Deadlines.

(a) **STUDY ON EXHAUSTION OF ADMINISTRATIVE REMEDIES.—**

(1) **STUDY.—**

(A) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the General Accounting Office shall conduct a study relating to the effects of eliminating the requirement that Federal employees aggrieved by violations of any of the laws specified under section 201(c) exhaust administrative remedies before filing complaints with the Equal Employment Opportunity Commission.

(B) **CONTENTS.**—The study shall include a detailed summary of matters investigated, information collected, and conclusions formulated that lead to determinations of how the elimination of such requirement will—

- (i) expedite handling of allegations of such violations within Federal agencies and will streamline the complaint-filing process;
- (ii) affect the workload of the Commission;
- (iii) affect established alternative dispute resolution procedures in such agencies; and
- (iv) affect any other matters determined by the General Accounting Office to be appropriate for consideration.

(2) **REPORT.**—Not later than 90 days after completion of the study required by paragraph (1), the General Accounting Office shall submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Equal Employment Opportunity Commission, and the Attorney General a report containing the information required to be included in such study.

(b) **STUDY ON ASCERTAINMENT OF CERTAIN COSTS OF THE DEPARTMENT OF JUSTICE IN DEFENDING DISCRIMINATION AND WHISTLEBLOWER CASES.—**

(1) **STUDY.**—Not later than 180 days after the date of enactment of this Act, the General Accounting Office shall conduct a study of the methods that could be used for, and the extent of any administrative burden that would be imposed on, the Department of Justice to ascertain the personnel and

administrative costs incurred in defending in each case arising from a proceeding identified under section 201(a) (1) and (2).

(2) REPORT.—Not later than 90 days after completion of the study required by paragraph (1), the General Accounting Office shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report containing the information required to be included in the study.

(c) STUDIES ON STATUTORY EFFECTS ON AGENCY OPERATIONS.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the General Accounting Office shall conduct—

(A) a study on the effects of section 201 on the operations of Federal agencies; and

(B) a study on the effects of section 13 of the Contract Disputes Act of 1978 (41 U.S.C. 612) on the operations of Federal agencies.

(2) CONTENTS.—Each study under paragraph (1) shall include, with respect to the applicable statutes of the study—

(A) a summary of the number of cases in which a payment was made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code;

(B) a summary of the length of time Federal agencies used to complete reimbursements of payments described under subparagraph (A); and

(C) conclusions that assist in making determinations on how the reimbursements of payments described under subparagraph (A) will affect—

(i) the operations of Federal agencies;

(ii) funds appropriated on an annual basis;

(iii) employee relations and other human capital matters;

(iv) settlements; and

(v) any other matter determined by the General Accounting Office to be appropriate for consideration.

(3) REPORTS.—Not later than 90 days after the completion of each study under paragraph (1), the General Accounting Office shall submit a report on each study, respectively, to the Speaker of the House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Attorney General.

(d) STUDY ON ADMINISTRATIVE AND PERSONNEL COSTS INCURRED BY THE DEPARTMENT OF THE TREASURY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the General Accounting Office shall conduct a study on the extent of any administrative and personnel costs incurred by the Department of the Treasury to account for payments made in accordance with section 2414, 2517, 2672, or 2677 of title 28, United States Code, and under section 1304 of title 31, United States Code, as a result of—

(A) this Act; and

(B) the Contracts Dispute Act of 1978 (41 U.S.C. 601 note; Public Law 95-563).

(2) REPORT.—Not later than 90 days after the completion of the study under paragraph (1), the General Accounting Office shall submit a report on the study to the Speaker of the

House of Representatives, the President pro tempore of the Senate, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Attorney General.

TITLE III—EQUAL EMPLOYMENT OPPORTUNITY COMPLAINT DATA DISCLOSURE

SEC. 301. DATA TO BE POSTED BY EMPLOYING FEDERAL AGENCIES.

Internet.
Public
information.

(a) **IN GENERAL.**—Each Federal agency shall post on its public Web site, in the time, form, and manner prescribed under section 303 (in conformance with the requirements of this section), summary statistical data relating to equal employment opportunity complaints filed with such agency by employees or former employees of, or applicants for employment with, such agency.

(b) **CONTENT REQUIREMENTS.**—The data posted by a Federal agency under this section shall include, for the then current fiscal year, the following:

(1) The number of complaints filed with such agency in such fiscal year.

(2) The number of individuals filing those complaints (including as the agent of a class).

(3) The number of individuals who filed 2 or more of those complaints.

(4) The number of complaints (described in paragraph (1)) in which each of the various bases of alleged discrimination is alleged.

(5) The number of complaints (described in paragraph (1)) in which each of the various issues of alleged discrimination is alleged.

(6) The average length of time, for each step of the process, it is taking such agency to process complaints (taking into account all complaints pending for any length of time in such fiscal year, whether first filed in such fiscal year or earlier). Average times under this paragraph shall be posted—

(A) for all such complaints,

(B) for all such complaints in which a hearing before an administrative judge of the Equal Employment Opportunity Commission is not requested, and

(C) for all such complaints in which a hearing before an administrative judge of the Equal Employment Opportunity Commission is requested.

(7) The total number of final agency actions rendered in such fiscal year involving a finding of discrimination and, of that number—

(A) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(B) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(8) Of the total number of final agency actions rendered in such fiscal year involving a finding of discrimination—

(A) the number and percentage involving a finding of discrimination based on each of the respective bases of alleged discrimination, and

(B) of the number specified under subparagraph (A) for each of the respective bases of alleged discrimination—

(i) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(ii) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(9) Of the total number of final agency actions rendered in such fiscal year involving a finding of discrimination—

(A) the number and percentage involving a finding of discrimination in connection with each of the respective issues of alleged discrimination, and

(B) of the number specified under subparagraph (A) for each of the respective issues of alleged discrimination—

(i) the number and percentage that were rendered without a hearing before an administrative judge of the Equal Employment Opportunity Commission, and

(ii) the number and percentage that were rendered after a hearing before an administrative judge of the Equal Employment Opportunity Commission.

(10)(A) Of the total number of complaints pending in such fiscal year (as described in the parenthetical matter in paragraph (6)), the number that were first filed before the start of the then current fiscal year.

(B) With respect to those pending complaints that were first filed before the start of the then current fiscal year—

(i) the number of individuals who filed those complaints, and

(ii) the number of those complaints which are at the various steps of the complaint process.

(C) Of the total number of complaints pending in such fiscal year (as described in the parenthetical matter in paragraph (6)), the total number of complaints with respect to which the agency violated the requirements of section 1614.106(e)(2) of title 29 of the Code of Federal Regulations (as in effect on July 1, 2000, and amended from time to time) by failing to conduct within 180 days of the filing of such complaints an impartial and appropriate investigation of such complaints.

(c) TIMING AND OTHER REQUIREMENTS.—

(1) CURRENT YEAR DATA.—Data posted under this section for the then current fiscal year shall include both—

(A) interim year-to-date data, updated quarterly, and

(B) final year-end data.

(2) DATA FOR PRIOR YEARS.—The data posted by a Federal agency under this section for a fiscal year (both interim and final) shall include, for each item under subsection (b), such agency's corresponding year-end data for each of the 5 immediately preceding fiscal years (or, if not available for all 5 fiscal years, for however many of those 5 fiscal years for which data are available).

SEC. 302. DATA TO BE POSTED BY THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

Internet.
Public
information.

(a) **IN GENERAL.**—The Equal Employment Opportunity Commission shall post on its public Web site, in the time, form, and manner prescribed under section 303 for purposes of this section, summary statistical data relating to—

(1) hearings requested before an administrative judge of the Commission on complaints described in section 301, and

(2) appeals filed with the Commission from final agency actions on complaints described in section 301.

(b) **SPECIFIC REQUIREMENTS.**—The data posted under this section shall, with respect to the hearings and appeals described in subsection (a), include summary statistical data corresponding to that described in paragraphs (1) through (10) of section 301(b), and shall be subject to the same timing and other requirements as set forth in section 301(c).

(c) **COORDINATION.**—The data required under this section shall be in addition to the data the Commission is required to post under section 301 as an employing Federal agency.

SEC. 303. RULES.

The Equal Employment Opportunity Commission shall issue any rules necessary to carry out this title.

Approved May 15, 2002.

LEGISLATIVE HISTORY—H.R. 169:

HOUSE REPORTS: No. 107-101, Pt. 1 (Comm. on the Judiciary).

SENATE REPORTS: No. 107-143 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 147 (2001):

Oct. 2, considered and passed House.

Apr. 23, considered and passed Senate, amended.

Apr. 30, House concurred in Senate amendments.



Public Law 107–175
107th Congress

An Act

May 17, 2002
[H.R. 495]

To designate the Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, as the “Ron de Lugo Federal Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located in Charlotte Amalie, St. Thomas, United States Virgin Islands, shall be known and designated as the “Ron de Lugo Federal Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the “Ron de Lugo Federal Building”.

Approved May 17, 2002.

LEGISLATIVE HISTORY—H.R. 495:

HOUSE REPORTS: No. 107–71 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD:

Vol. 147 (2001): May 21, considered and passed House.

Vol. 148 (2002): Apr. 30, considered and passed Senate.



Public Law 107–176
107th Congress

An Act

To designate the Federal building located at 143 West Liberty Street, Medina,
Ohio, as the “Donald J. Pease Federal Building”.

May 17, 2002
[H.R. 819]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. DESIGNATION.

The Federal building located at 143 West Liberty Street,
Medina, Ohio, shall be known and designated as the “Donald J.
Pease Federal Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper,
or other record of the United States to the Federal building referred
to in section 1 shall be deemed to be a reference to the “Donald
J. Pease Federal Building”.

Approved May 17, 2002.

LEGISLATIVE HISTORY—H.R. 819:

HOUSE REPORTS: No. 107–75 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD:

Vol. 147 (2001): June 20, considered and passed House.

Vol. 148 (2002): Apr. 30, considered and passed Senate.



Public Law 107–177
107th Congress

An Act

May 17, 2002
[H.R. 3093]

To designate the Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, as the “William L. Beatty Federal Building and United States Courthouse”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 501 Bell Street in Alton, Illinois, shall be known and designated as the “William L. Beatty Federal Building and United States Courthouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the “William L. Beatty Federal Building and United States Courthouse”.

Approved May 17, 2002.

LEGISLATIVE HISTORY—H.R. 3093:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 16, considered and passed House.
Vol. 148 (2002): Apr. 30, considered and passed Senate.



Public Law 107–178
107th Congress

An Act

To designate the Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, as the “Mike Mansfield Federal Building and United States Courthouse”.

May 17, 2002
[H.R. 3282]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 400 North Main Street in Butte, Montana, shall be known and designated as the “Mike Mansfield Federal Building and United States Courthouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building and United States courthouse referred to in section 1 shall be deemed to be a reference to the “Mike Mansfield Federal Building and United States Courthouse”.

Approved May 17, 2002.

LEGISLATIVE HISTORY—H.R. 3282:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 11, considered and passed House.
Vol. 148 (2002): Apr. 30, considered and passed Senate.



Public Law 107–179
107th Congress

An Act

May 20, 2002
[H.R. 2048]

To require a report on the operations of the State Justice Institute.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. REPORT BY ATTORNEY GENERAL ON STATE JUSTICE
INSTITUTE.**

Section 213 of the State Justice Institute Act of 1984 (42 U.S.C. 10712) is amended by striking “On October 1, 1987” and inserting “Not later than October 1, 2002”.

Approved May 20, 2002.

LEGISLATIVE HISTORY—H.R. 2048:

HOUSE REPORTS: No. 107–189 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Sept. 5, considered and passed House.

Vol. 148 (2002): May 7, considered and passed Senate.



Public Law 107–180
107th Congress

An Act

To authorize certain Federal officials with responsibility for the administration of the criminal justice system of the District of Columbia to serve on and participate in the activities of the District of Columbia Criminal Justice Coordinating Council, and for other purposes.

May 20, 2002
[H.R. 2305]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Criminal Justice Coordinating Council Restructuring Act of 2002”.

Criminal Justice
Coordinating
Council
Restructuring
Act of 2002.

SEC. 2. AUTHORIZING FEDERAL OFFICIALS ADMINISTERING CRIMINAL JUSTICE SYSTEM OF DISTRICT OF COLUMBIA TO PARTICIPATE IN CRIMINAL JUSTICE COORDINATING COUNCIL.

(a) **IN GENERAL.**—Each of the individuals described in subsection (b) is authorized to serve on the District of Columbia Criminal Justice Coordinating Council, participate in the Council’s activities, and take such other actions as may be necessary to carry out the individual’s duties as a member of the Council.

(b) **INDIVIDUALS DESCRIBED.**—The individuals described in this subsection are as follows:

- (1) The Director of the Court Services and Offender Supervision Agency for the District of Columbia.
- (2) The Director of the District of Columbia Pretrial Services Agency.
- (3) The United States Attorney for the District of Columbia.
- (4) The Director of the Bureau of Prisons.
- (5) The chair of the United States Parole Commission.
- (6) The Director of the United States Marshals Service.

SEC. 3. ANNUAL REPORTING REQUIREMENT FOR CRIMINAL JUSTICE COORDINATING COUNCIL.

Not later than 60 days after the end of each calendar year, the District of Columbia Criminal Justice Coordinating Council shall prepare and submit to the President, Congress, and each of the entities of the District of Columbia government and Federal Government whose representatives serve on the Council a report describing the activities carried out by the Council during the year.

Deadline.

SEC. 4. FEDERAL CONTRIBUTION FOR COORDINATING COUNCIL.

There are authorized to be appropriated for fiscal year 2002 and each succeeding fiscal year such sums as may be necessary for a Federal contribution to the District of Columbia to cover

Appropriation
authorization.

the costs incurred by the District of Columbia Criminal Justice Coordinating Council.

SEC. 5. DISTRICT OF COLUMBIA CRIMINAL JUSTICE COORDINATING COUNCIL DEFINED.

In this Act, the “District of Columbia Criminal Justice Coordinating Council” means the entity established by the Council of the District of Columbia under the Criminal Justice Coordinating Council for the District of Columbia Establishment Act of 2001.

Approved May 20, 2002.

LEGISLATIVE HISTORY—H.R. 2305:

SENATE REPORTS: No. 107–145 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 4, considered and passed House.

Vol. 148 (2002): May 7, considered and passed Senate.



Public Law 107–181
107th Congress

An Act

To amend the Internal Revenue Code of 1986 to clarify that the parsonage allowance exclusion is limited to the fair rental value of the property.

May 20, 2002
[H.R. 4156]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clergy Housing Allowance Clarification Act of 2002”.

Clergy Housing
Allowance
Clarification Act
of 2002.
26 USC 1 note.

SEC. 2. CLARIFICATION OF PARSONAGE ALLOWANCE EXCLUSION.

(a) **IN GENERAL.**—Section 107 of the Internal Revenue Code of 1986 is amended by inserting before the period at the end of paragraph (2) “and to the extent such allowance does not exceed the fair rental value of the home, including furnishings and appurtenances such as a garage, plus the cost of utilities”.

26 USC 107.

(b) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendment made by this section shall apply to taxable years beginning after December 31, 2001.

Applicability.
26 USC 107 note.

(2) **RETURNS POSITIONS.**—The amendment made by this section also shall apply to any taxable year beginning before January 1, 2002, for which the taxpayer—

(A) on a return filed before April 17, 2002, limited the exclusion under section 107 of the Internal Revenue Code of 1986 as provided in such amendment, or

(B) filed a return after April 16, 2002.

(3) **OTHER YEARS BEFORE 2002.**—Except as provided in paragraph (2), notwithstanding any prior regulation, revenue ruling, or other guidance issued by the Internal Revenue Service, no person shall be subject to the limitations added to section 107 of such Code by this Act for any taxable year beginning before January 1, 2002.

Approved May 20, 2002.

LEGISLATIVE HISTORY—H.R. 4156:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 16, considered and passed House.

May 2, considered and passed Senate.



Public Law 107–182
107th Congress

An Act

May 21, 2002
[S. 378]

To redesignate the Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, as the “Paul Simon Chicago Job Corps Center”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF PAUL SIMON CHICAGO JOB CORPS CENTER.

(a) IN GENERAL.—The Federal building located at 3348 South Kedzie Avenue, in Chicago, Illinois, and known as the “Chicago Job Corps Center” shall be known and designated as the “Paul Simon Chicago Job Corps Center”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Federal building referred to in subsection (a) shall be deemed to be a reference to the “Paul Simon Chicago Job Corps Center”.

Approved May 21, 2002.

LEGISLATIVE HISTORY—S. 378:

CONGRESSIONAL RECORD:

Vol. 147 (2001): May 24, considered and passed Senate.
Vol. 148 (2002): May 7, considered and passed House.



Public Law 107–183
107th Congress

An Act

To name the chapel located in the national cemetery in Los Angeles, California,
as the “Bob Hope Veterans Chapel”.

May 29, 2002
[H.R. 4592]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. DESIGNATION.

Notwithstanding section 531 of title 38, United States Code, the chapel located in the national cemetery located in Los Angeles, California, shall after the date of the enactment of this Act be known and designated as the “Bob Hope Veterans Chapel”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the chapel referred to in section 1 shall be deemed to be a reference to the “Bob Hope Veterans Chapel”.

Approved May 29, 2002.

LEGISLATIVE HISTORY—H.R. 4592:

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 21, considered and passed House.

May 22, considered and passed Senate.



Public Law 107–184
107th Congress

An Act

May 29, 2002
[H.R. 4608]

To name the Department of Veterans Affairs Medical and Regional Office Center in Wichita, Kansas, as the “Robert J. Dole Department of Veterans Affairs Medical and Regional Office Center”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Department of Veterans Affairs Medical and Regional Office Center in Wichita, Kansas, shall after the date of the enactment of this Act be known and designated as the “Robert J. Dole Department of Veterans Affairs Medical and Regional Office Center”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the medical center referred to in section 1 shall be deemed to be a reference to the “Robert J. Dole Department of Veterans Affairs Medical and Regional Office Center”.

Approved May 29, 2002.

LEGISLATIVE HISTORY—H.R. 4608:

HOUSE REPORTS: No. 107–474 (Comm. on Veterans’ Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 20, considered and passed House.

May 22, considered and passed Senate.



Public Law 107–185
107th Congress

An Act

To extend eligibility for refugee status of unmarried sons and daughters of certain
Vietnamese refugees.

May 30, 2002
[H.R. 1840]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. ELIGIBILITY FOR REFUGEE STATUS.

(a) **ELIGIBILITY FOR IN-COUNTRY REFUGEE PROCESSING IN VIETNAM.**—For purposes of eligibility for in-country refugee processing for nationals of Vietnam during fiscal years 2002 and 2003, an alien described in subsection (b) shall be considered to be a refugee of special humanitarian concern to the United States (within the meaning of section 207 of the Immigration and Nationality Act (8 U.S.C. 1157)) and shall be admitted to the United States for resettlement if the alien would be admissible as an immigrant under the Immigration and Nationality Act (except as provided in section 207(c)(3) of that Act).

(b) **ALIENS COVERED.**—An alien described in this subsection is an alien who—

(1) is the son or daughter of a qualified national;

(2) is 21 years of age or older; and

(3) was unmarried as of the date of acceptance of the alien's parent for resettlement under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City.

(c) **QUALIFIED NATIONAL.**—The term “qualified national” in subsection (b)(1) means a national of Vietnam who—

(1)(A) was formerly interned in a re-education camp in Vietnam by the Government of the Socialist Republic of Vietnam; or

(B) is the widow or widower of an individual described in subparagraph (A);

(2)(A) qualified for refugee processing under the Orderly Departure Program re-education subprogram; and

(B) is or was accepted under the Orderly Departure Program or through the United States Consulate General in Ho Chi Minh City—

(i) for resettlement as a refugee; or

(ii) for admission to the United States as an immediate relative immigrant; and

(3)(A) is presently maintaining a residence in the United States or whose surviving spouse is presently maintaining such a residence; or

(B) was approved for refugee resettlement or immigrant visa processing and is awaiting departure formalities from Vietnam or whose surviving spouse is awaiting such departure formalities.

Approved May 30, 2002.

LEGISLATIVE HISTORY—H.R. 1840:

HOUSE REPORTS: No. 107–254 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 30, considered and passed House.

Vol. 148 (2002): May 10, considered and passed Senate.



Public Law 107–186
107th Congress

An Act

To extend the authority of the Export-Import Bank until June 14, 2002.

May 30, 2002
[H.R. 4782]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. EXTENSION OF EXPORT-IMPORT BANK.

12 USC 635f
note.

Notwithstanding the dates specified in section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) and section 1(c) of Public Law 103–428, the Export-Import Bank of the United States shall continue to exercise its functions in connection with and in furtherance of its objects and purposes through June 14, 2002.

Approved May 30, 2002.

LEGISLATIVE HISTORY—H.R. 4782:

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 21, considered and passed House.

May 22, considered and passed Senate.



Public Law 107–187
107th Congress

An Act

June 10, 2002
[H.R. 3167]

To endorse the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and for other purposes.

Gerald B. H.
Solomon
Freedom
Consolidation Act
of 2002.
22 USC 1928
note.
22 USC 1928
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Gerald B. H. Solomon Freedom Consolidation Act of 2002”.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) In the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note), Congress declared that “full and active participants in the Partnership for Peace in a position to further the principles of the North Atlantic Treaty and to contribute to the security of the North Atlantic area should be invited to become full NATO members in accordance with Article 10 of such Treaty at an early date . . .”.

(2) In the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note), Congress called for the prompt admission of Poland, Hungary, the Czech Republic, and Slovenia to NATO, and declared that “in order to promote economic stability and security in Slovakia, Estonia, Latvia, Lithuania, Romania, Bulgaria, Albania, Moldova, and Ukraine . . . the process of enlarging NATO to include emerging democracies in Central and Eastern Europe should not be limited to consideration of admitting Poland, Hungary, the Czech Republic, and Slovenia as full members of the NATO Alliance”.

(3) In the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note), Congress declared that “Poland, Hungary, and the Czech Republic should not be the last emerging democracies in Central and Eastern Europe invited to join NATO” and that “Romania, Estonia, Latvia, Lithuania, and Bulgaria . . . would make an outstanding contribution to furthering the goals of NATO and enhancing stability, freedom, and peace in Europe should they become NATO members [and] upon complete satisfaction of all relevant criteria should be invited to become full NATO members at the earliest possible date”.

(4) At the Madrid Summit of the NATO Alliance in July 1997, Poland, Hungary, and the Czech Republic were invited to join the Alliance in the first round of NATO enlargement,

and the NATO heads of state and government issued a declaration stating “[t]he Alliance expects to extend further invitations in coming years to nations willing and able to assume the responsibilities and obligations of membership . . . [n]o European democratic country whose admission would fulfill the objectives of the [North Atlantic] Treaty will be excluded from consideration”.

(5) At the Washington Summit of the NATO Alliance in April 1999, the NATO heads of state and government issued a communique declaring “[w]e pledge that NATO will continue to welcome new members in a position to further the principles of the [North Atlantic] Treaty and contribute to peace and security in the Euro-Atlantic area . . . [t]he three new members will not be the last . . . [n]o European democratic country whose admission would fulfill the objectives of the Treaty will be excluded from consideration, regardless of its geographic location . . .”.

(6) In late 2002, NATO will hold a summit in Prague, the Czech Republic, at which it will decide which additional emerging democracies in Central and Eastern Europe to invite to join the Alliance in the next round of NATO enlargement.

(7) In May 2000 in Vilnius, Lithuania, the foreign ministers of Albania, Bulgaria, Estonia, Latvia, Lithuania, the Former Yugoslav Republic of Macedonia, Romania, Slovakia, and Slovenia issued a statement (later joined by Croatia) declaring that their countries will cooperate in jointly seeking NATO membership in the next round of NATO enlargement, that the realization of NATO membership by one or more of these countries would be a success for all, and that eventual NATO membership for all of these countries would be a success for Europe and NATO.

(8) On June 15, 2001, in a speech in Warsaw, Poland, President George W. Bush stated “[a]ll of Europe’s new democracies, from the Baltic to the Black Sea and all that lie between, should have the same chance for security and freedom—and the same chance to join the institutions of Europe—as Europe’s old democracies have . . . I believe in NATO membership for all of Europe’s democracies that seek it and are ready to share the responsibilities that NATO brings . . . [a]s we plan to enlarge NATO, no nation should be used as a pawn in the agenda of others . . . [w]e will not trade away the fate of free European peoples . . . [n]o more Munichs . . . [n]o more Yaltas . . . [a]s we plan the Prague Summit, we should not calculate how little we can get away with, but how much we can do to advance the cause of freedom”.

(9) On October 22, 1996, in a speech in Detroit, Michigan, former President William J. Clinton stated “NATO’s doors will not close behind its first new members . . . NATO should remain open to all of Europe’s emerging democracies who are ready to shoulder the responsibilities of membership . . . [n]o nation will be automatically excluded . . . [n]o country outside NATO will have a veto . . . [a] gray zone of insecurity must not reemerge in Europe”.

SEC. 3. DECLARATIONS OF POLICY.

Congress—

22 USC 1928
note.

(1) reaffirms its previous expressions of support for continued enlargement of the NATO Alliance contained in the NATO Participation Act of 1994, the NATO Enlargement Facilitation Act of 1996, and the European Security Act of 1998;

(2) supports the commitment to further enlargement of the NATO Alliance expressed by the Alliance in its Madrid Declaration of 1997 and its Washington Summit Communiqué of 1999; and

(3) endorses the vision of further enlargement of the NATO Alliance articulated by President George W. Bush on June 15, 2001, and by former President William J. Clinton on October 22, 1996, and urges our NATO allies to work with the United States to realize this vision at the Prague Summit in 2002.

22 USC 1928
note.

SEC. 4. DESIGNATION OF SLOVAKIA TO RECEIVE ASSISTANCE UNDER THE NATO PARTICIPATION ACT OF 1994.

(a) IN GENERAL.—Slovakia is designated as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994 (title II of Public Law 103–447; 22 U.S.C. 1928 note) and shall be deemed to have been so designated pursuant to section 203(d)(1) of such Act.

(b) RULE OF CONSTRUCTION.—The designation of Slovakia pursuant to subsection (a) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994—

(1) is in addition to the designation of Poland, Hungary, the Czech Republic, and Slovenia pursuant to section 606 of the NATO Enlargement Facilitation Act of 1996 (title VI of section 101(c) of title I of division A of Public Law 104–208; 22 U.S.C. 1928 note) and the designation of Romania, Estonia, Latvia, Lithuania, and Bulgaria pursuant to section 2703(b) of the European Security Act of 1998 (title XXVII of division G of Public Law 105–277; 22 U.S.C. 1928 note) as eligible to receive assistance under the program established under section 203(a) of the NATO Participation Act of 1994; and

(2) shall not preclude the designation by the President of other emerging democracies in Central and Eastern Europe pursuant to section 203(d)(2) of the NATO Participation Act of 1994 as eligible to receive assistance under the program established under section 203(a) of such Act.

22 USC 1928
note.

SEC. 5. AUTHORIZATION OF SECURITY ASSISTANCE FOR COUNTRIES DESIGNATED UNDER THE NATO PARTICIPATION ACT OF 1994.

(a) AUTHORIZATION OF FOREIGN MILITARY FINANCING.—Of the amounts made available for fiscal year 2002 under section 23 of the Arms Export Control Act (22 U.S.C. 2763)—

(1) \$6,500,000 is authorized to be available on a grant basis for Estonia;

(2) \$7,000,000 is authorized to be available on a grant basis for Latvia;

(3) \$7,500,000 is authorized to be available on a grant basis for Lithuania;

(4) \$8,500,000 is authorized to be available on a grant basis for Slovakia;

(5) \$4,500,000 is authorized to be available on a grant basis for Slovenia;

(6) \$10,000,000 is authorized to be available on a grant basis for Bulgaria; and

(7) \$11,500,000 is authorized to be available on a grant basis for Romania.

(b) CONFORMING AMENDMENT.—Subsection (a) of section 515 of the Security Assistance Act of 2000 (Public Law 106–280) is amended by striking paragraphs (1), (5), (6), (7), and (8) and redesignating paragraphs (2), (3), (4), and (9) as paragraphs (1) through (4), respectively. 114 Stat. 858.

Approved June 10, 2002.

LEGISLATIVE HISTORY—H.R. 3167:

HOUSE REPORTS: No. 107–266 (Comm. on International Relations).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 7, considered and passed House.

Vol. 148 (2002): May 16, 17, considered and passed Senate.



Public Law 107–188
107th Congress

An Act

June 12, 2002
[H.R. 3448]

To improve the ability of the United States to prevent, prepare for, and respond to bioterrorism and other public health emergencies.

Public Health
Security and
Bioterrorism
Preparedness
and Response Act
of 2002.
42 USC 201 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Public Health Security and Bioterrorism Preparedness and Response Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents of the Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

- Sec. 101. National preparedness and response.
- Sec. 102. Assistant Secretary for Public Health Emergency Preparedness; National Disaster Medical System.
- Sec. 103. Improving ability of Centers for Disease Control and Prevention.
- Sec. 104. Advisory committees and communications; study regarding communications abilities of public health agencies.
- Sec. 105. Education of health care personnel; training regarding pediatric issues.
- Sec. 106. Grants regarding shortages of certain health professionals.
- Sec. 107. Emergency system for advance registration of health professions volunteers.
- Sec. 108. Working group.
- Sec. 109. Antimicrobial resistance.
- Sec. 110. Supplies and services in lieu of award funds.
- Sec. 111. Additional amendments.

Subtitle B—Strategic National Stockpile; Development of Priority Countermeasures

- Sec. 121. Strategic national stockpile.
- Sec. 122. Accelerated approval of priority countermeasures.
- Sec. 123. Issuance of rule on animal trials.
- Sec. 124. Security for countermeasure development and production.
- Sec. 125. Accelerated countermeasure research and development.
- Sec. 126. Evaluation of new and emerging technologies regarding bioterrorist attack and other public health emergencies.
- Sec. 127. Potassium iodide.

Subtitle C—Improving State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

- Sec. 131. Grants to improve State, local, and hospital preparedness for and response to bioterrorism and other public health emergencies.

Subtitle D—Emergency Authorities; Additional Provisions

- Sec. 141. Reporting deadlines.
- Sec. 142. Streamlining and clarifying communicable disease quarantine provisions.

- Sec. 143. Emergency waiver of Medicare, Medicaid, and SCHIP requirements.
- Sec. 144. Provision for expiration of public health emergencies.

Subtitle E—Additional Provisions

- Sec. 151. Designated State public emergency announcement plan.
- Sec. 152. Expanded research by Secretary of Energy.
- Sec. 153. Expanded research on worker health and safety.
- Sec. 154. Enhancement of emergency preparedness of Department of Veterans Affairs.
- Sec. 155. Reauthorization of existing program.
- Sec. 156. Sense of Congress.
- Sec. 157. General Accounting Office report.
- Sec. 158. Certain awards.
- Sec. 159. Public access defibrillation programs and public access defibrillation demonstration projects.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Subtitle A—Department of Health and Human Services

- Sec. 201. Regulation of certain biological agents and toxins.
- Sec. 202. Implementation by Department of Health and Human Services.
- Sec. 203. Effective dates.
- Sec. 204. Conforming amendment.

Subtitle B—Department of Agriculture

- Sec. 211. Short title.
- Sec. 212. Regulation of certain biological agents and toxins.
- Sec. 213. Implementation by Department of Agriculture.

Subtitle C—Interagency Coordination Regarding Overlap Agents and Toxins

- Sec. 221. Interagency coordination.

Subtitle D—Criminal Penalties Regarding Certain Biological Agents and Toxins

- Sec. 231. Criminal penalties.

TITLE III—PROTECTING SAFETY AND SECURITY OF FOOD AND DRUG SUPPLY

Subtitle A—Protection of Food Supply

- Sec. 301. Food safety and security strategy.
- Sec. 302. Protection against adulteration of food.
- Sec. 303. Administrative detention.
- Sec. 304. Debarment for repeated or serious food import violations.
- Sec. 305. Registration of food facilities.
- Sec. 306. Maintenance and inspection of records for foods.
- Sec. 307. Prior notice of imported food shipments.
- Sec. 308. Authority to mark articles refused admission into United States.
- Sec. 309. Prohibition against port shopping.
- Sec. 310. Notices to States regarding imported food.
- Sec. 311. Grants to States for inspections.
- Sec. 312. Surveillance and information grants and authorities.
- Sec. 313. Surveillance of zoonotic diseases.
- Sec. 314. Authority to commission other Federal officials to conduct inspections.
- Sec. 315. Rule of construction.

Subtitle B—Protection of Drug Supply

- Sec. 321. Annual registration of foreign manufacturers; shipping information; drug and device listing.
- Sec. 322. Requirement of additional information regarding import components intended for use in export products.

Subtitle C—General Provisions Relating to Upgrade of Agricultural Security

- Sec. 331. Expansion of Animal and Plant Health Inspection Service activities.
- Sec. 332. Expansion of Food Safety Inspection Service activities.
- Sec. 333. Biosecurity upgrades at the Department of Agriculture.
- Sec. 334. Agricultural biosecurity.
- Sec. 335. Agricultural bioterrorism research and development.
- Sec. 336. Animal enterprise terrorism penalties.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

- Sec. 401. Terrorist and other intentional acts.

- Sec. 402. Other Safe Drinking Water Act amendments.
 Sec. 403. Miscellaneous and technical amendments.

TITLE V—ADDITIONAL PROVISIONS

Subtitle A—Prescription Drug User Fees

- Sec. 501. Short title.
 Sec. 502. Findings.
 Sec. 503. Definitions.
 Sec. 504. Authority to assess and use drug fees.
 Sec. 505. Accountability and reports.
 Sec. 506. Reports of postmarketing studies.
 Sec. 507. Savings clause.
 Sec. 508. Effective date.
 Sec. 509. Sunset clause.

Subtitle B—Funding Provisions Regarding Food and Drug Administration

- Sec. 521. Office of Drug Safety.
 Sec. 522. Division of Drug Marketing, Advertising, and Communications.
 Sec. 523. Office of Generic Drugs.

Subtitle C—Additional Provisions

- Sec. 531. Transition to digital television.
 Sec. 532. 3-year delay in lock in procedures for Medicare+Choice plans; change in Medicare+Choice reporting deadlines and annual, coordinated election period for 2003, 2004, and 2005.

TITLE I—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

SEC. 101. NATIONAL PREPAREDNESS AND RESPONSE.

(a) IN GENERAL.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by adding at the end the following title:

“TITLE XXVIII—NATIONAL PREPAREDNESS FOR BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES

“Subtitle A—National Preparedness and Response Planning, Coordinating, and Reporting

42 USC 300hh.

“SEC. 2801. NATIONAL PREPAREDNESS PLAN.

“(a) IN GENERAL.—

“(1) PREPAREDNESS AND RESPONSE REGARDING PUBLIC HEALTH EMERGENCIES.—The Secretary shall further develop and implement a coordinated strategy, building upon the core public health capabilities established pursuant to section 319A,

for carrying out health-related activities to prepare for and respond effectively to bioterrorism and other public health emergencies, including the preparation of a plan under this section. The Secretary shall periodically thereafter review and, as appropriate, revise the plan.

“(2) NATIONAL APPROACH.—In carrying out paragraph (1), the Secretary shall collaborate with the States toward the goal of ensuring that the activities of the Secretary regarding bioterrorism and other public health emergencies are coordinated with activities of the States, including local governments.

“(3) EVALUATION OF PROGRESS.—The plan under paragraph (1) shall provide for specific benchmarks and outcome measures for evaluating the progress of the Secretary and the States, including local governments, with respect to the plan under paragraph (1), including progress toward achieving the goals specified in subsection (b).

“(b) PREPAREDNESS GOALS.—The plan under subsection (a) should include provisions in furtherance of the following:

“(1) Providing effective assistance to State and local governments in the event of bioterrorism or other public health emergency.

“(2) Ensuring that State and local governments have appropriate capacity to detect and respond effectively to such emergencies, including capacities for the following:

“(A) Effective public health surveillance and reporting mechanisms at the State and local levels.

“(B) Appropriate laboratory readiness.

“(C) Properly trained and equipped emergency response, public health, and medical personnel.

“(D) Health and safety protection of workers responding to such an emergency.

“(E) Public health agencies that are prepared to coordinate health services (including mental health services) during and after such emergencies.

“(F) Participation in communications networks that can effectively disseminate relevant information in a timely and secure manner to appropriate public and private entities and to the public.

“(3) Developing and maintaining medical countermeasures (such as drugs, vaccines and other biological products, medical devices, and other supplies) against biological agents and toxins that may be involved in such emergencies.

“(4) Ensuring coordination and minimizing duplication of Federal, State, and local planning, preparedness, and response activities, including during the investigation of a suspicious disease outbreak or other potential public health emergency.

“(5) Enhancing the readiness of hospitals and other health care facilities to respond effectively to such emergencies.

“(c) REPORTS TO CONGRESS.—

“(1) IN GENERAL.—Not later than one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, and biennially thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning progress with respect to the plan under

Deadline.

subsection (a), including progress toward achieving the goals specified in subsection (b).

“(2) ADDITIONAL AUTHORITY.—Reports submitted under paragraph (1) by the Secretary (other than the first report) shall make recommendations concerning—

“(A) any additional legislative authority that the Secretary determines is necessary for fully implementing the plan under subsection (a), including meeting the goals under subsection (b); and

“(B) any additional legislative authority that the Secretary determines is necessary under section 319 to protect the public health in the event of an emergency described in section 319(a).

“(d) RULE OF CONSTRUCTION.—This section may not be construed as expanding or limiting any of the authorities of the Secretary that, on the day before the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, were in effect with respect to preparing for and responding effectively to bioterrorism and other public health emergencies.”.

(b) OTHER REPORTS.—

(1) IN GENERAL.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services (referred to in this subsection as the “Secretary”) shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report concerning—

(A) the recommendations and findings of the National Advisory Committee on Children and Terrorism under section 319F(c)(2) of the Public Health Service Act;

(B) the recommendations and findings of the EPIC Advisory Committee under section 319F(c)(3) of such Act;

(C) the characteristics that may render a rural community uniquely vulnerable to a biological attack, including distance, lack of emergency transport, hospital or laboratory capacity, lack of integration of Federal or State public health networks, workforce deficits, or other relevant characteristics;

(D) the characteristics that may render areas or populations designated as medically underserved populations (as defined in section 330 of such Act) uniquely vulnerable to a biological attack, including significant numbers of low-income or uninsured individuals, lack of affordable and accessible health care services, insufficient public and primary health care resources, lack of integration of Federal or State public health networks, workforce deficits, or other relevant characteristics;

(E) the recommendations of the Secretary with respect to additional legislative authority that the Secretary determines is necessary to effectively strengthen rural communities, or medically underserved populations (as defined in section 330 of such Act); and

(F) the need for and benefits of a National Disaster Response Medical Volunteer Service that would be a private-sector, community-based rapid response corps of medical volunteers.

42 USC 247d-6
note.
Deadline.

(2) **STUDY REGARDING LOCAL EMERGENCY RESPONSE METHODS.**—The Secretary shall conduct a study of effective methods for the provision of emergency response services through local governments (including through private response contractors and volunteers of such governments) in a consistent manner in response to acts of bioterrorism or other public health emergencies. Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the findings of the study.

Deadline.
Reports.

SEC. 102. ASSISTANT SECRETARY FOR PUBLIC HEALTH EMERGENCY PREPAREDNESS; NATIONAL DISASTER MEDICAL SYSTEM.

(a) **IN GENERAL.**—Title XXVIII of the Public Health Service Act, as added by section 101 of this Act, is amended by adding at the end the following subtitle:

“Subtitle B—Emergency Preparedness and Response

“SEC. 2811. COORDINATION OF PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

42 USC
300hh-11.

“(a) ASSISTANT SECRETARY FOR PUBLIC HEALTH EMERGENCY PREPAREDNESS.—

“(1) IN GENERAL.—There is established within the Department of Health and Human Services the position of Assistant Secretary for Public Health Emergency Preparedness. The President shall appoint an individual to serve in such position. Such Assistant Secretary shall report to the Secretary.

Establishment.

President.

“(2) DUTIES.—Subject to the authority of the Secretary, the Assistant Secretary for Public Health Emergency Preparedness shall carry out the following duties with respect to bioterrorism and other public health emergencies:

“(A) Coordinate on behalf of the Secretary—

“(i) interagency interfaces between the Department of Health and Human Services (referred to in this paragraph as the ‘Department’) and other departments, agencies, and offices of the United States; and

“(ii) interfaces between the Department and State and local entities with responsibility for emergency preparedness.

“(B) Coordinate the operations of the National Disaster Medical System and any other emergency response activities within the Department of Health and Human Services that are related to bioterrorism and other public health emergencies.

“(C) Coordinate the efforts of the Department to bolster State and local emergency preparedness for a bioterrorist attack or other public health emergency, and evaluate the progress of such entities in meeting the benchmarks and other outcome measures contained in the national plan and in meeting the core public health capabilities established pursuant to 319A.

“(D) Any other duties determined appropriate by the Secretary.

“(b) NATIONAL DISASTER MEDICAL SYSTEM.—

“(1) IN GENERAL.—The Secretary shall provide for the operation in accordance with this section of a system to be known as the National Disaster Medical System. The Secretary shall designate the Assistant Secretary for Public Health Emergency Preparedness as the head of the National Disaster Medical System, subject to the authority of the Secretary.

“(2) FEDERAL AND STATE COLLABORATIVE SYSTEM.—

“(A) IN GENERAL.—The National Disaster Medical System shall be a coordinated effort by the Federal agencies specified in subparagraph (B), working in collaboration with the States and other appropriate public or private entities, to carry out the purposes described in paragraph (3).

“(B) PARTICIPATING FEDERAL AGENCIES.—The Federal agencies referred to in subparagraph (A) are the Department of Health and Human Services, the Federal Emergency Management Agency, the Department of Defense, and the Department of Veterans Affairs.

“(3) PURPOSE OF SYSTEM.—

“(A) IN GENERAL.—The Secretary may activate the National Disaster Medical System to—

“(i) provide health services, health-related social services, other appropriate human services, and appropriate auxiliary services to respond to the needs of victims of a public health emergency (whether or not determined to be a public health emergency under section 319); or

“(ii) be present at locations, and for limited periods of time, specified by the Secretary on the basis that the Secretary has determined that a location is at risk of a public health emergency during the time specified.

“(B) ONGOING ACTIVITIES.—The National Disaster Medical System shall carry out such ongoing activities as may be necessary to prepare for the provision of services described in subparagraph (A) in the event that the Secretary activates the National Disaster Medical System for such purposes.

“(C) TEST FOR MOBILIZATION OF SYSTEM.—During the one-year period beginning on the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the Secretary shall conduct an exercise to test the capability and timeliness of the National Disaster Medical System to mobilize and otherwise respond effectively to a bioterrorist attack or other public health emergency that affects two or more geographic locations concurrently. Thereafter, the Secretary may periodically conduct such exercises regarding the National Disaster Medical System as the Secretary determines to be appropriate.

“(c) CRITERIA.—

“(1) IN GENERAL.—The Secretary shall establish criteria for the operation of the National Disaster Medical System.

“(2) PARTICIPATION AGREEMENTS FOR NON-FEDERAL ENTITIES.—In carrying out paragraph (1), the Secretary shall establish criteria regarding the participation of States and private entities in the National Disaster Medical System, including criteria regarding agreements for such participation. The criteria shall include the following:

“(A) Provisions relating to the custody and use of Federal personal property by such entities, which may in the discretion of the Secretary include authorizing the custody and use of such property to respond to emergency situations for which the National Disaster Medical System has not been activated by the Secretary pursuant to subsection (b)(3)(A). Any such custody and use of Federal personal property shall be on a reimbursable basis.

“(B) Provisions relating to circumstances in which an individual or entity has agreements with both the National Disaster Medical System and another entity regarding the provision of emergency services by the individual. Such provisions shall address the issue of priorities among the agreements involved.

“(d) INTERMITTENT DISASTER-RESPONSE PERSONNEL.—

“(1) IN GENERAL.—For the purpose of assisting the National Disaster Medical System in carrying out duties under this section, the Secretary may appoint individuals to serve as intermittent personnel of such System in accordance with applicable civil service laws and regulations.

“(2) LIABILITY.—For purposes of section 224(a) and the remedies described in such section, an individual appointed under paragraph (1) shall, while acting within the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions. With respect to the participation of individuals appointed under paragraph (1) in training programs authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B), acts of individuals so appointed that are within the scope of such participation shall be considered within the scope of the appointment under paragraph (1) (regardless of whether the individuals receive compensation for such participation).

“(e) CERTAIN EMPLOYMENT ISSUES REGARDING INTERMITTENT APPOINTMENTS.—

“(1) INTERMITTENT DISASTER-RESPONSE APPOINTEE.—For purposes of this subsection, the term ‘intermittent disaster-response appointee’ means an individual appointed by the Secretary under subsection (d).

“(2) COMPENSATION FOR WORK INJURIES.—An intermittent disaster-response appointee shall, while acting in the scope of such appointment, be considered to be an employee of the Public Health Service performing medical, surgical, dental, or related functions, and an injury sustained by such an individual shall be deemed ‘in the performance of duty’, for purposes of chapter 81 of title 5, United States Code, pertaining to compensation for work injuries. With respect to the participation of individuals appointed under subsection (d) in training programs authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of

any Federal agency specified in subsection (b)(2)(B), injuries sustained by such an individual, while acting within the scope of such participation, also shall be deemed ‘in the performance of duty’ for purposes of chapter 81 of title 5, United States Code (regardless of whether the individuals receive compensation for such participation). In the event of an injury to such an intermittent disaster-response appointee, the Secretary of Labor shall be responsible for making determinations as to whether the claimant is entitled to compensation or other benefits in accordance with chapter 81 of title 5, United States Code.

“(3) EMPLOYMENT AND REEMPLOYMENT RIGHTS.—

“(A) IN GENERAL.—Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System or when the individual participates in a training program authorized by the Assistant Secretary for Public Health Emergency Preparedness or a comparable official of any Federal agency specified in subsection (b)(2)(B) shall be deemed ‘service in the uniformed services’ for purposes of chapter 43 of title 38, United States Code, pertaining to employment and reemployment rights of individuals who have performed service in the uniformed services (regardless of whether the individual receives compensation for such participation). All rights and obligations of such persons and procedures for assistance, enforcement, and investigation shall be as provided for in chapter 43 of title 38, United States Code.

“(B) NOTICE OF ABSENCE FROM POSITION OF EMPLOYMENT.—Preclusion of giving notice of service by necessity of Service as an intermittent disaster-response appointee when the Secretary activates the National Disaster Medical System shall be deemed preclusion by ‘military necessity’ for purposes of section 4312(b) of title 38, United States Code, pertaining to giving notice of absence from a position of employment. A determination of such necessity shall be made by the Secretary, in consultation with the Secretary of Defense, and shall not be subject to judicial review.

“(4) LIMITATION.—An intermittent disaster-response appointee shall not be deemed an employee of the Department of Health and Human Services for purposes other than those specifically set forth in this section.

“(f) RULE OF CONSTRUCTION REGARDING USE OF COMMISSIONED CORPS.—If the Secretary assigns commissioned officers of the Regular or Reserve Corps to serve with the National Disaster Medical System, such assignments do not affect the terms and conditions of their appointments as commissioned officers of the Regular or Reserve Corps, respectively (including with respect to pay and allowances, retirement, benefits, rights, privileges, and immunities).

“(g) DEFINITION.—For purposes of this section, the term ‘auxiliary services’ includes mortuary services, veterinary services, and other services that are determined by the Secretary to be appropriate with respect to the needs referred to in subsection (b)(3)(A).

“(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of providing for the Assistant Secretary for Public Health Emergency Preparedness and the operations of the National Disaster Medical

System, other than purposes for which amounts in the Public Health Emergency Fund under section 319 are available, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.”.

(b) SENSE OF CONGRESS REGARDING RESOURCES OF NATIONAL DISASTER MEDICAL SYSTEM.—It is the sense of the Congress that the Secretary of Health and Human Services should provide sufficient resources to entities tasked to carry out the duties of the National Disaster Medical System for reimbursement of expenses, operations, purchase and maintenance of equipment, training, and other funds expended in furtherance of the National Disaster Medical System.

SEC. 103. IMPROVING ABILITY OF CENTERS FOR DISEASE CONTROL AND PREVENTION.

Section 319D of the Public Health Service Act (42 U.S.C. 247d-4) is amended to read as follows:

“SEC. 319D. REVITALIZING THE CENTERS FOR DISEASE CONTROL AND PREVENTION.

“(a) FACILITIES; CAPACITIES.—

“(1) FINDINGS.—Congress finds that the Centers for Disease Control and Prevention has an essential role in defending against and combatting public health threats and requires secure and modern facilities, and expanded and improved capabilities related to bioterrorism and other public health emergencies, sufficient to enable such Centers to conduct this important mission.

“(2) FACILITIES.—

“(A) IN GENERAL.—The Director of the Centers for Disease Control and Prevention may design, construct, and equip new facilities, renovate existing facilities (including laboratories, laboratory support buildings, scientific communication facilities, transshipment complexes, secured and isolated parking structures, office buildings, and other facilities and infrastructure), and upgrade security of such facilities, in order to better conduct the capacities described in section 319A, and for supporting public health activities.

“(B) MULTIYEAR CONTRACTING AUTHORITY.—For any project of designing, constructing, equipping, or renovating any facility under subparagraph (A), the Director of the Centers for Disease Control and Prevention may enter into a single contract or related contracts that collectively include the full scope of the project, and the solicitation and contract shall contain the clause ‘availability of funds’ found at section 52.232-18 of title 48, Code of Federal Regulations.

“(3) IMPROVING THE CAPACITIES OF THE CENTERS FOR DISEASE CONTROL AND PREVENTION.—The Secretary, taking into account evaluations under section 319B(a), shall expand, enhance, and improve the capabilities of the Centers for Disease Control and Prevention relating to preparedness for and responding effectively to bioterrorism and other public health emergencies. Activities that may be carried out under the preceding sentence include—

“(A) expanding or enhancing the training of personnel;

“(B) improving communications facilities and networks, including delivery of necessary information to rural areas;

“(C) improving capabilities for public health surveillance and reporting activities, taking into account the integrated system or systems of public health alert communications and surveillance networks under subsection (b); and

“(D) improving laboratory facilities related to bioterrorism and other public health emergencies, including increasing the security of such facilities.

“(b) NATIONAL COMMUNICATIONS AND SURVEILLANCE NETWORKS.—

“(1) IN GENERAL.—The Secretary, directly or through awards of grants, contracts, or cooperative agreements, shall provide for the establishment of an integrated system or systems of public health alert communications and surveillance networks between and among—

“(A) Federal, State, and local public health officials;

“(B) public and private health-related laboratories, hospitals, and other health care facilities; and

“(C) any other entities determined appropriate by the Secretary.

“(2) REQUIREMENTS.—The Secretary shall ensure that networks under paragraph (1) allow for the timely sharing and discussion, in a secure manner, of essential information concerning bioterrorism or another public health emergency, or recommended methods for responding to such an attack or emergency.

Deadline.

“(3) STANDARDS.—Not later than one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, the Secretary, in cooperation with health care providers and State and local public health officials, shall establish any additional technical and reporting standards (including standards for interoperability) for networks under paragraph (1).

“(c) AUTHORIZATION OF APPROPRIATIONS.—

“(1) FACILITIES; CAPACITIES.—

“(A) FACILITIES.—For the purpose of carrying out subsection (a)(2), there are authorized to be appropriated \$300,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006.

“(B) MISSION; IMPROVING CAPACITIES.—For the purposes of achieving the mission of the Centers for Disease Control and Prevention described in subsection (a)(1), for carrying out subsection (a)(3), for better conducting the capacities described in section 319A, and for supporting public health activities, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.

“(2) NATIONAL COMMUNICATIONS AND SURVEILLANCE NETWORKS.—For the purpose of carrying out subsection (b), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.”.

SEC. 104. ADVISORY COMMITTEES AND COMMUNICATIONS; STUDY REGARDING COMMUNICATIONS ABILITIES OF PUBLIC HEALTH AGENCIES.

(a) IN GENERAL.—Section 319F of the Public Health Service Act (42 U.S.C. 247d-6) is amended—

- (1) by striking subsections (b) and (i);
- (2) by redesignating subsections (c) through (h) as subsections (e) through (j), respectively; and
- (3) by inserting after subsection (a) the following subsections:

“(b) ADVICE TO THE FEDERAL GOVERNMENT.—

“(1) REQUIRED ADVISORY COMMITTEES.—In coordination with the working group under subsection (a), the Secretary shall establish advisory committees in accordance with paragraphs (2) and (3) to provide expert recommendations to assist such working groups in carrying out their respective responsibilities under subsections (a) and (b). Establishment.

“(2) NATIONAL ADVISORY COMMITTEE ON CHILDREN AND TERRORISM.—

“(A) IN GENERAL.—For purposes of paragraph (1), the Secretary shall establish an advisory committee to be known as the National Advisory Committee on Children and Terrorism (referred to in this paragraph as the ‘Advisory Committee’). Establishment.

“(B) DUTIES.—The Advisory Committee shall provide recommendations regarding—

“(i) the preparedness of the health care (including mental health care) system to respond to bioterrorism as it relates to children;

“(ii) needed changes to the health care and emergency medical service systems and emergency medical services protocols to meet the special needs of children; and

“(iii) changes, if necessary, to the national stockpile under section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 to meet the emergency health security of children.

“(C) COMPOSITION.—The Advisory Committee shall be composed of such Federal officials as may be appropriate to address the special needs of the diverse population groups of children, and child health experts on infectious disease, environmental health, toxicology, and other relevant professional disciplines.

“(D) TERMINATION.—The Advisory Committee terminates one year after the date of the enactment of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

“(3) EMERGENCY PUBLIC INFORMATION AND COMMUNICATIONS ADVISORY COMMITTEE.—

“(A) IN GENERAL.—For purposes of paragraph (1), the Secretary shall establish an advisory committee to be known as the Emergency Public Information and Communications Advisory Committee (referred to in this paragraph as the ‘EPIC Advisory Committee’).

“(B) DUTIES.—The EPIC Advisory Committee shall make recommendations to the Secretary and the working group under subsection (a) and report on appropriate ways

to communicate public health information regarding bioterrorism and other public health emergencies to the public.

“(C) COMPOSITION.—The EPIC Advisory Committee shall be composed of individuals representing a diverse group of experts in public health, medicine, communications, behavioral psychology, and other areas determined appropriate by the Secretary.

“(D) DISSEMINATION.—The Secretary shall review the recommendations of the EPIC Advisory Committee and ensure that appropriate information is disseminated to the public.

“(E) TERMINATION.—The EPIC Advisory Committee terminates one year after the date of the enactment of Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

“(c) STRATEGY FOR COMMUNICATION OF INFORMATION REGARDING BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.—In coordination with working group under subsection (a), the Secretary shall develop a strategy for effectively communicating information regarding bioterrorism and other public health emergencies, and shall develop means by which to communicate such information. The Secretary may carry out the preceding sentence directly or through grants, contracts, or cooperative agreements.

“(d) RECOMMENDATION OF CONGRESS REGARDING OFFICIAL FEDERAL INTERNET SITE ON BIOTERRORISM.—It is the recommendation of Congress that there should be established an official Federal Internet site on bioterrorism, either directly or through provision of a grant to an entity that has expertise in bioterrorism and the development of websites, that should include information relevant to diverse populations (including messages directed at the general public and such relevant groups as medical personnel, public safety workers, and agricultural workers) and links to appropriate State and local government sites.”.

42 USC 247d-6
note.

“(b) STUDY REGARDING COMMUNICATIONS ABILITIES OF PUBLIC HEALTH AGENCIES.—The Secretary of Health and Human Services, in consultation with the Federal Communications Commission, the National Telecommunications and Information Administration, and other appropriate Federal agencies, shall conduct a study to determine whether local public health entities have the ability to maintain communications in the event of a bioterrorist attack or other public health emergency. The study shall examine whether redundancies are required in the telecommunications system, particularly with respect to mobile communications, for public health entities to maintain systems operability and connectivity during such emergencies. The study shall also include recommendations to industry and public health entities about how to implement such redundancies if necessary.

SEC. 105. EDUCATION OF HEALTH CARE PERSONNEL; TRAINING REGARDING PEDIATRIC ISSUES.

42 USC 247d-6.

Section 319F(g) of the Public Health Service Act, as redesignated by section 104(a)(2) of this Act, is amended to read as follows:

“(g) EDUCATION; TRAINING REGARDING PEDIATRIC ISSUES.—

“(1) MATERIALS; CORE CURRICULUM.—The Secretary, in collaboration with members of the working group described

in subsection (b), and professional organizations and societies, shall—

“(A) develop materials for teaching the elements of a core curriculum for the recognition and identification of potential bioweapons and other agents that may create a public health emergency, and for the care of victims of such emergencies, recognizing the special needs of children and other vulnerable populations, to public health officials, medical professionals, emergency physicians and other emergency department staff, laboratory personnel, and other personnel working in health care facilities (including poison control centers);

“(B) develop a core curriculum and materials for community-wide planning by State and local governments, hospitals and other health care facilities, emergency response units, and appropriate public and private sector entities to respond to a bioterrorist attack or other public health emergency;

“(C) develop materials for proficiency testing of laboratory and other public health personnel for the recognition and identification of potential bioweapons and other agents that may create a public health emergency; and

“(D) provide for dissemination and teaching of the materials described in subparagraphs (A) through (C) by appropriate means, which may include telemedicine, long-distance learning, or other such means.

“(2) CERTAIN ENTITIES.—The entities through which education and training activities described in paragraph (1) may be carried out include Public Health Preparedness Centers, the Public Health Service’s Noble Training Center, the Emerging Infections Program, the Epidemic Intelligence Service, the Public Health Leadership Institute, multi-State, multi-institutional consortia, other appropriate educational entities, professional organizations and societies, private accrediting organizations, and other nonprofit institutions or entities meeting criteria established by the Secretary.

“(3) GRANTS AND CONTRACTS.—In carrying out paragraph (1), the Secretary may carry out activities directly and through the award of grants and contracts, and may enter into inter-agency cooperative agreements with other Federal agencies.

“(4) HEALTH-RELATED ASSISTANCE FOR EMERGENCY RESPONSE PERSONNEL TRAINING.—The Secretary, in consultation with the Attorney General and the Director of the Federal Emergency Management Agency, may provide technical assistance with respect to health-related aspects of emergency response personnel training carried out by the Department of Justice and the Federal Emergency Management Agency.”.

SEC. 106. GRANTS REGARDING SHORTAGES OF CERTAIN HEALTH PROFESSIONALS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319G the following section:

“SEC. 319H. GRANTS REGARDING TRAINING AND EDUCATION OF CERTAIN HEALTH PROFESSIONALS.

42 USC 247d-7a.

“(a) IN GENERAL.—The Secretary may make awards of grants and cooperative agreements to appropriate public and nonprofit

private health or educational entities, including health professions schools and programs as defined in section 799B, for the purpose of providing low-interest loans, partial scholarships, partial fellowships, revolving loan funds, or other cost-sharing forms of assistance for the education and training of individuals in any category of health professions for which there is a shortage that the Secretary determines should be alleviated in order to prepare for or respond effectively to bioterrorism and other public health emergencies.

“(b) **AUTHORITY REGARDING NON-FEDERAL CONTRIBUTIONS.**—The Secretary may require as a condition of an award under subsection (a) that a grantee under such subsection provide non-Federal contributions toward the purpose described in such subsection.

“(c) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.”.

SEC. 107. EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF HEALTH PROFESSIONS VOLUNTEERS.

Part B of title III of the Public Health Service Act, as amended by section 106 of this Act, is amended by inserting after section 319H the following section:

42 USC 247d-7b.

“SEC. 319I. EMERGENCY SYSTEM FOR ADVANCE REGISTRATION OF HEALTH PROFESSIONS VOLUNTEERS.

“(a) **IN GENERAL.**—The Secretary shall, directly or through an award of a grant, contract, or cooperative agreement, establish and maintain a system for the advance registration of health professionals for the purpose of verifying the credentials, licenses, accreditations, and hospital privileges of such professionals when, during public health emergencies, the professionals volunteer to provide health services (referred to in this section as the ‘verification system’). In carrying out the preceding sentence, the Secretary shall provide for an electronic database for the verification system.

“(b) **CERTAIN CRITERIA.**—The Secretary shall establish provisions regarding the promptness and efficiency of the system in collecting, storing, updating, and disseminating information on the credentials, licenses, accreditations, and hospital privileges of volunteers described in subsection (a).

“(c) **OTHER ASSISTANCE.**—The Secretary may make grants and provide technical assistance to States and other public or nonprofit private entities for activities relating to the verification system developed under subsection (a).

“(d) **COORDINATION AMONG STATES.**—The Secretary may encourage each State to provide legal authority during a public health emergency for health professionals authorized in another State to provide certain health services to provide such health services in the State.

“(e) **RULE OF CONSTRUCTION.**—This section may not be construed as authorizing the Secretary to issue requirements regarding the provision by the States of credentials, licenses, accreditations, or hospital privileges.

“(f) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$2,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.”.

SEC. 108. WORKING GROUP.

Section 319F of the Public Health Service Act, as amended by section 104(a), is amended by striking subsection (a) and inserting the following: 42 USC 247d-6.

“(a) WORKING GROUP ON BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.—

“(1) IN GENERAL.—The Secretary, in coordination with the Secretary of Agriculture, the Attorney General, the Director of Central Intelligence, the Secretary of Defense, the Secretary of Energy, the Administrator of the Environmental Protection Agency, the Director of the Federal Emergency Management Agency, the Secretary of Labor, the Secretary of Veterans Affairs, and with other similar Federal officials as determined appropriate, shall establish a working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies. Such joint working group, or subcommittees thereof, shall meet periodically for the purpose of consultation on, assisting in, and making recommendations on—

“(A) responding to a bioterrorist attack, including the provision of appropriate safety and health training and protective measures for medical, emergency service, and other personnel responding to such attacks;

“(B) prioritizing countermeasures required to treat, prevent, or identify exposure to a biological agent or toxin pursuant to section 351A;

“(C) facilitation of the awarding of grants, contracts, or cooperative agreements for the development, manufacture, distribution, supply-chain management, and purchase of priority countermeasures;

“(D) research on pathogens likely to be used in a biological threat or attack on the civilian population;

“(E) development of shared standards for equipment to detect and to protect against biological agents and toxins;

“(F) assessment of the priorities for and enhancement of the preparedness of public health institutions, providers of medical care, and other emergency service personnel (including firefighters) to detect, diagnose, and respond (including mental health response) to a biological threat or attack;

“(G) in the recognition that medical and public health professionals are likely to provide much of the first response to such an attack, development and enhancement of the quality of joint planning and training programs that address the public health and medical consequences of a biological threat or attack on the civilian population between—

“(i) local firefighters, ambulance personnel, police and public security officers, or other emergency response personnel (including private response contractors); and

“(ii) hospitals, primary care facilities, and public health agencies;

“(H) development of strategies for Federal, State, and local agencies to communicate information to the public regarding biological threats or attacks;

“(I) ensuring that the activities under this subsection address the health security needs of children and other vulnerable populations;

“(J) strategies for decontaminating facilities contaminated as a result of a biological attack, including appropriate protections for the safety of workers conducting such activities;

“(K) subject to compliance with other provisions of Federal law, clarifying the responsibilities among Federal officials for the investigation of suspicious outbreaks of disease and other potential public health emergencies, and for related revisions of the interagency plan known as the Federal response plan; and

“(L) in consultation with the National Highway Traffic Safety Administration and the U.S. Fire Administration, ways to enhance coordination among Federal agencies involved with State, local, and community based emergency medical services, including issuing a report that—

“(i) identifies needs of community-based emergency medical services; and

“(ii) identifies ways to streamline and enhance the process through which Federal agencies support community-based emergency medical services.

“(2) CONSULTATION WITH EXPERTS.—In carrying out subparagraphs (B) and (C) of paragraph (1), the working group under such paragraph shall consult with the pharmaceutical, biotechnology, and medical device industries, and other appropriate experts.

“(3) USE OF SUBCOMMITTEES REGARDING CONSULTATION REQUIREMENTS.—With respect to a requirement under law that the working group under paragraph (1) be consulted on a matter, the working group may designate an appropriate subcommittee of the working group to engage in the consultation.

“(4) DISCRETION IN EXERCISE OF DUTIES.—Determinations made by the working group under paragraph (1) with respect to carrying out duties under such paragraph are matters committed to agency discretion for purposes of section 701(a) of title 5, United States Code.

“(5) RULE OF CONSTRUCTION.—This subsection may not be construed as establishing new regulatory authority for any of the officials specified in paragraph (1), or as having any legal effect on any other provision of law, including the responsibilities and authorities of the Environmental Protection Agency.”.

SEC. 109. ANTIMICROBIAL RESISTANCE.

Section 319E of the Public Health Service Act (42 U.S.C. 247d-5) is amended—

(1) in subsection (b)—

(A) by striking “shall conduct and support” and inserting “shall directly or through awards of grants or cooperative agreements to public or private entities provide for the conduct of”; and

(B) by amending paragraph (4) to read as follows:

“(4) the sequencing of the genomes, or other DNA analysis, or other comparative analysis, of priority pathogens (as determined by the Director of the National Institutes of Health

in consultation with the task force established under subsection (a)), in collaboration and coordination with the activities of the Department of Defense and the Joint Genome Institute of the Department of Energy; and”;

(2) in subsection (e)(2), by inserting after “societies,” the following: “schools or programs that train medical laboratory personnel,”; and

(3) in subsection (g), by striking “and such sums” and all that follows and inserting the following: “\$25,000,000 for each of the fiscal years 2002 and 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006.”.

SEC. 110. SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.

Part B of title III of the Public Health Service Act, as amended by section 107 of this Act, is amended by inserting after section 319I the following section:

“SEC. 319J. SUPPLIES AND SERVICES IN LIEU OF AWARD FUNDS.

42 USC 247d–7c.

“(a) IN GENERAL.—Upon the request of a recipient of an award under any of sections 319 through 319I or section 319K, the Secretary may, subject to subsection (b), provide supplies, equipment, and services for the purpose of aiding the recipient in carrying out the purposes for which the award is made and, for such purposes, may detail to the recipient any officer or employee of the Department of Health and Human Services.

“(b) CORRESPONDING REDUCTION IN PAYMENTS.—With respect to a request described in subsection (a), the Secretary shall reduce the amount of payments under the award involved by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.”.

SEC. 111. ADDITIONAL AMENDMENTS.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended—

(1) in section 319A(a)(1), by striking “10 years” and inserting “five years”; 42 USC 247d–1.

(2) in section 319B(a), in the first sentence, by striking “10 years” and inserting “five years”; and 42 USC 247d–2.

(3) in section 391F(e)(2), as redesignated by section 104(a)(2) of this Act— 42 USC 247d–6.

(A) by striking “or” after “clinic,”; and

(B) by inserting before the period following: “, professional organization or society, school or program that trains medical laboratory personnel, private accrediting organization, or other nonprofit private institution or entity meeting criteria established by the Secretary”.

Subtitle B—Strategic National Stockpile; Development of Priority Countermeasures

SEC. 121. STRATEGIC NATIONAL STOCKPILE.

42 USC
300hh–12.

(a) STRATEGIC NATIONAL STOCKPILE.—

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”), in coordination with the Secretary of Veterans Affairs, shall maintain a stockpile or stockpiles of drugs, vaccines and other biological products, medical devices, and other supplies in such numbers, types, and amounts as are determined by the Secretary to be appropriate and practicable, taking into account other available sources, to provide for the emergency health security of the United States, including the emergency health security of children and other vulnerable populations, in the event of a bioterrorist attack or other public health emergency.

(2) PROCEDURES.—The Secretary, in managing the stockpile under paragraph (1), shall—

(A) consult with the working group under section 319F(a) of the Public Health Service Act;

(B) ensure that adequate procedures are followed with respect to such stockpile for inventory management and accounting, and for the physical security of the stockpile;

(C) in consultation with Federal, State, and local officials, take into consideration the timing and location of special events;

(D) review and revise, as appropriate, the contents of the stockpile on a regular basis to ensure that emerging threats, advanced technologies, and new countermeasures are adequately considered;

(E) devise plans for the effective and timely supply-chain management of the stockpile, in consultation with appropriate Federal, State and local agencies, and the public and private health care infrastructure; and

(F) ensure the adequate physical security of the stockpile.

(b) SMALLPOX VACCINE DEVELOPMENT.—

Contracts.

(1) IN GENERAL.—The Secretary shall award contracts, enter into cooperative agreements, or carry out such other activities as may reasonably be required in order to ensure that the stockpile under subsection (a) includes an amount of vaccine against smallpox as determined by the Secretary to be sufficient to meet the health security needs of the United States.

(2) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to limit the private distribution, purchase, or sale of vaccines from sources other than the stockpile described in subsection (a).

(c) DISCLOSURES.—No Federal agency shall disclose under section 552, United States Code, any information identifying the location at which materials in the stockpile under subsection (a) are stored.

(d) DEFINITION.—For purposes of subsection (a), the term “stockpile” includes—

(1) a physical accumulation (at one or more locations) of the supplies described in subsection (a); or

(2) a contractual agreement between the Secretary and a vendor or vendors under which such vendor or vendors agree to provide to the Secretary supplies described in subsection (a).

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) STRATEGIC NATIONAL STOCKPILE.—For the purpose of carrying out subsection (a), there are authorized to be appropriated \$640,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

(2) SMALLPOX VACCINE DEVELOPMENT.—For the purpose of carrying out subsection (b), there are authorized to be appropriated \$509,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

SEC. 122. ACCELERATED APPROVAL OF PRIORITY COUNTERMEASURES. 21 USC 356-1.

(a) IN GENERAL.—The Secretary of Health and Human Services may designate a priority countermeasure as a fast-track product pursuant to section 506 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356) or as a device granted review priority pursuant to section 515(d)(5) of such Act (21 U.S.C. 360e(d)(5)). Such a designation may be made prior to the submission of—

(1) a request for designation by the sponsor or applicant;

or

(2) an application for the investigation of the drug under section 505(i) of such Act or section 351(a)(3) of the Public Health Service Act.

Nothing in this subsection shall be construed to prohibit a sponsor or applicant from declining such a designation.

(b) USE OF ANIMAL TRIALS.—A drug for which approval is sought under section 505(b) of the Federal Food, Drug, and Cosmetic Act or section 351 of the Public Health Service Act on the basis of evidence of effectiveness that is derived from animal studies pursuant to section 123 may be designated as a fast track product for purposes of this section.

(c) PRIORITY REVIEW OF DRUGS AND BIOLOGICAL PRODUCTS.—A priority countermeasure that is a drug or biological product shall be considered a priority drug or biological product for purposes of performance goals for priority drugs or biological products agreed to by the Commissioner of Food and Drugs.

(d) DEFINITIONS.—For purposes of this title:

(1) The term “priority countermeasure” has the meaning given such term in section 319F(h)(4) of the Public Health Service Act.

(2) The term “priority drugs or biological products” means a drug or biological product that is the subject of a drug or biologics application referred to in section 101(4) of the Food and Drug Administration Modernization Act of 1997.

SEC. 123. ISSUANCE OF RULE ON ANIMAL TRIALS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the process of rulemaking that was commenced under authority of section 505 of the Federal Food, Drug, and Cosmetic Act and section 351 of the Public Health Service Act with the issuance of the proposed rule entitled “New Drug and Biological Drug Products; Evidence Needed to Demonstrate Efficacy of New Drugs for Use Against Lethal or Permanently Disabling Toxic Substances When Efficacy Studies in Humans Ethically Cannot be Conducted” published in the Federal Register on October 5, 1999 (64 Fed. Reg. 53960), and shall promulgate a final rule. Deadline.

SEC. 124. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.

Part B of title III of the Public Health Service Act, as amended by section 110 of this Act, is amended by inserting after section 319J the following section:

42 USC 247d-7d. **“SEC. 319K. SECURITY FOR COUNTERMEASURE DEVELOPMENT AND PRODUCTION.**

“(a) IN GENERAL.—The Secretary, in consultation with the Attorney General and the Secretary of Defense, may provide technical or other assistance to provide security to persons or facilities that conduct development, production, distribution, or storage of priority countermeasures (as defined in section 319F(h)(4)).

“(b) GUIDELINES.—The Secretary may develop guidelines to enable entities eligible to receive assistance under subsection (a) to secure their facilities against potential terrorist attack.”.

SEC. 125. ACCELERATED COUNTERMEASURE RESEARCH AND DEVELOPMENT.

42 USC 247d-6. Section 319F(h) of the Public Health Service Act, as redesignated by section 104(a)(2) of this Act, is amended to read as follows:

“(h) ACCELERATED RESEARCH AND DEVELOPMENT ON PRIORITY PATHOGENS AND COUNTERMEASURES.—

“(1) IN GENERAL.—With respect to pathogens of potential use in a bioterrorist attack, and other agents that may cause a public health emergency, the Secretary, taking into consideration any recommendations of the working group under subsection (a), shall conduct, and award grants, contracts, or cooperative agreements for, research, investigations, experiments, demonstrations, and studies in the health sciences relating to—

“(A) the epidemiology and pathogenesis of such pathogens;

“(B) the sequencing of the genomes, or other DNA analysis, or other comparative analysis, of priority pathogens (as determined by the Director of the National Institutes of Health in consultation with the working group established in subsection (a)), in collaboration and coordination with the activities of the Department of Defense and the Joint Genome Institute of the Department of Energy;

“(C) the development of priority countermeasures; and

“(D) other relevant areas of research;

with consideration given to the needs of children and other vulnerable populations.

“(2) PRIORITY.—The Secretary shall give priority under this section to the funding of research and other studies related to priority countermeasures.

“(3) ROLE OF DEPARTMENT OF VETERANS AFFAIRS.—In carrying out paragraph (1), the Secretary shall consider using the biomedical research and development capabilities of the Department of Veterans Affairs, in conjunction with that Department’s affiliations with health-professions universities. When advantageous to the Government in furtherance of the purposes of such paragraph, the Secretary may enter into cooperative agreements with the Secretary of Veterans Affairs to achieve such purposes.

“(4) PRIORITY COUNTERMEASURES.—For purposes of this section, the term ‘priority countermeasure’ means a drug, biological product, device, vaccine, vaccine adjuvant, antiviral, or diagnostic test that the Secretary determines to be—

“(A) a priority to treat, identify, or prevent infection by a biological agent or toxin listed pursuant to section 351A(a)(1), or harm from any other agent that may cause a public health emergency; or

“(B) a priority to diagnose conditions that may result in adverse health consequences or death and may be caused by the administering of a drug, biological product, device, vaccine, vaccine adjuvant, antiviral, or diagnostic test that is a priority under subparagraph (A).”.

SEC. 126. EVALUATION OF NEW AND EMERGING TECHNOLOGIES REGARDING BIOTERRORIST ATTACK AND OTHER PUBLIC HEALTH EMERGENCIES.

42 USC
300hh-13.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall promptly carry out a program to periodically evaluate new and emerging technologies that, in the determination of the Secretary, are designed to improve or enhance the ability of public health or safety officials to conduct public health surveillance activities relating to a bioterrorist attack or other public health emergency.

(b) CERTAIN ACTIVITIES.—In carrying out this subsection, the Secretary shall, to the extent practicable—

(1) survey existing technology programs funded by the Federal Government for potentially useful technologies;

(2) promptly issue a request, as necessary, for information from non-Federal public and private entities for ongoing activities in this area; and

(3) evaluate technologies identified under paragraphs (1) and (2) pursuant to subsection (c).

(c) CONSULTATION AND EVALUATION.—In carrying out subsection (b)(3), the Secretary shall consult with the working group under section 319F(a) of the Public Health Service Act, as well as other appropriate public, nonprofit, and private entities, to develop criteria for the evaluation of such technologies and to conduct such evaluations.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, and periodically thereafter, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities under this section.

Deadline.

SEC. 127. POTASSIUM IODIDE.

42 USC
300hh-12 note.

(a) IN GENERAL.—Through the national stockpile under section 121, the President, subject to subsections (b) and (c), shall make available to State and local governments potassium iodide tablets for stockpiling and for distribution as appropriate to public facilities, such as schools and hospitals, in quantities sufficient to provide adequate protection for the population within 20 miles of a nuclear power plant.

(b) STATE AND LOCAL PLANS.—

(1) IN GENERAL.—Subsection (a) applies with respect to a State or local government, subject to paragraph (2), if the government involved meets the following conditions:

(A) Such government submits to the President a plan for the stockpiling of potassium iodide tablets, and for the distribution and utilization of potassium iodide tablets in the event of a nuclear incident.

(B) The plan is accompanied by certifications by such government that the government has not already received sufficient quantities of potassium iodide tablets from the Federal Government.

(2) LOCAL GOVERNMENTS.—Subsection (a) applies with respect to a local government only if, in addition to the conditions described in paragraph (1), the following conditions are met:

(A) The State in which the locality involved is located—

(i) does not have a plan described in paragraph (1)(A); or

(ii) has a plan described in such paragraph, but the plan does not address populations at a distance greater than 10 miles from the nuclear power plant involved.

(B) The local government has petitioned the State to modify the State plan to address such populations, not exceeding 20 miles from such plant, and 60 days have elapsed without the State modifying the State plan to address populations at the full distance sought by the local government through the petition.

(C) The local government has submitted its local plan under paragraph (1)(A) to the State, and the State has approved the plan and certified that the plan is not inconsistent with the State emergency plan.

Deadline.

(c) GUIDELINES.—Not later than one year after the date of the enactment of this Act, the President, in consultation with individuals representing appropriate Federal, State, and local agencies, shall establish guidelines for the stockpiling of potassium iodide tablets, and for the distribution and utilization of potassium iodide tablets in the event of a nuclear incident. Such tablets may not be made available under subsection (a) until such guidelines have been established.

(d) INFORMATION.—The President shall carry out activities to inform State and local governments of the program under this section.

(e) REPORTS.—

Deadline.

(1) PRESIDENT.—Not later than six months after the date on which the guidelines under subsection (c) are issued, the President shall submit to the Congress a report—

(A) on whether potassium iodide tablets have been made available under subsection (a) or other Federal, State, or local programs, and the extent to which State and local governments have established stockpiles of such tablets; and

(B) the measures taken by the President to implement this section.

(2) NATIONAL ACADEMY OF SCIENCES.—

Contracts.

(A) IN GENERAL.—The President shall request the National Academy of Sciences to enter into an agreement with the President under which the Academy conducts a study to determine what is the most effective and safe way to distribute and administer potassium iodide tablets

on a mass scale. If the Academy declines to conduct the study, the President shall enter into an agreement with another appropriate public or nonprofit private entity to conduct the study.

(B) REPORT.—The President shall ensure that, not later than six months after the date of the enactment of this Act, the study required in subparagraph (A) is completed and a report describing the findings made in the study is submitted to the Congress. Deadline.

(f) APPLICABILITY.—Subsections (a) and (d) cease to apply as requirements if the President determines that there is an alternative and more effective prophylaxis or preventive measures for adverse thyroid conditions that may result from the release of radionuclides from nuclear power plants.

Subtitle C—Improving State, Local, and Hospital Preparedness for and Response to Bioterrorism and Other Public Health Emergencies

SEC. 131. GRANTS TO IMPROVE STATE, LOCAL, AND HOSPITAL PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES.

(a) IN GENERAL.—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 319C the following sections:

“SEC. 319C-1. GRANTS TO IMPROVE STATE, LOCAL, AND HOSPITAL PREPAREDNESS FOR AND RESPONSE TO BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCIES. 42 USC 247d-3a.

“(a) IN GENERAL.—To enhance the security of the United States with respect to bioterrorism and other public health emergencies, the Secretary shall make awards of grants or cooperative agreements to eligible entities to enable such entities to conduct the activities described in subsection (d).

“(b) ELIGIBLE ENTITIES.—

“(1) IN GENERAL.—To be eligible to receive an award under subsection (a), an entity shall—

“(A)(i) be a State; and

“(ii) prepare and submit to the Secretary an application at such time, and in such manner, and containing such information as the Secretary may require, including an assurance that the State—

“(I) has completed an evaluation under section 319B(a), or an evaluation that is substantially equivalent to an evaluation described in such section (as determined by the Secretary);

“(II) has prepared, or will (within 60 days of receiving an award under this section) prepare, a Bioterrorism and Other Public Health Emergency Preparedness and Response Plan in accordance with subsection (c);

“(III) has established a means by which to obtain public comment and input on the plan prepared under subclause (II), and on the implementation of such plan,

that shall include an advisory committee or other similar mechanism for obtaining comment from the public at large as well as from other State and local stakeholders;

“(IV) will use amounts received under the award in accordance with the plan prepared under subclause (II), including making expenditures to carry out the strategy contained in the plan; and

“(V) with respect to the plan prepared under subclause (II), will establish reasonable criteria to evaluate the effective performance of entities that receive funds under the award and include relevant benchmarks in the plan; or

“(B)(i) be a political subdivision of a State or a consortium of 2 or more such subdivisions; and

“(ii) prepare and submit to the Secretary an application at such time, and in such manner, and containing such information as the Secretary may require.

“(2) COORDINATION WITH STATEWIDE PLANS.—An award under subsection (a) to an eligible entity described in paragraph (1)(B) may not be made unless the application of such entity is in coordination with, and consistent with, applicable Statewide plans described in subsection (d)(1).

Deadline.

“(c) BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCY PREPAREDNESS AND RESPONSE PLAN.—Not later than 60 days after receiving amounts under an award under subsection (a), an eligible entity described in subsection (b)(1)(A) shall prepare and submit to the Secretary a Bioterrorism and Other Public Health Emergency Preparedness and Response Plan. Recognizing the assessment of public health needs conducted under section 319B, such plan shall include a description of activities to be carried out by the entity to address the needs identified in such assessment (or an equivalent assessment).

“(d) USE OF FUNDS.—An award under subsection (a) may be expended for activities that may include the following and similar activities:

“(1) To develop Statewide plans (including the development of the Bioterrorism and Other Public Health Emergency Preparedness and Response Plan required under subsection (c)), and community-wide plans for responding to bioterrorism and other public health emergencies that are coordinated with the capacities of applicable national, State, and local health agencies and health care providers, including poison control centers.

“(2) To address deficiencies identified in the assessment conducted under section 319B.

“(3) To purchase or upgrade equipment (including stationary or mobile communications equipment), supplies, pharmaceuticals or other priority countermeasures to enhance preparedness for and response to bioterrorism or other public health emergencies, consistent with the plan described in subsection (c).

“(4) To conduct exercises to test the capability and timeliness of public health emergency response activities.

“(5) To develop and implement the trauma care and burn center care components of the State plans for the provision of emergency medical services.

“(6) To improve training or workforce development to enhance public health laboratories.

“(7) To train public health and health care personnel to enhance the ability of such personnel—

“(A) to detect, provide accurate identification of, and recognize the symptoms and epidemiological characteristics of exposure to a biological agent that may cause a public health emergency; and

“(B) to provide treatment to individuals who are exposed to such an agent.

“(8) To develop, enhance, coordinate, or improve participation in systems by which disease detection and information about biological attacks and other public health emergencies can be rapidly communicated among national, State, and local health agencies, emergency response personnel, and health care providers and facilities to detect and respond to a bioterrorist attack or other public health emergency, including activities to improve information technology and communications equipment available to health care and public health officials for use in responding to a biological threat or attack or other public health emergency.

“(9) To enhance communication to the public of information on bioterrorism and other public health emergencies, including through the use of 2-1-1 call centers.

“(10) To address the health security needs of children and other vulnerable populations with respect to bioterrorism and other public health emergencies.

“(11) To provide training and develop, enhance, coordinate, or improve methods to enhance the safety of workers and workplaces in the event of bioterrorism.

“(12) To prepare and plan for contamination prevention efforts related to public health that may be implemented in the event of a bioterrorist attack, including training and planning to protect the health and safety of workers conducting the activities described in this paragraph.

“(13) To prepare a plan for triage and transport management in the event of bioterrorism or other public health emergencies.

“(14) To enhance the training of health care professionals to recognize and treat the mental health consequences of bioterrorism or other public health emergencies.

“(15) To enhance the training of health care professionals to assist in providing appropriate health care for large numbers of individuals exposed to a bioweapon.

“(16) To enhance training and planning to protect the health and safety of personnel, including health care professionals, involved in responding to a biological attack.

“(17) To improve surveillance, detection, and response activities to prepare for emergency response activities including biological threats or attacks, including training personnel in these and other necessary functions and including early warning and surveillance networks that use advanced information technology to provide early detection of biological threats or attacks.

“(18) To develop, enhance, and coordinate or improve the ability of existing telemedicine programs to provide health care

information and advice as part of the emergency public health response to bioterrorism or other public health emergencies. Nothing in this subsection may be construed as establishing new regulatory authority or as modifying any existing regulatory authority.

“(e) PRIORITIES IN USE OF GRANTS.—

“(1) IN GENERAL.—

“(A) PRIORITIES.—Except as provided in subparagraph (B), the Secretary shall, in carrying out the activities described in this section, address the following hazards in the following priority:

“(i) Bioterrorism or acute outbreaks of infectious diseases.

“(ii) Other public health threats and emergencies.

“(B) DETERMINATION OF THE SECRETARY.—In the case of the hazard involved, the degree of priority that would apply to the hazard based on the categories specified in clauses (i) and (ii) of subparagraph (A) may be modified by the Secretary if the following conditions are met:

“(i) The Secretary determines that the modification is appropriate on the basis of the following factors:

“(I) The extent to which eligible entities are adequately prepared for responding to hazards within the category specified in clause (i) of subparagraph (A).

“(II) There has been a significant change in the assessment of risks to the public health posed by hazards within the category specified in clause (ii) of such subparagraph.

“(ii) Prior to modifying the priority, the Secretary notifies the appropriate committees of the Congress of the determination of the Secretary under clause (i) of this subparagraph.

“(2) AREAS OF EMPHASIS WITHIN CATEGORIES.—The Secretary shall determine areas of emphasis within the category of hazards specified in clause (i) of paragraph (1)(A), and shall determine areas of emphasis within the category of hazards specified in clause (ii) of such paragraph, based on an assessment of the risk and likely consequences of such hazards and on an evaluation of Federal, State, and local needs, and may also take into account the extent to which receiving an award under subsection (a) will develop capacities that can be used for public health emergencies of varying types.

“(f) CERTAIN ACTIVITIES.—In administering activities under section 319C(c)(4) or similar activities, the Secretary shall, where appropriate, give priority to activities that include State or local government financial commitments, that seek to incorporate multiple public health and safety services or diagnostic databases into an integrated public health entity, and that cover geographic areas lacking advanced diagnostic and laboratory capabilities.

“(g) COORDINATION WITH LOCAL MEDICAL RESPONSE SYSTEM.—An eligible entity and local Metropolitan Medical Response Systems shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities that are carried out by local Metropolitan Medical Response Systems.

“(h) COORDINATION OF FEDERAL ACTIVITIES.—In making awards under subsection (a), the Secretary shall—

“(1) annually notify the Director of the Federal Emergency Management Agency, the Director of the Office of Justice Programs, and the Director of the National Domestic Preparedness Office, as to the amount, activities covered under, and status of such awards; and

“(2) coordinate such awards with other activities conducted or supported by the Secretary to enhance preparedness for bioterrorism and other public health emergencies.

“(i) DEFINITION.—For purposes of this section, the term ‘eligible entity’ means an entity that meets the conditions described in subparagraph (A) or (B) of subsection (b)(1).

“(j) FUNDING.—

“(1) AUTHORIZATIONS OF APPROPRIATIONS.—

“(A) FISCAL YEAR 2003.—

“(i) AUTHORIZATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated \$1,600,000,000 for fiscal year 2003, of which—

“(I) \$1,080,000,000 is authorized to be appropriated for awards pursuant to paragraph (3) (subject to the authority of the Secretary to make awards pursuant to paragraphs (4) and (5)); and

“(II) \$520,000,000 is authorized to be appropriated—

“(aa) for awards under subsection (a) to States, notwithstanding the eligibility conditions under subsection (b), for the purpose of enhancing the preparedness of hospitals (including children’s hospitals), clinics, health centers, and primary care facilities for bioterrorism and other public health emergencies; and

“(bb) for Federal, State, and local planning and administrative activities related to such purpose.

“(ii) CONTINGENT ADDITIONAL AUTHORIZATION.—If a significant change in circumstances warrants an increase in the amount authorized to be appropriated under clause (i) for fiscal year 2003, there are authorized to be appropriated such sums as may be necessary for such year for carrying out this section, in addition to the amount authorized in clause (i).

“(B) OTHER FISCAL YEARS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006.

“(2) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated under paragraph (1) shall be used to supplement and not supplant other State and local public funds provided for activities under this section.

“(3) STATE BIOTERRORISM AND OTHER PUBLIC HEALTH EMERGENCY PREPAREDNESS AND RESPONSE BLOCK GRANT FOR FISCAL YEAR 2003.—

“(A) IN GENERAL.—For fiscal year 2003, the Secretary shall, in an amount determined in accordance with subparagraphs (B) through (D), make an award under subsection (a) to each State, notwithstanding the eligibility conditions described in subsection (b), that submits to the Secretary an application for the award that meets the criteria of the Secretary for the receipt of such an award and that meets other implementation conditions established by the Secretary for such awards. No other awards may be made under subsection (a) for such fiscal year, except as provided in paragraph (1)(A)(i)(II) and paragraphs (4) and (5).

“(B) BASE AMOUNT.—In determining the amount of an award pursuant to subparagraph (A) for a State, the Secretary shall first determine an amount the Secretary considers appropriate for the State (referred to in this paragraph as the ‘base amount’), except that such amount may not be greater than the minimum amount determined under subparagraph (D).

“(C) INCREASE ON BASIS OF POPULATION.—After determining the base amount for a State under subparagraph (B), the Secretary shall increase the base amount by an amount equal to the product of—

“(i) the amount appropriated under paragraph (1)(A)(i)(I) for the fiscal year, less an amount equal to the sum of all base amounts determined for the States under subparagraph (B), and less the amount, if any, reserved by the Secretary under paragraphs (4) and (5); and

“(ii) subject to paragraph (4)(C), the percentage constituted by the ratio of an amount equal to the population of the State over an amount equal to the total population of the States (as indicated by the most recent data collected by the Bureau of the Census).

“(D) MINIMUM AMOUNT.—Subject to the amount appropriated under paragraph (1)(A)(i)(I), an award pursuant to subparagraph (A) for a State shall be the greater of the base amount as increased under subparagraph (C), or the minimum amount under this subparagraph. The minimum amount under this subparagraph is—

“(i) in the case of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, an amount equal to the lesser of—

“(I) \$5,000,000; or

“(II) if the amount appropriated under paragraph (1)(A)(i)(I) is less than \$667,000,000, an amount equal to 0.75 percent of the amount appropriated under such paragraph, less the amount, if any, reserved by the Secretary under paragraphs (4) and (5); or

“(ii) in the case of each of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Virgin Islands, an amount determined by the Secretary to be appropriate, except that such amount may not exceed the amount determined under clause (i).

“(4) CERTAIN POLITICAL SUBDIVISIONS.—

“(A) IN GENERAL.—For fiscal year 2003, the Secretary may, before making awards pursuant to paragraph (3) for such year, reserve from the amount appropriated under paragraph (1)(A)(i)(I) for the year an amount determined necessary by the Secretary to make awards under subsection (a) to political subdivisions that have a substantial number of residents, have a substantial local infrastructure for responding to public health emergencies, and face a high degree of risk from bioterrorist attacks or other public health emergencies. Not more than three political subdivisions may receive awards pursuant to this subparagraph.

“(B) COORDINATION WITH STATEWIDE PLANS.—An award pursuant to subparagraph (A) may not be made unless the application of the political subdivision involved is in coordination with, and consistent with, applicable Statewide plans described in subsection (c).

“(C) RELATIONSHIP TO FORMULA GRANTS.—In the case of a State that will receive an award pursuant to paragraph (3), and in which there is located a political subdivision that will receive an award pursuant to subparagraph (A), the Secretary shall, in determining the amount under paragraph (3)(C) for the State, subtract from the population of the State an amount equal to the population of such political subdivision.

“(D) CONTINUITY OF FUNDING.—In determining whether to make an award pursuant to subparagraph (A) to a political subdivision, the Secretary may consider, as a factor indicating that the award should be made, that the political subdivision received public health funding from the Secretary for fiscal year 2002.

“(5) SIGNIFICANT UNMET NEEDS; DEGREE OF RISK.—

“(A) IN GENERAL.—For fiscal year 2003, the Secretary may, before making awards pursuant to paragraph (3) for such year, reserve from the amount appropriated under paragraph (1)(A)(i)(I) for the year an amount determined necessary by the Secretary to make awards under subsection (a) to eligible entities that—

“(i) have a significant need for funds to build capacity to identify, detect, monitor, and respond to a bioterrorist or other threat to the public health, which need will not be met by awards pursuant to paragraph (3); and

“(ii) face a particularly high degree of risk of such a threat.

“(B) RECIPIENTS OF GRANTS.—Awards pursuant to subparagraph (A) may be supplemental awards to States that receive awards pursuant to paragraph (3), or may be awards to eligible entities described in subsection (b)(1)(B) within such States.

“(C) FINDING WITH RESPECT TO DISTRICT OF COLUMBIA.—The Secretary shall consider the District of Columbia to have a significant unmet need for purposes of subparagraph (A), and to face a particularly high degree of risk for such purposes, on the basis of the concentration of entities of national significance located within the District.

“(6) **FUNDING OF LOCAL ENTITIES.**—For fiscal year 2003, the Secretary shall in making awards under this section ensure that appropriate portions of such awards are made available to political subdivisions, local departments of public health, hospitals (including children’s hospitals), clinics, health centers, or primary care facilities, or consortia of such entities.

42 USC 247d-3b. **“SEC. 319C-2. PARTNERSHIPS FOR COMMUNITY AND HOSPITAL PREPAREDNESS.**

“(a) **GRANTS.**—The Secretary shall make awards of grants or cooperative agreements to eligible entities to enable such entities to improve community and hospital preparedness for bioterrorism and other public health emergencies.

“(b) **ELIGIBILITY.**—To be eligible for an award under subsection (a), an entity shall—

“(1) be a partnership consisting of—

“(A) one or more hospitals (including children’s hospitals), clinics, health centers, or primary care facilities; and

“(B)(i) one or more political subdivisions of States;

“(ii) one or more States; or

“(iii) one or more States and one or more political subdivisions of States; and

“(2) prepare, in consultation with the Chief Executive Officer of the State, District, or territory in which the hospital, clinic, health center, or primary care facility described in paragraph (1)(A) is located, and submit to the Secretary, an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) **REGIONAL COORDINATION.**—In making awards under subsection (a), the Secretary shall give preference to eligible entities that submit applications that, in the determination of the Secretary, will—

“(1) enhance coordination—

“(A) among the entities described in subsection (b)(1)(A); and

“(B) between such entities and the entities described in subsection (b)(1)(B); and

“(2) serve the needs of a defined geographic area.

“(d) **CONSISTENCY OF PLANNED ACTIVITIES.**—An entity described in subsection (b)(1) shall utilize amounts received under an award under subsection (a) in a manner that is coordinated and consistent, as determined by the Secretary, with an applicable State Bioterrorism and Other Public Health Emergency Preparedness and Response Plan.

“(e) **USE OF FUNDS.**—An award under subsection (a) may be expended for activities that may include the following and similar activities—

“(1) planning and administration for such award;

“(2) preparing a plan for triage and transport management in the event of bioterrorism or other public health emergencies;

“(3) enhancing the training of health care professionals to improve the ability of such professionals to recognize the symptoms of exposure to a potential bioweapon, to make appropriate diagnosis, and to provide treatment to those individuals so exposed;

“(4) enhancing the training of health care professionals to recognize and treat the mental health consequences of bioterrorism or other public health emergencies;

“(5) enhancing the training of health care professionals to assist in providing appropriate health care for large numbers of individuals exposed to a bioweapon;

“(6) enhancing training and planning to protect the health and safety of personnel involved in responding to a biological attack;

“(7) developing and implementing the trauma care and burn center care components of the State plans for the provision of emergency medical services; or

“(8) conducting such activities as are described in section 319C-1(d) that are appropriate for hospitals (including children’s hospitals), clinics, health centers, or primary care facilities.

“(f) LIMITATION ON AWARDS.—A political subdivision of a State shall not participate in more than one partnership described in subsection (b)(1).

“(g) PRIORITIES IN USE OF GRANTS.—

“(1) IN GENERAL.—

“(A) PRIORITIES.—Except as provided in subparagraph (B), the Secretary shall, in carrying out the activities described in this section, address the following hazards in the following priority:

“(i) Bioterrorism or acute outbreaks of infectious diseases.

“(ii) Other public health threats and emergencies.

“(B) DETERMINATION OF THE SECRETARY.—In the case of the hazard involved, the degree of priority that would apply to the hazard based on the categories specified in clauses (i) and (ii) of subparagraph (A) may be modified by the Secretary if the following conditions are met:

“(i) The Secretary determines that the modification is appropriate on the basis of the following factors:

“(I) The extent to which eligible entities are adequately prepared for responding to hazards within the category specified in clause (i) of subparagraph (A).

“(II) There has been a significant change in the assessment of risks to the public health posed by hazards within the category specified in clause (ii) of such subparagraph.

“(ii) Prior to modifying the priority, the Secretary notifies the appropriate committees of the Congress of the determination of the Secretary under clause (i) of this subparagraph.

“(2) AREAS OF EMPHASIS WITHIN CATEGORIES.—The Secretary shall determine areas of emphasis within the category of hazards specified in clause (i) of paragraph (1)(A), and shall determine areas of emphasis within the category of hazards specified in clause (ii) of such paragraph, based on an assessment of the risk and likely consequences of such hazards and on an evaluation of Federal, State, and local needs, and may also take into account the extent to which receiving an award under subsection (a) will develop capacities that can be used for public health emergencies of varying types.

“(h) COORDINATION WITH LOCAL MEDICAL RESPONSE SYSTEM.—An eligible entity and local Metropolitan Medical Response Systems shall, to the extent practicable, ensure that activities carried out under an award under subsection (a) are coordinated with activities that are carried out by local Metropolitan Medical Response Systems.

“(i) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2004 through 2006.”.

(b) CERTAIN GRANTS.—Section 319C of the Public Health Service Act (42 U.S.C. 247d-3) is amended by striking subsection (f).

Subtitle D—Emergency Authorities; Additional Provisions

SEC. 141. REPORTING DEADLINES.

Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended by adding at the end the following:

“(d) DATA SUBMITTAL AND REPORTING DEADLINES.—In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to subsection (a), individuals or public or private entities are unable to comply with deadlines for the submission to the Secretary of data or reports required under any law administered by the Secretary, the Secretary may, notwithstanding any other provision of law, grant such extensions of such deadlines as the circumstances reasonably require, and may waive, wholly or partially, any sanctions otherwise applicable to such failure to comply. Before or promptly after granting such an extension or waiver, the Secretary shall notify the Congress of such action and publish in the Federal Register a notice of the extension or waiver.”.

Federal Register,
publication.

SEC. 142. STREAMLINING AND CLARIFYING COMMUNICABLE DISEASE QUARANTINE PROVISIONS.

(a) ELIMINATION OF PREREQUISITE FOR NATIONAL ADVISORY HEALTH COUNCIL RECOMMENDATION BEFORE ISSUING QUARANTINE RULES.—

(1) EXECUTIVE ORDERS SPECIFYING DISEASES SUBJECT TO INDIVIDUAL DETENTIONS.—Section 361(b) of the Public Health Act (42 U.S.C. 264(b)) is amended by striking “Executive orders of the President upon the recommendation of the National Advisory Health Council and the Surgeon General” and inserting “Executive orders of the President upon the recommendation of the Secretary, in consultation with the Surgeon General.”.

(2) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS.—Section 361(d) of the Public Health Act (42 U.S.C. 264(d)) is amended by striking “On recommendation of the National Advisory Health Council, regulations” and inserting “Regulations”.

(3) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS IN WARTIME.—Section 363 of the Public Health Act (42 U.S.C. 266) is amended by striking “the Surgeon General, on recommendation of the National Advisory Health Council,” and

inserting “the Secretary, in consultation with the Surgeon General,”.

(b) APPREHENSION AUTHORITY TO APPLY IN CASES OF EXPOSURE TO DISEASE.—

(1) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS.—Section 361(d) of the Public Health Act (42 U.S.C. 264(d)), as amended by subsection (a)(2), is further amended—

(A) by striking “(1)” and “(2)” and inserting “(A)” and “(B)”, respectively;

(B) by striking “(d)” and inserting “(d)(1)”;

(C) in paragraph (1) (as designated by subparagraph (B) of this paragraph), in the first sentence, by striking “in a communicable stage” each place such term appears and inserting “in a qualifying stage”; and

(D) by adding at the end the following paragraph:

“(2) For purposes of this subsection, the term ‘qualifying stage’, with respect to a communicable disease, means that such disease—

“(A) is in a communicable stage; or

“(B) is in a precommunicable stage, if the disease would be likely to cause a public health emergency if transmitted to other individuals.”.

(2) REGULATIONS PROVIDING FOR APPREHENSION OF INDIVIDUALS IN WARTIME.—Section 363 of the Public Health Act (42 U.S.C. 266), as amended by subsection (a)(3), is further amended by striking “in a communicable stage”.

(c) STATE AUTHORITY.—Section 361 of the Public Health Act (42 U.S.C. 264) is amended by adding at the end the following:

“(e) Nothing in this section or section 363, or the regulations promulgated under such sections, may be construed as superseding any provision under State law (including regulations and including provisions established by political subdivisions of States), except to the extent that such a provision conflicts with an exercise of Federal authority under this section or section 363.”.

SEC. 143. EMERGENCY WAIVER OF MEDICARE, MEDICAID, AND SCHIP REQUIREMENTS.

(a) WAIVER AUTHORITY.—Title XI of the Social Security Act (42 U.S.C. 1301 et seq.) is amended by inserting after section 1134 the following new section:

“AUTHORITY TO WAIVE REQUIREMENTS DURING NATIONAL EMERGENCIES

“SEC. 1135. (a) PURPOSE.—The purpose of this section is to enable the Secretary to ensure to the maximum extent feasible, in any emergency area and during an emergency period (as defined in subsection (g)(1))—

“(1) that sufficient health care items and services are available to meet the needs of individuals in such area enrolled in the programs under titles XVIII, XIX, and XXI; and

“(2) that health care providers (as defined in subsection (g)(2)) that furnish such items and services in good faith, but that are unable to comply with one or more requirements described in subsection (b), may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse.

“(b) SECRETARIAL AUTHORITY.—To the extent necessary to accomplish the purpose specified in subsection (a), the Secretary

42 USC 1320b-5.

is authorized, subject to the provisions of this section, to temporarily waive or modify the application of, with respect to health care items and services furnished by a health care provider (or classes of health care providers) in any emergency area (or portion of such an area) during any portion of an emergency period, the requirements of titles XVIII, XIX, or XXI, or any regulation thereunder (and the requirements of this title other than this section, and regulations thereunder, insofar as they relate to such titles), pertaining to—

“(1)(A) conditions of participation or other certification requirements for an individual health care provider or types of providers,

“(B) program participation and similar requirements for an individual health care provider or types of providers, and

“(C) pre-approval requirements;

“(2) requirements that physicians and other health care professionals be licensed in the State in which they provide such services, if they have equivalent licensing in another State and are not affirmatively excluded from practice in that State or in any State a part of which is included in the emergency area;

“(3) sanctions under section 1867 (relating to examination and treatment for emergency medical conditions and women in labor) for a transfer of an individual who has not been stabilized in violation of subsection (c) of such section if the transfer arises out of the circumstances of the emergency;

“(4) sanctions under section 1877(g) (relating to limitations on physician referral);

“(5) deadlines and timetables for performance of required activities, except that such deadlines and timetables may only be modified, not waived; and

“(6) limitations on payments under section 1851(i) for health care items and services furnished to individuals enrolled in a Medicare+Choice plan by health care professionals or facilities not included under such plan.

Insofar as the Secretary exercises authority under paragraph (6) with respect to individuals enrolled in a Medicare+Choice plan, to the extent possible given the circumstances, the Secretary shall reconcile payments made on behalf of such enrollees to ensure that the enrollees do not pay more than would be required had they received services from providers within the network of the plan and may reconcile payments to the organization offering the plan to ensure that such organization pays for services for which payment is included in the capitation payment it receives under part C of title XVIII.

“(c) **AUTHORITY FOR RETROACTIVE WAIVER.**—A waiver or modification of requirements pursuant to this section may, at the Secretary’s discretion, be made retroactive to the beginning of the emergency period or any subsequent date in such period specified by the Secretary.

“(d) **CERTIFICATION TO CONGRESS.**—The Secretary shall provide a certification and advance written notice to the Congress at least two days before exercising the authority under this section with respect to an emergency area. Such a certification and notice shall include—

“(1) a description of—

“(A) the specific provisions that will be waived or modified;

“(B) the health care providers to whom the waiver or modification will apply;

“(C) the geographic area in which the waiver or modification will apply; and

“(D) the period of time for which the waiver or modification will be in effect; and

“(2) a certification that the waiver or modification is necessary to carry out the purpose specified in subsection (a).

“(e) DURATION OF WAIVER.—

“(1) IN GENERAL.—A waiver or modification of requirements pursuant to this section terminates upon—

“(A) the termination of the applicable declaration of emergency or disaster described in subsection (g)(1)(A);

“(B) the termination of the applicable declaration of public health emergency described in subsection (g)(1)(B); or

“(C) subject to paragraph (2), the termination of a period of 60 days from the date the waiver or modification is first published (or, if applicable, the date of extension of the waiver or modification under paragraph (2)).

“(2) EXTENSION OF 60-DAY PERIODS.—The Secretary may, by notice, provide for an extension of a 60-day period described in paragraph (1)(C) (or an additional period provided under this paragraph) for additional period or periods (not to exceed, except as subsequently provided under this paragraph, 60 days each), but any such extension shall not affect or prevent the termination of a waiver or modification under subparagraph (A) or (B) of paragraph (1).

“(f) REPORT TO CONGRESS.—Within one year after the end of the emergency period in an emergency area in which the Secretary exercised the authority provided under this section, the Secretary shall report to the Congress regarding the approaches used to accomplish the purposes described in subsection (a), including an evaluation of such approaches and recommendations for improved approaches should the need for such emergency authority arise in the future.

“(g) DEFINITIONS.—For purposes of this section:

“(1) EMERGENCY AREA; EMERGENCY PERIOD.—An ‘emergency area’ is a geographical area in which, and an ‘emergency period’ is the period during which, there exists—

“(A) an emergency or disaster declared by the President pursuant to the National Emergencies Act or the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and

“(B) a public health emergency declared by the Secretary pursuant to section 319 of the Public Health Service Act.

“(2) HEALTH CARE PROVIDER.—The term ‘health care provider’ means any entity that furnishes health care items or services, and includes a hospital or other provider of services, a physician or other health care practitioner or professional, a health care facility, or a supplier of health care items or services.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective on and after September 11, 2001.

42 USC 1320b-5
note.

SEC. 144. PROVISION FOR EXPIRATION OF PUBLIC HEALTH EMERGENCIES.

(a) **IN GENERAL.**—Section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), is amended by adding at the end the following new sentence: “Any such determination of a public health emergency terminates upon the Secretary declaring that the emergency no longer exists, or upon the expiration of the 90-day period beginning on the date on which the determination is made by the Secretary, whichever occurs first. Determinations that terminate under the preceding sentence may be renewed by the Secretary (on the basis of the same or additional facts), and the preceding sentence applies to each such renewal. Not later than 48 hours after making a determination under this subsection of a public health emergency (including a renewal), the Secretary shall submit to the Congress written notification of the determination.”

42 USC 247d
note.

(b) **APPLICABILITY.**—The amendment made by subsection (a) applies to any public health emergency under section 319(a) of the Public Health Service Act, including any such emergency that was in effect as of the day before the date of the enactment of this Act. In the case of such an emergency that was in effect as of such day, the 90-day period described in such section with respect to the termination of the emergency is deemed to begin on such date of enactment.

Subtitle E—Additional Provisions**SEC. 151. DESIGNATED STATE PUBLIC EMERGENCY ANNOUNCEMENT PLAN.**

Section 613(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5196b(b)) is amended—

- (1) in paragraph (5), by striking “and” at the end;
- (2) in paragraph (6), by striking the period and inserting “; and”; and
- (3) by adding at the end the following:
“(7) include a plan for providing information to the public in a coordinated manner.”.

42 USC 7257d.

SEC. 152. EXPANDED RESEARCH BY SECRETARY OF ENERGY.

(a) **DETECTION AND IDENTIFICATION RESEARCH.**—

(1) **IN GENERAL.**—In conjunction with the working group under section 319F(a) of the Public Health Service Act, the Secretary of Energy and the Administrator of the National Nuclear Security Administration shall expand, enhance, and intensify research relevant to the rapid detection and identification of pathogens likely to be used in a bioterrorism attack or other agents that may cause a public health emergency.

(2) **AUTHORIZED ACTIVITIES.**—Activities carried out under paragraph (1) may include—

(A) the improvement of methods for detecting biological agents or toxins of potential use in a biological attack and the testing of such methods under variable conditions;

(B) the improvement or pursuit of methods for testing, verifying, and calibrating new detection and surveillance tools and techniques; and

(C) carrying out other research activities in relevant areas.

(3) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Administrator of the National Nuclear Security Administration shall submit to the Committee on Energy and Natural Resources and the Committee on Armed Services of the Senate, and the Committee on Energy and Commerce and the Committee on Armed Services of the House of Representatives, a report setting forth the programs and projects that will be funded prior to the obligation of funds appropriated under subsection (b). Deadline.

(b) **AUTHORIZATION.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary in each of fiscal years 2002 through 2006.

SEC. 153. EXPANDED RESEARCH ON WORKER HEALTH AND SAFETY. 29 USC 669a.

The Secretary of Health and Human Services (referred to in this section as the “Secretary”), acting through the Director of the National Institute of Occupational Safety and Health, shall enhance and expand research as deemed appropriate on the health and safety of workers who are at risk for bioterrorist threats or attacks in the workplace, including research on the health effects of measures taken to treat or protect such workers for diseases or disorders resulting from a bioterrorist threat or attack. Nothing in this section may be construed as establishing new regulatory authority for the Secretary or the Director to issue or modify any occupational safety and health rule or regulation.

SEC. 154. ENHANCEMENT OF EMERGENCY PREPAREDNESS OF DEPARTMENT OF VETERANS AFFAIRS. 38 USC note
prec. 8101.

(a) **READINESS OF DEPARTMENT MEDICAL CENTER.**—(1) The Secretary of Veterans Affairs shall take appropriate actions to enhance the readiness of Department of Veterans Affairs medical centers to protect the patients and staff of such centers from chemical or biological attack or otherwise to respond to such an attack and so as to enable such centers to fulfil their obligations as part of the Federal response to public health emergencies.

(2) Actions under paragraph (1) shall include—

(A) the provision of decontamination equipment and personal protection equipment at Department medical centers; and

(B) the provision of training in the use of such equipment to staff of such centers.

(b) **SECURITY AT DEPARTMENT MEDICAL AND RESEARCH FACILITIES.**—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall carry out an evaluation of the security needs at Department medical centers and research facilities. The evaluation shall address the following needs: Deadline.

(A) Needs for the protection of patients and medical staff during emergencies, including a chemical or biological attack or other terrorist attack.

(B) Needs, if any, for screening personnel engaged in research relating to biological pathogens or agents, including work associated with such research.

(C) Needs for securing laboratories or other facilities engaged in research relating to biological pathogens or agents.

(D) Any other needs the Secretary considers appropriate.

(2) The Secretary shall take appropriate actions to enhance the security of Department medical centers and research facilities, including staff and patients at such centers and facilities. In taking

such actions, the Secretary shall take into account the results of the evaluation required by paragraph (1).

(c) TRACKING OF PHARMACEUTICALS AND MEDICAL SUPPLIES AND EQUIPMENT.—The Secretary shall develop and maintain a centralized system for tracking the current location and availability of pharmaceuticals, medical supplies, and medical equipment throughout the Department health care system in order to permit the ready identification and utilization of such pharmaceuticals, supplies, and equipment for a variety of purposes, including response to a chemical or biological attack or other terrorist attack.

(d) TRAINING.—The Secretary shall ensure that the Department medical centers, in consultation with the accredited medical school affiliates of such medical centers, develop and implement curricula to train resident physicians and health care personnel in medical matters relating to biological, chemical, or radiological attacks.

(e) PARTICIPATION IN NATIONAL DISASTER MEDICAL SYSTEM.—(1) The Secretary shall, in consultation with the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency, establish and maintain a training program to facilitate the participation of the staff of Department medical centers, and of the community partners of such centers, in the National Disaster Medical System.

(2) The Secretary shall establish and maintain the training program under paragraph (1) in accordance with the recommendations of the working group under section 319F(a) of the Public Health Service Act.

(f) MENTAL HEALTH COUNSELING.—(1) With respect to activities conducted by personnel serving at Department medical centers, the Secretary shall, in consultation with the Secretary of Health and Human Services, the American Red Cross, and the working group under section 319F(a) of the Public Health Service Act, develop and maintain various strategies for providing mental health counseling and assistance, including counseling and assistance for post-traumatic stress disorder, to local and community emergency response providers, veterans, active duty military personnel, and individuals seeking care at Department medical centers following a bioterrorist attack or other public health emergency.

(2) The strategies under paragraph (1) shall include the following:

(A) Training and certification of providers of mental health counseling and assistance.

(B) Mechanisms for coordinating the provision of mental health counseling and assistance to emergency response providers referred to in that paragraph.

(g) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated for the Department of Veterans Affairs amounts as follows:

(1) To carry out activities required by subsection (a)—

(A) \$100,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

(2) To carry out activities required by subsections (b) through (f)—

(A) \$33,000,000 for fiscal year 2002; and

(B) such sums as may be necessary for each of fiscal years 2003 through 2006.

SEC. 155. REAUTHORIZATION OF EXISTING PROGRAM.

Section 582(f) of the Public Health Service Act (42 U.S.C. 290hh-1(f)) is amended by striking “2002 and 2003” and inserting “2003 through 2006”.

SEC. 156. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) many excellent university-based programs are already functioning and developing important biodefense products and solutions throughout the United States;

(2) accelerating the crucial work done at university centers and laboratories will contribute significantly to the United States capacity to defend against any biological threat or attack;

(3) maximizing the effectiveness of, and extending the mission of, established university programs would be one appropriate use of the additional resources provided for in this Act and the amendments made by this Act; and

(4) the Secretary of Health and Human Services should, as appropriate, recognize the importance of existing public and private university-based research, training, public awareness, and safety related biological defense programs when the Secretary makes awards of grants and contracts in accordance with this Act and the amendments made by this Act.

SEC. 157. GENERAL ACCOUNTING OFFICE REPORT.

42 USC 300hh
note.

(a) **IN GENERAL.**—The Comptroller General shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate, and to the Committee on Energy and Commerce and the Committee on Appropriations of the House of Representatives, a report that describes—

(1) Federal activities primarily related to research on, preparedness for, and the management of the public health and medical consequences of a bioterrorist attack against the civilian population;

(2) the coordination of the activities described in paragraph (1);

(3) the effectiveness of such efforts in preparing national, State, and local authorities to address the public health and medical consequences of a potential bioterrorist attack against the civilian population;

(4) the activities and costs of the Civil Support Teams of the National Guard in responding to biological threats or attacks against the civilian population;

(5) the activities of the working group under subsection (a) and the efforts made by such group to carry out the activities described in such subsection; and

(6) the ability of private sector contractors to enhance governmental responses to biological threats or attacks.

SEC. 158. CERTAIN AWARDS.

Section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)) is amended in the matter after and below paragraph (2) by striking “grants and” and inserting “grants, providing awards for expenses, and”.

Community
Access to
Emergency
Defibrillation Act
of 2002.
42 USC 201 note.
42 USC 244 note.

SEC. 159. PUBLIC ACCESS DEFIBRILLATION PROGRAMS AND PUBLIC ACCESS DEFIBRILLATION DEMONSTRATION PROJECTS.

(a) **SHORT TITLE.**—This section may be cited as the “Community Access to Emergency Defibrillation Act of 2002”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) Over 220,000 Americans die each year from cardiac arrest. Every 2 minutes, an individual goes into cardiac arrest in the United States.

(2) The chance of successfully returning to a normal heart rhythm diminishes by 10 percent each minute following sudden cardiac arrest.

(3) Eighty percent of cardiac arrests are caused by ventricular fibrillation, for which defibrillation is the only effective treatment.

(4) Sixty percent of all cardiac arrests occur outside the hospital. The average national survival rate for out-of-hospital cardiac arrest is only 5 percent.

(5) Communities that have established and implemented public access defibrillation programs have achieved average survival rates for out-of-hospital cardiac arrest as high as 50 percent.

(6) According to the American Heart Association, wide use of defibrillators could save as many as 50,000 lives nationally each year.

(7) Successful public access defibrillation programs ensure that cardiac arrest victims have access to early 911 notification, early cardiopulmonary resuscitation, early defibrillation, and early advanced care.

(c) **PUBLIC ACCESS DEFIBRILLATION PROGRAMS AND PROJECTS.**—Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.), as amended by Public Law 106-310, is amended by adding after section 311 the following:

42 USC 244.

“SEC. 312. PUBLIC ACCESS DEFIBRILLATION PROGRAMS.

Grants.

“(a) **IN GENERAL.**—The Secretary shall award grants to States, political subdivisions of States, Indian tribes, and tribal organizations to develop and implement public access defibrillation programs—

“(1) by training and equipping local emergency medical services personnel, including firefighters, police officers, paramedics, emergency medical technicians, and other first responders, to administer immediate care, including cardiopulmonary resuscitation and automated external defibrillation, to cardiac arrest victims;

“(2) by purchasing automated external defibrillators, placing the defibrillators in public places where cardiac arrests are likely to occur, and training personnel in such places to administer cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims;

“(3) by setting procedures for proper maintenance and testing of such devices, according to the guidelines of the manufacturers of the devices;

“(4) by providing training to members of the public in cardiopulmonary resuscitation and automated external defibrillation;

“(5) by integrating the emergency medical services system with the public access defibrillation programs so that emergency

medical services personnel, including dispatchers, are informed about the location of automated external defibrillators in their community; and

“(6) by encouraging private companies, including small businesses, to purchase automated external defibrillators and provide training for their employees to administer cardiopulmonary resuscitation and external automated defibrillation to cardiac arrest victims in their community.

“(b) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give a preference to a State, political subdivision of a State, Indian tribe, or tribal organization that—

“(1) has a particularly low local survival rate for cardiac arrests, or a particularly low local response rate for cardiac arrest victims; or

“(2) demonstrates in its application the greatest commitment to establishing and maintaining a public access defibrillation program.

“(c) USE OF FUNDS.—A State, political subdivision of a State, Indian tribe, or tribal organization that receives a grant under subsection (a) may use funds received through such grant to—

“(1) purchase automated external defibrillators that have been approved, or cleared for marketing, by the Food and Drug Administration;

“(2) provide automated external defibrillation and basic life support training in automated external defibrillator usage through nationally recognized courses;

“(3) provide information to community members about the public access defibrillation program to be funded with the grant;

“(4) provide information to the local emergency medical services system regarding the placement of automated external defibrillators in public places;

“(5) produce materials to encourage private companies, including small businesses, to purchase automated external defibrillators; and

“(6) further develop strategies to improve access to automated external defibrillators in public places.

“(d) APPLICATION.—

“(1) IN GENERAL.—To be eligible to receive a grant under subsection (a), a State, political subdivision of a State, Indian tribe, or tribal organization shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(2) CONTENTS.—An application submitted under paragraph (1) shall—

“(A) describe the comprehensive public access defibrillation program to be funded with the grant and demonstrate how such program would make automated external defibrillation accessible and available to cardiac arrest victims in the community;

“(B) contain procedures for implementing appropriate nationally recognized training courses in performing cardiopulmonary resuscitation and the use of automated external defibrillators;

“(C) contain procedures for ensuring direct involvement of a licensed medical professional and coordination with

the local emergency medical services system in the oversight of training and notification of incidents of the use of the automated external defibrillators;

“(D) contain procedures for proper maintenance and testing of the automated external defibrillators, according to the labeling of the manufacturer;

“(E) contain procedures for ensuring notification of local emergency medical services system personnel, including dispatchers, of the location and type of devices used in the public access defibrillation program; and

“(F) provide for the collection of data regarding the effectiveness of the public access defibrillation program to be funded with the grant in affecting the out-of-hospital cardiac arrest survival rate.

“(e) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated \$25,000,000 for fiscal year 2003, and such sums as may be necessary for each of the fiscal years 2004 through 2006. Not more than 10 percent of amounts received under a grant awarded under this section may be used for administrative expenses.

42 USC 245.

“SEC. 313. PUBLIC ACCESS DEFIBRILLATION DEMONSTRATION PROJECTS.

“(a) **IN GENERAL.**—The Secretary shall award grants to political subdivisions of States, Indian tribes, and tribal organizations to develop and implement innovative, comprehensive, community-based public access defibrillation demonstration projects that—

“(1) provide cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims in unique settings;

“(2) provide training to community members in cardiopulmonary resuscitation and automated external defibrillation; and

“(3) maximize community access to automated external defibrillators.

“(b) **USE OF FUNDS.**—A recipient of a grant under subsection (a) shall use the funds provided through the grant to—

“(1) purchase automated external defibrillators that have been approved, or cleared for marketing, by the Food and Drug Administration;

“(2) provide basic life training in automated external defibrillator usage through nationally recognized courses;

“(3) provide information to community members about the public access defibrillation demonstration project to be funded with the grant;

“(4) provide information to the local emergency medical services system regarding the placement of automated external defibrillators in the unique settings; and

“(5) further develop strategies to improve access to automated external defibrillators in public places.

“(c) **APPLICATION.**—

“(1) **IN GENERAL.**—To be eligible to receive a grant under subsection (a), a political subdivision of a State, Indian tribe, or tribal organization shall prepare and submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(2) CONTENTS.—An application submitted under paragraph (1) may—

“(A) describe the innovative, comprehensive, community-based public access defibrillation demonstration project to be funded with the grant;

“(B) explain how such public access defibrillation demonstration project represents innovation in providing public access to automated external defibrillation; and

“(C) provide for the collection of data regarding the effectiveness of the demonstration project to be funded with the grant in—

“(i) providing emergency cardiopulmonary resuscitation and automated external defibrillation to cardiac arrest victims in the setting served by the demonstration project; and

“(ii) affecting the cardiac arrest survival rate in the setting served by the demonstration project.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000 for each of fiscal years 2002 through 2006. Not more than 10 percent of amounts received under a grant awarded under this section may be used for administrative expenses.”.

TITLE II—ENHANCING CONTROLS ON DANGEROUS BIOLOGICAL AGENTS AND TOXINS

Subtitle A—Department of Health and Human Services

SEC. 201. REGULATION OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.

(a) BIOLOGICAL AGENTS PROVISIONS OF THE ANTITERRORISM AND EFFECTIVE DEATH PENALTY ACT OF 1996; CODIFICATION IN THE PUBLIC HEALTH SERVICE ACT, WITH AMENDMENTS.—Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by inserting after section 351 the following:

“SEC. 351A. ENHANCED CONTROL OF DANGEROUS BIOLOGICAL AGENTS AND TOXINS. 42 USC 262a.

“(a) REGULATORY CONTROL OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.—

“(1) LIST OF BIOLOGICAL AGENTS AND TOXINS.—

“(A) IN GENERAL.—The Secretary shall by regulation establish and maintain a list of each biological agent and each toxin that has the potential to pose a severe threat to public health and safety.

“(B) CRITERIA.—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

“(i) consider—

“(I) the effect on human health of exposure to the agent or toxin;

“(II) the degree of contagiousness of the agent or toxin and the methods by which the agent or toxin is transferred to humans;

“(III) the availability and effectiveness of pharmacotherapies and immunizations to treat and prevent any illness resulting from infection by the agent or toxin; and

“(IV) any other criteria, including the needs of children and other vulnerable populations, that the Secretary considers appropriate; and

“(ii) consult with appropriate Federal departments and agencies and with scientific experts representing appropriate professional groups, including groups with pediatric expertise.

“(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall by regulation revise the list as necessary in accordance with such paragraph.

“(b) REGULATION OF TRANSFERS OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

“(1) the establishment and enforcement of safety procedures for the transfer of listed agents and toxins, including measures to ensure—

“(A) proper training and appropriate skills to handle such agents and toxins; and

“(B) proper laboratory facilities to contain and dispose of such agents and toxins;

“(2) the establishment and enforcement of safeguard and security measures to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

“(3) the establishment of procedures to protect the public safety in the event of a transfer or potential transfer of such an agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguard and security measures established under paragraph (2); and

“(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

“(c) POSSESSION AND USE OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of listed agents and toxins, including the provisions described in paragraphs (1) through (4) of subsection (b), in order to protect the public health and safety.

“(d) REGISTRATION; IDENTIFICATION; DATABASE.—

“(1) REGISTRATION.—Regulations under subsections (b) and (c) shall require registration with the Secretary of the possession, use, and transfer of listed agents and toxins, and shall include provisions to ensure that persons seeking to register under such regulations have a lawful purpose to possess, use, or transfer such agents and toxins, including provisions in accordance with subsection (e)(6).

“(2) IDENTIFICATION; DATABASE.—Regulations under subsections (b) and (c) shall require that registration include (if available to the person registering) information regarding the characterization of listed agents and toxins to facilitate their

identification, including their source. The Secretary shall maintain a national database that includes the names and locations of registered persons, the listed agents and toxins such persons are possessing, using, or transferring, and information regarding the characterization of such agents and toxins.

“(e) SAFEGUARD AND SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

“(1) IN GENERAL.—Regulations under subsections (b) and (c) shall include appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin poses to public health and safety (including the risk of use in domestic or international terrorism). The Secretary shall establish such requirements in consultation with the Attorney General, and shall ensure compliance with such requirements as part of the registration system under such regulations.

“(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Requirements under paragraph (1) shall include provisions to ensure that registered persons—

“(A) provide access to listed agents and toxins to only those individuals whom the registered person involved determines have a legitimate need to handle or use such agents and toxins;

“(B) submit the names and other identifying information for such individuals to the Secretary and the Attorney General, promptly after first determining that the individuals need access under subparagraph (A), and periodically thereafter while the individuals have such access, not less frequently than once every five years;

“(C) deny access to such agents and toxins by individuals whom the Attorney General has identified as restricted persons; and

“(D) limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B)(ii), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General.

“(3) SUBMITTED NAMES; USE OF DATABASES BY ATTORNEY GENERAL.—

“(A) IN GENERAL.—Upon the receipt of names and other identifying information under paragraph (2)(B), the Attorney General shall, for the sole purpose of identifying whether the individuals involved are within any of the categories specified in subparagraph (B), promptly use criminal, immigration, national security, and other electronic databases that are available to the Federal Government and are appropriate for such purpose.

“(B) CERTAIN INDIVIDUALS.—For purposes of subparagraph (A), the categories specified in this subparagraph regarding an individual are that—

“(i) the individual is a restricted person; or

“(ii) the individual is reasonably suspected by any Federal law enforcement or intelligence agency of—

“(I) committing a crime set forth in section 2332b(g)(5) of title 18, United States Code;

“(II) knowing involvement with an organization that engages in domestic or international terrorism (as defined in section 2331 of such title 18) or with any other organization that engages in intentional crimes of violence; or

“(III) being an agent of a foreign power (as defined in section 1801 of title 50, United States Code).

“(C) NOTIFICATION BY ATTORNEY GENERAL REGARDING SUBMITTED NAMES.—After the receipt of a name and other identifying information under paragraph (2)(B), the Attorney General shall promptly notify the Secretary whether the individual is within any of the categories specified in subparagraph (B).

“(4) NOTIFICATIONS BY SECRETARY.—The Secretary, after receiving notice under paragraph (3) regarding an individual, shall promptly notify the registered person involved of whether the individual is granted or denied access under paragraph (2). If the individual is denied such access, the Secretary shall promptly notify the individual of the denial.

“(5) EXPEDITED REVIEW.—Regulations under subsections (b) and (c) shall provide for a procedure through which, upon request to the Secretary by a registered person who submits names and other identifying information under paragraph (2)(B) and who demonstrates good cause, the Secretary may, as determined appropriate by the Secretary—

“(A) request the Attorney General to expedite the process of identification under paragraph (3)(A) and notification of the Secretary under paragraph (3)(C); and

“(B) expedite the notification of the registered person by the Secretary under paragraph (4).

“(6) PROCESS REGARDING PERSONS SEEKING TO REGISTER.—

“(A) INDIVIDUALS.—Regulations under subsections (b) and (c) shall provide that an individual who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) through (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph.

“(B) OTHER PERSONS.—Regulations under subsections (b) and (c) shall provide that, in determining whether to deny or revoke registration by a person other than an individual, the Secretary shall submit the name of such person to the Attorney General, who shall use criminal, immigration, national security, and other electronic databases available to the Federal Government, as appropriate for the purpose of promptly notifying the Secretary whether the person, or, where relevant, the individual who owns or controls such person, is a restricted person or is reasonably suspected by any Federal law enforcement or intelligence agency of being within any category specified in paragraph (3)(B)(ii) (as applied to persons, including individuals). Such regulations shall provide that a person who seeks to register under either of such subsections is subject to the same processes described in paragraphs

(2) and (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph. The Secretary may exempt Federal, State, or local governmental agencies from the requirements of this subparagraph.

“(7) REVIEW.—

“(A) ADMINISTRATIVE REVIEW.—

“(i) IN GENERAL.—Regulations under subsections (b) and (c) shall provide for an opportunity for a review by the Secretary—

“(I) when requested by the individual involved, of a determination under paragraph (2) to deny the individual access to listed agents and toxins; and

“(II) when requested by the person involved, of a determination under paragraph (6) to deny or revoke registration for such person.

“(ii) EX PARTE REVIEW.—During a review under clause (i), the Secretary may consider information relevant to the review ex parte to the extent that disclosure of the information could compromise national security or an investigation by any law enforcement agency.

“(iii) FINAL AGENCY ACTION.—The decision of the Secretary in a review under clause (i) constitutes final agency action for purposes of section 702 of title 5, United States Code.

“(B) CERTAIN PROCEDURES.—

“(i) SUBMISSION OF EX PARTE MATERIALS IN JUDICIAL PROCEEDINGS.—When reviewing a decision of the Secretary under subparagraph (A), and upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may review and consider ex parte documents containing information the disclosure of which could compromise national security or an investigation by any law enforcement agency. If the court determines that portions of the documents considered ex parte should be disclosed to the person involved to allow a response, the court shall authorize the United States to delete from such documents specified items of information the disclosure of which could compromise national security or an investigation by any law enforcement agency, or to substitute a summary of the information to which the person may respond. Any order by the court authorizing the disclosure of information that the United States believes could compromise national security or an investigation by any law enforcement agency shall be subject to the processes set forth in subparagraphs (A) and (B)(i) of section 2339B(f)(5) of title 18, United States Code (relating to interlocutory appeal and expedited consideration).

“(ii) DISCLOSURE OF INFORMATION.—In a review under subparagraph (A), and in any judicial proceeding conducted pursuant to such review, neither the Secretary nor the Attorney General may be required to

disclose to the public any information that under subsection (h) shall not be disclosed under section 552 of title 5, United States Code.

“(8) NOTIFICATIONS REGARDING THEFT OR LOSS OF AGENTS.—Requirements under paragraph (1) shall include the prompt notification of the Secretary, and appropriate Federal, State, and local law enforcement agencies, of the theft or loss of listed agents and toxins.

“(9) TECHNICAL ASSISTANCE FOR REGISTERED PERSONS.—The Secretary, in consultation with the Attorney General, may provide technical assistance to registered persons to improve security of the facilities of such persons.

“(f) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to regulations under subsection (b) or (c) to ensure their compliance with such regulations, including prohibitions on restricted persons and other provisions of subsection (e).

“(g) EXEMPTIONS.—

“(1) CLINICAL OR DIAGNOSTIC LABORATORIES.—Regulations under subsections (b) and (c) shall exempt clinical or diagnostic laboratories and other persons who possess, use, or transfer listed agents or toxins that are contained in specimens presented for diagnosis, verification, or proficiency testing, provided that—

“(A) the identification of such agents or toxins is reported to the Secretary, and when required under Federal, State, or local law, to other appropriate authorities; and

“(B) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary by regulation.

“(2) PRODUCTS.—

“(A) IN GENERAL.—Regulations under subsections (b) and (c) shall exempt products that are, bear, or contain listed agents or toxins and are cleared, approved, licensed, or registered under any of the Acts specified in subparagraph (B), unless the Secretary by order determines that applying additional regulation under subsection (b) or (c) to a specific product is necessary to protect public health and safety.

“(B) RELEVANT LAWS.—For purposes of subparagraph (A), the Acts specified in this subparagraph are the following:

“(i) The Federal Food, Drug, and Cosmetic Act.

“(ii) Section 351 of this Act.

“(iii) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading ‘Bureau of Animal Industry’ in the Act of March 4, 1913; 21 U.S.C. 151–159).

“(iv) The Federal Insecticide, Fungicide, and Rodenticide Act.

“(C) INVESTIGATIONAL USE.—

“(i) IN GENERAL.—The Secretary may exempt an investigational product that is, bears, or contains a listed agent or toxin from the applicability of provisions of regulations under subsection (b) or (c) when such product is being used in an investigation authorized under any Federal Act and the Secretary determines that applying additional regulation under subsection

(b) or (c) to such product is not necessary to protect public health and safety.

“(ii) CERTAIN PROCESSES.—Regulations under subsections (b) and (c) shall set forth the procedures for applying for an exemption under clause (i). In the case of investigational products authorized under any of the Acts specified in subparagraph (B), the Secretary shall make a determination regarding a request for an exemption not later than 14 days after the first date on which both of the following conditions have been met by the person requesting the exemption:

Deadline.

“(I) The person has submitted to the Secretary an application for the exemption meeting the requirements established by the Secretary.

“(II) The person has notified the Secretary that the investigation has been authorized under such an Act.

“(3) PUBLIC HEALTH EMERGENCIES.—The Secretary may temporarily exempt a person from the applicability of the requirements of this section, in whole or in part, if the Secretary determines that such exemption is necessary to provide for the timely participation of the person in a response to a domestic or foreign public health emergency (whether determined under section 319(a) or otherwise) that involves a listed agent or toxin. With respect to the emergency involved, such exemption for a person may not exceed 30 days, except that the Secretary, after review of whether such exemption remains necessary, may provide one extension of an additional 30 days.

“(4) AGRICULTURAL EMERGENCIES.—Upon request of the Secretary of Agriculture, after the granting by such Secretary of an exemption under section 212(g)(1)(D) of the Agricultural Bioterrorism Protection Act of 2002 pursuant to a finding that there is an agricultural emergency, the Secretary of Health and Human Services may temporarily exempt a person from the applicability of the requirements of this section, in whole or in part, to provide for the timely participation of the person in a response to the agricultural emergency. With respect to the emergency involved, the exemption under this paragraph for a person may not exceed 30 days, except that upon request of the Secretary of Agriculture, the Secretary of Health and Human Services may, after review of whether such exemption remains necessary, provide one extension of an additional 30 days.

“(h) DISCLOSURE OF INFORMATION.—

“(1) NONDISCLOSURE OF CERTAIN INFORMATION.—No Federal agency specified in paragraph (2) shall disclose under section 552 of title 5, United States Code, any of the following:

“(A) Any registration or transfer documentation submitted under subsections (b) and (c) for the possession, use, or transfer of a listed agent or toxin; or information derived therefrom to the extent that it identifies the listed agent or toxin possessed, used, or transferred by a specific registered person or discloses the identity or location of a specific registered person.

“(B) The national database developed pursuant to subsection (d), or any other compilation of the registration or transfer information submitted under subsections (b)

and (c) to the extent that such compilation discloses site-specific registration or transfer information.

“(C) Any portion of a record that discloses the site-specific or transfer-specific safeguard and security measures used by a registered person to prevent unauthorized access to listed agents and toxins.

“(D) Any notification of a release of a listed agent or toxin submitted under subsections (b) and (c), or any notification of theft or loss submitted under such subsections.

“(E) Any portion of an evaluation or report of an inspection of a specific registered person conducted under subsection (f) that identifies the listed agent or toxin possessed by a specific registered person or that discloses the identity or location of a specific registered person if the agency determines that public disclosure of the information would endanger public health or safety.

“(2) COVERED AGENCIES.—For purposes of paragraph (1) only, the Federal agencies specified in this paragraph are the following:

“(A) The Department of Health and Human Services, the Department of Justice, the Department of Agriculture, and the Department of Transportation.

“(B) Any Federal agency to which information specified in paragraph (1) is transferred by any agency specified in subparagraph (A) of this paragraph.

“(C) Any Federal agency that is a registered person, or has a sub-agency component that is a registered person.

“(D) Any Federal agency that awards grants or enters into contracts or cooperative agreements involving listed agents and toxins to or with a registered person, and to which information specified in paragraph (1) is transferred by any such registered person.

“(3) OTHER EXEMPTIONS.—This subsection may not be construed as altering the application of any exemptions to public disclosure under section 552 of title 5, United States Code, except as to subsection 552(b)(3) of such title, to any of the information specified in paragraph (1).

“(4) RULE OF CONSTRUCTION.—Except as specifically provided in paragraph (1), this subsection may not be construed as altering the authority of any Federal agency to withhold under section 552 of title 5, United States Code, or the obligation of any Federal agency to disclose under section 552 of title 5, United States Code, any information, including information relating to—

“(A) listed agents and toxins, or individuals seeking access to such agents and toxins;

“(B) registered persons, or persons seeking to register their possession, use, or transfer of such agents and toxins;

“(C) general safeguard and security policies and requirements under regulations under subsections (b) and (c); or

“(D) summary or statistical information concerning registrations, registrants, denials or revocations of registrations, listed agents and toxins, inspection evaluations and reports, or individuals seeking access to such agents and toxins.

“(5) DISCLOSURES TO CONGRESS; OTHER DISCLOSURES.—This subsection may not be construed as providing any authority—

“(A) to withhold information from the Congress or any committee or subcommittee thereof; or

“(B) to withhold information from any person under any other Federal law or treaty.

“(i) CIVIL MONEY PENALTY.—

“(1) IN GENERAL.—In addition to any other penalties that may apply under law, any person who violates any provision of regulations under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding \$250,000 in the case of an individual and \$500,000 in the case of any other person.

“(2) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of section 1128A of the Social Security Act (other than subsections (a), (b), (h), and (i), the first sentence of subsection (c), and paragraphs (1) and (2) of subsection (f)) shall apply to a civil money penalty under paragraph (1) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a) of such Act. The Secretary may delegate authority under this subsection in the same manner as provided in section 1128A(j)(2) of the Social Security Act, and such authority shall include all powers as contained in section 6 of the Inspector General Act of 1978 (5 U.S.C. App.).

“(j) NOTIFICATION IN EVENT OF RELEASE.—Regulations under subsections (b) and (c) shall require the prompt notification of the Secretary by a registered person whenever a release, meeting criteria established by the Secretary, of a listed agent or toxin has occurred outside of the biocontainment area of a facility of the registered person. Upon receipt of such notification and a finding by the Secretary that the release poses a threat to public health or safety, the Secretary shall take appropriate action to notify relevant State and local public health authorities, other relevant Federal authorities, and, if necessary, other appropriate persons (including the public). If the released listed agent or toxin is an overlap agent or toxin (as defined in subsection (l)), the Secretary shall promptly notify the Secretary of Agriculture upon notification by the registered person.

“(k) REPORTS.—The Secretary shall report to the Congress annually on the number and nature of notifications received under subsection (e)(8) (relating to theft or loss) and subsection (j) (relating to releases).

“(l) DEFINITIONS.—For purposes of this section:

“(1) The terms ‘biological agent’ and ‘toxin’ have the meanings given such terms in section 178 of title 18, United States Code.

“(2) The term ‘listed agents and toxins’ means biological agents and toxins listed pursuant to subsection (a)(1).

“(3) The term ‘listed agents or toxins’ means biological agents or toxins listed pursuant to subsection (a)(1).

“(4) The term ‘overlap agents and toxins’ means biological agents and toxins that—

“(A) are listed pursuant to subsection (a)(1); and

“(B) are listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002.

“(5) The term ‘overlap agent or toxin’ means a biological agent or toxin that—

“(A) is listed pursuant to subsection (a)(1); and

“(B) is listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002.

“(6) The term ‘person’ includes Federal, State, and local governmental entities.

“(7) The term ‘registered person’ means a person registered under regulations under subsection (b) or (c).

“(8) The term ‘restricted person’ has the meaning given such term in section 175b of title 18, United States Code.

“(m) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2007.”.

Deadline.
42 USC 262a
note.

(b) **REPORT TO CONGRESS.**—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services, after consultation with other appropriate Federal agencies, shall submit to the Congress a report that—

(1) describes the extent to which there has been compliance by governmental and private entities with applicable regulations under section 351A of the Public Health Service Act (as added by subsection (a) of this section), including the extent of compliance before the date of the enactment of this Act, and including the extent of compliance with regulations promulgated after such date of enactment;

(2) describes the actions to date and future plans of the Secretary for updating the list of biological agents and toxins under such section 351A;

(3) describes the actions to date and future plans of the Secretary for determining compliance with regulations under such section 351A and for taking appropriate enforcement actions;

(4) evaluates the impact of such section 351A on research on biological agents and toxins listed pursuant to such section; and

(5) provides any recommendations of the Secretary for administrative or legislative initiatives regarding such section 351A.

Deadlines.
42 USC 262a
note.

SEC. 202. IMPLEMENTATION BY DEPARTMENT OF HEALTH AND HUMAN SERVICES.

Guidelines.

(a) **DATE CERTAIN FOR NOTICE OF POSSESSION.**—Not later than 90 days after the date of the enactment of this Act, all persons (unless exempt under subsection (g) of section 351A of the Public Health Service Act, as added by section 201 of this Act) in possession of biological agents or toxins listed under such section 351A of the Public Health Service Act shall notify the Secretary of Health and Human Services of such possession. Not later than 30 days after such date of enactment, the Secretary shall provide written guidance on how such notice is to be provided to the Secretary.

Rules.

(b) **DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate an interim final rule for carrying out section 351A of the Public Health Service Act, subject to subsection (c). Such interim final rule shall take effect 60 days after the date on which such rule is promulgated, including for purposes of—

(1) section 175b(c) of title 18, United States Code (relating to criminal penalties), as added by section 231(a)(5) of this Act; and

(2) section 351A(i) of the Public Health Service Act (relating to civil penalties).

(c) **TRANSITIONAL PROVISION REGARDING CURRENT RESEARCH AND EDUCATION.**—The interim final rule under subsection (b) shall include time frames for the applicability of the rule that minimize disruption of research or educational projects that involve biological agents and toxins listed pursuant to section 351A(a)(1) of the Public Health Service Act and that were underway as of the effective date of such rule.

SEC. 203. EFFECTIVE DATES.

42 USC 262a
note.

(a) **IN GENERAL.**—Regulations promulgated by the Secretary of Health and Human Services under section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 are deemed to have been promulgated under section 351A of the Public Health Service Act, as added by section 201 of this Act. Such regulations, including the list under subsection (d)(1) of such section 511, that were in effect on the day before the date of the enactment of this Act remain in effect until modified by the Secretary in accordance with such section 351A and with section 202 of this Act.

(b) **EFFECTIVE DATE REGARDING DISCLOSURE OF INFORMATION.**—Subsection (h) of section 351A of the Public Health Service Act, as added by section 201 of this Act, is deemed to have taken effect on the effective date of the Antiterrorism and Effective Death Penalty Act of 1996.

SEC. 204. CONFORMING AMENDMENT.

Subsections (d), (e), (f), and (g) of section 511 of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 262 note) are repealed.

Subtitle B—Department of Agriculture

Agricultural
Bioterrorism
Protection Act of
2002.
7 USC 8401 note.

SEC. 211. SHORT TITLE.

This subtitle may be cited as the “Agricultural Bioterrorism Protection Act of 2002”.

SEC. 212. REGULATION OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.

7 USC 8401.

(a) **REGULATORY CONTROL OF CERTAIN BIOLOGICAL AGENTS AND TOXINS.**—

(1) **LIST OF BIOLOGICAL AGENTS AND TOXINS.**—

(A) **IN GENERAL.**—The Secretary of Agriculture shall by regulation establish and maintain a list of each biological agent and each toxin that the Secretary determines has the potential to pose a severe threat to animal or plant health, or to animal or plant products.

(B) **CRITERIA.**—In determining whether to include an agent or toxin on the list under subparagraph (A), the Secretary shall—

(i) consider—

(I) the effect of exposure to the agent or toxin on animal or plant health, and on the production and marketability of animal or plant products;

(II) the pathogenicity of the agent or the toxicity of the toxin and the methods by which the agent or toxin is transferred to animals or plants;

(III) the availability and effectiveness of pharmacotherapies and prophylaxis to treat and prevent any illness caused by the agent or toxin; and

(IV) any other criteria that the Secretary considers appropriate to protect animal or plant health, or animal or plant products; and

(ii) consult with appropriate Federal departments and agencies and with scientific experts representing appropriate professional groups.

Publication.

(2) BIENNIAL REVIEW.—The Secretary shall review and republish the list under paragraph (1) biennially, or more often as needed, and shall by regulation revise the list as necessary in accordance with such paragraph.

Safety.

(b) REGULATION OF TRANSFERS OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for—

(1) the establishment and enforcement of safety procedures for the transfer of listed agents and toxins, including measures to ensure—

(A) proper training and appropriate skills to handle such agents and toxins; and

(B) proper laboratory facilities to contain and dispose of such agents and toxins;

(2) the establishment and enforcement of safeguard and security measures to prevent access to such agents and toxins for use in domestic or international terrorism or for any other criminal purpose;

(3) the establishment of procedures to protect animal and plant health, and animal and plant products, in the event of a transfer or potential transfer of such an agent or toxin in violation of the safety procedures established under paragraph (1) or the safeguard and security measures established under paragraph (2); and

(4) appropriate availability of biological agents and toxins for research, education, and other legitimate purposes.

(c) POSSESSION AND USE OF LISTED AGENTS AND TOXINS.—The Secretary shall by regulation provide for the establishment and enforcement of standards and procedures governing the possession and use of listed agents and toxins, including the provisions described in paragraphs (1) through (4) of subsection (b), in order to protect animal and plant health, and animal and plant products.

(d) REGISTRATION; IDENTIFICATION; DATABASE.—

(1) REGISTRATION.—Regulations under subsections (b) and (c) shall require registration with the Secretary of the possession, use, and transfer of listed agents and toxins, and shall include provisions to ensure that persons seeking to register under such regulations have a lawful purpose to possess, use, or transfer such agents and toxins, including provisions in accordance with subsection (e)(6).

(2) IDENTIFICATION; DATABASE.—Regulations under subsections (b) and (c) shall require that registration include (if available to the person registering) information regarding the characterization of listed agents and toxins to facilitate their

identification, including their source. The Secretary shall maintain a national database that includes the names and locations of registered persons, the listed agents and toxins such persons are possessing, using, or transferring, and information regarding the characterization of such agents and toxins.

Records.

(e) SAFEGUARD AND SECURITY REQUIREMENTS FOR REGISTERED PERSONS.—

(1) IN GENERAL.—Regulations under subsections (b) and (c) shall include appropriate safeguard and security requirements for persons possessing, using, or transferring a listed agent or toxin commensurate with the risk such agent or toxin poses to animal and plant health, and animal and plant products (including the risk of use in domestic or international terrorism). The Secretary shall establish such requirements in consultation with the Attorney General, and shall ensure compliance with such requirements as part of the registration system under such regulations.

(2) LIMITING ACCESS TO LISTED AGENTS AND TOXINS.—Requirements under paragraph (1) shall include provisions to ensure that registered persons—

(A) provide access to listed agents and toxins to only those individuals whom the registered person involved determines have a legitimate need to handle or use such agents and toxins;

(B) submit the names and other identifying information for such individuals to the Secretary and the Attorney General, promptly after first determining that the individuals need access under subparagraph (A), and periodically thereafter while the individuals have such access, not less frequently than once every five years; and

(C)(i) in the case of listed agents and toxins that are not overlap agents and toxins (as defined in subsection (g)(1)(A)(ii)), limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General; and

(ii) in the case of listed agents and toxins that are overlap agents—

(I) deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category referred to in paragraph (3)(B)(i); and

(II) limit or deny access to such agents and toxins by individuals whom the Attorney General has identified as within any category under paragraph (3)(B)(ii), if limiting or denying such access by the individuals involved is determined appropriate by the Secretary, in consultation with the Attorney General.

(3) SUBMITTED NAMES; USE OF DATABASES BY ATTORNEY GENERAL.—

(A) IN GENERAL.—Upon the receipt of names and other identifying information under paragraph (2)(B), the Attorney General shall, for the sole purpose of identifying whether the individuals involved are within any of the

categories specified in subparagraph (B), promptly use criminal, immigration, national security, and other electronic databases that are available to the Federal Government and are appropriate for such purpose.

(B) CERTAIN INDIVIDUALS.—For purposes of subparagraph (A), the categories specified in this subparagraph regarding an individual are that—

(i) the individual is within any of the categories described in section 175b(d)(1) of title 18, United States Code (relating to restricted persons); or

(ii) the individual is reasonably suspected by any Federal law enforcement or intelligence agency of—

(I) committing a crime set forth in section 2332b(g)(5) of title 18, United States Code;

(II) knowing involvement with an organization that engages in domestic or international terrorism (as defined in section 2331 of such title 18) or with any other organization that engages in intentional crimes of violence; or

(III) being an agent of a foreign power (as defined in section 1801 of title 50, United States Code).

(C) NOTIFICATION BY ATTORNEY GENERAL REGARDING SUBMITTED NAMES.—After the receipt of a name and other identifying information under paragraph (2)(B), the Attorney General shall promptly notify the Secretary whether the individual is within any of the categories specified in subparagraph (B).

(4) NOTIFICATIONS BY SECRETARY.—The Secretary, after receiving notice under paragraph (3) regarding an individual, shall promptly notify the registered person involved of whether the individual is granted or denied access under paragraph (2). If the individual is denied such access, the Secretary shall promptly notify the individual of the denial.

(5) EXPEDITED REVIEW.—Regulations under subsections (b) and (c) shall provide for a procedure through which, upon request to the Secretary by a registered person who submits names and other identifying information under paragraph (2)(B) and who demonstrates good cause, the Secretary may, as determined appropriate by the Secretary—

(A) request the Attorney General to expedite the process of identification under paragraph (3)(A) and notification of the Secretary under paragraph (3)(C); and

(B) expedite the notification of the registered person by the Secretary under paragraph (4).

(6) PROCESS REGARDING PERSONS SEEKING TO REGISTER.—

(A) INDIVIDUALS.—Regulations under subsections (b) and (c) shall provide that an individual who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) through (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph.

(B) OTHER PERSONS.—Regulations under subsections (b) and (c) shall provide that, in determining whether to deny or revoke registration by a person other than an

individual, the Secretary shall submit the name of such person to the Attorney General, who shall use criminal, immigration, national security, and other electronic databases available to the Federal Government, as appropriate for the purpose of promptly notifying the Secretary whether the person, or, where relevant, the individual who owns or controls such person, is within any of the categories described in section 175b(d)(1) of title 18, United States Code (relating to restricted persons), or is reasonably suspected by any Federal law enforcement or intelligence agency of being within any category specified in paragraph (3)(B)(ii) (as applied to persons, including individuals). Such regulations shall provide that a person who seeks to register under either of such subsections is subject to the same processes described in paragraphs (2) and (4) as apply to names and other identifying information submitted to the Attorney General under paragraph (2)(B). Paragraph (5) does not apply for purposes of this subparagraph. The Secretary may exempt Federal, State, or local governmental agencies from the requirements of this subparagraph.

(7) REVIEW.—

(A) ADMINISTRATIVE REVIEW.—

(i) IN GENERAL.—Regulations under subsections (b) and (c) shall provide for an opportunity for a review by the Secretary—

(I) when requested by the individual involved, of a determination under paragraph (2) to deny the individual access to listed agents and toxins; and

(II) when requested by the person involved, of a determination under paragraph (6) to deny or revoke registration for such person.

(ii) EX PARTE REVIEW.—During a review under clause (i), the Secretary may consider information relevant to the review ex parte to the extent that disclosure of the information could compromise national security or an investigation by any law enforcement agency.

(iii) FINAL AGENCY ACTION.—The decision of the Secretary in a review under clause (i) constitutes final agency action for purposes of section 702 of title 5, United States Code.

(B) CERTAIN PROCEDURES.—

(i) SUBMISSION OF EX PARTE MATERIALS IN JUDICIAL PROCEEDINGS.—When reviewing a decision of the Secretary under subparagraph (A), and upon request made ex parte and in writing by the United States, a court, upon a sufficient showing, may review and consider ex parte documents containing information the disclosure of which could compromise national security or an investigation by any law enforcement agency. If the court determines that portions of the documents considered ex parte should be disclosed to the person involved to allow a response, the court shall authorize the United States to delete from such documents specified items of information the disclosure of which could compromise national security or an investigation by

any law enforcement agency, or to substitute a summary of the information to which the person may respond. Any order by the court authorizing the disclosure of information that the United States believes could compromise national security or an investigation by any law enforcement agency shall be subject to the processes set forth in subparagraphs (A) and (B)(i) of section 2339B(f)(5) of title 18, United States Code (relating to interlocutory appeal and expedited consideration).

(ii) DISCLOSURE OF INFORMATION.—In a review under subparagraph (A), and in any judicial proceeding conducted pursuant to such review, neither the Secretary nor the Attorney General may be required to disclose to the public any information that under subsection (h) shall not be disclosed under section 552 of title 5, United States Code.

(8) NOTIFICATIONS REGARDING THEFT OR LOSS OF AGENTS.—Requirements under paragraph (1) shall include the prompt notification of the Secretary, and appropriate Federal, State, and local law enforcement agencies, of the theft or loss of listed agents and toxins.

(9) TECHNICAL ASSISTANCE FOR REGISTERED PERSONS.—The Secretary, in consultation with the Attorney General, may provide technical assistance to registered persons to improve security of the facilities of such persons.

(f) INSPECTIONS.—The Secretary shall have the authority to inspect persons subject to regulations under subsection (b) or (c) to ensure their compliance with such regulations, including prohibitions on restricted persons and other provisions of subsection (e).

(g) EXEMPTIONS.—

(1) OVERLAP AGENTS AND TOXINS.—

(A) IN GENERAL.—

(i) LIMITATION.—In the case of overlap agents and toxins, exemptions from the applicability of provisions of regulations under subsection (b) or (c) may be granted only to the extent provided in this paragraph.

(ii) DEFINITIONS.—For purposes of this section:

(I) The term “overlap agents and toxins” means biological agents and toxins that—

(aa) are listed pursuant to subsection (a)(1); and

(bb) are listed pursuant to section 315A(a)(1) of the Public Health Service Act.

(II) The term “overlap agent or toxin” means a biological agent or toxin that—

(aa) is listed pursuant to subsection (a)(1); and

(bb) is listed pursuant to section 315A(a)(1) of the Public Health Service Act.

(B) CLINICAL OR DIAGNOSTIC LABORATORIES.—Regulations under subsections (b) and (c) shall exempt clinical or diagnostic laboratories and other persons who possess, use, or transfer overlap agents or toxins that are contained in specimens presented for diagnosis, verification, or proficiency testing, provided that—

(i) the identification of such agents or toxins is reported to the Secretary, and when required under Federal, State, or local law, to other appropriate authorities; and

(ii) such agents or toxins are transferred or destroyed in a manner set forth by the Secretary by regulation.

(C) PRODUCTS.—

(i) IN GENERAL.—Regulations under subsections (b) and (c) shall exempt products that are, bear, or contain overlap agents or toxins and are cleared, approved, licensed, or registered under any of the Acts specified in clause (ii), unless the Secretary by order determines that applying additional regulation under subsection (b) or (c) to a specific product is necessary to protect animal or plant health, or animal or plant products.

(ii) RELEVANT LAWS.—For purposes of clause (i), the Acts specified in this clause are the following:

(I) The Federal Food, Drug, and Cosmetic Act.

(II) Section 351 of the Public Health Service Act.

(III) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading “Bureau of Animal Industry” in the Act of March 4, 1913; 21 U.S.C. 151–159).

(IV) The Federal Insecticide, Fungicide, and Rodenticide Act.

(iii) INVESTIGATIONAL USE.—

(I) IN GENERAL.—The Secretary may exempt an investigational product that is, bears, or contains an overlap agent or toxin from the applicability of provisions of regulations under subsection (b) or (c) when such product is being used in an investigation authorized under any Federal Act and the Secretary determines that applying additional regulation under subsection (b) or (c) to such product is not necessary to protect animal and plant health, and animal and plant products.

(II) CERTAIN PROCESSES.—Regulations under subsections (b) and (c) shall set forth the procedures for applying for an exemption under subclause (I). In the case of investigational products authorized under any of the Acts specified in clause (ii), the Secretary shall make a determination regarding a request for an exemption not later than 14 days after the first date on which both of the following conditions have been met by the person requesting the exemption:

(aa) The person has submitted to the Secretary an application for the exemption meeting the requirements established by the Secretary.

(bb) The person has notified the Secretary that the investigation has been authorized under such an Act.

(D) AGRICULTURAL EMERGENCIES.—The Secretary may temporarily exempt a person from the applicability of the

requirements of this section with respect to an overlap agent or toxin, in whole or in part, if the Secretary determines that such exemption is necessary to provide for the timely participation of the person in a response to a domestic or foreign agricultural emergency that involves such an agent or toxin. With respect to the emergency involved, the exemption under this subparagraph for a person may not exceed 30 days, except that the Secretary, after review of whether such exemption remains necessary, may provide one extension of an additional 30 days.

(E) PUBLIC HEALTH EMERGENCIES.—Upon request of the Secretary of Health and Human Services, after the granting by such Secretary of an exemption under 351A(g)(3) of the Public Health Service Act pursuant to a finding that there is a public health emergency, the Secretary of Agriculture may temporarily exempt a person from the applicability of the requirements of this section with respect to an overlap agent or toxin, in whole or in part, to provide for the timely participation of the person in a response to the public health emergency. With respect to the emergency involved, such exemption for a person may not exceed 30 days, except that upon request of the Secretary of Health and Human Services, the Secretary of Agriculture may, after review of whether such exemption remains necessary, provide one extension of an additional 30 days.

(2) GENERAL AUTHORITY FOR EXEMPTIONS NOT INVOLVING OVERLAP AGENTS OR TOXINS.—In the case of listed agents or toxins that are not overlap agents or toxins, the Secretary may grant exemptions from the applicability of provisions of regulations under subsection (b) or (c) if the Secretary determines that such exemptions are consistent with protecting animal and plant health, and animal and plant products.

(h) DISCLOSURE OF INFORMATION.—

(1) NONDISCLOSURE OF CERTAIN INFORMATION.—No Federal agency specified in paragraph (2) shall disclose under section 552 of title 5, United States Code, any of the following:

(A) Any registration or transfer documentation submitted under subsections (b) and (c), or permits issued prior to the date of the enactment of this Act, for the possession, use or transfer of a listed agent or toxin; or information derived therefrom to the extent that it identifies the listed agent or toxin possessed, used or transferred by a specific person or discloses the identity or location of a specific person.

(B) The national database developed pursuant to subsection (d), or any other compilation of the registration or transfer information submitted under subsections (b) and (c) to the extent that such compilation discloses site-specific registration or transfer information.

(C) Any portion of a record that discloses the site-specific or transfer-specific safeguard and security measures used by a registered person to prevent unauthorized access to listed agents and toxins.

(D) Any notification of a release of a listed agent or toxin submitted under subsections (b) and (c), or any

notification of theft or loss submitted under such subsections.

(E) Any portion of an evaluation or report of an inspection of a specific registered person conducted under subsection (f) that identifies the listed agent or toxin possessed by a specific registered person or that discloses the identity or location of a specific registered person if the agency determines that public disclosure of the information would endanger animal or plant health, or animal or plant products.

(2) COVERED AGENCIES.—For purposes of paragraph (1) only, the Federal agencies specified in this paragraph are the following:

(A) The Department of Health and Human Services, the Department of Justice, the Department of Agriculture, and the Department of Transportation.

(B) Any Federal agency to which information specified in paragraph (1) is transferred by any agency specified in subparagraph (A) of this paragraph.

(C) Any Federal agency that is a registered person, or has a sub-agency component that is a registered person.

(D) Any Federal agency that awards grants or enters into contracts or cooperative agreements involving listed agents and toxins to or with a registered person, and to which information specified in paragraph (1) is transferred by any such registered person.

(3) OTHER EXEMPTIONS.—This subsection may not be construed as altering the application of any exemptions to public disclosure under section 552 of title 5, United States Code, except as to subsection 552(b)(3) of such title, to any of the information specified in paragraph (1).

(4) RULE OF CONSTRUCTION.—Except as specifically provided in paragraph (1), this subsection may not be construed as altering the authority of any Federal agency to withhold under section 552 of title 5, United States Code, or the obligation of any Federal agency to disclose under section 552 of title 5, United States Code, any information, including information relating to—

(A) listed agents and toxins, or individuals seeking access to such agents and toxins;

(B) registered persons, or persons seeking to register their possession, use, or transfer of such agents and toxins;

(C) general safeguard and security policies and requirements under regulations under subsections (b) and (c); or

(D) summary or statistical information concerning registrations, registrants, denials or revocations of registrations, listed agents and toxins, inspection evaluations and reports, or individuals seeking access to such agents and toxins.

(5) DISCLOSURES TO CONGRESS; OTHER DISCLOSURES.—This subsection may not be construed as providing any authority—

(A) to withhold information from the Congress or any committee or subcommittee thereof; or

(B) to withhold information from any person under any other Federal law or treaty.

(i) CIVIL MONEY PENALTY.—

(1) IN GENERAL.—In addition to any other penalties that may apply under law, any person who violates any provision of regulations under subsection (b) or (c) shall be subject to the United States for a civil money penalty in an amount not exceeding \$250,000 in the case of an individual and \$500,000 in the case of any other person.

(2) APPLICABILITY OF CERTAIN PROVISIONS.—The provisions of sections 423 and 425(2) of the Plant Protection Act (7 U.S.C. 7733 and 7735(2)) shall apply to a civil money penalty or activity under paragraph (1) in the same manner as such provisions apply to a penalty or activity under the Plant Protection Act.

(j) NOTIFICATION IN EVENT OF RELEASE.—Regulations under subsections (b) and (c) shall require the prompt notification of the Secretary by a registered person whenever a release, meeting criteria established by the Secretary, of a listed agent or toxin has occurred outside of the biocontainment area of a facility of the registered person. Upon receipt of such notification and a finding by the Secretary that the release poses a threat to animal or plant health, or animal or plant products, the Secretary shall take appropriate action to notify relevant Federal, State, and local authorities, and, if necessary, other appropriate persons (including the public). If the released listed agent or toxin is an overlap agent or toxin, the Secretary shall promptly notify the Secretary of Health and Human Services upon notification by the registered person.

(k) REPORTS.—The Secretary shall report to the Congress annually on the number and nature of notifications received under subsection (e)(8) (relating to theft or loss) and subsection (j) (relating to releases).

(l) DEFINITIONS.—For purposes of this section:

(1) The terms “biological agent” and “toxin” have the meanings given such terms in section 178 of title 18, United States Code.

(2) The term “listed agents and toxins” means biological agents and toxins listed pursuant to subsection (a)(1).

(3) The term “listed agents or toxins” means biological agents or toxins listed pursuant to subsection (a)(1).

(4) The terms “overlap agents and toxins” and “overlap agent or toxin” have the meaning given such terms in subsection (g)(1)(A)(ii).

(5) The term “person” includes Federal, State, and local governmental entities.

(6) The term “registered person” means a person registered under regulations under subsection (b) or (c).

(7) The term “Secretary” means the Secretary of Agriculture.

(m) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2007, in addition to other funds that may be available.

Deadlines.

SEC. 213. IMPLEMENTATION BY DEPARTMENT OF AGRICULTURE.

Rules.
7 USC 8401 note.

(a) DATE CERTAIN FOR PROMULGATION OF LIST.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture (referred to in this section as the “Secretary”) shall promulgate an interim final rule that establishes the initial list

under section 212(a)(1). In promulgating such rule, the Secretary shall provide written guidance on the manner in which the notice required in subsection (b) is to be provided to the Secretary.

Guidelines.

(b) DATE CERTAIN FOR NOTICE OF POSSESSION.—Not later than 60 days after the date on which the Secretary promulgates the interim final rule under subsection (a), all persons (unless exempt under section 212(g)) in possession of biological agents or toxins included on the list referred to in subsection (a) shall notify the Secretary of such possession.

(c) DATE CERTAIN FOR PROMULGATION; EFFECTIVE DATE REGARDING CRIMINAL AND CIVIL PENALTIES.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall promulgate an interim final rule for carrying out section 212, other than for the list referred to in subsection (a) of this section (but such rule may incorporate by reference provisions promulgated pursuant to subsection (a)). Such interim final rule shall take effect 60 days after the date on which such rule is promulgated, including for purposes of—

Rules.

(1) section 175b(c) of title 18, United States Code (relating to criminal penalties), as added by section 231(a)(5) of this Act; and

(2) section 212(i) of this Act (relating to civil penalties).

(d) TRANSITIONAL PROVISION REGARDING CURRENT RESEARCH AND EDUCATION.—The interim final rule under subsection (c) shall include time frames for the applicability of the rule that minimize disruption of research or educational projects that involve biological agents and toxins listed pursuant to section 212(a)(1) and that were underway as of the effective date of such rule.

Subtitle C—Interagency Coordination Regarding Overlap Agents and Toxins

SEC. 221. INTERAGENCY COORDINATION.

7 USC 8411.

(a) IN GENERAL.—

(1) COORDINATION.—The Secretary of Agriculture and the Secretary of Health and Human Services shall in accordance with this section coordinate activities regarding overlap agents and toxins.

(2) OVERLAP AGENTS AND TOXINS; OTHER TERMS.—For purposes of this section:

(A) The term “overlap agent or toxin” means a biological agent or toxin that—

(i) is listed pursuant to section 315A(a)(1) of the Public Health Service Act, as added by section 201 of this Act; and

(ii) is listed pursuant to section 212(a)(1) of this Act.

(B) The term “section 351A program” means the program under section 351A of the Public Health Service Act.

(C) The term “section 212 program” means the program under section 212 of this Act.

(b) CERTAIN MATTERS.—In carrying out the section 351A program and the section 212 program, the Secretary of Health and Human Services and the Secretary of Agriculture shall, to the

greatest extent practicable, coordinate activities to achieve the following purposes:

(1) To minimize any conflicts between the regulations issued under, and activities carried out under, such programs.

(2) To minimize the administrative burden on persons subject to regulation under both of such programs.

(3) To ensure the appropriate availability of biological agents and toxins for legitimate biomedical, agricultural or veterinary research, education, or other such purposes.

(4) To ensure that registration information for overlap agents and toxins under the section 351A and section 212 programs is contained in both the national database under the section 351A program and the national database under the section 212 program.

(c) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Promptly after the date of the enactment of this Act, the Secretary of Agriculture and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding overlap agents and toxins that is in accordance with paragraphs (2) through (4) and contains such additional provisions as the Secretary of Agriculture and the Secretary of Health and Human Services determine to be appropriate.

(2) SINGLE REGISTRATION SYSTEM REGARDING REGISTERED PERSONS.—The memorandum of understanding under paragraph (1) shall provide for the development and implementation of a single system of registration for persons who possess, use, or transfer overlap agents or toxins and are required to register under both the section 351A program and the section 212 program. For purposes of such system, the memorandum shall provide for the development and implementation of the following:

(A) A single registration form through which the person submitting the form provides all information that is required for registration under the section 351A program and all information that is required for registration under the section 212 program.

(B) A procedure through which a person may choose to submit the single registration form to the agency administering the section 351A program (in the manner provided under such program), or to the agency administering the section 212 program (in the manner provided under such program).

(C) A procedure through which a copy of a single registration form received pursuant to subparagraph (B) by the agency administering one of such programs is promptly provided to the agency administering the other program.

(D) A procedure through which the agency receiving the single registration form under one of such programs obtains the concurrence of the agency administering the other program that the requirements for registration under the other program have been met.

(E) A procedure through which—

(i) the agency receiving the single registration form under one of such programs informs the agency administering the other program whether the receiving agency has denied the registration; and

(ii) each of such agencies ensures that registrations are entered into the national database of registered persons that is maintained by each such agency.

(3) PROCESS OF IDENTIFICATION.—With respect to the process of identification under the section 351A program and the section 212 program for names and other identifying information submitted to the Attorney General (relating to certain categories of individuals and entities), the memorandum of understanding under paragraph (1) shall provide for the development and implementation of the following:

(A) A procedure through which a person who is required to submit information pursuant to such process makes (in addition to the submission to the Attorney General) a submission, at the option of the person, to either the agency administering the section 351A program or the agency administering the section 212 program, but not both, which submission satisfies the requirement of submission for both of such programs.

(B) A procedure for the sharing by both of such agencies of information received from the Attorney General by one of such agencies pursuant to the submission under subparagraph (A).

(C) A procedure through which the agencies administering such programs concur in determinations that access to overlap agents and toxins will be granted.

(4) COORDINATION OF INSPECTIONS AND ENFORCEMENT.—The memorandum of understanding under paragraph (1) shall provide for the development and implementation of procedures under which Federal personnel under the section 351A program and the section 212 program may share responsibilities for inspections and enforcement activities under such programs regarding overlap agents and toxins. Activities carried out under such procedures by one of such programs on behalf of the other may be carried out with or without reimbursement by the agency that administers the other program.

(5) DATE CERTAIN FOR IMPLEMENTATION.—The memorandum of understanding under paragraph (1) shall be implemented not later than 180 days after the date of the enactment of this Act. Until the single system of registration under paragraph (2) is implemented, persons who possess, use, or transfer overlap agents or toxins shall register under both the section 351A program and the section 212 program.

Deadline.

(d) JOINT REGULATIONS.—Not later than 18 months after the date on which the single system of registration under subsection (c)(2) is implemented, the Secretary of Health and Human Services and the Secretary of Agriculture shall jointly issue regulations for the possession, use, and transfer of overlap agents and toxins that meet the requirements of both the section 351A program and the section 212 program.

Deadline.

Subtitle D—Criminal Penalties Regarding Certain Biological Agents and Toxins

SEC. 231. CRIMINAL PENALTIES.

(a) IN GENERAL.—Section 175b of title 18, United States Code, as added by section 817 of Public Law 107–56, is amended—

(1) by striking “(a)” and inserting “(a)(1)”;

(2) by transferring subsection (c) from the current placement of the subsection and inserting the subsection before subsection (b);

(3) by striking “(c)” and inserting “(2)”;

(4) by redesignating subsection (b) as subsection (d); and

(5) by inserting before subsection (d) (as so redesignated)

the following subsections:

“(b) TRANSFER TO UNREGISTERED PERSON.—

“(1) SELECT AGENTS.—Whoever transfers a select agent to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 351A of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

“(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever transfers a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 to a person who the transferor knows or has reasonable cause to believe is not registered as required by regulations under subsection (b) or (c) of section 212 of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

“(c) UNREGISTERED FOR POSSESSION.—

“(1) SELECT AGENTS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a select agent for which such person has not obtained a registration required by regulations under section 351A(c) of the Public Health Service Act shall be fined under this title, or imprisoned for not more than 5 years, or both.

“(2) CERTAIN OTHER BIOLOGICAL AGENTS AND TOXINS.—Whoever knowingly possesses a biological agent or toxin where such agent or toxin is a biological agent or toxin listed pursuant to section 212(a)(1) of the Agricultural Bioterrorism Protection Act of 2002 for which such person has not obtained a registration required by regulations under section 212(c) of such Act shall be fined under this title, or imprisoned for not more than 5 years, or both.”.

(b) CONFORMING AMENDMENTS.—Chapter 10 of title 18, United States Code, is amended—

(1) in section 175b (as added by section 817 of Public Law 107–56 and amended by subsection (a) of this section)—

(A) in subsection (d)(1), by striking “The term” and all that follows through “does not include” and inserting the following: “The term ‘select agent’ means a biological agent or toxin to which subsection (a) applies. Such term (including for purposes of subsection (a)) does not include”; and

(B) in the heading for the section, by striking “**Possession by restricted persons**” and inserting “**Select agents; certain other agents**”; and

(2) in the chapter analysis, in the item relating to section 175b, by striking “Possession by restricted persons.” and inserting “Select agents; certain other agents.”.

(c) TECHNICAL CORRECTIONS.—Chapter 10 of title 18, United States Code, as amended by section 817 of Public Law 107-56 and subsections (a) and (b) of this section, is amended—

(1) in section 175(c), by striking “protective” and all that follows and inserting “protective, bona fide research, or other peaceful purposes.”;

(2) in section 175b—

(A) in subsection (a)(1), by striking “described in subsection (b)” and all that follows and inserting the following: “shall ship or transport in or affecting interstate or foreign commerce, or possess in or affecting interstate or foreign commerce, any biological agent or toxin, or receive any biological agent or toxin that has been shipped or transported in interstate or foreign commerce, if the biological agent or toxin is listed as a select agent in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not exempted under subsection (h) of section 72.6, or Appendix A of part 72, of title 42, Code of Federal Regulations.”; and

(B) in subsection (d)(3), by striking “section 1010(a)(3)” and inserting “section 101(a)(3)”;

(3) in section 176(a)(1)(A), by striking “exists by reason of” and inserting “pertains to”; and

(4) in section 178—

(A) in paragraph (1), by striking “means any microorganism” and all that follows through “product, capable of” and inserting the following: “means any microorganism (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substance, or any naturally occurring, bioengineered or synthesized component of any such microorganism or infectious substance, capable of”;

(B) in paragraph (2), by striking “means the toxic” and all that follows through “including—” and inserting the following: “means the toxic material or product of plants, animals, microorganisms (including, but not limited to, bacteria, viruses, fungi, rickettsiae or protozoa), or infectious substances, or a recombinant or synthesized molecule, whatever their origin and method of production, and includes—”; and

(C) in paragraph (4), by striking “recombinant molecule,” and all that follows through “biotechnology,” and inserting “recombinant or synthesized molecule,”.

(d) ADDITIONAL TECHNICAL CORRECTION.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “section 229F)” and all that follows through “section 178)—” and inserting “section 229F)—”; and

(2) in subsection (c)(2)(C), by striking “a disease organism” and inserting “a biological agent, toxin, or vector (as those terms are defined in section 178 of this title)”.

TITLE III—PROTECTING SAFETY AND SECURITY OF FOOD AND DRUG SUPPLY

Subtitle A—Protection of Food Supply

21 USC 341 note.

SEC. 301. FOOD SAFETY AND SECURITY STRATEGY.

(a) **IN GENERAL.**—The President’s Council on Food Safety (as established by Executive Order No. 13100) shall, in consultation with the Secretary of Transportation, the Secretary of the Treasury, other relevant Federal agencies, the food industry, consumer and producer groups, scientific organizations, and the States, develop a crisis communications and education strategy with respect to bioterrorist threats to the food supply. Such strategy shall address threat assessments; technologies and procedures for securing food processing and manufacturing facilities and modes of transportation; response and notification procedures; and risk communications to the public.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of implementing the strategy developed under subsection (a), there are authorized to be appropriated \$750,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 302. PROTECTION AGAINST ADULTERATION OF FOOD.

(a) **INCREASING INSPECTIONS FOR DETECTION OF ADULTERATION OF FOOD.**—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381) is amended by adding at the end the following subsection:

“(h)(1) The Secretary shall give high priority to increasing the number of inspections under this section for the purpose of enabling the Secretary to inspect food offered for import at ports of entry into the United States, with the greatest priority given to inspections to detect the intentional adulteration of food.”.

(b) **IMPROVEMENTS TO INFORMATION MANAGEMENT SYSTEMS.**—Section 801(h) of the Federal Food, Drug, and Cosmetic Act, as added by subsection (a) of this section, is amended by adding at the end the following paragraph:

“(2) The Secretary shall give high priority to making necessary improvements to the information management systems of the Food and Drug Administration that contain information related to foods imported or offered for import into the United States for purposes of improving the ability of the Secretary to allocate resources, detect the intentional adulteration of food, and facilitate the importation of food that is in compliance with this Act.”.

(c) **LINKAGES WITH APPROPRIATE PUBLIC ENTITIES.**—Section 801(h) of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (b) of this section, is amended by adding at the end the following paragraph:

“(3) The Secretary shall improve linkages with other regulatory agencies of the Federal Government that share responsibility for food safety, and shall with respect to such safety improve linkages

with the States and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))).”.

(d) TESTING FOR RAPID DETECTION OF ADULTERATION OF FOOD.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by subsection (a) of this section, is amended by adding at the end the following:

“(i)(1) For use in inspections of food under this section, the Secretary shall provide for research on the development of tests and sampling methodologies—

“(A) whose purpose is to test food in order to rapidly detect the adulteration of the food, with the greatest priority given to detect the intentional adulteration of food; and

“(B) whose results offer significant improvements over the available technology in terms of accuracy, timing, or costs.

“(2) In providing for research under paragraph (1), the Secretary shall give priority to conducting research on the development of tests that are suitable for inspections of food at ports of entry into the United States.

“(3) In providing for research under paragraph (1), the Secretary shall as appropriate coordinate with the Director of the Centers for Disease Control and Prevention, the Director of the National Institutes of Health, the Administrator of the Environmental Protection Agency, and the Secretary of Agriculture.

“(4) The Secretary shall annually submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the progress made in research under paragraph (1), including progress regarding paragraph (2).”.

Reports.

(e) ASSESSMENT OF THREAT OF INTENTIONAL ADULTERATION OF FOOD.—The Secretary of Health and Human Services, acting through the Commissioner of Food and Drugs, shall ensure that, not later than six months after the date of the enactment of this Act—

Deadline.

(1) the assessment that (as of such date of enactment) is being conducted on the threat of the intentional adulteration of food is completed; and

(2) a report describing the findings of the assessment is submitted to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate.

Reports.

(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section and the amendments made by this section, there are authorized to be appropriated \$100,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006, in addition to other authorizations of appropriations that are available for such purpose.

SEC. 303. ADMINISTRATIVE DETENTION.

(a) EXPANDED AUTHORITY.—Section 304 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 334) is amended by adding at the end the following subsection:

“(h) ADMINISTRATIVE DETENTION OF FOODS.—

“(1) DETENTION AUTHORITY.—

“(A) IN GENERAL.—An officer or qualified employee of the Food and Drug Administration may order the detention, in accordance with this subsection, of any article of food

that is found during an inspection, examination, or investigation under this Act conducted by such officer or qualified employee, if the officer or qualified employee has credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

“(B) SECRETARY’S APPROVAL.—An article of food may be ordered detained under subparagraph (A) only if the Secretary or an official designated by the Secretary approves the order. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or is an official senior to such director.

“(2) PERIOD OF DETENTION.—An article of food may be detained under paragraph (1) for a reasonable period, not to exceed 20 days, unless a greater period, not to exceed 30 days, is necessary, to enable the Secretary to institute an action under subsection (a) or section 302. The Secretary shall by regulation provide for procedures for instituting such action on an expedited basis with respect to perishable foods.

“(3) SECURITY OF DETAINED ARTICLE.—An order under paragraph (1) with respect to an article of food may require that such article be labeled or marked as detained, and shall require that the article be removed to a secure facility, as appropriate. An article subject to such an order shall not be transferred by any person from the place at which the article is ordered detained, or from the place to which the article is so removed, as the case may be, until released by the Secretary or until the expiration of the detention period applicable under such order, whichever occurs first. This subsection may not be construed as authorizing the delivery of the article pursuant to the execution of a bond while the article is subject to the order, and section 801(b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is subject to the order.

“(4) APPEAL OF DETENTION ORDER.—

“(A) IN GENERAL.—With respect to an article of food ordered detained under paragraph (1), any person who would be entitled to be a claimant for such article if the article were seized under subsection (a) may appeal the order to the Secretary. Within five days after such an appeal is filed, the Secretary, after providing opportunity for an informal hearing, shall confirm or terminate the order involved, and such confirmation by the Secretary shall be considered a final agency action for purposes of section 702 of title 5, United States Code. If during such five-day period the Secretary fails to provide such an opportunity, or to confirm or terminate such order, the order is deemed to be terminated.

“(B) EFFECT OF INSTITUTING COURT ACTION.—The process under subparagraph (A) for the appeal of an order under paragraph (1) terminates if the Secretary institutes an action under subsection (a) or section 302 regarding the article of food involved.”

(b) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

Regulation.

“(bb) The transfer of an article of food in violation of an order under section 304(h), or the removal or alteration of any mark or label required by the order to identify the article as detained.”.

(c) TEMPORARY HOLDS AT PORTS OF ENTRY.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 302(d) of this Act, is amended by adding at the end the following:

21 USC 381.

“(j)(1) If an officer or qualified employee of the Food and Drug Administration has credible evidence or information indicating that an article of food presents a threat of serious adverse health consequences or death to humans or animals, and such officer or qualified employee is unable to inspect, examine, or investigate such article upon the article being offered for import at a port of entry into the United States, the officer or qualified employee shall request the Secretary of Treasury to hold the food at the port of entry for a reasonable period of time, not to exceed 24 hours, for the purpose of enabling the Secretary to inspect, examine, or investigate the article as appropriate.

“(2) The Secretary shall request the Secretary of Treasury to remove an article held pursuant to paragraph (1) to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held.

“(3) An officer or qualified employee of the Food and Drug Administration may make a request under paragraph (1) only if the Secretary or an official designated by the Secretary approves the request. An official may not be so designated unless the official is the director of the district under this Act in which the article involved is located, or is an official senior to such director.

“(4) With respect to an article of food for which a request under paragraph (1) is made, the Secretary, promptly after the request is made, shall notify the State in which the port of entry involved is located that the request has been made, and as applicable, that such article is being held under this subsection.”.

SEC. 304. DEBARMENT FOR REPEATED OR SERIOUS FOOD IMPORT VIOLATIONS.

(a) DEBARMENT AUTHORITY.—

(1) PERMISSIVE DEBARMENT.—Section 306(b)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)(1)) is amended—

(A) in subparagraph (A), by striking “or” after the comma at the end;

(B) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(C) by adding at the end the following subparagraph:

“(C) a person from importing an article of food or offering such an article for import into the United States.”.

(2) AMENDMENT REGARDING DEBARMENT GROUNDS.—Section 306(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(b)) is amended—

(A) in paragraph (2), in the matter preceding subparagraph (A), by inserting “subparagraph (A) or (B) of” before “paragraph (1)”; and

(B) by redesignating paragraph (3) as paragraph (4);
and

(C) by inserting after paragraph (2) the following paragraph:

“(3) PERSONS SUBJECT TO PERMISSIVE DEBARMENT; FOOD IMPORTATION.—A person is subject to debarment under paragraph (1)(C) if—

“(A) the person has been convicted of a felony for conduct relating to the importation into the United States of any food; or

“(B) the person has engaged in a pattern of importing or offering for import adulterated food that presents a threat of serious adverse health consequences or death to humans or animals.”.

(b) CONFORMING AMENDMENTS.—Section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a) is amended—

(1) in subsection (a), in the heading for the subsection, by striking “MANDATORY DEBARMENT.—” and inserting “MANDATORY DEBARMENT; CERTAIN DRUG APPLICATIONS.—”;

(2) in subsection (b)—

(A) in the heading for the subsection, by striking “PERMISSIVE DEBARMENT.—” and inserting “PERMISSIVE DEBARMENT; CERTAIN DRUG APPLICATIONS; FOOD IMPORTS.—”; and

(B) in paragraph (2), in the heading for the paragraph, by striking “PERMISSIVE DEBARMENT.—” and inserting “PERMISSIVE DEBARMENT; CERTAIN DRUG APPLICATIONS.—”.

(3) in subsection (c)(2)(A)(iii), by striking “subsection (b)(2)” and inserting “paragraph (2) or (3) of subsection (b)”;

(4) in subsection (d)(3)—

(A) in subparagraph (A)(i), by striking “or (b)(2)(A)” and inserting “or paragraph (2)(A) or (3) of subsection (b)”;

(B) in subparagraph (A)(ii)(II), by inserting “in applicable cases,” before “sufficient audits”;

(C) in subparagraph (B), in each of clauses (i) and (ii), by inserting “or subsection (b)(3)” after “subsection (b)(2)(B)”;

(D) in subparagraph (B)(ii), by inserting before the period the following: “or the food importation process, as the case may be”.

(c) EFFECTIVE DATES.—Section 306(l)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a(l)(2)) is amended—

(1) in the first sentence—

(A) by striking “and” after “subsection (b)(2),”; and

(B) by inserting “, and subsection (b)(3)(A)” after “subsection (b)(2)(B)”;

(2) in the second sentence, by inserting “, subsection (b)(3)(B),” after “subsection (b)(2)(B)”.

(d) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 303(b) of this Act, is amended by adding at the end the following:

“(cc) The importing or offering for import into the United States of an article of food by, with the assistance of, or at the direction of, a person debarred under section 306(b)(3).”.

(e) **IMPORTATION BY DEBARRED PERSONS.**—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 303(c) of this Act, is amended by adding at the end the following subsection: 21 USC 381.

“(k)(1) If an article of food is being imported or offered for import into the United States, and the importer, owner, or consignee of the article is a person who has been debarred under section 306(b)(3), such article shall be held at the port of entry for the article, and may not be delivered to such person. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.

“(2) An article of food held under paragraph (1) may be delivered to a person who is not a debarred person under section 306(b)(3) if such person affirmatively establishes, at the expense of the person, that the article complies with the requirements of this Act, as determined by the Secretary.”.

SEC. 305. REGISTRATION OF FOOD FACILITIES.

(a) **IN GENERAL.**—Chapter IV of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341 et seq.) is amended by adding at the end the following:

“SEC. 415. REGISTRATION OF FOOD FACILITIES.

21 USC 350d.

“(a) **REGISTRATION.**—

“(1) **IN GENERAL.**—The Secretary shall by regulation require that any facility engaged in manufacturing, processing, packing, or holding food for consumption in the United States be registered with the Secretary. To be registered—

Regulations.

“(A) for a domestic facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary; and

“(B) for a foreign facility, the owner, operator, or agent in charge of the facility shall submit a registration to the Secretary and shall include with the registration the name of the United States agent for the facility.

“(2) **REGISTRATION.**—An entity (referred to in this section as the ‘registrant’) shall submit a registration under paragraph (1) to the Secretary containing information necessary to notify the Secretary of the name and address of each facility at which, and all trade names under which, the registrant conducts business and, when determined necessary by the Secretary through guidance, the general food category (as identified under section 170.3 of title 21, Code of Federal Regulations) of any food manufactured, processed, packed, or held at such facility. The registrant shall notify the Secretary in a timely manner of changes to such information.

Notification.

“(3) **PROCEDURE.**—Upon receipt of a completed registration described in paragraph (1), the Secretary shall notify the registrant of the receipt of such registration and assign a registration number to each registered facility.

Notification.

“(4) **LIST.**—The Secretary shall compile and maintain an up-to-date list of facilities that are registered under this section. Such list and any registration documents submitted pursuant

Records.

to this subsection shall not be subject to disclosure under section 552 of title 5, United States Code. Information derived from such list or registration documents shall not be subject to disclosure under section 552 of title 5, United States Code, to the extent that it discloses the identity or location of a specific registered person.

“(b) FACILITY.—For purposes of this section:

“(1) The term ‘facility’ includes any factory, warehouse, or establishment (including a factory, warehouse, or establishment of an importer) that manufactures, processes, packs, or holds food. Such term does not include farms; restaurants; other retail food establishments; nonprofit food establishments in which food is prepared for or served directly to the consumer; or fishing vessels (except such vessels engaged in processing as defined in section 123.3(k) of title 21, Code of Federal Regulations).

“(2) The term ‘domestic facility’ means a facility located in any of the States or Territories.

“(3)(A) The term ‘foreign facility’ means a facility that manufacturers, processes, packs, or holds food, but only if food from such facility is exported to the United States without further processing or packaging outside the United States.

“(B) A food may not be considered to have undergone further processing or packaging for purposes of subparagraph (A) solely on the basis that labeling was added or that any similar activity of a de minimis nature was carried out with respect to the food.

“(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary to require an application, review, or licensing process.”

(b) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331), as amended by section 304(d) of this Act, is amended by adding at the end the following:

“(dd) The failure to register in accordance with section 415.”

(c) IMPORTATION; FAILURE TO REGISTER.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 304(e) of this Act, is amended by adding at the end the following subsection:

“(1)(1) If an article of food is being imported or offered for import into the United States, and such article is from a foreign facility for which a registration has not been submitted to the Secretary under section 415, such article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until the foreign facility is so registered. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.”

(d) ELECTRONIC FILING.—For the purpose of reducing paperwork and reporting burdens, the Secretary of Health and Human Services may provide for, and encourage the use of, electronic methods of submitting to the Secretary registrations required pursuant to this section. In providing for the electronic submission of

21 USC 381.

21 USC 350d
note.

such registrations, the Secretary shall ensure adequate authentication protocols are used to enable identification of the registrant and validation of the data as appropriate.

(e) **RULEMAKING; EFFECTIVE DATE.**—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed and final regulations for the requirement of registration under section 415 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section). Such requirement of registration takes effect—

(1) upon the effective date of such final regulations; or

(2) upon the expiration of such 18-month period if the final regulations have not been made effective as of the expiration of such period, subject to compliance with the final regulations when the final regulations are made effective.

Deadline.

SEC. 306. MAINTENANCE AND INSPECTION OF RECORDS FOR FOODS.

(a) **IN GENERAL.**—Chapter IV of the Federal Food, Drug, and Cosmetic Act, as amended by section 305 of this Act, is amended by inserting before section 415 the following section:

“SEC. 414. MAINTENANCE AND INSPECTION OF RECORDS.

21 USC 350c.

“(a) **RECORDS INSPECTION.**—If the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals, each person (excluding farms and restaurants) who manufactures, processes, packs, distributes, receives, holds, or imports such article shall, at the request of an officer or employee duly designated by the Secretary, permit such officer or employee, upon presentation of appropriate credentials and a written notice to such person, at reasonable times and within reasonable limits and in a reasonable manner, to have access to and copy all records relating to such article that are needed to assist the Secretary in determining whether the food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals. The requirement under the preceding sentence applies to all records relating to the manufacture, processing, packing, distribution, receipt, holding, or importation of such article maintained by or on behalf of such person in any format (including paper and electronic formats) and at any location.

Applicability.

“(b) **REGULATIONS CONCERNING RECORDKEEPING.**—The Secretary, in consultation and coordination, as appropriate, with other Federal departments and agencies with responsibilities for regulating food safety, may by regulation establish requirements regarding the establishment and maintenance, for not longer than two years, of records by persons (excluding farms and restaurants) who manufacture, process, pack, transport, distribute, receive, hold, or import food, which records are needed by the Secretary for inspection to allow the Secretary to identify the immediate previous sources and the immediate subsequent recipients of food, including its packaging, in order to address credible threats of serious adverse health consequences or death to humans or animals. The Secretary shall take into account the size of a business in promulgating regulations under this section.

“(c) **PROTECTION OF SENSITIVE INFORMATION.**—The Secretary shall take appropriate measures to ensure that there are in effect effective procedures to prevent the unauthorized disclosure of any trade secret or confidential information that is obtained by the Secretary pursuant to this section.

“(d) LIMITATIONS.—This section shall not be construed—

“(1) to limit the authority of the Secretary to inspect records or to require establishment and maintenance of records under any other provision of this Act;

“(2) to authorize the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.);

“(3) to have any legal effect on section 552 of title 5, United States Code, or section 1905 of title 18, United States Code; or

“(4) to extend to recipes for food, financial data, pricing data, personnel data, research data, or sales data (other than shipment data regarding sales).”.

(b) FACTORY INSPECTION.—Section 704(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(a)) is amended—

(1) in paragraph (1), by inserting after the first sentence the following new sentence: “In the case of any person (excluding farms and restaurants) who manufactures, processes, packs, transports, distributes, holds, or imports foods, the inspection shall extend to all records and other information described in section 414 when the Secretary has a reasonable belief that an article of food is adulterated and presents a threat of serious adverse health consequences or death to humans or animals, subject to the limitations established in section 414(d).”; and

(2) in paragraph (2), in the matter preceding subparagraph (A), by striking “second sentence” and inserting “third sentence”.

(c) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended—

(1) in paragraph (e)—

(A) by striking “by section 412, 504, or 703” and inserting “by section 412, 414, 504, 703, or 704(a)”; and

(B) by striking “under section 412” and inserting “under section 412, 414(b)”; and

(2) in paragraph (j), by inserting “414,” after “412,”.

(d) EXPEDITED RULEMAKING.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall promulgate proposed and final regulations establishing recordkeeping requirements under subsection 414(b) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a)).

SEC. 307. PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS.

(a) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 305(c) of this Act, is amended by adding at the end the following subsection:

“(m)(1) In the case of an article of food that is being imported or offered for import into the United States, the Secretary, after consultation with the Secretary of the Treasury, shall by regulation require, for the purpose of enabling such article to be inspected at ports of entry into the United States, the submission to the Secretary of a notice providing the identity of each of the following: The article; the manufacturer and shipper of the article; if known within the specified period of time that notice is required to be

Deadline.
21 USC 350c
note.

Regulations.

provided, the grower of the article; the country from which the article originates; the country from which the article is shipped; and the anticipated port of entry for the article. An article of food imported or offered for import without submission of such notice in accordance with the requirements under this paragraph shall be refused admission into the United States. Nothing in this section may be construed as a limitation on the port of entry for an article of food.

“(2)(A) Regulations under paragraph (1) shall require that a notice under such paragraph be provided by a specified period of time in advance of the time of the importation of the article of food involved or the offering of the food for import, which period shall be no less than the minimum amount of time necessary for the Secretary to receive, review, and appropriately respond to such notification, but may not exceed five days. In determining the specified period of time required under this subparagraph, the Secretary may consider, but is not limited to consideration of, the effect on commerce of such period of time, the locations of the various ports of entry into the United States, the various modes of transportation, the types of food imported into the United States, and any other such consideration. Nothing in the preceding sentence may be construed as a limitation on the obligation of the Secretary to receive, review, and appropriately respond to any notice under paragraph (1).

“(B)(i) If an article of food is being imported or offered for import into the United States and a notice under paragraph (1) is not provided in advance in accordance with the requirements under paragraph (1), such article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until such notice is submitted to the Secretary, and the Secretary examines the notice and determines that the notice is in accordance with the requirements under paragraph (1). Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.

“(ii) In carrying out clause (i) with respect to an article of food, the Secretary shall determine whether there is in the possession of the Secretary any credible evidence or information indicating that such article presents a threat of serious adverse health consequences or death to humans or animals.

“(3)(A) This subsection may not be construed as limiting the authority of the Secretary to obtain information under any other provision of this Act.

“(B) This subsection may not be construed as authorizing the Secretary to impose any requirements with respect to a food to the extent that it is within the exclusive jurisdiction of the Secretary of Agriculture pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), or the Egg Products Inspection Act (21 U.S.C. 1031 et seq.).”.

21 USC 331. (b) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 305(b) of this Act, is amended by adding at the end the following:

“(ee) The importing or offering for import into the United States of an article of food in violation of the requirements under section 801(m).”.

21 USC 351 note.
Deadline.

(c) RULEMAKING; EFFECTIVE DATE.—

(1) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall promulgate proposed and final regulations for the requirement of providing notice in accordance with section 801(m) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section). Such requirement of notification takes effect—

(A) upon the effective date of such final regulations;

or

(B) upon the expiration of such 18-month period if the final regulations have not been made effective as of the expiration of such period, subject to compliance with the final regulations when the final regulations are made effective.

(2) DEFAULT; MINIMUM PERIOD OF ADVANCE NOTICE.—If under paragraph (1) the requirement for providing notice in accordance with section 801(m) of the Federal Food, Drug, and Cosmetic Act takes effect without final regulations having been made effective, then for purposes of such requirement, the specified period of time that the notice is required to be made in advance of the time of the importation of the article of food involved or the offering of the food for import shall be not fewer than eight hours and not more than five days, which shall remain in effect until the final regulations are made effective.

SEC. 308. AUTHORITY TO MARK ARTICLES REFUSED ADMISSION INTO UNITED STATES.

(a) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(a)), as amended by section 307(a) of this Act, is amended by adding at the end the following:

“(n)(1) If a food has been refused admission under subsection (a), other than such a food that is required to be destroyed, the Secretary may require the owner or consignee of the food to affix to the container of the food a label that clearly and conspicuously bears the statement: ‘UNITED STATES: REFUSED ENTRY’.

“(2) All expenses in connection with affixing a label under paragraph (1) shall be paid by the owner or consignee of the food involved, and in default of such payment, shall constitute a lien against future importations made by such owner or consignee.

“(3) A requirement under paragraph (1) remains in effect until the Secretary determines that the food involved has been brought into compliance with this Act.”.

(b) MISBRANDED FOODS.—Section 403 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343) is amended by adding at the end the following:

“(v) If—

“(1) it fails to bear a label required by the Secretary under section 801(n)(1) (relating to food refused admission into the United States);

“(2) the Secretary finds that the food presents a threat of serious adverse health consequences or death to humans or animals; and

“(3) upon or after notifying the owner or consignee involved that the label is required under section 801, the Secretary informs the owner or consignee that the food presents such a threat.”.

(c) **RULE OF CONSTRUCTION.**—With respect to articles of food that are imported or offered for import into the United States, nothing in this section shall be construed to limit the authority of the Secretary of Health and Human Services or the Secretary of the Treasury to require the marking of refused articles of food under any other provision of law. 21 USC 381 note.

SEC. 309. PROHIBITION AGAINST PORT SHOPPING.

Section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342) is amended by adding at the end the following:

“(h) If it is an article of food imported or offered for import into the United States and the article of food has previously been refused admission under section 801(a), unless the person reoffering the article affirmatively establishes, at the expense of the owner or consignee of the article, that the article complies with the applicable requirements of this Act, as determined by the Secretary.”.

SEC. 310. NOTICES TO STATES REGARDING IMPORTED FOOD.

Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end the following section:

“SEC. 908. NOTICES TO STATES REGARDING IMPORTED FOOD.

21 USC 398.

“(a) **IN GENERAL.**—If the Secretary has credible evidence or information indicating that a shipment of imported food or portion thereof presents a threat of serious adverse health consequences or death to humans or animals, the Secretary shall provide notice regarding such threat to the States in which the food is held or will be held, and to the States in which the manufacturer, packer, or distributor of the food is located, to the extent that the Secretary has knowledge of which States are so involved. In providing notice to a State, the Secretary shall request the State to take such action as the State considers appropriate, if any, to protect the public health regarding the food involved.

“(b) **RULE OF CONSTRUCTION.**—Subsection (a) may not be construed as limiting the authority of the Secretary with respect to food under any other provision of this Act.”.

SEC. 311. GRANTS TO STATES FOR INSPECTIONS.

Chapter IX of the Federal Food, Drug, and Cosmetic Act, as amended by section 310 of this Act, is amended by adding at the end the following section:

“SEC. 909. GRANTS TO STATES FOR INSPECTIONS.

21 USC 399.

“(a) **IN GENERAL.**—The Secretary is authorized to make grants to States, territories, and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) that undertake examinations, inspections, and investigations, and related activities under section 702. The funds provided under such grants shall only be available for the costs

of conducting such examinations, inspections, investigations, and related activities.

“(b) NOTICES REGARDING ADULTERATED IMPORTED FOOD.—The Secretary may make grants to the States for the purpose of assisting the States with the costs of taking appropriate action to protect the public health in response to notification under section 908, including planning and otherwise preparing to take such action.

“(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$10,000,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.”.

SEC. 312. SURVEILLANCE AND INFORMATION GRANTS AND AUTHORITIES.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 317P the following:

42 USC 247b-20.

“SEC. 317R. FOOD SAFETY GRANTS.

“(a) IN GENERAL.—The Secretary may award grants to States and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) to expand participation in networks to enhance Federal, State, and local food safety efforts, including meeting the costs of establishing and maintaining the food safety surveillance, technical, and laboratory capacity needed for such participation.

“(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated \$19,500,000 for fiscal year 2002, and such sums as may be necessary for each of the fiscal years 2003 through 2006.”.

7 USC 8319.

SEC. 313. SURVEILLANCE OF ZOO NOTIC DISEASES.

The Secretary of Health and Human Services, through the Commissioner of Food and Drugs and the Director of the Centers for Disease Control and Prevention, and the Secretary of Agriculture shall coordinate the surveillance of zoonotic diseases.

SEC. 314. AUTHORITY TO COMMISSION OTHER FEDERAL OFFICIALS TO CONDUCT INSPECTIONS.

Section 702(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 372(a)) is amended—

(1) by striking “(a)” and inserting “(a)(1)”;

(2) by striking “In the case of food packed” and inserting the following:

“(3) In the case of food packed”;

(3) by striking “For the purposes of this subsection” and inserting the following:

“(4) For the purposes of this subsection,”; and

(4) by inserting after paragraph (1) (as designated by paragraph (1) of this section) the following paragraph:

“(2)(A) In addition to the authority established in paragraph (1), the Secretary, pursuant to a memorandum of understanding between the Secretary and the head of another Federal department or agency, is authorized to conduct examinations and investigations for the purposes of this Act through the officers and employees of such other department or agency, subject to subparagraph (B). Such a memorandum shall include provisions to ensure adequate training of such officers and employees to conduct the examinations

and investigations. The memorandum of understanding shall contain provisions regarding reimbursement. Such provisions may, at the sole discretion of the head of the other department or agency, require reimbursement, in whole or in part, from the Secretary for the examinations or investigations performed under this section by the officers or employees of the other department or agency.

“(B) A memorandum of understanding under subparagraph (A) between the Secretary and another Federal department or agency is effective only in the case of examinations or inspections at facilities or other locations that are jointly regulated by the Secretary and such department or agency.

“(C) For any fiscal year in which the Secretary and the head of another Federal department or agency carries out one or more examinations or inspections under a memorandum of understanding under subparagraph (A), the Secretary and the head of such department or agency shall with respect to their respective departments or agencies submit to the committees of jurisdiction (authorizing and appropriating) in the House of Representatives and the Senate a report that provides, for such year—

“(i) the number of officers or employees that carried out one or more programs, projects, or activities under such memorandum;

“(ii) the number of additional articles that were inspected or examined as a result of such memorandum; and

“(iii) the number of additional examinations or investigations that were carried out pursuant to such memorandum.”.

SEC. 315. RULE OF CONSTRUCTION.

Reports.

Nothing in this title, or an amendment made by this title, shall be construed to alter the jurisdiction between the Secretaries of Agriculture and of Health and Human Services, under applicable statutes and regulations.

Subtitle B—Protection of Drug Supply

SEC. 321. ANNUAL REGISTRATION OF FOREIGN MANUFACTURERS; SHIPPING INFORMATION; DRUG AND DEVICE LISTING.

(a) ANNUAL REGISTRATION; LISTING.—Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended—

(1) in subsection (i)(1)—

(A) by striking “Any establishment” and inserting “On or before December 31 of each year, any establishment”; and

(B) by striking “shall register” and all that follows and inserting the following: “shall, through electronic means in accordance with the criteria of the Secretary, register with the Secretary the name and place of business of the establishment, the name of the United States agent for the establishment, the name of each importer of such drug or device in the United States that is known to the establishment, and the name of each person who imports or offers for import such drug or device to the United States for purposes of importation.”; and

(2) in subsection (j)(1), in the first sentence, by striking “or (d)” and inserting “(d), or (i)”.

21 USC 331 note.

(b) IMPORTATION; STATEMENT REGARDING REGISTRATION OF MANUFACTURER.—

(1) IN GENERAL.—Section 801 of the Federal Food, Drug, and Cosmetic Act, as amended by section 308(a) of this Act, is amended by adding at the end the following subsection:

“(o) If an article that is a drug or device is being imported or offered for import into the United States, and the importer, owner, or consignee of such article does not, at the time of offering the article for import, submit to the Secretary a statement that identifies the registration under section 510(i) of each establishment that with respect to such article is required under such section to register with the Secretary, the article may be refused admission. If the article is refused admission for failure to submit such a statement, the article shall be held at the port of entry for the article, and may not be delivered to the importer, owner, or consignee of the article, until such a statement is submitted to the Secretary. Subsection (b) does not authorize the delivery of the article pursuant to the execution of a bond while the article is so held. The article shall be removed to a secure facility, as appropriate. During the period of time that such article is so held, the article shall not be transferred by any person from the port of entry into the United States for the article, or from the secure facility to which the article has been removed, as the case may be.”.

(2) PROHIBITED ACT.—Section 301 of the Federal Food, Drug, and Cosmetic Act, as amended by section 307(b) of this Act, is amended by adding at the end the following:

“(ff) The importing or offering for import into the United States of a drug or device with respect to which there is a failure to comply with a request of the Secretary to submit to the Secretary a statement under section 801(o).”.

21 USC 331 note.

(c) EFFECTIVE DATE.—The amendments made by this section take effect upon the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 322. REQUIREMENT OF ADDITIONAL INFORMATION REGARDING IMPORT COMPONENTS INTENDED FOR USE IN EXPORT PRODUCTS.

(a) IN GENERAL.—Section 801(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 381(d)(3)) is amended to read as follows:

“(3)(A) Subject to subparagraph (B), no component of a drug, no component part or accessory of a device, or other article of device requiring further processing, which is ready or suitable for use for health-related purposes, and no article of a food additive, color additive, or dietary supplement, including a product in bulk form, shall be excluded from importation into the United States under subsection (a) if each of the following conditions is met:

“(i) The importer of such article of a drug or device or importer of such article of a food additive, color additive, or dietary supplement submits to the Secretary, at the time of initial importation, a statement in accordance with the following:

“(I) Such statement provides that such article is intended to be further processed by the initial owner or consignee, or incorporated by the initial owner or consignee, into a drug, biological product, device, food, food additive,

color additive, or dietary supplement that will be exported by the initial owner or consignee from the United States in accordance with subsection (e) or section 802, or with section 351(h) of the Public Health Service Act.

“(II) The statement identifies the manufacturer of such article and each processor, packer, distributor, or other entity that had possession of the article in the chain of possession of the article from the manufacturer to such importer of the article.

“(III) The statement is accompanied by such certificates of analysis as are necessary to identify such article, unless the article is a device or is an article described in paragraph (4).

“(ii) At the time of initial importation and before the delivery of such article to the importer or the initial owner or consignee, such owner or consignee executes a good and sufficient bond providing for the payment of such liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury.

“(iii) Such article is used and exported by the initial owner or consignee in accordance with the intent described under clause (i)(I), except for any portions of the article that are destroyed.

“(iv) The initial owner or consignee maintains records on the use or destruction of such article or portions thereof, as the case may be, and submits to the Secretary any such records requested by the Secretary.

Records.

“(v) Upon request of the Secretary, the initial owner or consignee submits a report that provides an accounting of the exportation or destruction of such article or portions thereof, and the manner in which such owner or consignee complied with the requirements of this subparagraph.

Reports.

“(B) Notwithstanding subparagraph (A), the Secretary may refuse admission to an article that otherwise would be imported into the United States under such subparagraph if the Secretary determines that there is credible evidence or information indicating that such article is not intended to be further processed by the initial owner or consignee, or incorporated by the initial owner or consignee, into a drug, biological product, device, food, food additive, color additive, or dietary supplement that will be exported by the initial owner or consignee from the United States in accordance with subsection (e) or section 802, or with section 351(h) of the Public Health Service Act.

“(C) This section may not be construed as affecting the responsibility of the Secretary to ensure that articles imported into the United States under authority of subparagraph (A) meet each of the conditions established in such subparagraph for importation.”.

(b) PROHIBITED ACT.—Section 301(w) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(w)) is amended to read as follows:

“(w) The making of a knowingly false statement in any statement, certificate of analysis, record, or report required or requested under section 801(d)(3); the failure to submit a certificate of analysis as required under such section; the failure to maintain records or to submit records or reports as required by such section; the release into interstate commerce of any article or portion thereof imported into the United States under such section or any finished product made from such article or portion, except for export in

accordance with section 801(e) or 802, or with section 351(h) of the Public Health Service Act; or the failure to so export or to destroy such an article or portions thereof, or such a finished product.”.

21 USC 331 note.

(c) EFFECTIVE DATE.—The amendments made by this section take effect upon the expiration of the 90-day period beginning on the date of the enactment of this Act.

Subtitle C—General Provisions Relating to Upgrade of Agricultural Security

7 USC 8320.

SEC. 331. EXPANSION OF ANIMAL AND PLANT HEALTH INSPECTION SERVICE ACTIVITIES.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the “Secretary”) may utilize existing authorities to give high priority to enhancing and expanding the capacity of the Animal and Plant Health Inspection Service to conduct activities to—

(1) increase the inspection capacity of the Service at international points of origin;

(2) improve surveillance at ports of entry and customs;

(3) enhance methods of protecting against the introduction of plant and animal disease organisms by terrorists;

(4) develop new and improve existing strategies and technologies for dealing with intentional outbreaks of plant and animal disease arising from acts of terrorism or from unintentional introduction, including—

(A) establishing cooperative agreements among Veterinary Services of the Animal and Plant Health Inspection Service, State animal health commissions and regulatory agencies for livestock and poultry health, and private veterinary practitioners to enhance the preparedness and ability of Veterinary Services and the commissions and agencies to respond to outbreaks of such animal diseases; and

(B) strengthening planning and coordination with State and local agencies, including—

(i) State animal health commissions and regulatory agencies for livestock and poultry health; and

(ii) State agriculture departments; and

(5) otherwise improve the capacity of the Service to protect against the threat of bioterrorism.

(b) AUTOMATED RECORDKEEPING SYSTEM.—The Administrator of the Animal and Plant Health Inspection Service may implement a central automated recordkeeping system to provide for the reliable tracking of the status of animal and plant shipments, including those shipments on hold at ports of entry and customs. The Secretary shall ensure that such a system shall be fully accessible to or fully integrated with the Food Safety Inspection Service.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$30,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 332. EXPANSION OF FOOD SAFETY INSPECTION SERVICE ACTIVITIES. 21 USC 679c.

(a) IN GENERAL.—The Secretary of Agriculture may utilize existing authorities to give high priority to enhancing and expanding the capacity of the Food Safety Inspection Service to conduct activities to—

(1) enhance the ability of the Service to inspect and ensure the safety and wholesomeness of meat and poultry products;

(2) improve the capacity of the Service to inspect international meat and meat products, poultry and poultry products, and egg products at points of origin and at ports of entry;

(3) strengthen the ability of the Service to collaborate with relevant agencies within the Department of Agriculture and with other entities in the Federal Government, the States, and Indian tribes (as defined in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) through the sharing of information and technology; and

(4) otherwise expand the capacity of the Service to protect against the threat of bioterrorism.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$15,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 333. BIOSECURITY UPGRADES AT THE DEPARTMENT OF AGRICULTURE.

Appropriation
authorization.
State listing.

There is authorized to be appropriated for fiscal year 2002, \$180,000,000 for the purpose of enabling the Agricultural Research Service to conduct building upgrades to modernize existing facilities, of which (1) \$100,000,000 shall be allocated for renovation, updating, and expansion of the Biosafety Level 3 laboratory and animal research facilities at the Plum Island Animal Disease Center (Greenport, New York), and of which (2) \$80,000,000 shall be allocated for the Agricultural Research Service/Animal and Plant Health Inspection Service facility in Ames, Iowa. There are authorized to be appropriated such sums as may be necessary for fiscal years 2003 through 2006 for the purpose described in the preceding sentence, for the planning and design of an Agricultural Research Service biocontainment laboratory for poultry research in Athens, Georgia, and for the planning, updating, and renovation of the Arthropod-Borne Animal Disease Laboratory in Laramie, Wyoming.

SEC. 334. AGRICULTURAL BIOSECURITY.

7 USC 3353.

(a) SECURITY AT COLLEGES AND UNIVERSITIES.—

(1) GRANTS.—The Secretary of Agriculture (referred to in this section as the “Secretary”) may award grants to covered entities to review security standards and practices at their facilities in order to protect against bioterrorist attacks.

(2) COVERED ENTITIES.—Covered entities under this subsection are colleges or universities that—

(A) are colleges or universities as defined in section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103); and

(B) have programs in food and agricultural sciences, as defined in such section.

(3) LIMITATION.—Each individual covered entity may be awarded one grant under paragraph (1), the amount of which shall not exceed \$50,000.

(4) CONTRACT AUTHORITY.—Colleges and universities receiving grants under paragraph (1) may use such grants to enter into contracts with independent private organizations with established and demonstrated security expertise to conduct the security reviews specified in such paragraph.

(b) GUIDELINES FOR AGRICULTURAL BIOSECURITY.—

(1) IN GENERAL.—The Secretary may award grants to associations of food producers or consortia of such associations for the development and implementation of educational programs to improve biosecurity on farms in order to ensure the security of farm facilities against potential bioterrorist attacks.

(2) LIMITATION.—Each individual association eligible under paragraph (1) may be awarded one grant under such paragraph, the amount of which shall not exceed \$100,000. Each consortium eligible under paragraph (1) may be awarded one grant under such paragraph, the amount of which shall not exceed \$100,000 per association participating in the consortium.

(3) CONTRACT AUTHORITY.—Associations of food producers receiving grants under paragraph (1) may use such grants to enter into contracts with independent private organizations with established and demonstrated expertise in biosecurity to assist in the development and implementation of educational programs to improve biosecurity specified in such paragraph.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each fiscal year.

7 USC 3354.

SEC. 335. AGRICULTURAL BIOTERRORISM RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this section as the “Secretary”) may utilize existing research authorities and research programs to protect the food supply of the United States by conducting and supporting research activities to—

(1) enhance the capability of the Secretary to respond in a timely manner to emerging or existing bioterrorist threats to the food and agricultural system of the United States;

(2) develop new and continue partnerships with institutions of higher education and other institutions to help form stable, long-term programs to enhance the biosecurity and food safety of the United States, including the coordination of the development, implementation, and enhancement of diverse capabilities for addressing threats to the nation’s agricultural economy and food supply, with special emphasis on planning, training, outreach, and research activities related to vulnerability analyses, incident response, detection, and prevention technologies;

(3) strengthen coordination with the intelligence community to better identify research needs and evaluate materials or information acquired by the intelligence community relating to potential threats to United States agriculture;

(4) expand the involvement of the Secretary with international organizations dealing with plant and animal disease control;

(5) continue research to develop rapid detection field test kits to detect biological threats to plants and animals and to provide such test kits to State and local agencies preparing for or responding to bioterrorism;

(6) develop an agricultural bioterrorism early warning surveillance system through enhancing the capacity of and coordination between State veterinary diagnostic laboratories, Federal and State agricultural research facilities, and public health agencies; and

(7) otherwise improve the capacity of the Secretary to protect against the threat of bioterrorism.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$190,000,000 for fiscal year 2002, and such sums as may be necessary for each subsequent fiscal year.

SEC. 336. ANIMAL ENTERPRISE TERRORISM PENALTIES.

(a) IN GENERAL.—Section 43(a) of title 18, United States Code, is amended to read as follows:

“(a) OFFENSE.—Whoever—

“(1) travels in interstate or foreign commerce, or uses or causes to be used the mail or any facility in interstate or foreign commerce for the purpose of causing physical disruption to the functioning of an animal enterprise; and

“(2) intentionally damages or causes the loss of any property (including animals or records) used by the animal enterprise, or conspires to do so,

shall be punished as provided for in subsection (b).”.

(b) PENALTIES.—Section 43(b) of title 18, United States Code, is amended to read as follows:

“(b) PENALTIES.—

“(1) ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage not exceeding \$10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 6 months, or both.

“(2) MAJOR ECONOMIC DAMAGE.—Any person who, in the course of a violation of subsection (a), causes economic damage exceeding \$10,000 to an animal enterprise shall be fined under this title or imprisoned not more than 3 years, or both.

“(3) SERIOUS BODILY INJURY.—Any person who, in the course of a violation of subsection (a), causes serious bodily injury to another individual shall be fined under this title or imprisoned not more than 20 years, or both.

“(4) DEATH.—Any person who, in the course of a violation of subsection (a), causes the death of an individual shall be fined under this title and imprisoned for life or for any term of years.”.

(c) RESTITUTION.—Section 43(c) of title 18, United States Code, is amended—

(1) in paragraph (1), by striking “and” at the end;

(2) in paragraph (2), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(3) for any other economic damage resulting from the offense.”.

TITLE IV—DRINKING WATER SECURITY AND SAFETY

SEC. 401. TERRORIST AND OTHER INTENTIONAL ACTS.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by inserting the following new section after section 1432:

42 USC 300i-2.

“SEC. 1433. TERRORIST AND OTHER INTENTIONAL ACTS.

Deadline.

“(a) **VULNERABILITY ASSESSMENTS.**—(1) Each community water system serving a population of greater than 3,300 persons shall conduct an assessment of the vulnerability of its system to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water. The vulnerability assessment shall include, but not be limited to, a review of pipes and constructed conveyances, physical barriers, water collection, pretreatment, treatment, storage and distribution facilities, electronic, computer or other automated systems which are utilized by the public water system, the use, storage, or handling of various chemicals, and the operation and maintenance of such system. The Administrator, not later than August 1, 2002, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall provide baseline information to community water systems required to conduct vulnerability assessments regarding which kinds of terrorist attacks or other intentional acts are the probable threats to—

“(A) substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water; or

“(B) otherwise present significant public health concerns.

Certification.
Deadlines.

“(2) Each community water system referred to in paragraph (1) shall certify to the Administrator that the system has conducted an assessment complying with paragraph (1) and shall submit to the Administrator a written copy of the assessment. Such certification and submission shall be made prior to:

“(A) March 31, 2003, in the case of systems serving a population of 100,000 or more.

“(B) December 31, 2003, in the case of systems serving a population of 50,000 or more but less than 100,000.

“(C) June 30, 2004, in the case of systems serving a population greater than 3,300 but less than 50,000.

“(3) Except for information contained in a certification under this subsection identifying the system submitting the certification and the date of the certification, all information provided to the Administrator under this subsection and all information derived therefrom shall be exempt from disclosure under section 552 of title 5 of the United States Code.

“(4) No community water system shall be required under State or local law to provide an assessment described in this section to any State, regional, or local governmental entity solely by reason of the requirement set forth in paragraph (2) that the system submit such assessment to the Administrator.

Deadlines.
Protocols.

“(5) Not later than November 30, 2002, the Administrator, in consultation with appropriate Federal law enforcement and intelligence officials, shall develop such protocols as may be necessary to protect the copies of the assessments required to be submitted

under this subsection (and the information contained therein) from unauthorized disclosure. Such protocols shall ensure that—

“(A) each copy of such assessment, and all information contained in or derived from the assessment, is kept in a secure location;

“(B) only individuals designated by the Administrator may have access to the copies of the assessments; and

“(C) no copy of an assessment, or part of an assessment, or information contained in or derived from an assessment shall be available to anyone other than an individual designated by the Administrator.

At the earliest possible time prior to November 30, 2002, the Administrator shall complete the development of such protocols for the purpose of having them in place prior to receiving any vulnerability assessments from community water systems under this subsection.

“(6)(A) Except as provided in subparagraph (B), any individual referred to in paragraph (5)(B) who acquires the assessment submitted under paragraph (2), or any reproduction of such assessment, or any information derived from such assessment, and who knowingly or recklessly reveals such assessment, reproduction, or information other than—

“(i) to an individual designated by the Administrator under paragraph (5),

“(ii) for purposes of section 1445 or for actions under section 1431, or

“(iii) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with this section, shall upon conviction be imprisoned for not more than one year or fined in accordance with the provisions of chapter 227 of title 18, United States Code, applicable to class A misdemeanors, or both, and shall be removed from Federal office or employment.

“(B) Notwithstanding subparagraph (A), an individual referred to in paragraph (5)(B) who is an officer or employee of the United States may discuss the contents of a vulnerability assessment submitted under this section with a State or local official.

“(7) Nothing in this section authorizes any person to withhold any information from Congress or from any committee or subcommittee of Congress.

“(b) EMERGENCY RESPONSE PLAN.—Each community water system serving a population greater than 3,300 shall prepare or revise, where necessary, an emergency response plan that incorporates the results of vulnerability assessments that have been completed. Each such community water system shall certify to the Administrator, as soon as reasonably possible after the enactment of this section, but not later than 6 months after the completion of the vulnerability assessment under subsection (a), that the system has completed such plan. The emergency response plan shall include, but not be limited to, plans, procedures, and identification of equipment that can be implemented or utilized in the event of a terrorist or other intentional attack on the public water system. The emergency response plan shall also include actions, procedures, and identification of equipment which can obviate or significantly lessen the impact of terrorist attacks or other intentional actions on the public health and the safety and supply of drinking water provided to communities and individuals. Community water systems

Certification.
Deadline.

shall, to the extent possible, coordinate with existing Local Emergency Planning Committees established under the Emergency Planning and Community Right-to-Know Act (42 U.S.C. 11001 et seq.) when preparing or revising an emergency response plan under this subsection.

“(c) RECORD MAINTENANCE.—Each community water system shall maintain a copy of the emergency response plan completed pursuant to subsection (b) for 5 years after such plan has been certified to the Administrator under this section.

“(d) GUIDANCE TO SMALL PUBLIC WATER SYSTEMS.—The Administrator shall provide guidance to community water systems serving a population of less than 3,300 persons on how to conduct vulnerability assessments, prepare emergency response plans, and address threats from terrorist attacks or other intentional actions designed to disrupt the provision of safe drinking water or significantly affect the public health or significantly affect the safety or supply of drinking water provided to communities and individuals.

“(e) FUNDING.—(1) There are authorized to be appropriated to carry out this section not more than \$160,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.

“(2) The Administrator, in coordination with State and local governments, may use funds made available under paragraph (1) to provide financial assistance to community water systems for purposes of compliance with the requirements of subsections (a) and (b) and to community water systems for expenses and contracts designed to address basic security enhancements of critical importance and significant threats to public health and the supply of drinking water as determined by a vulnerability assessment conducted under subsection (a). Such basic security enhancements may include, but shall not be limited to the following:

“(A) the purchase and installation of equipment for detection of intruders;

“(B) the purchase and installation of fencing, gating, lighting, or security cameras;

“(C) the tamper-proofing of manhole covers, fire hydrants, and valve boxes;

“(D) the rekeying of doors and locks;

“(E) improvements to electronic, computer, or other automated systems and remote security systems;

“(F) participation in training programs, and the purchase of training manuals and guidance materials, relating to security against terrorist attacks;

“(G) improvements in the use, storage, or handling of various chemicals; and

“(H) security screening of employees or contractor support services.

Funding under this subsection for basic security enhancements shall not include expenditures for personnel costs, or monitoring, operation, or maintenance of facilities, equipment, or systems.

“(3) The Administrator may use not more than \$5,000,000 from the funds made available under paragraph (1) to make grants to community water systems to assist in responding to and alleviating any vulnerability to a terrorist attack or other intentional acts intended to substantially disrupt the ability of the system to provide a safe and reliable supply of drinking water (including

sources of water for such systems) which the Administrator determines to present an immediate and urgent security need.

“(4) The Administrator may use not more than \$5,000,000 from the funds made available under paragraph (1) to make grants to community water systems serving a population of less than 3,300 persons for activities and projects undertaken in accordance with the guidance provided to such systems under subsection (d).

SEC. 402. OTHER SAFE DRINKING WATER ACT AMENDMENTS.

The Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by inserting the following new sections after section 1433 (as added by section 401 of this Act):

“SEC. 1434. CONTAMINANT PREVENTION, DETECTION AND RESPONSE. 42 USC 300i-3.

“(a) **IN GENERAL.**—The Administrator, in consultation with the Centers for Disease Control and, after consultation with appropriate departments and agencies of the Federal Government and with State and local governments, shall review (or enter into contracts or cooperative agreements to provide for a review of) current and future methods to prevent, detect and respond to the intentional introduction of chemical, biological or radiological contaminants into community water systems and source water for community water systems, including each of the following:

Contracts.

“(1) Methods, means and equipment, including real time monitoring systems, designed to monitor and detect various levels of chemical, biological, and radiological contaminants or indicators of contaminants and reduce the likelihood that such contaminants can be successfully introduced into public water systems and source water intended to be used for drinking water.

“(2) Methods and means to provide sufficient notice to operators of public water systems, and individuals served by such systems, of the introduction of chemical, biological or radiological contaminants and the possible effect of such introduction on public health and the safety and supply of drinking water.

“(3) Methods and means for developing educational and awareness programs for community water systems.

“(4) Procedures and equipment necessary to prevent the flow of contaminated drinking water to individuals served by public water systems.

“(5) Methods, means, and equipment which could negate or mitigate deleterious effects on public health and the safety and supply caused by the introduction of contaminants into water intended to be used for drinking water, including an examination of the effectiveness of various drinking water technologies in removing, inactivating, or neutralizing biological, chemical, and radiological contaminants.

“(6) Biomedical research into the short-term and long-term impact on public health of various chemical, biological and radiological contaminants that may be introduced into public water systems through terrorist or other intentional acts.

“(b) **FUNDING.**—For the authorization of appropriations to carry out this section, see section 1435(e).

42 USC 300i-4.

“SEC. 1435. SUPPLY DISRUPTION PREVENTION, DETECTION AND RESPONSE.

Contracts.

“(a) **DISRUPTION OF SUPPLY OR SAFETY.**—The Administrator, in coordination with the appropriate departments and agencies of the Federal Government, shall review (or enter into contracts or cooperative agreements to provide for a review of) methods and means by which terrorists or other individuals or groups could disrupt the supply of safe drinking water or take other actions against water collection, pretreatment, treatment, storage and distribution facilities which could render such water significantly less safe for human consumption, including each of the following:

“(1) Methods and means by which pipes and other constructed conveyances utilized in public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

“(2) Methods and means by which collection, pretreatment, treatment, storage and distribution facilities utilized or used in connection with public water systems and collection and pretreatment storage facilities used in connection with public water systems could be destroyed or otherwise prevented from providing adequate supplies of drinking water meeting applicable public health standards.

“(3) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be altered or affected so as to be subject to cross-contamination of drinking water supplies.

“(4) Methods and means by which pipes, constructed conveyances, collection, pretreatment, treatment, storage and distribution systems that are utilized in connection with public water systems could be reasonably protected from terrorist attacks or other acts intended to disrupt the supply or affect the safety of drinking water.

“(5) Methods and means by which information systems, including process controls and supervisory control and data acquisition and cyber systems at community water systems could be disrupted by terrorists or other groups.

“(b) **ALTERNATIVE SOURCES.**—The review under this section shall also include a review of the methods and means by which alternative supplies of drinking water could be provided in the event of the destruction, impairment or contamination of public water systems.

“(c) **REQUIREMENTS AND CONSIDERATIONS.**—In carrying out this section and section 1434—

“(1) the Administrator shall ensure that reviews carried out under this section reflect the needs of community water systems of various sizes and various geographic areas of the United States; and

“(2) the Administrator may consider the vulnerability of, or potential for forced interruption of service for, a region or service area, including community water systems that provide service to the National Capital area.

“(d) **INFORMATION SHARING.**—As soon as practicable after reviews carried out under this section or section 1434 have been evaluated, the Administrator shall disseminate, as appropriate as determined by the Administrator, to community water systems

information on the results of the project through the Information Sharing and Analysis Center, or other appropriate means.

“(e) FUNDING.—There are authorized to be appropriated to carry out this section and section 1434 not more than \$15,000,000 for the fiscal year 2002 and such sums as may be necessary for the fiscal years 2003 through 2005.”.

SEC. 403. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

The Safe Drinking Water Act is amended as follows:

(1) Section 1414(i)(1) is amended by inserting “1433” after “1417”.

(2) Section 1431 is amended by inserting in the first sentence after “drinking water” the following: “, or that there is a threatened or potential terrorist attack (or other intentional act designed to disrupt the provision of safe drinking water or to impact adversely the safety of drinking water supplied to communities and individuals), which”.

(3) Section 1432 is amended as follows:

(A) By striking “5 years” in subsection (a) and inserting “20 years”.

(B) By striking “3 years” in subsection (b) and inserting “10 years”.

(C) By striking “\$50,000” in subsection (c) and inserting “\$1,000,000”.

(D) By striking “\$20,000” in subsection (c) and inserting “\$100,000”.

(4) Section 1442 is amended as follows:

(A) By striking “this subparagraph” in subsection (b) and inserting “this subsection”.

(B) By amending subsection (d) to read as follows:

“(d) There are authorized to be appropriated to carry out subsection (b) not more than \$35,000,000 for the fiscal year 2002 and such sums as may be necessary for each fiscal year thereafter.”.

TITLE V—ADDITIONAL PROVISIONS

Subtitle A—Prescription Drug User Fees

SEC. 501. SHORT TITLE.

This subtitle may be cited as the “Prescription Drug User Fee Amendments of 2002”.

SEC. 502. FINDINGS.

The Congress finds that—

(1) prompt approval of safe and effective new drugs and other therapies is critical to the improvement of the public health so that patients may enjoy the benefits provided by these therapies to treat and prevent illness and disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for the review of human drug applications and the assurance of drug safety;

(3) the provisions added by the Prescription Drug User Fee Act of 1992, as amended by the Food and Drug Administration Modernization Act of 1997, have been successful in

Prescription
Drug User Fee
Amendments of
2002.

21 USC 301 note.

21 USC 379g
note.

Appropriation
authorization.

substantially reducing review times for human drug applications and should be—

(A) reauthorized for an additional 5 years, with certain technical improvements; and

(B) carried out by the Food and Drug Administration with new commitments to implement more ambitious and comprehensive improvements in regulatory processes of the Food and Drug Administration, including—

(i) strengthening and improving the review and monitoring of drug safety;

(ii) considering greater interaction between the agency and sponsors during the review of drugs and biologics intended to treat serious diseases and life-threatening diseases; and

(iii) developing principles for improving first-cycle reviews; and

(4) the fees authorized by amendments made in this subtitle will be dedicated towards expediting the drug development process and the process for the review of human drug applications as set forth in the goals identified for purposes of part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, in the letters from the Secretary of Health and Human Services to the chairman of the Committee on Energy and Commerce of the House of Representatives and the chairman of the Committee on Health, Education, Labor and Pensions of the Senate, as set forth in the Congressional Record.

SEC. 503. DEFINITIONS.

Section 735 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g) is amended—

(1) in paragraph (1), in the matter after and below subparagraph (C), by striking “licensure, as described in subparagraph (D)” and inserting “licensure, as described in subparagraph (C)”;

(2) in paragraph (3)—

(A) in subparagraph (A), by striking “and” at the end;

(B) in subparagraph (B), by striking the period and inserting “, and”;

(C) by inserting after subparagraph (B) the following subparagraph:

“(C) which is on the list of products described in section 505(j)(7)(A) or is on a list created and maintained by the Secretary of products approved under human drug applications under section 351 of the Public Health Service Act.”; and

(D) in the matter after and below subparagraph (C) (as added by subparagraph (C) of this paragraph), by striking “Service Act,” and all that follows through “biological product” and inserting the following: “Service Act. Such term does not include a biological product”;

(3) in paragraph (6), by adding at the end the following subparagraph:

“(F) In the case of drugs approved after October 1, 2002, under human drug applications or supplements: collecting, developing, and reviewing safety information on the drugs, including adverse event reports, during a period

of time after approval of such applications or supplements, not to exceed three years.”; and

(4) in paragraph (8)—

(A) by striking the matter after and below subparagraph (B);

(B) by striking subparagraph (B);

(C) by striking “is the lower of” and all that follows through “Consumer Price Index” and inserting “is the Consumer Price Index”; and

(D) by striking “1997, or” and inserting “1997.”.

SEC. 504. AUTHORITY TO ASSESS AND USE DRUG FEES.

(a) **TYPES OF FEES.**—Section 736(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(a)) is amended—

(1) in the matter preceding paragraph (1), by striking “fiscal year 1998” and inserting “fiscal year 2003”;

(2) in paragraph (1)(A)—

(A) in each of clauses (i) and (ii), by striking “in subsection (b)” and inserting “under subsection (c)(4)”; and

(B) in clause (ii), by adding at the end the following sentence: “Such fee shall be half of the amount of the fee established under clause (i).”;

(3) in paragraph (2)(A), in the matter after and below clause (ii)—

(A) by striking “in subsection (b)” and inserting “under subsection (c)(4)”; and

(B) by striking “payable on or before January 31” and inserting “payable on or before October 1”; and

(4) in paragraph (3)—

(A) by amending subparagraph (A) to read as follows:

“(A) **IN GENERAL.**—Except as provided in subparagraph (B), each person who is named as the applicant in a human drug application, and who, after September 1, 1992, had pending before the Secretary a human drug application or supplement, shall pay for each such prescription drug product the annual fee established under subsection (c)(4). Such fee shall be payable on or before October 1 of each year. Such fee shall be paid only once for each product for a fiscal year in which the fee is payable.”; and

(B) in subparagraph (B), by striking “The listing” and all that follows through “filed under section 505(b)(2)” and inserting the following: “A prescription drug product shall not be assessed a fee under subparagraph (A) if such product is identified on the list compiled under section 505(j)(7)(A) with a potency described in terms of per 100 mL, or if such product is the same product as another product approved under an application filed under section 505(b).”.

(b) **FEE AMOUNTS.**—Section 736(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(b)) is amended to read as follows:

“(b) **FEE REVENUE AMOUNTS.**—Except as provided in subsections (c), (d), (f), and (g), fees under subsection (a) shall be established to generate the following revenue amounts:

“Type of Fee Revenue	Fiscal Year 2003	Fiscal Year 2004	Fiscal Year 2005	Fiscal Year 2006	Fiscal Year 2007
Application/Supplement	\$74,300,000	\$77,000,000	\$84,000,000	\$86,434,000	\$86,434,000
Establishment	\$74,300,000	\$77,000,000	\$84,000,000	\$86,433,000	\$86,433,000
Product	\$74,300,000	\$77,000,000	\$84,000,000	\$86,433,000	\$86,433,000
Total Fee Revenue	\$222,900,000	\$231,000,000	\$252,000,000	\$259,300,000	\$259,300,000

If, after the date of the enactment of the Prescription Drug User Fee Amendments of 2002, legislation is enacted requiring the Secretary to fund additional costs of the retirement of Federal personnel, fee revenue amounts shall be increased in each year by the amount necessary to fully fund the portion of such additional costs that are attributable to the process for the review of human drug applications.”

(c) ADJUSTMENTS.—Section 736(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(c)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “fees and total fee revenues” and inserting “revenues”;

(B) in subparagraph (A)—

(i) by striking “during the preceding fiscal year”;

and
(ii) by striking “, or” and inserting the following:
“for the 12 month period ending June 30 preceding the fiscal year for which fees are being established, or”;

(C) in subparagraph (B), by striking “for such fiscal year” and inserting “for the previous fiscal year”; and

(D) in the matter after and below subparagraph (B), by striking “fiscal year 1997”; and inserting “fiscal year 2003”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(3) by inserting after paragraph (1) the following paragraphs:

“(2) WORKLOAD ADJUSTMENT.—Beginning with fiscal year 2004, after the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall be adjusted further for such fiscal year to reflect changes in the workload of the Secretary for the process for the review of human drug applications. With respect to such adjustment:

“(A) The adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of human drug applications, commercial investigational new drug applications, efficacy supplements, and manufacturing supplements submitted to the Secretary. The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

“(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the fee revenues for the fiscal year established in subsection (b), as adjusted for inflation under paragraph (1).

Effective date.

Federal Register,
publication.

“(3) FINAL YEAR ADJUSTMENT.—For fiscal year 2007, the Secretary may, in addition to adjustments under paragraphs (1) and (2), further increase the fee revenues and fees established in subsection (b) if such an adjustment is necessary to provide for not more than three months of operating reserves of carryover user fees for the process for the review of human drug applications for the first three months of fiscal year 2008. If such an adjustment is necessary, the rationale for the amount of the increase shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2007. If the Secretary has carryover balances for such process in excess of three months of such operating reserves, the adjustment under this paragraph shall not be made.”; and

(4) in paragraph (4) (as redesignated by paragraph (2) of this subsection), by amending such paragraph to read as follows:

“(4) ANNUAL FEE SETTING.—The Secretary shall, 60 days before the start of each fiscal year that begins after September 30, 2002, establish, for the next fiscal year, application, product, and establishment fees under subsection (a), based on the revenue amounts established under subsection (b) and the adjustments provided under this subsection.”.

Effective date.

(d) FEE WAIVER OR REDUCTION.—Section 736(d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(d)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C), by inserting “or” after the comma at the end;

(B) by striking subparagraph (D); and

(C) by redesignating subparagraph (E) as subparagraph (D); and

(2) in paragraph (3), in each of subparagraphs (A) and (B), by striking “paragraph (1)(E)” each place such term appears and inserting “paragraph (1)(D)”.

(e) ASSESSMENT OF FEES.—Section 736(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(f)) is amended—

(1) in the heading for the subsection, by striking “ASSESSMENT OF FEES.—” and inserting “LIMITATIONS.—”; and

(2) in paragraph (1), by striking the heading for the paragraph and all that follows through “fiscal year beginning” and inserting the following: “IN GENERAL.—Fees under subsection (a) shall be refunded for a fiscal year beginning”.

(f) CREDITING AND AVAILABILITY OF FEES.—

(1) IN GENERAL.—Section 736(g)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(1)) is amended by striking “Fees collected for a fiscal year” and all that follows through “fiscal year limitation.” and inserting the following: “Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Such fees are authorized to remain available until expended.”.

(2) COLLECTIONS AND APPROPRIATION ACTS.—Section 736(g)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(2)) is amended—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by striking “(2) COLLECTIONS” and all that follows through “the amount specified” in clause (i) (as so redesignated) and inserting the following:

“(2) COLLECTIONS AND APPROPRIATION ACTS.—

“(A) IN GENERAL.—The fees authorized by this section—

“(i) shall be retained in each fiscal year in an amount not to exceed the amount specified”;

(C) by moving clause (ii) (as so redesignated) two ems to the right; and

(D) by adding at the end the following subparagraph:

“(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of human drug applications—

“(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

“(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for the fiscal year following the subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in such subparagraph; and

“(II) such costs are not more than 5 percent below the level specified in such subparagraph.”.

(3) AUTHORIZATION OF APPROPRIATIONS.—Section 736(g)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379h(g)(3)) is amended by striking subparagraphs (A) through (E) and inserting the following:

“(A) \$222,900,000 for fiscal year 2003;

“(B) \$231,000,000 for fiscal year 2004;

“(C) \$252,000,000 for fiscal year 2005;

“(D) \$259,300,000 for fiscal year 2006; and

“(E) \$259,300,000 for fiscal year 2007.”.

Effective dates.
Deadlines.
21 USC 379g
note.

SEC. 505. ACCOUNTABILITY AND REPORTS.

(a) PUBLIC ACCOUNTABILITY.—

(1) CONSULTATION.—In developing recommendations to the Congress for the goals and plans for meeting the goals for the process for the review of human drug applications for the fiscal years after fiscal year 2007, and for the reauthorization of sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry.

(2) RECOMMENDATIONS.—The Secretary shall publish in the Federal Register recommendations under paragraph (1), after negotiations with the regulated industry; shall present such recommendations to the congressional committees specified in such paragraph; shall hold a meeting at which the public may present its views on such recommendations; and shall provide

Federal Register,
publication.

for a period of 30 days for the public to provide written comments on such recommendations.

(b) **PERFORMANCE REPORT.**—Beginning with fiscal year 2003, not later than 60 days after the end of each fiscal year during which fees are collected under part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g et seq.), the Secretary of Health and Human Services shall prepare and submit to the President, the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report concerning the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 502(4) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals.

(c) **FISCAL REPORT.**—Beginning with fiscal year 2003, not later than 120 days after the end of each fiscal year during which fees are collected under the part described in subsection (b), the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the implementation of the authority for such fees during such fiscal year and the use, by the Food and Drug Administration, of the fees collected during such fiscal year for which the report is made.

SEC. 506. REPORTS OF POSTMARKETING STUDIES.

Section 506B of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 356b) is amended by adding at the end the following subsections:

“(d) **DISCLOSURE.**—If a sponsor fails to complete an agreed upon study required by this section by its original or otherwise negotiated deadline, the Secretary shall publish a statement on the Internet site of the Food and Drug Administration stating that the study was not completed and, if the reasons for such failure to complete the study were not satisfactory to the Secretary, a statement that such reasons were not satisfactory to the Secretary.

“(e) **NOTIFICATION.**—With respect to studies of the type required under section 506(b)(2)(A) or under section 314.510 or 601.41 of title 21, Code of Federal Regulations, as each of such sections was in effect on the day before the effective date of this subsection, the Secretary may require that a sponsor who, for reasons not satisfactory to the Secretary, fails to complete by its deadline a study under any of such sections of such type for a drug or biological product (including such a study conducted after such effective date) notify practitioners who prescribe such drug or biological product of the failure to complete such study and the questions of clinical benefit, and, where appropriate, questions of safety, that remain unanswered as a result of the failure to complete such study. Nothing in this subsection shall be construed as altering the requirements of the types of studies required under section 506(b)(2)(A) or under section 314.510 or 601.41 of title 21, Code of Federal Regulations, as so in effect, or as prohibiting the Secretary from modifying such sections of title 21 of such Code to provide for studies in addition to those of such type.”.

21 USC 379g
note.

SEC. 507. SAVINGS CLAUSE.

Notwithstanding section 107 of the Food and Drug Administration Modernization Act of 1997, and notwithstanding the amendments made by this subtitle, part 2 of subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act, as in effect on the day before the date of the enactment of this Act, continues to be in effect with respect to human drug applications and supplements (as defined in such part as of such day) that, on or after October 1, 1997, but before October 1, 2002, were accepted by the Food and Drug Administration for filing and with respect to assessing and collecting any fee required by such Act for a fiscal year prior to fiscal year 2003.

21 USC 356b
note.

SEC. 508. EFFECTIVE DATE.

The amendments made by this subtitle shall take effect October 1, 2002.

21 USC 379g
note.

SEC. 509. SUNSET CLAUSE.

The amendments made by sections 503 and 504 cease to be effective October 1, 2007, and section 505 ceases to be effective 120 days after such date.

Subtitle B—Funding Provisions Regarding Food and Drug Administration

SEC. 521. OFFICE OF DRUG SAFETY.

Of the amounts appropriated for the Food and Drug Administration for a fiscal year, the Secretary of Health and Human Services shall reserve for the Office of Drug Safety (within such Administration), the following amounts:

(1) For fiscal year 2003, an amount equal to the sum of \$5,000,000 and the amount made available under appropriations Acts for such Office for fiscal year 2002.

(2) For fiscal year 2004, an amount equal to the sum of \$10,000,000 and the amount made available under appropriations Acts for such Office for fiscal year 2002.

(3) For each subsequent fiscal year, an amount equal to the sum of the amount made available under appropriations Acts for such Office for fiscal year 2004 and an amount sufficient to offset the effects of inflation occurring after the beginning of fiscal year 2004.

Appropriation
authorization.

SEC. 522. DIVISION OF DRUG MARKETING, ADVERTISING, AND COMMUNICATIONS.

For the Division of Drug Marketing, Advertising, and Communications (within the Office of Medical Policy, Food and Drug Administration), there are authorized to be appropriated the following amounts, stated as increases above the amount made available under appropriations Acts for such Division for fiscal year 2002:

(1) For fiscal year 2003, an increase of \$2,500,000.

(2) For fiscal year 2004, an increase of \$4,000,000.

(3) For fiscal year 2005, an increase of \$5,500,000.

(4) For fiscal year 2006, an increase of \$7,500,000.

(5) For fiscal year 2007, an increase of \$7,500,000.

SEC. 523. OFFICE OF GENERIC DRUGS.Appropriation
authorization.

For the Office of Generic Drugs (within the Food and Drug Administration), there are authorized to be appropriated the following amounts, stated as increases above the amount made available under appropriations Acts for such Office for fiscal year 2002:

- (1) For fiscal year 2003, an increase of \$3,000,000.
- (2) For fiscal year 2004, an increase of \$6,000,000.
- (3) For fiscal year 2005, an increase of \$9,000,000.
- (4) For fiscal year 2006, an increase of \$12,000,000.
- (5) For fiscal year 2007, an increase of \$15,000,000.

Subtitle C—Additional Provisions

SEC. 531. TRANSITION TO DIGITAL TELEVISION.

47 USC 336 note.

(a) **PAIR ASSIGNMENT REQUIRED.**—In order to further promote the orderly transition to digital television, and to promote the equitable allocation and use of digital channels by television broadcast permittees and licensees, the Federal Communications Commission, at the request of an eligible licensee or permittee, shall, within 90 days after the date of enactment of this Act, allot, if necessary, and assign a paired digital television channel to that licensee or permittee, provided that—

Deadline.

(1) such channel can be allotted and assigned without further modification of the tables of allotments as set forth in sections 73.606 and 73.622 of the Commission's regulations (47 CFR 73.606, 73.622); and

(2) such allotment and assignment is otherwise consistent with the Commission's rules (47 CFR part 73).

(b) **ELIGIBLE TRANSITION LICENSEE OR PERMITTEE.**—For purposes of subsection (a), the term “eligible licensee or permittee” means only a full power television broadcast licensee or permittee (or its successor in interest) that—

(1) had an application pending for an analog television station construction permit as of October 24, 1991, which application was granted after April 3, 1997; and

(2) as of the date of enactment of this Act, is the permittee or licensee of that station.

(c) **REQUIREMENTS ON LICENSEE OR PERMITTEE.**—

(1) **CONSTRUCTION DEADLINE.**—Any licensee or permittee receiving a paired digital channel pursuant to this section—

(A) shall be required to construct the digital television broadcast facility within 18 months of the date on which the Federal Communications Commission issues a construction permit therefore, and

(B) shall be prohibited from obtaining or receiving an extension of time from the Commission beyond the construction deadline established by paragraph (1).

(2) **PROHIBITION OF ANALOG OPERATION USING DIGITAL PAIR.**—Any licensee or permittee receiving a paired digital channel pursuant to this section shall be prohibited from giving up its current paired analog assignment and becoming a single-channel broadcaster and operating in analog on such paired digital channel.

(d) **RELIEF RESTRICTED.**—Any paired digital allotment and assignment made under this section shall not be available to any

other applicant unless such applicant is an eligible licensee or permittee within the meaning of subsection (b).

SEC. 532. 3-YEAR DELAY IN LOCK IN PROCEDURES FOR MEDICARE+CHOICE PLANS; CHANGE IN CERTAIN MEDICARE+CHOICE DEADLINES AND ANNUAL, COORDINATED ELECTION PERIOD FOR 2003, 2004, AND 2005.

(a) **LOCK-IN DELAY.**—Section 1851(e) of the Social Security Act (42 U.S.C. 1395w-21(e)) is amended—

(1) in paragraph (2)(A), by striking “THROUGH 2001” and “during 1998, 1999, 2000, and 2001” and inserting “THROUGH 2004” and “during the period beginning January 1, 1998, and ending on December 31, 2004”, respectively;

(2) in the heading to paragraph (2)(B), by striking “DURING 2002” and inserting “DURING 2005”;

(3) in paragraphs (2)(B)(i) and (2)(C)(i), by striking “2002” and inserting “2005” each place it appears;

(4) in paragraph (2)(D), by striking “2001” and inserting “2004”; and

(5) in paragraph (4), by striking “2002” and inserting “2005” each place it appears.

(b) **CHANGE IN REPORTING DEADLINE.**—

(1) **IN GENERAL.**—Section 1854(a)(1) of such Act (42 U.S.C. 1395w-24(a)(1)) is amended by striking “Not later than July 1 of each year” and inserting “Not later than the second Monday in September of 2002, 2003, and 2004 (or July 1 of each other year)”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to information submitted for years beginning with 2003.

(c) **DELAY IN ANNUAL, COORDINATED ELECTION PERIOD.**—

(1) **IN GENERAL.**—Section 1851(e) of such Act (42 U.S.C. 1395w-21(e)) is amended—

(A) in paragraph (3)(B), by striking “means” and all that follows and inserting the following: “means, with respect to a year before 2003 and after 2005, the month of November before such year and with respect to 2003, 2004, and 2005, the period beginning on November 15 and ending on December 31 of the year before such year.”; and

(B) in paragraph (6)(A), by striking “each subsequent year (as provided in paragraph (3))” and inserting “during the annual, coordinated election period under paragraph (3) for each subsequent year”.

(2) **EFFECTIVE DATE.**—The amendment made by paragraph (1) shall apply to the annual, coordinated election period for years beginning with 2003.

(d) **CHANGE TO ANNUAL ANNOUNCEMENT OF PAYMENT RATES.**—

(1) **IN GENERAL.**—Section 1853(b)(1) of such Act (42 U.S.C. 1395w-23(b)(1)) is amended by striking “not later than March 1 before the calendar year concerned” and inserting “for years before 2004 and after 2005 not later than March 1 before the calendar year concerned and for 2004 and 2005 not later than the second Monday in May before the respective calendar year”.

Applicability.
42 USC
1395w-24 note.

Applicability.
42 USC
1395w-21 note.

- (2) EFFECTIVE DATE.—The amendment made by paragraph
(1) shall first apply to announcements for years after 2003.
- Applicability.
42 USC
1395w–23 note.

Approved June 12, 2002.

LEGISLATIVE HISTORY—H.R. 3448:

HOUSE REPORTS: No. 107–481 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 11, 12, considered and passed House.

Dec. 20, considered and passed Senate, amended.

Vol. 148 (2002): May 22, House agreed to conference report.

May 23, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

June 12, Presidential remarks.



Public Law 107–189
107th Congress

An Act

June 14, 2002
[S. 1372]

To reauthorize the Export-Import Bank of the United States.

Export-Import
Bank
Reauthorization
Act of 2002.
12 USC 635 note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Export-Import Bank Reauthorization Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Clarification that purposes include United States employment.
- Sec. 3. Extension of authority.
- Sec. 4. Administrative expenses.
- Sec. 5. Increase in aggregate loan, guarantee, and insurance authority.
- Sec. 6. Activities relating to Africa.
- Sec. 7. Small business.
- Sec. 8. Technology.
- Sec. 9. Tied Aid Credit Fund.
- Sec. 10. Expansion of authority to use Tied Aid Credit Fund.
- Sec. 11. Annual competitiveness report.
- Sec. 12. Annual report.
- Sec. 13. Renewable energy sources.
- Sec. 14. GAO report on comparative reserve practices of export credit agencies and private banks.
- Sec. 15. Human rights.
- Sec. 16. Authority to deny application for assistance based on fraud or corruption by any party involved in the transaction.
- Sec. 17. Consideration of foreign country helpfulness in efforts to eradicate terrorism.
- Sec. 18. Outstanding orders and preliminary injury determinations.
- Sec. 19. Requirement that applicants for assistance disclose whether they have violated certain Acts; maintenance of list of violators.
- Sec. 20. Sense of the Congress.
- Sec. 21. Consideration of enforcement of certain laws.
- Sec. 22. Inspector General of the Export-Import Bank.
- Sec. 23. Sense of the Congress in tribute to John E. Robson.
- Sec. 24. Correction of references and other technical corrections.

SEC. 2. CLARIFICATION THAT PURPOSES INCLUDE UNITED STATES EMPLOYMENT.

Section 2(a)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(a)(1)) is amended by striking the second sentence and inserting the following: “The objects and purposes of the Bank shall be to aid in financing and to facilitate exports of goods and services, imports, and the exchange of commodities and services between the United States or any of its territories or insular possessions and any foreign country or the agencies or nationals of any such country, and in so doing to contribute to the employment of United States workers. The Bank’s objective in authorizing loans, guarantees, insurance, and credits shall be to contribute to maintaining or increasing employment of United States workers.”.

SEC. 3. EXTENSION OF AUTHORITY.

Section 7 of the Export-Import Bank Act of 1945 (12 U.S.C. 635f) is amended by striking “2001” and inserting “2006”.

SEC. 4. ADMINISTRATIVE EXPENSES.

(a) **REQUIRED BUDGET SUBCATEGORIES.**—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

“(34) with respect to the amount of appropriations requested for use by the Export-Import Bank of the United States, a separate statement of the amount requested for its program budget, the amount requested for its administrative expenses, and of the amount requested for its administrative expenses, the amount requested for technology expenses.”.

(b) **SENSE OF THE CONGRESS ON THE IMPORTANCE OF TECHNOLOGY IMPROVEMENTS.**—

(1) **FINDINGS.**—The Congress finds that—

(A) the Export-Import Bank of the United States is in great need of technology improvements;

(B) part of the amount budgeted for administrative expenses of the Bank is used for technology initiatives and systems upgrades for computer hardware and software purchases;

(C) the Bank is falling behind its foreign competitor export credit agencies’ proactive technology improvements;

(D) small businesses disproportionately benefit from improvements in technology;

(E) small businesses need improvements in Bank technology in order to export transactions quickly, with as little paperwork as possible, and with a quick Bank turnaround time that does not over strain the tight resources of such businesses;

(F) the Bank intends to develop a number of e-commerce initiatives aimed at improving customer service, including web-based application and claim filing procedures which would reduce processing time, speed payment of claims, and increase staff efficiency;

(G) the Bank is beginning the process of moving insurance applications from an outdated mainframe system to a modern, web-enabled database, with new functionality including credit scoring, portfolio management, work flow, and e-commerce features to be added; and

(H) the Bank wants to continue its e-commerce strategy, including developing a website, expanding online applications, and establishing a technology partnership between the public and private sectors.

(2) **SENSE OF THE CONGRESS.**—It is the sense of the Congress that emphasis should be placed on the importance of technology improvements for the Export-Import Bank of the United States, which are of particular importance for small businesses.

SEC. 5. INCREASE IN AGGREGATE LOAN, GUARANTEE, AND INSURANCE AUTHORITY.

Section 6(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635e(a)) is amended to read as follows:

“(a) **LIMITATION ON OUTSTANDING AMOUNTS.**—

“(1) IN GENERAL.—The Export-Import Bank of the United States shall not have outstanding at any one time loans, guarantees, and insurance in an aggregate amount in excess of the applicable amount.

“(2) APPLICABLE AMOUNT.—In paragraph (1), the term ‘applicable amount’ means—

“(A) during fiscal year 2002, \$80,000,000,000;

“(B) during fiscal year 2003, \$85,000,000,000;

“(C) during fiscal year 2004, \$90,000,000,000;

“(D) during fiscal year 2005, \$95,000,000,000; and

“(E) during fiscal year 2006, \$100,000,000,000.

“(3) SUBJECT TO APPROPRIATIONS.—All spending and credit authority provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.”.

SEC. 6. ACTIVITIES RELATING TO AFRICA.

(a) EXTENSION OF ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.—Section 2(b)(9)(B)(iii) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(B)(iii)) is amended to read as follows:

Termination
date.

“(iii) The advisory committee shall terminate on September 30, 2006.”.

(b) COORDINATION OF AFRICA ACTIVITIES.—Section 2(b)(9)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(9)(A)) is amended by inserting “, in consultation with the Secretary of Commerce and the Trade Promotion Coordinating Committee,” after “shall”.

(c) CONTINUED REPORTS TO THE CONGRESS.—Section 7(b) of the Export-Import Bank Reauthorization Act of 1997 (12 U.S.C. 635 note) is amended by striking “4” and inserting “8”.

SEC. 7. SMALL BUSINESS.

(a) IN GENERAL.—Section 2(b)(1)(E)(v) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)(v)) is amended by striking “10” and inserting “20”.

(b) OUTREACH TO CERTAIN SMALL BUSINESSES.—Section 2(b)(1)(E)(iii)(II) of such Act (12 U.S.C. 635(b)(1)(E)(iii)(II)) is amended by inserting after “Bank” the following: “, with particular emphasis on conducting outreach and increasing loans to socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act), small business concerns (as defined in section 3(a) of the Small Business Act) owned by women, and small business concerns (as defined in section 3(a) of the Small Business Act) employing fewer than 100 employees,”.

SEC. 8. TECHNOLOGY.

(a) SMALL BUSINESS.—Section 2(b)(1)(E) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(E)) is amended by adding at the end the following:

Internet.

“(x) The Bank shall implement technology improvements that are designed to improve small business outreach, including allowing customers to use the Internet to apply for the Bank’s small business programs.”.

(b) ELECTRONIC TRACKING OF PENDING TRANSACTIONS.—Section 2(b)(1) of such Act (12 U.S.C. 635(b)(1)) is amended by adding at the end the following:

“(J) The Bank shall implement an electronic system designed to track all pending transactions of the Bank.”.

(c) **REPORTS.**—The Export-Import Bank of the United States shall include in the annual report required by section 8(a) of the Export-Import Bank Act of 1945 for each of fiscal years 2002 through 2006 a report on the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of section 2(b)(1) of such Act, and on how the efforts are assisting small businesses. 12 USC 635g note.

SEC. 9. TIED AID CREDIT FUND.

(a) **PRINCIPLES, PROCESS, AND STANDARDS.**—Section 10(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(b)) is amended—

(1) in paragraph (2), by striking subparagraph (A) and inserting the following:

“(A) in consultation with the Secretary and in accordance with the principles, process, and standards developed pursuant to paragraph (5) of this subsection and the purposes described in subsection (a)(5);” and

(2) by adding at the end the following:

“(5) **PRINCIPLES, PROCESS, AND STANDARDS GOVERNING USE OF THE FUND.**—

“(A) **IN GENERAL.**—The Secretary and the Bank jointly shall develop a process for, and the principles and standards to be used in, determining how the amounts in the Tied Aid Credit Fund could be used most effectively and efficiently to carry out the purposes of subsection (a)(6).

“(B) **CONTENT OF PRINCIPLES, PROCESS, AND STANDARDS.**—

“(i) **CONSIDERATION OF CERTAIN PRINCIPLES AND STANDARDS.**—In developing the principles and standards referred to in subparagraph (A), the Secretary and the Bank shall consider administering the Tied Aid Credit Fund in accordance with the following principles and standards:

“(I) The Tied Aid Credit Fund should be used to leverage multilateral negotiations to restrict the scope for aid-financed trade distortions through new multilateral rules, and to police existing rules.

“(II) The Tied Aid Credit Fund will be used to counter a foreign tied aid credit confronted by a United States exporter when bidding for a capital project.

“(III) Credible information about an offer of foreign tied aid will be required before the Tied Aid Credit Fund is used to offer specific terms to match such an offer.

“(IV) The Tied Aid Credit Fund will be used to enable a competitive United States exporter to pursue further market opportunities on commercial terms made possible by the use of the Fund.

“(V) Each use of the Tied Aid Credit Fund will be in accordance with the Arrangement unless a breach of the Arrangement has been committed by a foreign export credit agency.

“(VI) The Tied Aid Credit Fund may only be used to defend potential sales by United States companies to a project that is environmentally sound.

“(VII) The Tied Aid Credit Fund may be used to preemptively counter potential foreign tied aid offers without triggering foreign tied aid use.

“(ii) CONCLUSION.—Once the principles, process and standards referred to in subparagraph (A) are followed, the final case-by-case decisions on the use of the Tied Aid Credit Fund shall be made by the Bank: *Provided however*, That the Bank shall not approve the extension of a proposed tied aid credit if the President of the United States determines, after consulting with the President of the Bank and the Secretary of the Treasury, that the extension of the tied aid credit would materially impede achieving the purposes described in subsection (a)(6).

Deadline.
Records.

“(C) INITIAL PRINCIPLES, PROCESS, AND STANDARDS.—As soon as is practicable but not later than 6 months after the date of the enactment of this paragraph, the Secretary and the Bank shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards developed pursuant to subparagraph (A).

“(D) TRANSITIONAL PRINCIPLES AND STANDARDS.—The principles and standards set forth in subparagraph (B)(i) shall govern the use of the Tied Aid Credit Fund until the principles, process, and standards required by subparagraph (C) are submitted.

Records.

“(E) UPDATE AND REVISION.—The Secretary and the Bank jointly should update and revise, as needed, the principles, process, and standards developed pursuant to subparagraph (A), and, on doing so, shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a copy of the principles, process, and standards so updated and revised.”.

(b) RECONSIDERATION OF BOARD DECISIONS ON USE OF FUND.—Section 10(b) of such Act (12 U.S.C. 635i-3(b)) is further amended by adding at the end the following:

“(6) RECONSIDERATION OF DECISIONS.—

“(A) IN GENERAL.—Taking into consideration the time sensitivity of transactions, the Board of Directors of the Bank shall expeditiously pursuant to paragraph (2) reconsider a decision of the Board to deny an application for the use of the Tied Aid Credit Fund if the applicant submits the request for reconsideration within 3 months of the denial.

“(B) PROCEDURAL RULES.—In any such reconsideration, the applicant may be required to provide new information on the application.”.

SEC. 10. EXPANSION OF AUTHORITY TO USE TIED AID CREDIT FUND.

(a) UNTIED AID.—

12 USC 635a
note.

(1) NEGOTIATIONS.—The Secretary of the Treasury shall seek to negotiate an OECD Arrangement on Untied Aid. In the negotiations, the Secretary should seek agreement on subjecting untied aid to the rules governing the Arrangement, including the rules governing disclosure.

(2) **REPORT TO THE CONGRESS.**—Within 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the successes, failures, and obstacles in initiating negotiations, and if negotiations were initiated, in reaching the agreement described in paragraph (1). Deadline.

(b) **MARKET WINDOWS.**—

(1) **IN GENERAL.**—The Export-Import Bank Act of 1945 (12 U.S.C. 635 et seq.) is amended by adding at the end the following new section:

“SEC. 15. MARKET WINDOWS.

12 USC 635i-9.

“(a) **ENHANCED TRANSPARENCY.**—To ensure that the Bank financing remains fully competitive, the United States should seek enhanced transparency over the activities of market windows in the OECD Export Credit Arrangement. If such transparency indicates that market windows are disadvantaging United States exporters, the United States should seek negotiations for multilateral disciplines and transparency within the OECD Export Credit Arrangement.

“(b) **AUTHORIZATION.**—The Bank may provide financing on terms and conditions that are inconsistent with those permitted under the OECD Export Credit Arrangement—

“(1) to match financing terms and conditions that are being offered by market windows on terms that are inconsistent with those permitted under the OECD Export Credit Arrangement, if—

“(A) matching such terms and conditions advances the negotiations for multilateral disciplines and transparency within the OECD Export Credit Arrangement; or

“(B) transparency verifies that the market window financing is being offered on terms that are more favorable than the terms and conditions that are available from private financial markets; and

“(2) when the foreign government-supported institution refuses to provide sufficient transparency to permit the Bank to make a determination under paragraph (1).

“(c) **DEFINITION.**—In this section, the term ‘OECD’ means the Organization for Economic Cooperation and Development.”.

(2) **REPORT.**—Within 2 years after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report on the rationale for seeking or not seeking negotiations for multilateral disciplines and transparency, the successes, failures, and obstacles in initiating negotiations, and if negotiations were initiated, in reaching an agreement.

Deadline.
12 USC 635i-9
note.

(c) **USE OF TIED AID CREDIT FUND TO COMBAT UNTIED AID.**—Section 10(a) of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3(a)) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by inserting “, or untied aid used to promote exports as if it were tied aid,” before “for commercial” the first and third places it appears; and

(3) by redesignating paragraph (5) as paragraph (6) and inserting after paragraph (4) the following:

“(5) the Bank has, at a minimum, the following two tasks—

“(A)(i) first, the Bank should match foreign export credit agencies and aid agencies when they engage in tied aid outside the confines of the Arrangement and when they exploit loopholes, such as untied aid;

“(ii) such matching is needed to provide the United States with leverage in efforts at the OECD to reduce the overall level of export subsidies;

“(iii) only through matching foreign export credit offers can the Bank buttress United States negotiators in their efforts to bring these loopholes within the disciplines of the Arrangement; and

“(iv) in order to bring untied aid within the discipline of the Arrangement, the Bank should consider initiating highly competitive financial support when the Bank learns that foreign untied aid offers will be made; and

“(B) second, the Bank should support United States exporters when the exporters face foreign competition that is consistent with the Arrangement and the Subsidies Code of the World Trade Organization, but which places United States exporters at a competitive disadvantage; and”.

(d) DEFINITION OF MARKET WINDOW.—Section 10(h) of such Act (12 U.S.C. 635i-3(h)) is amended by adding at the end the following:

“(7) MARKET WINDOW.—The Bank, in consultation with the Secretary of the Treasury, shall define ‘market window’ for purposes of this section.”.

SEC. 11. ANNUAL COMPETITIVENESS REPORT.

Section 2(b)(1)(A) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(A)) is amended—

Deadline.

(1) in the fourth sentence, by striking “on an annual basis” and inserting “not later than June 30 of each year”;

(2) in the fifth sentence, by inserting “(including through use of market windows)” after “United States exporters”;

(3) by inserting after the fifth sentence, the following new sentence: “With respect to the preceding sentence, the Bank shall use all available information to estimate the annual amount of export financing available from each government and government-related agency.”; and

Classified information.

(4) by adding at the end the following new sentence: “The Bank shall include in the annual report a description of all Bank transactions which shall be classified according to their principal purpose, such as to correct a market failure or to provide matching support.”.

SEC. 12. ANNUAL REPORT.

(a) TECHNOLOGY TO ASSIST SMALL BUSINESSES.—Section 8 of the Export-Import Bank Act of 1945 (12 U.S.C. 635g) is amended by adding at the end the following:

“(c) TECHNOLOGY TO ASSIST SMALL BUSINESSES.—The Bank shall include in its annual report to the Congress under subsection (a) of this section for each of fiscal years 2002 through 2006 a report on the efforts made by the Bank to carry out subparagraphs (E)(x) and (J) of section 2(b)(1) of this Act, and on how the efforts

are assisting small business concerns (as defined in section 3(a) of the Small Business Act).”.

(b) NUMBER OF SMALL BUSINESS SUPPLIERS OF BANK USERS.—Section 8 of such Act (12 U.S.C. 635g) is further amended by adding at the end the following:

“(d) NUMBER OF SMALL BUSINESS SUPPLIERS OF BANK USERS.—The Bank shall estimate on the basis of an annual survey or tabulation the number of entities that are suppliers of users of the Bank and that are small business concerns (as defined in section 3(a) of the Small Business Act) located in the United States, and shall include the estimate in its annual report to the Congress under subsection (a) of this section.”.

(c) OUTREACH TO CERTAIN SMALL BUSINESSES.—Section 8 of such Act (12 U.S.C. 635g) is further amended by adding at the end the following:

“(e) OUTREACH TO CERTAIN SMALL BUSINESSES.—The Bank shall include in its annual report to the Congress under subsection (a) of this section a description of outreach efforts made by the Bank to any socially and economically disadvantaged small business concerns (as defined in section 8(a)(4) of the Small Business Act), small business concerns (as defined in section 3(a) of the Small Business Act) owned by women, and small business concerns (as defined in section 3(a) of the Small Business Act) employing fewer than 100 employees.”.

SEC. 13. RENEWABLE ENERGY SOURCES.

(a) PROMOTION.—Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is further amended by adding at the end the following:

“(K) The Bank shall promote the export of goods and services related to renewable energy sources.”.

(b) DESCRIPTION OF EFFORTS TO BE INCLUDED IN ANNUAL COMPETITIVENESS REPORT.—Section 2(b)(1)(A) of such Act (12 U.S.C. 635(b)(1)(A)) is further amended by adding at the end the following: “The Bank shall include in the annual report a description of the efforts undertaken under subparagraph (K).”.

SEC. 14. GAO REPORT ON COMPARATIVE RESERVE PRACTICES OF EXPORT CREDIT AGENCIES AND PRIVATE BANKS.

Deadline.
12 USC 635 note.

Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report that examines the reserve ratios of the Export-Import Bank of the United States as compared with the reserve practices of private banks and foreign export credit agencies.

SEC. 15. HUMAN RIGHTS.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by inserting “(such as are provided in the Universal Declaration of Human Rights adopted by the United Nations General Assembly on December 10, 1948)” after “human rights”.

SEC. 16. AUTHORITY TO DENY APPLICATION FOR ASSISTANCE BASED ON FRAUD OR CORRUPTION BY ANY PARTY INVOLVED IN THE TRANSACTION.

Section 2 of the Export-Import Bank Act of 1945 (12 U.S.C. 635) is amended by adding at the end the following:

“(f) **AUTHORITY TO DENY APPLICATION FOR ASSISTANCE BASED ON FRAUD OR CORRUPTION BY PARTY INVOLVED IN THE TRANSACTION.**—In addition to any other authority of the Bank, the Bank may deny an application for assistance with respect to a transaction if the Bank has substantial credible evidence that any party to the transaction or any party involved in the transaction has committed an act of fraud or corruption in connection with the transaction.”.

SEC. 17. CONSIDERATION OF FOREIGN COUNTRY HELPFULNESS IN EFFORTS TO ERADICATE TERRORISM.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the penultimate sentence by inserting “(including, when relevant, a foreign nation’s lack of cooperation in efforts to eradicate terrorism)” after “international terrorism”.

Loans.

SEC. 18. OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.

Section 2(e) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)) is amended—

(1) in paragraph (2), by striking “Paragraph (1)” and inserting “Paragraphs (1) and (2)”; and

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4) and by inserting after paragraph (1) the following:

“(2) **OUTSTANDING ORDERS AND PRELIMINARY INJURY DETERMINATIONS.**—

“(A) **ORDERS.**—The Bank shall not provide any loan or guarantee to an entity for the resulting production of substantially the same product that is the subject of—

“(i) a countervailing duty or antidumping order under title VII of the Tariff Act of 1930; or

“(ii) a determination under title II of the Trade Act of 1974.

Deadline.
Procedures.

“(B) **AFFIRMATIVE DETERMINATION.**—Within 60 days after the date of the enactment of this paragraph, the Bank shall establish procedures regarding loans or guarantees provided to any entity that is subject to a preliminary determination of a reasonable indication of material injury to an industry under title VII of the Tariff Act of 1930. The procedures shall help to ensure that these loans and guarantees are likely to not result in a significant increase in imports of substantially the same product covered by the preliminary determination and are likely to not have a significant adverse impact on the domestic industry. The Bank shall report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the implementation of these procedures.

Reports.

Procedures.
Notification.

“(C) **COMMENT PERIOD.**—The Bank shall establish procedures under which the Bank shall notify interested parties and provide a comment period with regard to loans

or guarantees reviewed pursuant to subparagraph (B) or (D).

“(D) CONSIDERATION OF INVESTIGATIONS UNDER TITLE II OF THE TRADE ACT OF 1974.—In making any determination under paragraph (1) for a transaction involving more than \$10,000,000, the Bank shall consider investigations under title II of the Trade Act of 1974 that have been initiated at the request of the President of the United States, the United States Trade Representative, the Committee on Finance of the Senate, or the Committee on Ways and Means of the House of Representatives, or by the International Trade Commission on its own motion.”.

SEC. 19. REQUIREMENT THAT APPLICANTS FOR ASSISTANCE DISCLOSE WHETHER THEY HAVE VIOLATED CERTAIN ACTS; MAINTENANCE OF LIST OF VIOLATORS.

Records.

Section 2(b)(1) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)) is further amended by adding at the end the following:

“(L) The Bank shall require an applicant for assistance from the Bank to disclose whether the applicant has been found by a court of the United States to have violated the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979 within the preceding 12 months, and shall maintain, in cooperation with the Department of Justice, for not less than 3 years a record of such applicants so found to have violated any such Act.”.

SEC. 20. SENSE OF THE CONGRESS.

It is the sense of the Congress that, when considering a proposal for assistance for a project the cost of which is \$10,000,000 or more, the management of the Export-Import Bank of the United States should have available for review a detailed assessment of the potential human rights impact of the proposed project.

SEC. 21. CONSIDERATION OF ENFORCEMENT OF CERTAIN LAWS.

Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended in the penultimate sentence by inserting “the enforcement of the Foreign Corrupt Practices Act of 1977, the Arms Export Control Act, the International Emergency Economic Powers Act, or the Export Administration Act of 1979,” after “nuclear proliferation,”.

SEC. 22. INSPECTOR GENERAL OF THE EXPORT-IMPORT BANK.

(a) ESTABLISHMENT OF POSITION.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1), by striking “or the Board of Directors of the Tennessee Valley Authority;” and inserting “the Board of Directors of the Tennessee Valley Authority; or the President of the Export-Import Bank;”; and

(2) in paragraph (2), by striking “or the Tennessee Valley Authority;” and inserting “the Tennessee Valley Authority, or the Export-Import Bank,”.

(b) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by inserting after the item relating to the Inspector General of the Environmental Protection Agency the following:

“Inspector General, Export-Import Bank.”.

(c) INITIAL IMPLEMENTATION.—Section 9(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “to the Office of the Inspector General,” after “(2)”.

(d) TECHNICAL CORRECTIONS.—Section 11 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in paragraph (1)—

(A) by striking the second semicolon after “Community Service”;

(B) by striking “and” after “Financial Institutions Fund.”; and

(C) by striking “and” after “Trust Corporation.”;

(2) in paragraph (2), by striking “or” after “Community Service.”; and

(3) in paragraph (5), by striking “section 552(e)” and inserting “section 552(f)”.

5 USC 5315 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2002.

SEC. 23. SENSE OF THE CONGRESS IN TRIBUTE TO JOHN E. ROBSON.

(a) FINDINGS.—The Congress finds that—

(1) from his appointment in 2001 as President and Chairman of the Export-Import Bank of the United States until his death on March 20, 2002, John E. Robson provided powerful leadership for that institution, instilling his spirit of excellence within the Bank and ensuring the Bank’s role as a prominent player in the trade and economic policy of the United States; and

(2) during his time at the Export-Import Bank of the United States, John E. Robson served as a role model for all of his colleagues with his dedication to the institution, commitment to excellence, resolute sense of integrity, and desire to leave the Bank a better place than how he found it.

(b) SENSE OF THE CONGRESS.—The Congress is deeply saddened by the death of John E. Robson, President and Chairman of the Board of Directors of the Export-Import Bank of the United States, and expresses to the family of John E. Robson its deep appreciation for the contributions he made and the legacy he leaves behind, and its heartfelt sorrow at his passing.

SEC. 24. CORRECTION OF REFERENCES AND OTHER TECHNICAL CORRECTIONS.

(a) CORRECTION OF REFERENCES.—(1) Section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(1)(B)) is amended by striking “Banking and”.

(2) Each of the following provisions of such Act is amended by striking “Banking, Finance and Urban Affairs” and inserting “Financial Services”:

(A) Section 2(b)(6)(D)(i)(III) (12 U.S.C. 635(b)(6)(D)(i)(III)).

(B) Section 2(b)(6)(H) (12 U.S.C. 635(b)(6)(H)).

(C) Section 2(b)(6)(I)(i)(II) (12 U.S.C. 635(b)(6)(I)(i)(II)).

(D) Section 2(b)(6)(I)(iii) (12 U.S.C. 635(b)(6)(I)(iii)).

(E) Section 10(g)(1) (12 U.S.C. 635i-3(g)(1)).

(b) TECHNICAL CORRECTIONS.—(1) Clauses (ii) and (iii) of section 2(b)(1)(H) of such Act (12 U.S.C. 635(b)(1)(H)) are each amended by striking “4” and inserting “3”.

(2) Section 2(b) of such Act (12 U.S.C. 635(b)) is amended by aligning the margins of paragraph (12) with the margins of paragraph (11).

(3) Section 2(b)(6)(E) of such Act (12 U.S.C. 635(b)(6)(E)) is amended by striking “international” and inserting “internationally”.

(4) Section 3(d)(2) of such Act (12 U.S.C. 635a(d)(2)) is amended by aligning the margins of subparagraph (B) with the margins of subparagraph (A).

(5) Section 12(a)(1) of such Act (12 U.S.C. 635i–6(a)(1)) is amended by striking “section” and inserting “subsection”.

(6) Section 14(a) of such Act (12 U.S.C. 635i–8(a)) is amended by striking “principle” and inserting “principal”.

Approved June 14, 2002.

LEGISLATIVE HISTORY—S. 1372 (H.R. 2871):

HOUSE REPORTS: Nos. 107–292 accompanying H.R. 2871 (Comm. on Financial Services) and 107–487 (Comm. of Conference).

SENATE REPORTS: No. 107–52 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 14, considered and passed Senate.

May 1, considered and passed House, amended, in lieu of H.R. 2871.

June 5, House agreed to conference report.

June 6, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

June 14, Presidential statement.



Public Law 107–190
107th Congress

An Act

June 18, 2002
[H.R. 1366]

To designate the United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, as the “Hector G. Godinez Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office building located at 3101 West Sunflower Avenue in Santa Ana, California, shall be known and designated as the “Hector G. Godinez Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, regulation, map, document, paper, or other record of the United States to the United States Post Office building referred to in section 1 shall be deemed to be a reference to the “Hector G. Godinez Post Office Building”.

Approved June 18, 2002.

LEGISLATIVE HISTORY—H.R. 1366 (S. 2217):
CONGRESSIONAL RECORD, Vol. 148 (2002):
Apr. 10, considered and passed House.
June 3, considered and passed Senate.



Public Law 107–191
107th Congress

An Act

To designate the facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, as the “Philip E. Ruppe Post Office Building”.

June 18, 2002
[H.R. 1374]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 600 Calumet Street in Lake Linden, Michigan, shall be known and designated as the “Philip E. Ruppe Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Philip E. Ruppe Post Office Building”.

Approved June 18, 2002.

LEGISLATIVE HISTORY—H.R. 1374:

CONGRESSIONAL RECORD, Vol. 148 (2002):
Apr. 16, considered and passed House.
June 3, considered and passed Senate.



Public Law 107–192
107th Congress

An Act

June 18, 2002
[H.R. 3789]

To designate the facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, as the “Teno Roncalio Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 2829 Commercial Way in Rock Springs, Wyoming, shall be known and designated as the “Teno Roncalio Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Teno Roncalio Post Office Building”.

Approved June 18, 2002.

LEGISLATIVE HISTORY—H.R. 3789 (S. 1970):

CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 5, considered and passed House.

June 3, considered and passed Senate.



Public Law 107–193
107th Congress

An Act

To designate the facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, as the “Joseph W. Westmoreland Post Office Building”.

June 18, 2002
[H.R. 3960]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 3719 Highway 4 in Jay, Florida, shall be known and designated as the “Joseph W. Westmoreland Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Joseph W. Westmoreland Post Office Building”.

Approved June 18, 2002.

LEGISLATIVE HISTORY—H.R. 3960:

CONGRESSIONAL RECORD, Vol. 148 (2002):
Apr. 16, considered and passed House.
June 3, considered and passed Senate.



Public Law 107–194
107th Congress

An Act

June 18, 2002
[H.R. 4486]

To designate the facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, as the “Clarence B. Craft Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1590 East Joyce Boulevard in Fayetteville, Arkansas, shall be known and designated as the “Clarence B. Craft Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Clarence B. Craft Post Office Building”.

Approved June 18, 2002.

LEGISLATIVE HISTORY—H.R. 4486 (S. 2433):
CONGRESSIONAL RECORD, Vol. 148 (2002):
May 7, considered and passed House.
June 3, considered and passed Senate.



Public Law 107–195
107th Congress

An Act

To eliminate the deadlines for spectrum auctions of spectrum previously allocated to television broadcasting.

June 19, 2002
[H.R. 4560]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Auction Reform Act of 2002”.

Auction Reform
Act of 2002.
47 USC 609 note.

SEC. 2. FINDINGS.

47 USC 309 note.

Congress finds the following:

(1) Circumstances in the telecommunications market have changed dramatically since the auctioning of spectrum in the 700 megahertz band was originally mandated by Congress in 1997, raising serious questions as to whether the original deadlines, or the subsequent revision of the deadlines, are consistent with sound telecommunications policy and spectrum management principles.

(2) No comprehensive plan yet exists for allocating additional spectrum for third-generation wireless and other advanced communications services. The Federal Communications Commission should have the flexibility to auction frequencies in the 700 megahertz band for such purposes.

(3) The study being conducted by the National Telecommunications and Information Administration in consultation with the Department of Defense to determine whether the Department of Defense can share or relinquish additional spectrum for third generation wireless and other advanced communications services will not be completed until after the June 19th auction date for the upper 700 megahertz band, and long after the applications must be filed to participate in the auction, thereby creating further uncertainty as to whether the frequencies in the 700 megahertz band will be put to their highest and best use for the benefit of consumers.

(4) The Federal Communications Commission is also in the process of determining how to resolve the interference problems that exist in the 800 megahertz band, especially for public safety. One option being considered for the 800 megahertz band would involve the 700 megahertz band. The Commission should not hold the 700 megahertz auction before the 800 megahertz interference issues are resolved or a tenable plan has been conceived.

(5) The 700 megahertz band is currently occupied by television broadcasters, and will be so until the transfer to digital television is completed. This situation creates a tremendous

amount of uncertainty concerning when the spectrum will be available and reduces the value placed on the spectrum by potential bidders. The encumbrance of the 700 megahertz band reduces both the amount of money that the auction would be likely to produce and the probability that the spectrum would be purchased by the entities that valued the spectrum the most and would put the spectrum to its most productive use.

(6) The Commission's rules governing voluntary mechanisms for vacating the 700 megahertz band by broadcast stations—

(A) produced no certainty that the band would be available for advanced mobile communications services, public safety operations, or other wireless services any earlier than the existing statutory framework provides; and

(B) should advance the transition of digital television and must not result in the unjust enrichment of any incumbent licensee.

SEC. 3. ELIMINATION OF STATUTORY DEADLINES FOR SPECTRUM AUCTIONS.

(a) FCC TO DETERMINE TIMING OF AUCTIONS.—Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by adding at the end the following new paragraph:

“(15) COMMISSION TO DETERMINE TIMING OF AUCTIONS.—

“(A) COMMISSION AUTHORITY.—Subject to the provisions of this subsection (including paragraph (11)), but notwithstanding any other provision of law, the Commission shall determine the timing of and deadlines for the conduct of competitive bidding under this subsection, including the timing of and deadlines for qualifying for bidding; conducting auctions; collecting, depositing, and reporting revenues; and completing licensing processes and assigning licenses.

“(B) TERMINATION OF PORTIONS OF AUCTIONS 31 AND 44.—Except as provided in subparagraph (C), the Commission shall not commence or conduct auctions 31 and 44 on June 19, 2002, as specified in the public notices of March 19, 2002, and March 20, 2002 (DA 02-659 and DA 02-563).

“(C) EXCEPTION.—

“(i) BLOCKS EXCEPTED.—Subparagraph (B) shall not apply to the auction of—

“(I) the C-block of licenses on the bands of frequencies located at 710-716 megahertz, and 740-746 megahertz; or

“(II) the D-block of licenses on the bands of frequencies located at 716-722 megahertz.

“(ii) ELIGIBLE BIDDERS.—The entities that shall be eligible to bid in the auction of the C-block and D-block licenses described in clause (i) shall be those entities that were qualified entities, and that submitted applications to participate in auction 44, by May 8, 2002, as part of the original auction 44 short form filing deadline.

“(iii) AUCTION DEADLINES FOR EXCEPTED BLOCKS.—Notwithstanding subparagraph (B), the auction of the

C-block and D-block licenses described in clause (i) shall be commenced no earlier than August 19, 2002, and no later than September 19, 2002, and the proceeds of such auction shall be deposited in accordance with paragraph (8) not later than December 31, 2002.

“(iv) REPORT.—Within one year after the date of enactment of this paragraph, the Commission shall submit a report to Congress—

“(I) specifying when the Commission intends to reschedule auctions 31 and 44 (other than the blocks excepted by clause (i)); and

“(II) describing the progress made by the Commission in the digital television transition and in the assignment and allocation of additional spectrum for advanced mobile communications services that warrants the scheduling of such auctions.

“(D) RETURN OF PAYMENTS.—Within one month after the date of enactment of this paragraph, the Commission shall return to the bidders for licenses in the A-block, B-block, and E-block of auction 44 the full amount of all upfront payments made by such bidders for such licenses.”.

(b) CONFORMING AMENDMENTS.—

(1) COMMUNICATIONS ACT OF 1934.—Section 309(j)(14)(C)(ii) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)(C)(ii)) is amended by striking the second sentence.

(2) BALANCED BUDGET ACT OF 1997.—Section 3007 of the Balanced Budget Act of 1997 (111 Stat. 269) is repealed.

(3) CONSOLIDATED APPROPRIATIONS ACT.—Paragraphs (2) and (3) of section 213(a) of H.R. 3425 of the 106th Congress, as enacted into law by section 1000(a)(5) of An Act making consolidated appropriations for the fiscal year ending September 30, 2000, and for other purposes (Public Law 106–113; 113 Stat. 1501A–295), are repealed.

47 USC 309 note.

47 USC 337 note.

SEC. 4. COMPLIANCE WITH AUCTION AUTHORITY.

47 USC 309 note.

The Federal Communications Commission shall conduct rescheduled auctions 31 and 44 prior to the expiration of the auction authority under section 309(j)(11) of the Communications Act of 1934 (47 U.S.C. 309(j)(11)).

SEC. 5. PRESERVATION OF BROADCASTER OBLIGATIONS.

47 USC 309 note.

Nothing in this Act shall be construed to relieve television broadcast station licensees of the obligation to complete the digital television service conversion as required by section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)).

SEC. 6. INTERFERENCE PROTECTION.

47 USC 337 note.

(a) INTERFERENCE WAIVERS.—In granting a request by a television broadcast station licensee assigned to any of channels 52–69 to utilize any channel of channels 2–51 that is assigned for digital broadcasting in order to continue analog broadcasting during the transition to digital broadcasting, the Federal Communications Commission may not, either at the time of the grant or thereafter, waive or otherwise reduce—

(1) the spacing requirements provided for analog broadcasting licensees within channels 2–51 as required by section 73.610 of the Commission’s rules (and the table contained therein) (47 CFR 73.610), or

(2) the interference standards provided for digital broadcasting licensees within channels 2–51 as required by sections 73.622 and 73.623 of such rules (47 CFR 73.622, 73.623), if such waiver or reduction will result in any degradation in or loss of service, or an increased level of interference, to any television household except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted.

(b) EXCEPTION FOR PUBLIC SAFETY CHANNEL CLEARING.—The restrictions in subsection (a) shall not apply to a station licensee that is seeking authority (either by waiver or otherwise) to vacate the frequencies that constitute television channel 63, 64, 68, or 69 in order to make such frequencies available for public safety purposes pursuant to the provisions of section 337 of the Communications Act of 1934 (47 U.S.C. 337).

Approved June 19, 2002.

LEGISLATIVE HISTORY—H.R. 4560:

HOUSE REPORTS: No. 107–443 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 148 (2002):

May 7, considered and passed House.

June 18, considered and passed Senate, amended. House concurred in Senate amendment.



Public Law 107–196
107th Congress

An Act

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to ensure that chaplains killed in the line of duty receive public safety officer death benefits.

June 24, 2002
[S. 2431]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mychal Judge Police and Fire Chaplains Public Safety Officers’ Benefit Act of 2002”.

SEC. 2. BENEFITS FOR CHAPLAINS.

(a) IN GENERAL.—Section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b) is amended—

(1) by redesignating paragraphs (2) through (7) as (3) through (8), respectively;

(2) by inserting after paragraph (1) the following:

“(2) ‘chaplain’ includes any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency;” and

(3) in subparagraph (A) of paragraph (8), as redesignated by paragraph (1), by inserting after “firefighter,” the following: “as a chaplain.”

(b) ELIGIBLE BENEFICIARIES.—Section 1201(a) of such Act (42 U.S.C. 3796(a)) is amended—

(1) in paragraph (3), by striking “or” at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following new paragraph:

“(4) if there is no surviving spouse or surviving child, to the individual designated by such officer as beneficiary under such officer’s most recently executed life insurance policy, provided that such individual survived such officer; or”.

Mychal Judge
Police and Fire
Chaplains Public
Safety Officers’
Benefit Act of
2002.
42 USC 3711
note.

Applicability.
42 USC 3796
note.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on September 11, 2001, and shall apply to injuries or deaths that occur in the line of duty on or after such date.

Approved June 24, 2002.

LEGISLATIVE HISTORY—S. 2431 (H.R. 3297):

HOUSE REPORTS: No. 107–384 accompanying H.R. 3297 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 7, considered and passed Senate.

June 11, considered and passed House.



Public Law 107–197
107th Congress

An Act

To implement the International Convention for the Suppression of Terrorist Bombings to strengthen criminal laws relating to attacks on places of public use, to implement the International Convention of the Suppression of the Financing of Terrorism, to combat terrorism and defend the Nation against terrorist acts, and for other purposes.

June 25, 2002
[H.R. 3275]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**TITLE I—SUPPRESSION OF TERRORIST
BOMBINGS**

Terrorist
Bombings
Convention
Implementation
Act of 2002.
18 USC 2331
note.

SEC. 101. SHORT TITLE.

This title may be cited as the “Terrorist Bombings Convention Implementation Act of 2002”.

SEC. 102. BOMBING STATUTE.

(a) **OFFENSE.**—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by inserting after section 2332e the following:

“§ 2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities

“(a) **OFFENSES.**—

“(1) **IN GENERAL.**—Whoever unlawfully delivers, places, discharges, or detonates an explosive or other lethal device in, into, or against a place of public use, a state or government facility, a public transportation system, or an infrastructure facility—

“(A) with the intent to cause death or serious bodily injury, or

“(B) with the intent to cause extensive destruction of such a place, facility, or system, where such destruction results in or is likely to result in major economic loss, shall be punished as prescribed in subsection (c).

“(2) **ATTEMPTS AND CONSPIRACIES.**—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (c).

“(b) **JURISDICTION.**—There is jurisdiction over the offenses in subsection (a) if—

“(1) the offense takes place in the United States and—

“(A) the offense is committed against another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

“(B) the offense is committed in an attempt to compel another state or the United States to do or abstain from doing any act;

“(C) at the time the offense is committed, it is committed—

“(i) on board a vessel flying the flag of another state;

“(ii) on board an aircraft which is registered under the laws of another state; or

“(iii) on board an aircraft which is operated by the government of another state;

“(D) a perpetrator is found outside the United States;

“(E) a perpetrator is a national of another state or a stateless person; or

“(F) a victim is a national of another state or a stateless person;

“(2) the offense takes place outside the United States and—

“(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

“(B) a victim is a national of the United States;

“(C) a perpetrator is found in the United States;

“(D) the offense is committed in an attempt to compel the United States to do or abstain from doing any act;

“(E) the offense is committed against a state or government facility of the United States, including an embassy or other diplomatic or consular premises of the United States;

“(F) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed; or

“(G) the offense is committed on board an aircraft which is operated by the United States.

“(c) PENALTIES.—Whoever violates this section shall be punished as provided under section 2332a(a) of this title.

“(d) EXEMPTIONS TO JURISDICTION.—This section does not apply to—

“(1) the activities of armed forces during an armed conflict, as those terms are understood under the law of war, which are governed by that law,

“(2) activities undertaken by military forces of a state in the exercise of their official duties; or

“(3) offenses committed within the United States, where the alleged offender and the victims are United States citizens and the alleged offender is found in the United States, or where jurisdiction is predicated solely on the nationality of the victims or the alleged offender and the offense has no substantial effect on interstate or foreign commerce.

“(e) DEFINITIONS.—As used in this section, the term—

“(1) ‘serious bodily injury’ has the meaning given that term in section 1365(g)(3) of this title;

“(2) ‘national of the United States’ has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

“(3) ‘state or government facility’ includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of Government, the legislature or the judiciary or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

“(4) ‘intergovernmental organization’ includes international organization (as defined in section 1116(b)(5) of this title);

“(5) ‘infrastructure facility’ means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewage, energy, fuel, or communications;

“(6) ‘place of public use’ means those parts of any building, land, street, waterway, or other location that are accessible or open to members of the public, whether continuously, periodically, or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational, or similar place that is so accessible or open to the public;

“(7) ‘public transportation system’ means all facilities, conveyances, and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo;

“(8) ‘explosive’ has the meaning given in section 844(j) of this title insofar that it is designed, or has the capability, to cause death, serious bodily injury, or substantial material damage;

“(9) ‘other lethal device’ means any weapon or device that is designed or has the capability to cause death, serious bodily injury, or substantial damage to property through the release, dissemination, or impact of toxic chemicals, biological agents, or toxins (as those terms are defined in section 178 of this title) or radiation or radioactive material;

“(10) ‘military forces of a state’ means the armed forces of a state which are organized, trained, and equipped under its internal law for the primary purpose of national defense or security, and persons acting in support of those armed forces who are under their formal command, control, and responsibility;

“(11) ‘armed conflict’ does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature; and

“(12) ‘state’ has the same meaning as that term has under international law, and includes all political subdivisions thereof.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by inserting after section 2332e the following:

“2332f. Bombings of places of public use, government facilities, public transportation systems and infrastructure facilities.”.

18 USC 2332f
note.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the applicability of any other Federal or State law which might pertain to the underlying conduct.

18 USC 2332f
note.

SEC. 103. EFFECTIVE DATE.

Section 102 shall take effect on the date that the International Convention for the Suppression of Terrorist Bombings enters into force for the United States.

Suppression of
the Financing of
Terrorism
Convention
Implementation
Act of 2002.
18 USC 2331
note.

TITLE II—SUPPRESSION OF THE FINANCING OF TERRORISM

SEC. 201. SHORT TITLE.

This title may be cited as the “Suppression of the Financing of Terrorism Convention Implementation Act of 2002”.

SEC. 202. TERRORISM FINANCING STATUTE.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, relating to terrorism, is amended by adding at the end thereof the following new section:

“§ 2339C. Prohibitions against the financing of terrorism

“(a) OFFENSES.—

“(1) IN GENERAL.—Whoever, in a circumstance described in subsection (c), by any means, directly or indirectly, unlawfully and willfully provides or collects funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out—

“(A) an act which constitutes an offense within the scope of a treaty specified in subsection (e)(7), as implemented by the United States, or

“(B) any other act intended to cause death or serious bodily injury to a civilian, or to any other person not taking an active part in the hostilities in a situation of armed conflict, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from doing any act,

shall be punished as prescribed in subsection (d)(1).

“(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to commit an offense under paragraph (1) shall be punished as prescribed in subsection (d)(1).

“(3) RELATIONSHIP TO PREDICATE ACT.—For an act to constitute an offense set forth in this subsection, it shall not be necessary that the funds were actually used to carry out a predicate act.

“(b) JURISDICTION.—There is jurisdiction over the offenses in subsection (a) in the following circumstances—

“(1) the offense takes place in the United States and—

“(A) a perpetrator was a national of another state or a stateless person;

“(B) on board a vessel flying the flag of another state or an aircraft which is registered under the laws of another state at the time the offense is committed;

“(C) on board an aircraft which is operated by the government of another state;

“(D) a perpetrator is found outside the United States;

“(E) was directed toward or resulted in the carrying out of a predicate act against—

“(i) a national of another state; or

“(ii) another state or a government facility of such state, including its embassy or other diplomatic or consular premises of that state;

“(F) was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel another state or international organization to do or abstain from doing any act; or

“(G) was directed toward or resulted in the carrying out of a predicate act—

“(i) outside the United States; or

“(ii) within the United States, and either the offense or the predicate act was conducted in, or the results thereof affected, interstate or foreign commerce;

“(2) the offense takes place outside the United States and—

“(A) a perpetrator is a national of the United States or is a stateless person whose habitual residence is in the United States;

“(B) a perpetrator is found in the United States; or

“(C) was directed toward or resulted in the carrying out of a predicate act against—

“(i) any property that is owned, leased, or used by the United States or by any department or agency of the United States, including an embassy or other diplomatic or consular premises of the United States;

“(ii) any person or property within the United States;

“(iii) any national of the United States or the property of such national; or

“(iv) any property of any legal entity organized under the laws of the United States, including any of its States, districts, commonwealths, territories, or possessions;

“(3) the offense is committed on board a vessel flying the flag of the United States or an aircraft which is registered under the laws of the United States at the time the offense is committed;

“(4) the offense is committed on board an aircraft which is operated by the United States; or

“(5) the offense was directed toward or resulted in the carrying out of a predicate act committed in an attempt to compel the United States to do or abstain from doing any act.

“(c) CONCEALMENT.—Whoever—

“(1)(A) is in the United States; or

“(B) is outside the United States and is a national of the United States or a legal entity organized under the laws

of the United States (including any of its States, districts, commonwealths, territories, or possessions); and

“(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, resources, or funds—

“(A) knowing or intending that the support or resources were provided in violation of section 2339B of this title; or

“(B) knowing or intending that any such funds or any proceeds of such funds were provided or collected in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).

“(d) PENALTIES.—

“(1) SUBSECTION (a).—Whoever violates subsection (a) shall be fined under this title, imprisoned for not more than 20 years, or both.

“(2) SUBSECTION (c).—Whoever violates subsection (c) shall be fined under this title, imprisoned for not more than 10 years, or both.

“(e) DEFINITIONS.—In this section—

“(1) the term ‘funds’ means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including coin, currency, bank credits, travelers checks, bank checks, money orders, shares, securities, bonds, drafts, and letters of credit;

“(2) the term ‘government facility’ means any permanent or temporary facility or conveyance that is used or occupied by representatives of a state, members of a government, the legislature, or the judiciary, or by officials or employees of a state or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties;

“(3) the term ‘proceeds’ means any funds derived from or obtained, directly or indirectly, through the commission of an offense set forth in subsection (a);

“(4) the term ‘provides’ includes giving, donating, and transmitting;

“(5) the term ‘collects’ includes raising and receiving;

“(6) the term ‘predicate act’ means any act referred to in subparagraph (A) or (B) of subsection (a)(1);

“(7) the term ‘treaty’ means—

“(A) the Convention for the Suppression of Unlawful Seizure of Aircraft, done at The Hague on December 16, 1970;

“(B) the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on September 23, 1971;

“(C) the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on December 14, 1973;

“(D) the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on December 17, 1979;

“(E) the Convention on the Physical Protection of Nuclear Material, adopted at Vienna on March 3, 1980;

“(F) the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, done at Montreal on February 24, 1988;

“(G) the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on March 10, 1988;

“(H) the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on March 10, 1988; or

“(I) the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on December 15, 1997;

“(8) the term ‘intergovernmental organization’ includes international organizations;

“(9) the term ‘international organization’ has the same meaning as in section 1116(b)(5) of this title;

“(10) the term ‘armed conflict’ does not include internal disturbances and tensions, such as riots, isolated and sporadic acts of violence, and other acts of a similar nature;

“(11) the term ‘serious bodily injury’ has the same meaning as in section 1365(g)(3) of this title;

“(12) the term ‘national of the United States’ has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); and

“(13) the term ‘state’ has the same meaning as that term has under international law, and includes all political subdivisions thereof.

“(f) CIVIL PENALTY.—In addition to any other criminal, civil, or administrative liability or penalty, any legal entity located within the United States or organized under the laws of the United States, including any of the laws of its States, districts, commonwealths, territories, or possessions, shall be liable to the United States for the sum of at least \$10,000, if a person responsible for the management or control of that legal entity has, in that capacity, committed an offense set forth in subsection (a).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113B of title 18, United States Code, is amended by adding at the end thereof the following:

“2339C. Prohibitions against the financing of terrorism.”.

(c) DISCLAIMER.—Nothing contained in this section is intended to affect the scope or applicability of any other Federal or State law.

18 USC 2339c
note.

SEC. 203. EFFECTIVE DATE.

Except for paragraphs (1)(D) and (2)(B) of section 2339C(b) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of the Financing of Terrorism enters into force for the United States, and for the provisions of section 2339C(e)(7)(I) of title 18, United States Code, which shall become effective on the date that the International Convention for the Suppression of Terrorist

18 USC 2339c
note.

Bombing enters into force for the United States, section 202 shall take effect on the date of enactment of this Act.

TITLE III—ANCILLARY MEASURES

SEC. 301. ANCILLARY MEASURES.

(a) WIRETAP PREDICATES.—Section 2516(1)(q) of title 18, United States Code, is amended by—

(1) inserting “2332f,” after “2332d,”; and

(2) striking “or 2339B” and inserting “2339B, or 2339C”.

(b) FEDERAL CRIME OF TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by—

(1) inserting “2332f (relating to bombing of public places and facilities),” after “2332b (relating to acts of terrorism transcending national boundaries),”; and

(2) inserting “2339C (relating to financing of terrorism,” before “or 2340A (relating to torture)”.

(c) PROVIDING MATERIAL SUPPORT TO TERRORISTS PREDICATE.—Section 2339A of title 18, United States Code, is amended by inserting “2332f,” before “or 2340A”.

(d) FORFEITURE OF FUNDS, PROCEEDS, AND INSTRUMENTALITIES.—Section 981(a)(1) of title 18, United States Code, is amended by adding at the end the following:

“(H) Any property, real or personal, involved in a violation or attempted violation, or which constitutes or is derived from proceeds traceable to a violation, of section 2339C of this title.”.

Approved June 25, 2002.

LEGISLATIVE HISTORY—H.R. 3275 (S. 1770):

HOUSE REPORTS: No. 107–307 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 19, considered and passed House.

Vol. 148 (2002): June 14, considered and passed Senate, amended.
June 18, House concurred in Senate amendment.



Public Law 107–198
107th Congress

An Act

To amend chapter 35 of title 44, United States Code, for the purpose of facilitating compliance by small business concerns with certain Federal paperwork requirements, to establish a task force to examine information collection and dissemination, and for other purposes.

June 28, 2002
[H.R. 327]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Business Paperwork Relief Act of 2002”.

Small Business
Paperwork Relief
Act of 2002.
44 USC 101 note.

SEC. 2. FACILITATION OF COMPLIANCE WITH FEDERAL PAPERWORK REQUIREMENTS.

(a) REQUIREMENTS APPLICABLE TO THE DIRECTOR OF OMB.—Section 3504(c) of title 44, United States Code (commonly referred to as the “Paperwork Reduction Act”), is amended—

(1) in paragraph (4), by striking “; and” and inserting a semicolon;

(2) in paragraph (5), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(6) publish in the Federal Register and make available on the Internet (in consultation with the Small Business Administration) on an annual basis a list of the compliance assistance resources available to small businesses, with the first such publication occurring not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002.”.

Federal Register,
publication.
Internet.
Deadline.

(b) ESTABLISHMENT OF AGENCY POINT OF CONTACT.—Section 3506 of title 44, United States Code, is amended by adding at the end the following:

“(i)(1) In addition to the requirements described in subsection (c), each agency shall, with respect to the collection of information and the control of paperwork, establish 1 point of contact in the agency to act as a liaison between the agency and small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)).

“(2) Each point of contact described under paragraph (1) shall be established not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002.”.

Deadline.

(c) ADDITIONAL REDUCTION OF PAPERWORK FOR CERTAIN SMALL BUSINESSES.—Section 3506(c) of title 44, United States Code, is amended—

(1) in paragraph (2)(B), by striking “; and” and inserting a semicolon;

(2) in paragraph (3)(J), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(4) in addition to the requirements of this chapter regarding the reduction of information collection burdens for small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), make efforts to further reduce the information collection burden for small business concerns with fewer than 25 employees.”.

SEC. 3. ESTABLISHMENT OF TASK FORCE ON INFORMATION COLLECTION AND DISSEMINATION.

(a) IN GENERAL.—Chapter 35 of title 44, United States Code, is amended—

(1) by redesignating section 3520 as section 3521; and

(2) by inserting after section 3519 the following:

“§ 3520. Establishment of task force on information collection and dissemination

“(a) There is established a task force to study the feasibility of streamlining requirements with respect to small business concerns regarding collection of information and strengthening dissemination of information (in this section referred to as the ‘task force’).

“(b)(1) The Director shall determine—

“(A) subject to the minimum requirements under paragraph (2), the number of representatives to be designated under each subparagraph of that paragraph; and

“(B) the agencies to be represented under paragraph (2)(K).

“(2) After all determinations are made under paragraph (1), the members of the task force shall be designated by the head of each applicable department or agency, and include—

“(A) 1 representative of the Director, who shall convene and chair the task force;

“(B) not less than 2 representatives of the Department of Labor, including 1 representative of the Bureau of Labor Statistics and 1 representative of the Occupational Safety and Health Administration;

“(C) not less than 1 representative of the Environmental Protection Agency;

“(D) not less than 1 representative of the Department of Transportation;

“(E) not less than 1 representative of the Office of Advocacy of the Small Business Administration;

“(F) not less than 1 representative of the Internal Revenue Service;

“(G) not less than 2 representatives of the Department of Health and Human Services, including 1 representative of the Centers for Medicare and Medicaid Services;

“(H) not less than 1 representative of the Department of Agriculture;

“(I) not less than 1 representative of the Department of the Interior;

“(J) not less than 1 representative of the General Services Administration; and

“(K) not less than 1 representative of each of 2 agencies not represented by representatives described under subparagraphs (A) through (J).

“(c) The task force shall—

“(1) identify ways to integrate the collection of information across Federal agencies and programs and examine the feasibility and desirability of requiring each agency to consolidate requirements regarding collections of information with respect to small business concerns within and across agencies, without negatively impacting the effectiveness of underlying laws and regulations regarding such collections of information, in order that each small business concern may submit all information required by the agency—

“(A) to 1 point of contact in the agency;

“(B) in a single format, such as a single electronic reporting system, with respect to the agency; and

“(C) with synchronized reporting for information submissions having the same frequency, such as synchronized quarterly, semiannual, and annual reporting dates;

“(2) examine the feasibility and benefits to small businesses of publishing a list by the Director of the collections of information applicable to small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), organized—

“(A) by North American Industry Classification System code;

“(B) by industrial sector description; or

“(C) in another manner by which small business concerns can more easily identify requirements with which those small business concerns are expected to comply;

“(3) examine the savings, including cost savings, and develop recommendations for implementing—

“(A) systems for electronic submissions of information to the Federal Government; and

“(B) interactive reporting systems, including components that provide immediate feedback to assure that data being submitted—

“(i) meet requirements of format; and

“(ii) are within the range of acceptable options for each data field;

“(4) make recommendations to improve the electronic dissemination of information collected under Federal requirements;

“(5) recommend a plan for the development of an interactive Governmentwide system, available through the Internet, to allow each small business to—

“(A) better understand which Federal requirements regarding collection of information (and, when possible, which other Federal regulatory requirements) apply to that particular business; and

“(B) more easily comply with those Federal requirements; and

“(6) in carrying out this section, consider opportunities for the coordination—

“(A) of Federal and State reporting requirements; and

“(B) among the points of contact described under section 3506(i), such as to enable agencies to provide small

	business concerns with contacts for information collection requirements for other agencies.
Federal Register, publication. Notice.	<p>“(d) The task force shall—</p> <p>“(1) by publication in the Federal Register, provide notice and an opportunity for public comment on each report in draft form; and</p> <p>“(2) make provision in each report for the inclusion of—</p> <p>“(A) any additional or dissenting views of task force members; and</p> <p>“(B) a summary of significant public comments.</p>
Deadline. Reports.	<p>“(e) Not later than 1 year after the date of enactment of the Small Business Paperwork Relief Act of 2002, the task force shall submit a report of its findings under subsection (c) (1), (2), and (3) to—</p> <p>“(1) the Director;</p> <p>“(2) the chairpersons and ranking minority members of—</p> <p>“(A) the Committee on Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and</p> <p>“(B) the Committee on Government Reform and the Committee on Small Business of the House of Representatives; and</p> <p>“(3) the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act (15 U.S.C. 657(b)).</p>
Deadline. Reports.	<p>“(f) Not later than 2 years after the date of enactment of the Small Business Paperwork Relief Act of 2002, the task force shall submit a report of its findings under subsection (c) (4) and (5) to—</p> <p>“(1) the Director;</p> <p>“(2) the chairpersons and ranking minority members of—</p> <p>“(A) the Committee on Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and</p> <p>“(B) the Committee on Government Reform and the Committee on Small Business of the House of Representatives; and</p> <p>“(3) the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act (15 U.S.C. 657(b)).</p>
Termination date.	<p>“(g) The task force shall terminate after completion of its work.</p> <p>“(h) In this section, the term ‘small business concern’ has the meaning given under section 3 of the Small Business Act (15 U.S.C. 632).”.</p>
	<p>(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 35 of title 44, United States Code, is amended by striking the item relating to section 3520 and inserting the following:</p> <p>“3520. Establishment of task force on information collection and dissemination.</p> <p>“3521. Authorization of appropriations.”.</p>
Deadlines. 5 USC 601 note.	<p>SEC. 4. REGULATORY ENFORCEMENT REPORTS.</p> <p>(a) DEFINITION.—In this section, the term “agency” has the meaning given that term under section 551 of title 5, United States Code.</p> <p>(b) IN GENERAL.—</p>

(1) INITIAL REPORT.—Not later than December 31, 2003, each agency shall submit an initial report to—

(A) the chairpersons and ranking minority members of—

(i) the Committee on Governmental Affairs and the Committee on Small Business and Entrepreneurship of the Senate; and

(ii) the Committee on Government Reform and the Committee on Small Business of the House of Representatives; and

(B) the Small Business and Agriculture Regulatory Enforcement Ombudsman designated under section 30(b) of the Small Business Act (15 U.S.C. 657(b)).

(2) FINAL REPORT.—Not later than December 31, 2004, each agency shall submit a final report to the members and officer described under paragraph (1) (A) and (B).

(3) CONTENT.—The initial report under paragraph (1) shall include information with respect to the 1-year period beginning on October 1, 2002, and the final report under paragraph (2) shall include information with respect to the 1-year period beginning on October 1, 2003, on each of the following:

(A) The number of enforcement actions in which a civil penalty is assessed.

(B) The number of enforcement actions in which a civil penalty is assessed against a small entity.

(C) The number of enforcement actions described under subparagraphs (A) and (B) in which the civil penalty is reduced or waived.

(D) The total monetary amount of the reductions or waivers referred to under subparagraph (C).

(4) DEFINITIONS IN REPORTS.—Each report under this subsection shall include definitions selected at the discretion of the reporting agency of the terms “enforcement actions”, “reduction or waiver”, and “small entity” as used in the report.

Approved June 28, 2002.

LEGISLATIVE HISTORY—H.R. 327 (S. 1271):

SENATE REPORTS: No. 107–153 accompanying S. 1271 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Mar. 14, considered and passed House.

Vol. 148 (2002): May 22, considered and passed Senate, amended.

June 18, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

June 28, Presidential statement.



Public Law 107–199
107th Congress

An Act

June 28, 2002
[S. 2578]

To amend title 31 of the United States Code to increase the public debt limit.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. INCREASE IN PUBLIC DEBT LIMIT.

Subsection (b) of section 3101 of title 31, United States Code,
is amended by striking “\$5,950,000,000,000” and inserting
“\$6,400,000,000,000”.

Approved June 28, 2002.

LEGISLATIVE HISTORY—S. 2578:

CONGRESSIONAL RECORD, Vol. 148 (2002):
June 11, considered and passed Senate.
June 27, considered and passed House.



Public Law 107–200
107th Congress

Joint Resolution

Approving the site at Yucca Mountain, Nevada, for the development of a repository for the disposal of high-level radioactive waste and spent nuclear fuel, pursuant to the Nuclear Waste Policy Act of 1982.

July 23, 2002
[H.J. Res. 87]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That there hereby is approved the site at Yucca Mountain, Nevada, for a repository, with respect to which a notice of disapproval was submitted by the Governor of the State of Nevada on April 8, 2002.

42 USC 10135
note.

Approved July 23, 2002.

LEGISLATIVE HISTORY—H.J. Res. 87 (S.J. Res. 34):

HOUSE REPORTS: No. 107–425 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 107–159 accompanying S.J. Res. 34 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 8, considered and passed House.

July 9, considered and passed Senate.



Public Law 107–201
107th Congress

An Act

July 23, 2002
[S. 2594]

To authorize the Secretary of the Treasury to purchase silver on the open market when the silver stockpile is depleted, to be used to mint coins.

Support of
American Eagle
Silver Bullion
Program Act.
31 USC 5101
note.

31 USC 5116
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Support of American Eagle Silver Bullion Program Act”.

SEC. 2. FINDINGS.

Congress finds that—

(1) the American Eagle Silver Bullion coin leads the global market, and is the largest and most popular silver coin program in the United States;

(2) established in 1986, the American Eagle Silver Bullion Program is the most successful silver bullion program in the world;

(3) from fiscal year 1995 through fiscal year 2001, the American Eagle Silver Bullion Program generated—

(A) revenues of \$264,100,000; and

(B) sufficient profits to significantly reduce the national debt;

(4) with the depletion of silver reserves in the Defense Logistic Agency’s Strategic and Critical Materials Stockpile, it is necessary for the Department of the Treasury to acquire silver from other sources in order to preserve the American Eagle Silver Bullion Program;

(5) with the ability to obtain silver from other sources, the United States Mint can continue the highly successful American Eagle Silver Bullion Program, exercising sound business judgment and market acquisition practices in its approach to the silver market, resulting in continuing profitability of the program;

(6) in 2001, silver was commercially produced in 12 States, including, Alaska, Arizona, California, Colorado, Idaho, Missouri, Montana, Nevada, New Mexico, South Dakota, Utah, and Washington;

(7) Nevada is the largest silver producing State in the Nation, producing—

(A) 17,500,000 ounces of silver in 2001; and

(B) 34 percent of United States silver production in 2000;

(8) the mining industry in Idaho is vital to the economy of the State, and the Silver Valley in northern Idaho leads

the world in recorded silver production, with over 1,100,000,000 ounces of silver produced between 1884 and 2001;

(9) the largest, active silver producing mine in the Nation is the McCoy/Cove Mine in Nevada, which produced more than 107,000,000 ounces of silver between 1989 and 2001;

(10) the mining industry in Idaho—

(A) employs more than 3,000 people;

(B) contributes more than \$900,000,000 to the Idaho economy; and

(C) produces \$70,000,000 worth of silver per year;

(11) the silver mines of the Comstock lode, the premier silver producing deposit in Nevada, brought people and wealth to the region, paving the way for statehood in 1864, and giving Nevada its nickname as “the Silver State”;

(12) mines in the Silver Valley—

(A) represent an important part of the mining history of Idaho and the United States; and

(B) have served in the past as key components of the United States war effort; and

(13) silver has been mined in Nevada throughout its history, with every significant metal mining camp in Nevada producing some silver.

SEC. 3. PURCHASE OF SILVER BY THE SECRETARY OF THE TREASURY.

(a) PURCHASE OF SILVER.—

(1) IN GENERAL.—Section 5116(b)(2) of title 31, United States Code, is amended by inserting after the second sentence the following: “At such time as the silver stockpile is depleted, the Secretary shall obtain silver as described in paragraph (1) to mint coins authorized under section 5112(e). If it is not economically feasible to obtain such silver, the Secretary may obtain silver for coins authorized under section 5112(e) from other available sources. The Secretary shall not pay more than the average world price for silver under any circumstances. As used in this paragraph, the term ‘average world price’ means the price determined by a widely recognized commodity exchange at the time the silver is obtained by the Secretary.”.

(2) RULEMAKING AUTHORITY.—The Secretary of the Treasury shall issue regulations to implement the amendments made by paragraph (1).

31 USC 5116
note.

(b) STUDY REQUIRED.—

(1) STUDY.—The Secretary of the Treasury shall conduct a study of the impact on the United States silver market of the American Eagle Silver Bullion Program, established under section 5112(e) of title 31, United States Code.

31 USC 5112
note.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall submit a report of the study conducted under paragraph (1) to the chairman and ranking minority member of—

Deadline.

(A) the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(B) the Committee on Financial Services of the House of Representatives.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—The Director of the United States Mint shall prepare and submit to Congress an annual report on

31 USC 5116
note.

the purchases of silver made pursuant to this Act and the amendments made by this Act.

(2) CONCURRENT SUBMISSION.—The report required by paragraph (1) may be incorporated into the annual report of the Director of the United States Mint on the operations of the mint and assay offices, referred to in section 1329 of title 44, United States Code.

Approved July 23, 2002.

LEGISLATIVE HISTORY—S. 2594:

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 21, considered and passed Senate.

June 27, considered and passed House.



Public Law 107–202
107th Congress

An Act

To establish the Benjamin Franklin Tercentenary Commission.

July 24, 2002

[H.R. 2362]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be referred to as the “Benjamin Franklin Tercentenary Commission Act”.

Benjamin
Franklin
Tercentenary
Commission Act.
36 USC note
prec. 101.

SEC. 2. FINDINGS.

The Congress finds as follows:

(1) Benjamin Franklin was one of the most extraordinary men of the generation that founded the United States. Around the world, he remains one of the best-known Americans who has ever lived.

(2) Benjamin Franklin’s achievements include his literary work, his creation of philanthropic and educational institutions, his significant scientific explorations, and his service to the Nation as a statesman and diplomat.

(3) Benjamin Franklin was the only American to sign all 5 enabling documents of the United States.

(4) All people in the United States could benefit from studying the life of Benjamin Franklin and gaining a deeper appreciation of his legacy to the Nation.

(5) January 17, 2006, is the 300th anniversary of the birth of Benjamin Franklin, and a commission should be established to study and recommend to the Congress activities that are fitting and proper to celebrate that anniversary in a manner that appropriately honors Benjamin Franklin.

36 USC note
prec. 101.

SEC. 3. ESTABLISHMENT.

There is established a commission to be known as the Benjamin Franklin Tercentenary Commission (referred to in this Act as the “Commission”).

36 USC note
prec. 101.

SEC. 4. DUTIES.

(a) **STUDY.**—The Commission shall have the following duties:

(1) To study activities by the Government that would be fitting and proper to honor Benjamin Franklin on the occasion of the tercentenary of his birth, including but not limited to the following:

(A) The minting of a Benjamin Franklin tercentenary coin.

36 USC note
prec. 101.

(B) The rededication of the Benjamin Franklin National Memorial at the Franklin Institute in Philadelphia, Pennsylvania, or other activities with respect to that memorial.

(C) The acquisition and preservation of artifacts associated with Benjamin Franklin.

(D) The sponsorship of publications, including catalogs and scholarly work, concerning Benjamin Franklin.

(E) The sponsorship of conferences, exhibitions, or other public meetings concerning Benjamin Franklin.

(F) The sponsorship of high school and collegiate essay contests concerning the life and legacy of Benjamin Franklin.

(2) To recommend to the Congress in one or more of the interim reports submitted under section 9(a)—

(A) the activities that the Commission considers most fitting and proper to honor Benjamin Franklin on the occasion of the tercentenary of his birth; and

(B) the entity or entities in the Federal Government that the Commission considers most appropriate to carry out such activities.

(b) POINT OF CONTACT.—The Commission, acting through its secretariat, shall serve as the point of contact of the Government for all State, local, international, and private sector initiatives regarding the tercentenary of Benjamin Franklin's birth, with the purpose of coordinating and facilitating all fitting and proper activities honoring Benjamin Franklin.

36 USC note
prec. 101.

SEC. 5. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(1) The Librarian of Congress.

(2) Fourteen qualified citizens, appointed as follows:

(A) Two members appointed by the President.

(B) Two members appointed by the President on the recommendation of the Governor of the Commonwealth of Pennsylvania.

(C) Two members appointed by the President on the recommendation of the Governor of the Commonwealth of Massachusetts.

(D) Two members, at least one of whom shall be a Senator, appointed by the majority leader of the Senate.

(E) Two members, at least one of whom shall be a Senator, appointed by the minority leader of the Senate.

(F) Two members, at least one of whom shall be a Member of the House of Representatives, appointed by the Speaker of the House of Representatives.

(G) Two members, at least one of whom shall be a Member of the House of Representatives, appointed by the minority leader of the House of Representatives.

(b) QUALIFIED CITIZEN.—For purposes of this section, a qualified citizen is a citizen of the United States with—

(1) a substantial knowledge and appreciation of the work and legacy of Benjamin Franklin; and

(2) a commitment to educating people in the United States about the historical importance of Benjamin Franklin.

President.
Congress.

(c) **TIME OF APPOINTMENT.**—Each initial appointment of a member of the Commission shall be made before the expiration of the 120-day period beginning on the date of the enactment of this Act.

(d) **CONTINUATION OF MEMBERSHIP.**—If a member of the Commission was appointed to the Commission as a Member of the Congress, and ceases to be a Member of the Congress, that member may continue to serve on the Commission for not longer than the 30-day period beginning on the date on which that member ceases to be a Member of the Congress.

(e) **TERMS.**—Each member shall be appointed for the life of the Commission.

(f) **VACANCIES.**—A vacancy in the Commission shall not affect the powers of the Commission and shall be filled in the manner in which the original appointment was made.

(g) **BASIC PAY.**—Members shall serve on the Commission without pay.

(h) **TRAVEL EXPENSES.**—Each member shall receive travel expenses, including per diem in lieu of subsistence, in accordance with applicable provisions under subchapter I of chapter 57 of title 5, United States Code.

(i) **QUORUM.**—Five members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(j) **CHAIR.**—The Commission shall select a Chair from among the members of the Commission.

(k) **MEETINGS.**—The Commission shall meet at the call of the Chair.

SEC. 6. ORGANIZATION.

(a) **HONORARY MEMBERS.**—The President—

(1) shall serve as an honorary, nonvoting member of the Commission; and

(2) may invite the President of France and the Prime Minister of the United Kingdom to serve as honorary, nonvoting members of the Commission.

(b) **ADVISORY COMMITTEE.**—The Commission shall form an advisory committee, to be composed of representatives of the major extant institutions founded by or dedicated to Benjamin Franklin, including the following:

(1) The Executive Director of the American Philosophical Society.

(2) The President of the Franklin Institute.

(3) The Librarian of the Library Company.

(4) The Director and Chief Executive Officer of the Philadelphia Museum of Art.

(5) The President of the University of Pennsylvania.

(c) **ADMINISTRATIVE SECRETARIAT.**—The Commission shall seek to enter into an arrangement with the Franklin Institute of Philadelphia, Pennsylvania, under which the Institute shall do the following:

(1) Serve as the secretariat of the Commission, including by serving as the point of contact under section 4(b).

(2) House the administrative offices of the Commission.

SEC. 7. POWERS.

(a) **HEARINGS AND SESSIONS.**—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act

36 USC note
prec. 101.
President.

Establishment.

Contracts.

36 USC note
prec. 101.

at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate.

(b) **POWERS OF MEMBERS AND AGENTS.**—Any member or agent of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take by this Act.

(c) **OBTAINING OFFICIAL DATA.**—The Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out this Act. Upon request of the Chair of the Commission, the head of that department or agency shall furnish that information to the Commission.

(d) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services necessary for the Commission to carry out its responsibilities under this Act.

(f) **PROCUREMENT.**—The Commission may enter into contracts for supplies, services, and facilities to carry out the Commission's duties under this Act.

(g) **DONATIONS.**—The Commission may accept and use donations of—

- (1) money;
- (2) personal services; and
- (3) real or personal property related to Benjamin Franklin or the occasion of the tercentenary of his birth.

36 USC note
prec. 101.

SEC. 8. DIRECTOR AND STAFF.

(a) **APPOINTMENT.**—The Commission may appoint a Director and such additional personnel as the Commission considers to be appropriate.

(b) **APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.**—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

36 USC note
prec. 101.

SEC. 9. REPORTS.

(a) **INTERIM REPORTS.**—The Commission shall submit to the Congress such interim reports as the Commission considers to be appropriate.

Deadline.

(b) **FINAL REPORT.**—The Commission shall submit a final report to the Congress not later than January 16, 2007. The final report shall contain—

- (1) a detailed statement of the activities of the Commission; and
- (2) any other information that the Commission considers to be appropriate.

36 USC note
prec. 101.

SEC. 10. TERMINATION.

The Commission shall terminate 120 days after submitting its final report pursuant to section 9(b).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

36 USC note
prec. 101.

There are authorized to be appropriated \$500,000 for the period of fiscal years 2002 through 2007 to carry out this Act, to remain available until expended.

Approved July 24, 2002.

LEGISLATIVE HISTORY—H.R. 2362:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 30, considered and passed House.
Vol. 148 (2002): July 9, considered and passed Senate.



Public Law 107–203
107th Congress

An Act

July 24, 2002
[H.R. 3971]

To provide for an independent investigation of Forest Service firefighter deaths that are caused by wildfire entrapment or burnover.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

7 USC 2270b.

**SECTION 1. DEPARTMENT OF AGRICULTURE INSPECTOR GENERAL
INVESTIGATION OF FOREST SERVICE FIREFIGHTER
DEATHS.**

In the case of each fatality of an officer or employee of the Forest Service that occurs due to wildfire entrapment or burnover, the Inspector General of the Department of Agriculture shall conduct an investigation of the fatality. The investigation shall not rely on, and shall be completely independent of, any investigation of the fatality that is conducted by the Forest Service.

Reports.
7 USC 2270c.

SEC. 2. SUBMISSION OF RESULTS.

As soon as possible after completing an investigation under section 1, the Inspector General of the Department of Agriculture shall submit to Congress and the Secretary of Agriculture a report containing the results of the investigation.

Approved July 24, 2002.

LEGISLATIVE HISTORY—H.R. 3971:

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 24, considered and passed House.

July 10, considered and passed Senate.



Public Law 107–204
107th Congress

An Act

To protect investors by improving the accuracy and reliability of corporate disclosures made pursuant to the securities laws, and for other purposes.

July 30, 2002
[H.R. 3763]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Sarbanes-Oxley Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Commission rules and enforcement.

TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

- Sec. 101. Establishment; administrative provisions.
- Sec. 102. Registration with the Board.
- Sec. 103. Auditing, quality control, and independence standards and rules.
- Sec. 104. Inspections of registered public accounting firms.
- Sec. 105. Investigations and disciplinary proceedings.
- Sec. 106. Foreign public accounting firms.
- Sec. 107. Commission oversight of the Board.
- Sec. 108. Accounting standards.
- Sec. 109. Funding.

TITLE II—AUDITOR INDEPENDENCE

- Sec. 201. Services outside the scope of practice of auditors.
- Sec. 202. Preapproval requirements.
- Sec. 203. Audit partner rotation.
- Sec. 204. Auditor reports to audit committees.
- Sec. 205. Conforming amendments.
- Sec. 206. Conflicts of interest.
- Sec. 207. Study of mandatory rotation of registered public accounting firms.
- Sec. 208. Commission authority.
- Sec. 209. Considerations by appropriate State regulatory authorities.

TITLE III—CORPORATE RESPONSIBILITY

- Sec. 301. Public company audit committees.
- Sec. 302. Corporate responsibility for financial reports.
- Sec. 303. Improper influence on conduct of audits.
- Sec. 304. Forfeiture of certain bonuses and profits.
- Sec. 305. Officer and director bars and penalties.
- Sec. 306. Insider trades during pension fund blackout periods.
- Sec. 307. Rules of professional responsibility for attorneys.
- Sec. 308. Fair funds for investors.

TITLE IV—ENHANCED FINANCIAL DISCLOSURES

- Sec. 401. Disclosures in periodic reports.
- Sec. 402. Enhanced conflict of interest provisions.
- Sec. 403. Disclosures of transactions involving management and principal stockholders.

Sarbanes-Oxley
Act of 2002.
Corporate
responsibility.
15 USC 7201
note.

- Sec. 404. Management assessment of internal controls.
- Sec. 405. Exemption.
- Sec. 406. Code of ethics for senior financial officers.
- Sec. 407. Disclosure of audit committee financial expert.
- Sec. 408. Enhanced review of periodic disclosures by issuers.
- Sec. 409. Real time issuer disclosures.

TITLE V—ANALYST CONFLICTS OF INTEREST

- Sec. 501. Treatment of securities analysts by registered securities associations and national securities exchanges.

TITLE VI—COMMISSION RESOURCES AND AUTHORITY

- Sec. 601. Authorization of appropriations.
- Sec. 602. Appearance and practice before the Commission.
- Sec. 603. Federal court authority to impose penny stock bars.
- Sec. 604. Qualifications of associated persons of brokers and dealers.

TITLE VII—STUDIES AND REPORTS

- Sec. 701. GAO study and report regarding consolidation of public accounting firms.
- Sec. 702. Commission study and report regarding credit rating agencies.
- Sec. 703. Study and report on violators and violations
- Sec. 704. Study of enforcement actions.
- Sec. 705. Study of investment banks.

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

- Sec. 801. Short title.
- Sec. 802. Criminal penalties for altering documents.
- Sec. 803. Debts nondischargeable if incurred in violation of securities fraud laws.
- Sec. 804. Statute of limitations for securities fraud.
- Sec. 805. Review of Federal Sentencing Guidelines for obstruction of justice and extensive criminal fraud.
- Sec. 806. Protection for employees of publicly traded companies who provide evidence of fraud.
- Sec. 807. Criminal penalties for defrauding shareholders of publicly traded companies.

TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

- Sec. 901. Short title.
- Sec. 902. Attempts and conspiracies to commit criminal fraud offenses.
- Sec. 903. Criminal penalties for mail and wire fraud.
- Sec. 904. Criminal penalties for violations of the Employee Retirement Income Security Act of 1974.
- Sec. 905. Amendment to sentencing guidelines relating to certain white-collar offenses.
- Sec. 906. Corporate responsibility for financial reports.

TITLE X—CORPORATE TAX RETURNS

- Sec. 1001. Sense of the Senate regarding the signing of corporate tax returns by chief executive officers.

TITLE XI—CORPORATE FRAUD AND ACCOUNTABILITY

- Sec. 1101. Short title.
- Sec. 1102. Tampering with a record or otherwise impeding an official proceeding.
- Sec. 1103. Temporary freeze authority for the Securities and Exchange Commission.
- Sec. 1104. Amendment to the Federal Sentencing Guidelines.
- Sec. 1105. Authority of the Commission to prohibit persons from serving as officers or directors.
- Sec. 1106. Increased criminal penalties under Securities Exchange Act of 1934.

15 USC 7201.

SEC. 2. DEFINITIONS.

(a) **IN GENERAL.**—In this Act, the following definitions shall apply:

(1) **APPROPRIATE STATE REGULATORY AUTHORITY.**—The term “appropriate State regulatory authority” means the State agency or other authority responsible for the licensure or other regulation of the practice of accounting in the State or States

having jurisdiction over a registered public accounting firm or associated person thereof, with respect to the matter in question.

(2) **AUDIT.**—The term “audit” means an examination of the financial statements of any issuer by an independent public accounting firm in accordance with the rules of the Board or the Commission (or, for the period preceding the adoption of applicable rules of the Board under section 103, in accordance with then-applicable generally accepted auditing and related standards for such purposes), for the purpose of expressing an opinion on such statements.

(3) **AUDIT COMMITTEE.**—The term “audit committee” means—

(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and

(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.

(4) **AUDIT REPORT.**—The term “audit report” means a document or other record—

(A) prepared following an audit performed for purposes of compliance by an issuer with the requirements of the securities laws; and

(B) in which a public accounting firm either—

(i) sets forth the opinion of that firm regarding a financial statement, report, or other document; or

(ii) asserts that no such opinion can be expressed.

(5) **BOARD.**—The term “Board” means the Public Company Accounting Oversight Board established under section 101.

(6) **COMMISSION.**—The term “Commission” means the Securities and Exchange Commission.

(7) **ISSUER.**—The term “issuer” means an issuer (as defined in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c)), the securities of which are registered under section 12 of that Act (15 U.S.C. 78l), or that is required to file reports under section 15(d) (15 U.S.C. 78o(d)), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.), and that it has not withdrawn.

(8) **NON-AUDIT SERVICES.**—The term “non-audit services” means any professional services provided to an issuer by a registered public accounting firm, other than those provided to an issuer in connection with an audit or a review of the financial statements of an issuer.

(9) **PERSON ASSOCIATED WITH A PUBLIC ACCOUNTING FIRM.**—

(A) **IN GENERAL.**—The terms “person associated with a public accounting firm” (or with a “registered public accounting firm”) and “associated person of a public accounting firm” (or of a “registered public accounting firm”) mean any individual proprietor, partner, shareholder, principal, accountant, or other professional employee of a public accounting firm, or any other independent contractor or entity that, in connection with the preparation or issuance of any audit report—

(i) shares in the profits of, or receives compensation in any other form from, that firm; or

(ii) participates as agent or otherwise on behalf of such accounting firm in any activity of that firm.

(B) EXEMPTION AUTHORITY.—The Board may, by rule, exempt persons engaged only in ministerial tasks from the definition in subparagraph (A), to the extent that the Board determines that any such exemption is consistent with the purposes of this Act, the public interest, or the protection of investors.

(10) PROFESSIONAL STANDARDS.—The term “professional standards” means—

(A) accounting principles that are—

(i) established by the standard setting body described in section 19(b) of the Securities Act of 1933, as amended by this Act, or prescribed by the Commission under section 19(a) of that Act (15 U.S.C. 17a(s)) or section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(m)); and

(ii) relevant to audit reports for particular issuers, or dealt with in the quality control system of a particular registered public accounting firm; and

(B) auditing standards, standards for attestation engagements, quality control policies and procedures, ethical and competency standards, and independence standards (including rules implementing title II) that the Board or the Commission determines—

(i) relate to the preparation or issuance of audit reports for issuers; and

(ii) are established or adopted by the Board under section 103(a), or are promulgated as rules of the Commission.

(11) PUBLIC ACCOUNTING FIRM.—The term “public accounting firm” means—

(A) a proprietorship, partnership, incorporated association, corporation, limited liability company, limited liability partnership, or other legal entity that is engaged in the practice of public accounting or preparing or issuing audit reports; and

(B) to the extent so designated by the rules of the Board, any associated person of any entity described in subparagraph (A).

(12) REGISTERED PUBLIC ACCOUNTING FIRM.—The term “registered public accounting firm” means a public accounting firm registered with the Board in accordance with this Act.

(13) RULES OF THE BOARD.—The term “rules of the Board” means the bylaws and rules of the Board (as submitted to, and approved, modified, or amended by the Commission, in accordance with section 107), and those stated policies, practices, and interpretations of the Board that the Commission, by rule, may deem to be rules of the Board, as necessary or appropriate in the public interest or for the protection of investors.

(14) SECURITY.—The term “security” has the same meaning as in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)).

(15) SECURITIES LAWS.—The term “securities laws” means the provisions of law referred to in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), as amended by this Act, and includes the rules, regulations, and orders issued by the Commission thereunder.

(16) STATE.—The term “State” means any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, or any other territory or possession of the United States.

(b) CONFORMING AMENDMENT.—Section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) is amended by inserting “the Sarbanes-Oxley Act of 2002,” before “the Public”.

SEC. 3. COMMISSION RULES AND ENFORCEMENT.

15 USC 7202.

(a) REGULATORY ACTION.—The Commission shall promulgate such rules and regulations, as may be necessary or appropriate in the public interest or for the protection of investors, and in furtherance of this Act.

(b) ENFORCEMENT.—

(1) IN GENERAL.—A violation by any person of this Act, any rule or regulation of the Commission issued under this Act, or any rule of the Board shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the rules and regulations issued thereunder, consistent with the provisions of this Act, and any such person shall be subject to the same penalties, and to the same extent, as for a violation of that Act or such rules or regulations.

(2) INVESTIGATIONS, INJUNCTIONS, AND PROSECUTION OF OFFENSES.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended—

(A) in subsection (a)(1), by inserting “the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”;

(B) in subsection (d)(1), by inserting “the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”;

(C) in subsection (e), by inserting “the rules of the Public Company Accounting Oversight Board, of which such person is a registered public accounting firm or a person associated with such a firm,” after “is a participant,”; and

(D) in subsection (f), by inserting “or the Public Company Accounting Oversight Board” after “self-regulatory organization” each place that term appears.

(3) CEASE-AND-DESIST PROCEEDINGS.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by inserting “registered public accounting firm (as defined in section 2 of the Sarbanes-Oxley Act of 2002),” after “government securities dealer,”.

(4) ENFORCEMENT BY FEDERAL BANKING AGENCIES.—Section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(i)) is amended by—

(A) striking “sections 12,” each place it appears and inserting “sections 10A(m), 12,”; and

(B) striking “and 16,” each place it appears and inserting “and 16 of this Act, and sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002,”.

(c) EFFECT ON COMMISSION AUTHORITY.—Nothing in this Act or the rules of the Board shall be construed to impair or limit—

(1) the authority of the Commission to regulate the accounting profession, accounting firms, or persons associated with such firms for purposes of enforcement of the securities laws;

(2) the authority of the Commission to set standards for accounting or auditing practices or auditor independence, derived from other provisions of the securities laws or the rules or regulations thereunder, for purposes of the preparation and issuance of any audit report, or otherwise under applicable law; or

(3) the ability of the Commission to take, on the initiative of the Commission, legal, administrative, or disciplinary action against any registered public accounting firm or any associated person thereof.

TITLE I—PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD

15 USC 7211.

SEC. 101. ESTABLISHMENT; ADMINISTRATIVE PROVISIONS.

(a) ESTABLISHMENT OF BOARD.—There is established the Public Company Accounting Oversight Board, to oversee the audit of public companies that are subject to the securities laws, and related matters, in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports for companies the securities of which are sold to, and held by and for, public investors. The Board shall be a body corporate, operate as a nonprofit corporation, and have succession until dissolved by an Act of Congress.

(b) STATUS.—The Board shall not be an agency or establishment of the United States Government, and, except as otherwise provided in this Act, shall be subject to, and have all the powers conferred upon a nonprofit corporation by, the District of Columbia Nonprofit Corporation Act. No member or person employed by, or agent for, the Board shall be deemed to be an officer or employee of or agent for the Federal Government by reason of such service.

(c) DUTIES OF THE BOARD.—The Board shall, subject to action by the Commission under section 107, and once a determination is made by the Commission under subsection (d) of this section—

(1) register public accounting firms that prepare audit reports for issuers, in accordance with section 102;

(2) establish or adopt, or both, by rule, auditing, quality control, ethics, independence, and other standards relating to the preparation of audit reports for issuers, in accordance with section 103;

(3) conduct inspections of registered public accounting firms, in accordance with section 104 and the rules of the Board;

(4) conduct investigations and disciplinary proceedings concerning, and impose appropriate sanctions where justified upon,

registered public accounting firms and associated persons of such firms, in accordance with section 105;

(5) perform such other duties or functions as the Board (or the Commission, by rule or order) determines are necessary or appropriate to promote high professional standards among, and improve the quality of audit services offered by, registered public accounting firms and associated persons thereof, or otherwise to carry out this Act, in order to protect investors, or to further the public interest;

(6) enforce compliance with this Act, the rules of the Board, professional standards, and the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, by registered public accounting firms and associated persons thereof; and

(7) set the budget and manage the operations of the Board and the staff of the Board.

(d) COMMISSION DETERMINATION.—The members of the Board shall take such action (including hiring of staff, proposal of rules, and adoption of initial and transitional auditing and other professional standards) as may be necessary or appropriate to enable the Commission to determine, not later than 270 days after the date of enactment of this Act, that the Board is so organized and has the capacity to carry out the requirements of this title, and to enforce compliance with this title by registered public accounting firms and associated persons thereof. The Commission shall be responsible, prior to the appointment of the Board, for the planning for the establishment and administrative transition to the Board's operation.

(e) BOARD MEMBERSHIP.—

(1) COMPOSITION.—The Board shall have 5 members, appointed from among prominent individuals of integrity and reputation who have a demonstrated commitment to the interests of investors and the public, and an understanding of the responsibilities for and nature of the financial disclosures required of issuers under the securities laws and the obligations of accountants with respect to the preparation and issuance of audit reports with respect to such disclosures.

(2) LIMITATION.—Two members, and only 2 members, of the Board shall be or have been certified public accountants pursuant to the laws of 1 or more States, provided that, if 1 of those 2 members is the chairperson, he or she may not have been a practicing certified public accountant for at least 5 years prior to his or her appointment to the Board.

(3) FULL-TIME INDEPENDENT SERVICE.—Each member of the Board shall serve on a full-time basis, and may not, concurrent with service on the Board, be employed by any other person or engage in any other professional or business activity. No member of the Board may share in any of the profits of, or receive payments from, a public accounting firm (or any other person, as determined by rule of the Commission), other than fixed continuing payments, subject to such conditions as the Commission may impose, under standard arrangements for the retirement of members of public accounting firms.

(4) APPOINTMENT OF BOARD MEMBERS.—

(A) INITIAL BOARD.—Not later than 90 days after the date of enactment of this Act, the Commission, after consultation with the Chairman of the Board of Governors

Deadline.

of the Federal Reserve System and the Secretary of the Treasury, shall appoint the chairperson and other initial members of the Board, and shall designate a term of service for each.

(B) VACANCIES.—A vacancy on the Board shall not affect the powers of the Board, but shall be filled in the same manner as provided for appointments under this section.

(5) TERM OF SERVICE.—

(A) IN GENERAL.—The term of service of each Board member shall be 5 years, and until a successor is appointed, except that—

(i) the terms of office of the initial Board members (other than the chairperson) shall expire in annual increments, 1 on each of the first 4 anniversaries of the initial date of appointment; and

(ii) any Board member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor was appointed shall be appointed only for the remainder of that term.

(B) TERM LIMITATION.—No person may serve as a member of the Board, or as chairperson of the Board, for more than 2 terms, whether or not such terms of service are consecutive.

(6) REMOVAL FROM OFFICE.—A member of the Board may be removed by the Commission from office, in accordance with section 107(d)(3), for good cause shown before the expiration of the term of that member.

(f) POWERS OF THE BOARD.—In addition to any authority granted to the Board otherwise in this Act, the Board shall have the power, subject to section 107—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel, with the approval of the Commission, in any Federal, State, or other court;

(2) to conduct its operations and maintain offices, and to exercise all other rights and powers authorized by this Act, in any State, without regard to any qualification, licensing, or other provision of law in effect in such State (or a political subdivision thereof);

(3) to lease, purchase, accept gifts or donations of or otherwise acquire, improve, use, sell, exchange, or convey, all of or an interest in any property, wherever situated;

(4) to appoint such employees, accountants, attorneys, and other agents as may be necessary or appropriate, and to determine their qualifications, define their duties, and fix their salaries or other compensation (at a level that is comparable to private sector self-regulatory, accounting, technical, supervisory, or other staff or management positions);

(5) to allocate, assess, and collect accounting support fees established pursuant to section 109, for the Board, and other fees and charges imposed under this title; and

(6) to enter into contracts, execute instruments, incur liabilities, and do any and all other acts and things necessary, appropriate, or incidental to the conduct of its operations and the exercise of its obligations, rights, and powers imposed or granted by this title.

Contracts.

(g) **RULES OF THE BOARD.**—The rules of the Board shall, subject to the approval of the Commission—

(1) provide for the operation and administration of the Board, the exercise of its authority, and the performance of its responsibilities under this Act;

(2) permit, as the Board determines necessary or appropriate, delegation by the Board of any of its functions to an individual member or employee of the Board, or to a division of the Board, including functions with respect to hearing, determining, ordering, certifying, reporting, or otherwise acting as to any matter, except that—

(A) the Board shall retain a discretionary right to review any action pursuant to any such delegated function, upon its own motion;

(B) a person shall be entitled to a review by the Board with respect to any matter so delegated, and the decision of the Board upon such review shall be deemed to be the action of the Board for all purposes (including appeal or review thereof); and

(C) if the right to exercise a review described in subparagraph (A) is declined, or if no such review is sought within the time stated in the rules of the Board, then the action taken by the holder of such delegation shall for all purposes, including appeal or review thereof, be deemed to be the action of the Board;

(3) establish ethics rules and standards of conduct for Board members and staff, including a bar on practice before the Board (and the Commission, with respect to Board-related matters) of 1 year for former members of the Board, and appropriate periods (not to exceed 1 year) for former staff of the Board; and

(4) provide as otherwise required by this Act.

(h) **ANNUAL REPORT TO THE COMMISSION.**—The Board shall submit an annual report (including its audited financial statements) to the Commission, and the Commission shall transmit a copy of that report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, not later than 30 days after the date of receipt of that report by the Commission.

Deadline.

SEC. 102. REGISTRATION WITH THE BOARD.

15 USC 7212.

(a) **MANDATORY REGISTRATION.**—Beginning 180 days after the date of the determination of the Commission under section 101(d), it shall be unlawful for any person that is not a registered public accounting firm to prepare or issue, or to participate in the preparation or issuance of, any audit report with respect to any issuer.

(b) **APPLICATIONS FOR REGISTRATION.**—

(1) **FORM OF APPLICATION.**—A public accounting firm shall use such form as the Board may prescribe, by rule, to apply for registration under this section.

(2) **CONTENTS OF APPLICATIONS.**—Each public accounting firm shall submit, as part of its application for registration, in such detail as the Board shall specify—

(A) the names of all issuers for which the firm prepared or issued audit reports during the immediately preceding calendar year, and for which the firm expects to prepare or issue audit reports during the current calendar year;

(B) the annual fees received by the firm from each such issuer for audit services, other accounting services, and non-audit services, respectively;

(C) such other current financial information for the most recently completed fiscal year of the firm as the Board may reasonably request;

(D) a statement of the quality control policies of the firm for its accounting and auditing practices;

(E) a list of all accountants associated with the firm who participate in or contribute to the preparation of audit reports, stating the license or certification number of each such person, as well as the State license numbers of the firm itself;

(F) information relating to criminal, civil, or administrative actions or disciplinary proceedings pending against the firm or any associated person of the firm in connection with any audit report;

(G) copies of any periodic or annual disclosure filed by an issuer with the Commission during the immediately preceding calendar year which discloses accounting disagreements between such issuer and the firm in connection with an audit report furnished or prepared by the firm for such issuer; and

(H) such other information as the rules of the Board or the Commission shall specify as necessary or appropriate in the public interest or for the protection of investors.

(3) CONSENTS.—Each application for registration under this subsection shall include—

(A) a consent executed by the public accounting firm to cooperation in and compliance with any request for testimony or the production of documents made by the Board in the furtherance of its authority and responsibilities under this title (and an agreement to secure and enforce similar consents from each of the associated persons of the public accounting firm as a condition of their continued employment by or other association with such firm); and

(B) a statement that such firm understands and agrees that cooperation and compliance, as described in the consent required by subparagraph (A), and the securing and enforcement of such consents from its associated persons, in accordance with the rules of the Board, shall be a condition to the continuing effectiveness of the registration of the firm with the Board.

(c) ACTION ON APPLICATIONS.—

Deadline.

(1) TIMING.—The Board shall approve a completed application for registration not later than 45 days after the date of receipt of the application, in accordance with the rules of the Board, unless the Board, prior to such date, issues a written notice of disapproval to, or requests more information from, the prospective registrant.

(2) TREATMENT.—A written notice of disapproval of a completed application under paragraph (1) for registration shall be treated as a disciplinary sanction for purposes of sections 105(d) and 107(c).

(d) PERIODIC REPORTS.—Each registered public accounting firm shall submit an annual report to the Board, and may be required

to report more frequently, as necessary to update the information contained in its application for registration under this section, and to provide to the Board such additional information as the Board or the Commission may specify, in accordance with subsection (b)(2).

(e) **PUBLIC AVAILABILITY.**—Registration applications and annual reports required by this subsection, or such portions of such applications or reports as may be designated under rules of the Board, shall be made available for public inspection, subject to rules of the Board or the Commission, and to applicable laws relating to the confidentiality of proprietary, personal, or other information contained in such applications or reports, provided that, in all events, the Board shall protect from public disclosure information reasonably identified by the subject accounting firm as proprietary information.

(f) **REGISTRATION AND ANNUAL FEES.**—The Board shall assess and collect a registration fee and an annual fee from each registered public accounting firm, in amounts that are sufficient to recover the costs of processing and reviewing applications and annual reports.

SEC. 103. AUDITING, QUALITY CONTROL, AND INDEPENDENCE STANDARDS AND RULES. 15 USC 7213.

(a) **AUDITING, QUALITY CONTROL, AND ETHICS STANDARDS.**—

(1) **IN GENERAL.**—The Board shall, by rule, establish, including, to the extent it determines appropriate, through adoption of standards proposed by 1 or more professional groups of accountants designated pursuant to paragraph (3)(A) or advisory groups convened pursuant to paragraph (4), and amend or otherwise modify or alter, such auditing and related attestation standards, such quality control standards, and such ethics standards to be used by registered public accounting firms in the preparation and issuance of audit reports, as required by this Act or the rules of the Commission, or as may be necessary or appropriate in the public interest or for the protection of investors.

(2) **RULE REQUIREMENTS.**—In carrying out paragraph (1), the Board—

(A) shall include in the auditing standards that it adopts, requirements that each registered public accounting firm shall—

(i) prepare, and maintain for a period of not less than 7 years, audit work papers, and other information related to any audit report, in sufficient detail to support the conclusions reached in such report;

(ii) provide a concurring or second partner review and approval of such audit report (and other related information), and concurring approval in its issuance, by a qualified person (as prescribed by the Board) associated with the public accounting firm, other than the person in charge of the audit, or by an independent reviewer (as prescribed by the Board); and

(iii) describe in each audit report the scope of the auditor's testing of the internal control structure and procedures of the issuer, required by section 404(b), and present (in such report or in a separate report)—

(I) the findings of the auditor from such testing;

(II) an evaluation of whether such internal control structure and procedures—

(aa) include maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of the assets of the issuer;

(bb) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the issuer are being made only in accordance with authorizations of management and directors of the issuer; and

(III) a description, at a minimum, of material weaknesses in such internal controls, and of any material noncompliance found on the basis of such testing.

(B) shall include, in the quality control standards that it adopts with respect to the issuance of audit reports, requirements for every registered public accounting firm relating to—

(i) monitoring of professional ethics and independence from issuers on behalf of which the firm issues audit reports;

(ii) consultation within such firm on accounting and auditing questions;

(iii) supervision of audit work;

(iv) hiring, professional development, and advancement of personnel;

(v) the acceptance and continuation of engagements;

(vi) internal inspection; and

(vii) such other requirements as the Board may prescribe, subject to subsection (a)(1).

(3) AUTHORITY TO ADOPT OTHER STANDARDS.—

(A) IN GENERAL.—In carrying out this subsection, the Board—

(i) may adopt as its rules, subject to the terms of section 107, any portion of any statement of auditing standards or other professional standards that the Board determines satisfy the requirements of paragraph (1), and that were proposed by 1 or more professional groups of accountants that shall be designated or recognized by the Board, by rule, for such purpose, pursuant to this paragraph or 1 or more advisory groups convened pursuant to paragraph (4); and

(ii) notwithstanding clause (i), shall retain full authority to modify, supplement, revise, or subsequently amend, modify, or repeal, in whole or in part, any portion of any statement described in clause (i).

(B) INITIAL AND TRANSITIONAL STANDARDS.—The Board shall adopt standards described in subparagraph (A)(i) as initial or transitional standards, to the extent the Board determines necessary, prior to a determination of the

Commission under section 101(d), and such standards shall be separately approved by the Commission at the time of that determination, without regard to the procedures required by section 107 that otherwise would apply to the approval of rules of the Board.

(4) **ADVISORY GROUPS.**—The Board shall convene, or authorize its staff to convene, such expert advisory groups as may be appropriate, which may include practicing accountants and other experts, as well as representatives of other interested groups, subject to such rules as the Board may prescribe to prevent conflicts of interest, to make recommendations concerning the content (including proposed drafts) of auditing, quality control, ethics, independence, or other standards required to be established under this section.

(b) **INDEPENDENCE STANDARDS AND RULES.**—The Board shall establish such rules as may be necessary or appropriate in the public interest or for the protection of investors, to implement, or as authorized under, title II of this Act.

(c) **COOPERATION WITH DESIGNATED PROFESSIONAL GROUPS OF ACCOUNTANTS AND ADVISORY GROUPS.**—

(1) **IN GENERAL.**—The Board shall cooperate on an ongoing basis with professional groups of accountants designated under subsection (a)(3)(A) and advisory groups convened under subsection (a)(4) in the examination of the need for changes in any standards subject to its authority under subsection (a), recommend issues for inclusion on the agendas of such designated professional groups of accountants or advisory groups, and take such other steps as it deems appropriate to increase the effectiveness of the standard setting process.

(2) **BOARD RESPONSES.**—The Board shall respond in a timely fashion to requests from designated professional groups of accountants and advisory groups referred to in paragraph (1) for any changes in standards over which the Board has authority.

(d) **EVALUATION OF STANDARD SETTING PROCESS.**—The Board shall include in the annual report required by section 101(h) the results of its standard setting responsibilities during the period to which the report relates, including a discussion of the work of the Board with any designated professional groups of accountants and advisory groups described in paragraphs (3)(A) and (4) of subsection (a), and its pending issues agenda for future standard setting projects.

SEC. 104. INSPECTIONS OF REGISTERED PUBLIC ACCOUNTING FIRMS. 15 USC 7214.

(a) **IN GENERAL.**—The Board shall conduct a continuing program of inspections to assess the degree of compliance of each registered public accounting firm and associated persons of that firm with this Act, the rules of the Board, the rules of the Commission, or professional standards, in connection with its performance of audits, issuance of audit reports, and related matters involving issuers.

(b) **INSPECTION FREQUENCY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), inspections required by this section shall be conducted—

(A) annually with respect to each registered public accounting firm that regularly provides audit reports for more than 100 issuers; and

(B) not less frequently than once every 3 years with respect to each registered public accounting firm that regularly provides audit reports for 100 or fewer issuers.

(2) ADJUSTMENTS TO SCHEDULES.—The Board may, by rule, adjust the inspection schedules set under paragraph (1) if the Board finds that different inspection schedules are consistent with the purposes of this Act, the public interest, and the protection of investors. The Board may conduct special inspections at the request of the Commission or upon its own motion.

(c) PROCEDURES.—The Board shall, in each inspection under this section, and in accordance with its rules for such inspections—

(1) identify any act or practice or omission to act by the registered public accounting firm, or by any associated person thereof, revealed by such inspection that may be in violation of this Act, the rules of the Board, the rules of the Commission, the firm's own quality control policies, or professional standards;

(2) report any such act, practice, or omission, if appropriate, to the Commission and each appropriate State regulatory authority; and

(3) begin a formal investigation or take disciplinary action, if appropriate, with respect to any such violation, in accordance with this Act and the rules of the Board.

(d) CONDUCT OF INSPECTIONS.—In conducting an inspection of a registered public accounting firm under this section, the Board shall—

(1) inspect and review selected audit and review engagements of the firm (which may include audit engagements that are the subject of ongoing litigation or other controversy between the firm and 1 or more third parties), performed at various offices and by various associated persons of the firm, as selected by the Board;

(2) evaluate the sufficiency of the quality control system of the firm, and the manner of the documentation and communication of that system by the firm; and

(3) perform such other testing of the audit, supervisory, and quality control procedures of the firm as are necessary or appropriate in light of the purpose of the inspection and the responsibilities of the Board.

(e) RECORD RETENTION.—The rules of the Board may require the retention by registered public accounting firms for inspection purposes of records whose retention is not otherwise required by section 103 or the rules issued thereunder.

(f) PROCEDURES FOR REVIEW.—The rules of the Board shall provide a procedure for the review of and response to a draft inspection report by the registered public accounting firm under inspection. The Board shall take such action with respect to such response as it considers appropriate (including revising the draft report or continuing or supplementing its inspection activities before issuing a final report), but the text of any such response, appropriately redacted to protect information reasonably identified by the accounting firm as confidential, shall be attached to and made part of the inspection report.

(g) REPORT.—A written report of the findings of the Board for each inspection under this section, subject to subsection (h), shall be—

(1) transmitted, in appropriate detail, to the Commission and each appropriate State regulatory authority, accompanied by any letter or comments by the Board or the inspector, and any letter of response from the registered public accounting firm; and

(2) made available in appropriate detail to the public (subject to section 105(b)(5)(A), and to the protection of such confidential and proprietary information as the Board may determine to be appropriate, or as may be required by law), except that no portions of the inspection report that deal with criticisms of or potential defects in the quality control systems of the firm under inspection shall be made public if those criticisms or defects are addressed by the firm, to the satisfaction of the Board, not later than 12 months after the date of the inspection report.

(h) INTERIM COMMISSION REVIEW.—

(1) REVIEWABLE MATTERS.—A registered public accounting firm may seek review by the Commission, pursuant to such rules as the Commission shall promulgate, if the firm—

(A) has provided the Board with a response, pursuant to rules issued by the Board under subsection (f), to the substance of particular items in a draft inspection report, and disagrees with the assessments contained in any final report prepared by the Board following such response; or

(B) disagrees with the determination of the Board that criticisms or defects identified in an inspection report have not been addressed to the satisfaction of the Board within 12 months of the date of the inspection report, for purposes of subsection (g)(2).

(2) TREATMENT OF REVIEW.—Any decision of the Commission with respect to a review under paragraph (1) shall not be reviewable under section 25 of the Securities Exchange Act of 1934 (15 U.S.C. 78y), or deemed to be “final agency action” for purposes of section 704 of title 5, United States Code.

(3) TIMING.—Review under paragraph (1) may be sought during the 30-day period following the date of the event giving rise to the review under subparagraph (A) or (B) of paragraph (1).

SEC. 105. INVESTIGATIONS AND DISCIPLINARY PROCEEDINGS.

15 USC 7215.

(a) IN GENERAL.—The Board shall establish, by rule, subject to the requirements of this section, fair procedures for the investigation and disciplining of registered public accounting firms and associated persons of such firms.

Establishment.

(b) INVESTIGATIONS.—

(1) AUTHORITY.—In accordance with the rules of the Board, the Board may conduct an investigation of any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, regardless of how the act, practice, or omission is brought to the attention of the Board.

(2) **TESTIMONY AND DOCUMENT PRODUCTION.**—In addition to such other actions as the Board determines to be necessary or appropriate, the rules of the Board may—

(A) require the testimony of the firm or of any person associated with a registered public accounting firm, with respect to any matter that the Board considers relevant or material to an investigation;

(B) require the production of audit work papers and any other document or information in the possession of a registered public accounting firm or any associated person thereof, wherever domiciled, that the Board considers relevant or material to the investigation, and may inspect the books and records of such firm or associated person to verify the accuracy of any documents or information supplied;

(C) request the testimony of, and production of any document in the possession of, any other person, including any client of a registered public accounting firm that the Board considers relevant or material to an investigation under this section, with appropriate notice, subject to the needs of the investigation, as permitted under the rules of the Board; and

(D) provide for procedures to seek issuance by the Commission, in a manner established by the Commission, of a subpoena to require the testimony of, and production of any document in the possession of, any person, including any client of a registered public accounting firm, that the Board considers relevant or material to an investigation under this section.

(3) **NONCOOPERATION WITH INVESTIGATIONS.**—

(A) **IN GENERAL.**—If a registered public accounting firm or any associated person thereof refuses to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation under this section, the Board may—

(i) suspend or bar such person from being associated with a registered public accounting firm, or require the registered public accounting firm to end such association;

(ii) suspend or revoke the registration of the public accounting firm; and

(iii) invoke such other lesser sanctions as the Board considers appropriate, and as specified by rule of the Board.

(B) **PROCEDURE.**—Any action taken by the Board under this paragraph shall be subject to the terms of section 107(c).

(4) **COORDINATION AND REFERRAL OF INVESTIGATIONS.**—

(A) **COORDINATION.**—The Board shall notify the Commission of any pending Board investigation involving a potential violation of the securities laws, and thereafter coordinate its work with the work of the Commission's Division of Enforcement, as necessary to protect an ongoing Commission investigation.

(B) **REFERRAL.**—The Board may refer an investigation under this section—

(i) to the Commission;

Notification.

(ii) to any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), in the case of an investigation that concerns an audit report for an institution that is subject to the jurisdiction of such regulator; and

(iii) at the direction of the Commission, to—

(I) the Attorney General of the United States;

(II) the attorney general of 1 or more States;

and

(III) the appropriate State regulatory authority.

(5) USE OF DOCUMENTS.—

(A) CONFIDENTIALITY.—Except as provided in subparagraph (B), all documents and information prepared or received by or specifically for the Board, and deliberations of the Board and its employees and agents, in connection with an inspection under section 104 or with an investigation under this section, shall be confidential and privileged as an evidentiary matter (and shall not be subject to civil discovery or other legal process) in any proceeding in any Federal or State court or administrative agency, and shall be exempt from disclosure, in the hands of an agency or establishment of the Federal Government, under the Freedom of Information Act (5 U.S.C. 552a), or otherwise, unless and until presented in connection with a public proceeding or released in accordance with subsection (c).

(B) AVAILABILITY TO GOVERNMENT AGENCIES.—Without the loss of its status as confidential and privileged in the hands of the Board, all information referred to in subparagraph (A) may—

(i) be made available to the Commission; and

(ii) in the discretion of the Board, when determined by the Board to be necessary to accomplish the purposes of this Act or to protect investors, be made available to—

(I) the Attorney General of the United States;

(II) the appropriate Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act (15 U.S.C. 6809)), other than the Commission, with respect to an audit report for an institution subject to the jurisdiction of such regulator;

(III) State attorneys general in connection with any criminal investigation; and

(IV) any appropriate State regulatory authority,

each of which shall maintain such information as confidential and privileged.

(6) IMMUNITY.—Any employee of the Board engaged in carrying out an investigation under this Act shall be immune from any civil liability arising out of such investigation in the same manner and to the same extent as an employee of the Federal Government in similar circumstances.

(c) DISCIPLINARY PROCEDURES.—

(1) NOTIFICATION; RECORDKEEPING.—The rules of the Board shall provide that in any proceeding by the Board to determine

whether a registered public accounting firm, or an associated person thereof, should be disciplined, the Board shall—

(A) bring specific charges with respect to the firm or associated person;

(B) notify such firm or associated person of, and provide to the firm or associated person an opportunity to defend against, such charges; and

(C) keep a record of the proceedings.

(2) PUBLIC HEARINGS.—Hearings under this section shall not be public, unless otherwise ordered by the Board for good cause shown, with the consent of the parties to such hearing.

(3) SUPPORTING STATEMENT.—A determination by the Board to impose a sanction under this subsection shall be supported by a statement setting forth—

(A) each act or practice in which the registered public accounting firm, or associated person, has engaged (or omitted to engage), or that forms a basis for all or a part of such sanction;

(B) the specific provision of this Act, the securities laws, the rules of the Board, or professional standards which the Board determines has been violated; and

(C) the sanction imposed, including a justification for that sanction.

(4) SANCTIONS.—If the Board finds, based on all of the facts and circumstances, that a registered public accounting firm or associated person thereof has engaged in any act or practice, or omitted to act, in violation of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under this Act, or professional standards, the Board may impose such disciplinary or remedial sanctions as it determines appropriate, subject to applicable limitations under paragraph (5), including—

(A) temporary suspension or permanent revocation of registration under this title;

(B) temporary or permanent suspension or bar of a person from further association with any registered public accounting firm;

(C) temporary or permanent limitation on the activities, functions, or operations of such firm or person (other than in connection with required additional professional education or training);

(D) a civil money penalty for each such violation, in an amount equal to—

(i) not more than \$100,000 for a natural person or \$2,000,000 for any other person; and

(ii) in any case to which paragraph (5) applies, not more than \$750,000 for a natural person or \$15,000,000 for any other person;

(E) censure;

(F) required additional professional education or training; or

(G) any other appropriate sanction provided for in the rules of the Board.

(5) INTENTIONAL OR OTHER KNOWING CONDUCT.—The sanctions and penalties described in subparagraphs (A) through (C) and (D)(ii) of paragraph (4) shall only apply to—

(A) intentional or knowing conduct, including reckless conduct, that results in violation of the applicable statutory, regulatory, or professional standard; or

(B) repeated instances of negligent conduct, each resulting in a violation of the applicable statutory, regulatory, or professional standard.

(6) FAILURE TO SUPERVISE.—

(A) IN GENERAL.—The Board may impose sanctions under this section on a registered accounting firm or upon the supervisory personnel of such firm, if the Board finds that—

(i) the firm has failed reasonably to supervise an associated person, either as required by the rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of this Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission under this Act, or professional standards; and

(ii) such associated person commits a violation of this Act, or any of such rules, laws, or standards.

(B) RULE OF CONSTRUCTION.—No associated person of a registered public accounting firm shall be deemed to have failed reasonably to supervise any other person for purposes of subparagraph (A), if—

(i) there have been established in and for that firm procedures, and a system for applying such procedures, that comply with applicable rules of the Board and that would reasonably be expected to prevent and detect any such violation by such associated person; and

(ii) such person has reasonably discharged the duties and obligations incumbent upon that person by reason of such procedures and system, and had no reasonable cause to believe that such procedures and system were not being complied with.

(7) EFFECT OF SUSPENSION.—

(A) ASSOCIATION WITH A PUBLIC ACCOUNTING FIRM.—It shall be unlawful for any person that is suspended or barred from being associated with a registered public accounting firm under this subsection willfully to become or remain associated with any registered public accounting firm, or for any registered public accounting firm that knew, or, in the exercise of reasonable care should have known, of the suspension or bar, to permit such an association, without the consent of the Board or the Commission.

(B) ASSOCIATION WITH AN ISSUER.—It shall be unlawful for any person that is suspended or barred from being associated with an issuer under this subsection willfully to become or remain associated with any issuer in an accountancy or a financial management capacity, and for any issuer that knew, or in the exercise of reasonable

care should have known, of such suspension or bar, to permit such an association, without the consent of the Board or the Commission.

(d) REPORTING OF SANCTIONS.—

(1) RECIPIENTS.—If the Board imposes a disciplinary sanction, in accordance with this section, the Board shall report the sanction to—

(A) the Commission;

(B) any appropriate State regulatory authority or any foreign accountancy licensing board with which such firm or person is licensed or certified; and

(C) the public (once any stay on the imposition of such sanction has been lifted).

(2) CONTENTS.—The information reported under paragraph (1) shall include—

(A) the name of the sanctioned person;

(B) a description of the sanction and the basis for its imposition; and

(C) such other information as the Board deems appropriate.

(e) STAY OF SANCTIONS.—

(1) IN GENERAL.—Application to the Commission for review, or the institution by the Commission of review, of any disciplinary action of the Board shall operate as a stay of any such disciplinary action, unless and until the Commission orders (summarily or after notice and opportunity for hearing on the question of a stay, which hearing may consist solely of the submission of affidavits or presentation of oral arguments) that no such stay shall continue to operate.

(2) EXPEDITED PROCEDURES.—The Commission shall establish for appropriate cases an expedited procedure for consideration and determination of the question of the duration of a stay pending review of any disciplinary action of the Board under this subsection.

15 USC 7216.

SEC. 106. FOREIGN PUBLIC ACCOUNTING FIRMS.

(a) APPLICABILITY TO CERTAIN FOREIGN FIRMS.—

(1) IN GENERAL.—Any foreign public accounting firm that prepares or furnishes an audit report with respect to any issuer, shall be subject to this Act and the rules of the Board and the Commission issued under this Act, in the same manner and to the same extent as a public accounting firm that is organized and operates under the laws of the United States or any State, except that registration pursuant to section 102 shall not by itself provide a basis for subjecting such a foreign public accounting firm to the jurisdiction of the Federal or State courts, other than with respect to controversies between such firms and the Board.

(2) BOARD AUTHORITY.—The Board may, by rule, determine that a foreign public accounting firm (or a class of such firms) that does not issue audit reports nonetheless plays such a substantial role in the preparation and furnishing of such reports for particular issuers, that it is necessary or appropriate, in light of the purposes of this Act and in the public interest or for the protection of investors, that such firm (or class of firms) should be treated as a public accounting firm

(or firms) for purposes of registration under, and oversight by the Board in accordance with, this title.

(b) PRODUCTION OF AUDIT WORKPAPERS.—

(1) CONSENT BY FOREIGN FIRMS.—If a foreign public accounting firm issues an opinion or otherwise performs material services upon which a registered public accounting firm relies in issuing all or part of any audit report or any opinion contained in an audit report, that foreign public accounting firm shall be deemed to have consented—

(A) to produce its audit workpapers for the Board or the Commission in connection with any investigation by either body with respect to that audit report; and

(B) to be subject to the jurisdiction of the courts of the United States for purposes of enforcement of any request for production of such workpapers.

(2) CONSENT BY DOMESTIC FIRMS.—A registered public accounting firm that relies upon the opinion of a foreign public accounting firm, as described in paragraph (1), shall be deemed—

(A) to have consented to supplying the audit workpapers of that foreign public accounting firm in response to a request for production by the Board or the Commission; and

(B) to have secured the agreement of that foreign public accounting firm to such production, as a condition of its reliance on the opinion of that foreign public accounting firm.

(c) EXEMPTION AUTHORITY.—The Commission, and the Board, subject to the approval of the Commission, may, by rule, regulation, or order, and as the Commission (or Board) determines necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions exempt any foreign public accounting firm, or any class of such firms, from any provision of this Act or the rules of the Board or the Commission issued under this Act.

(d) DEFINITION.—In this section, the term “foreign public accounting firm” means a public accounting firm that is organized and operates under the laws of a foreign government or political subdivision thereof.

SEC. 107. COMMISSION OVERSIGHT OF THE BOARD.

15 USC 7217.

(a) GENERAL OVERSIGHT RESPONSIBILITY.—The Commission shall have oversight and enforcement authority over the Board, as provided in this Act. The provisions of section 17(a)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)(1)), and of section 17(b)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(b)(1)) shall apply to the Board as fully as if the Board were a “registered securities association” for purposes of those sections 17(a)(1) and 17(b)(1).

(b) RULES OF THE BOARD.—

(1) DEFINITION.—In this section, the term “proposed rule” means any proposed rule of the Board, and any modification of any such rule.

(2) PRIOR APPROVAL REQUIRED.—No rule of the Board shall become effective without prior approval of the Commission in accordance with this section, other than as provided in section 103(a)(3)(B) with respect to initial or transitional standards.

(3) APPROVAL CRITERIA.—The Commission shall approve a proposed rule, if it finds that the rule is consistent with the requirements of this Act and the securities laws, or is necessary or appropriate in the public interest or for the protection of investors.

(4) PROPOSED RULE PROCEDURES.—The provisions of paragraphs (1) through (3) of section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) shall govern the proposed rules of the Board, as fully as if the Board were a “registered securities association” for purposes of that section 19(b), except that, for purposes of this paragraph—

(A) the phrase “consistent with the requirements of this title and the rules and regulations thereunder applicable to such organization” in section 19(b)(2) of that Act shall be deemed to read “consistent with the requirements of title I of the Sarbanes-Oxley Act of 2002, and the rules and regulations issued thereunder applicable to such organization, or as necessary or appropriate in the public interest or for the protection of investors”; and

(B) the phrase “otherwise in furtherance of the purposes of this title” in section 19(b)(3)(C) of that Act shall be deemed to read “otherwise in furtherance of the purposes of title I of the Sarbanes-Oxley Act of 2002”.

(5) COMMISSION AUTHORITY TO AMEND RULES OF THE BOARD.—The provisions of section 19(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(c)) shall govern the abrogation, deletion, or addition to portions of the rules of the Board by the Commission as fully as if the Board were a “registered securities association” for purposes of that section 19(c), except that the phrase “to conform its rules to the requirements of this title and the rules and regulations thereunder applicable to such organization, or otherwise in furtherance of the purposes of this title” in section 19(c) of that Act shall, for purposes of this paragraph, be deemed to read “to assure the fair administration of the Public Company Accounting Oversight Board, conform the rules promulgated by that Board to the requirements of title I of the Sarbanes-Oxley Act of 2002, or otherwise further the purposes of that Act, the securities laws, and the rules and regulations thereunder applicable to that Board”.

(c) COMMISSION REVIEW OF DISCIPLINARY ACTION TAKEN BY THE BOARD.—

(1) NOTICE OF SANCTION.—The Board shall promptly file notice with the Commission of any final sanction on any registered public accounting firm or on any associated person thereof, in such form and containing such information as the Commission, by rule, may prescribe.

(2) REVIEW OF SANCTIONS.—The provisions of sections 19(d)(2) and 19(e)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78s (d)(2) and (e)(1)) shall govern the review by the Commission of final disciplinary sanctions imposed by the Board (including sanctions imposed under section 105(b)(3) of this Act for noncooperation in an investigation of the Board), as fully as if the Board were a self-regulatory organization and the Commission were the appropriate regulatory agency for such organization for purposes of those sections 19(d)(2) and 19(e)(1), except that, for purposes of this paragraph—

(A) section 105(e) of this Act (rather than that section 19(d)(2)) shall govern the extent to which application for, or institution by the Commission on its own motion of, review of any disciplinary action of the Board operates as a stay of such action;

(B) references in that section 19(e)(1) to “members” of such an organization shall be deemed to be references to registered public accounting firms;

(C) the phrase “consistent with the purposes of this title” in that section 19(e)(1) shall be deemed to read “consistent with the purposes of this title and title I of the Sarbanes-Oxley Act of 2002”;

(D) references to rules of the Municipal Securities Rule-making Board in that section 19(e)(1) shall not apply; and

(E) the reference to section 19(e)(2) of the Securities Exchange Act of 1934 shall refer instead to section 107(c)(3) of this Act.

(3) COMMISSION MODIFICATION AUTHORITY.—The Commission may enhance, modify, cancel, reduce, or require the remission of a sanction imposed by the Board upon a registered public accounting firm or associated person thereof, if the Commission, having due regard for the public interest and the protection of investors, finds, after a proceeding in accordance with this subsection, that the sanction—

(A) is not necessary or appropriate in furtherance of this Act or the securities laws; or

(B) is excessive, oppressive, inadequate, or otherwise not appropriate to the finding or the basis on which the sanction was imposed.

(d) CENSURE OF THE BOARD; OTHER SANCTIONS.—

(1) RESCISSION OF BOARD AUTHORITY.—The Commission, by rule, consistent with the public interest, the protection of investors, and the other purposes of this Act and the securities laws, may relieve the Board of any responsibility to enforce compliance with any provision of this Act, the securities laws, the rules of the Board, or professional standards.

(2) CENSURE OF THE BOARD; LIMITATIONS.—The Commission may, by order, as it determines necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, censure or impose limitations upon the activities, functions, and operations of the Board, if the Commission finds, on the record, after notice and opportunity for a hearing, that the Board—

(A) has violated or is unable to comply with any provision of this Act, the rules of the Board, or the securities laws; or

(B) without reasonable justification or excuse, has failed to enforce compliance with any such provision or rule, or any professional standard by a registered public accounting firm or an associated person thereof.

(3) CENSURE OF BOARD MEMBERS; REMOVAL FROM OFFICE.—The Commission may, as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of this Act or the securities laws, remove

from office or censure any member of the Board, if the Commission finds, on the record, after notice and opportunity for a hearing, that such member—

(A) has willfully violated any provision of this Act, the rules of the Board, or the securities laws;

(B) has willfully abused the authority of that member;

or

(C) without reasonable justification or excuse, has failed to enforce compliance with any such provision or rule, or any professional standard by any registered public accounting firm or any associated person thereof.

15 USC 7218.

SEC. 108. ACCOUNTING STANDARDS.

(a) AMENDMENT TO SECURITIES ACT OF 1933.—Section 19 of the Securities Act of 1933 (15 U.S.C. 77s) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

“(b) RECOGNITION OF ACCOUNTING STANDARDS.—

“(1) IN GENERAL.—In carrying out its authority under subsection (a) and under section 13(b) of the Securities Exchange Act of 1934, the Commission may recognize, as ‘generally accepted’ for purposes of the securities laws, any accounting principles established by a standard setting body—

“(A) that—

“(i) is organized as a private entity;

“(ii) has, for administrative and operational purposes, a board of trustees (or equivalent body) serving in the public interest, the majority of whom are not, concurrent with their service on such board, and have not been during the 2-year period preceding such service, associated persons of any registered public accounting firm;

“(iii) is funded as provided in section 109 of the Sarbanes-Oxley Act of 2002;

“(iv) has adopted procedures to ensure prompt consideration, by majority vote of its members, of changes to accounting principles necessary to reflect emerging accounting issues and changing business practices; and

“(v) considers, in adopting accounting principles, the need to keep standards current in order to reflect changes in the business environment, the extent to which international convergence on high quality accounting standards is necessary or appropriate in the public interest and for the protection of investors; and

“(B) that the Commission determines has the capacity to assist the Commission in fulfilling the requirements of subsection (a) and section 13(b) of the Securities Exchange Act of 1934, because, at a minimum, the standard setting body is capable of improving the accuracy and effectiveness of financial reporting and the protection of investors under the securities laws.

“(2) ANNUAL REPORT.—A standard setting body described in paragraph (1) shall submit an annual report to the Commission and the public, containing audited financial statements of that standard setting body.”.

(b) COMMISSION AUTHORITY.—The Commission shall promulgate such rules and regulations to carry out section 19(b) of the Securities Act of 1933, as added by this section, as it deems necessary or appropriate in the public interest or for the protection of investors.

Regulations.

(c) NO EFFECT ON COMMISSION POWERS.—Nothing in this Act, including this section and the amendment made by this section, shall be construed to impair or limit the authority of the Commission to establish accounting principles or standards for purposes of enforcement of the securities laws.

(d) STUDY AND REPORT ON ADOPTING PRINCIPLES-BASED ACCOUNTING.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a study on the adoption by the United States financial reporting system of a principles-based accounting system.

(B) STUDY TOPICS.—The study required by subparagraph (A) shall include an examination of—

(i) the extent to which principles-based accounting and financial reporting exists in the United States;

(ii) the length of time required for change from a rules-based to a principles-based financial reporting system;

(iii) the feasibility of and proposed methods by which a principles-based system may be implemented; and

(iv) a thorough economic analysis of the implementation of a principles-based system.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the results of the study required by paragraph (1) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

SEC. 109. FUNDING.

15 USC 7219.

(a) IN GENERAL.—The Board, and the standard setting body designated pursuant to section 19(b) of the Securities Act of 1933, as amended by section 108, shall be funded as provided in this section.

(b) ANNUAL BUDGETS.—The Board and the standard setting body referred to in subsection (a) shall each establish a budget for each fiscal year, which shall be reviewed and approved according to their respective internal procedures not less than 1 month prior to the commencement of the fiscal year to which the budget pertains (or at the beginning of the Board's first fiscal year, which may be a short fiscal year). The budget of the Board shall be subject to approval by the Commission. The budget for the first fiscal year of the Board shall be prepared and approved promptly following the appointment of the initial five Board members, to permit action by the Board of the organizational tasks contemplated by section 101(d).

(c) SOURCES AND USES OF FUNDS.—

(1) RECOVERABLE BUDGET EXPENSES.—The budget of the Board (reduced by any registration or annual fees received under section 102(e) for the year preceding the year for which the budget is being computed), and all of the budget of the standard setting body referred to in subsection (a), for each fiscal year of each of those 2 entities, shall be payable from annual accounting support fees, in accordance with subsections (d) and (e). Accounting support fees and other receipts of the Board and of such standard-setting body shall not be considered public monies of the United States.

(2) FUNDS GENERATED FROM THE COLLECTION OF MONETARY PENALTIES.—Subject to the availability in advance in an appropriations Act, and notwithstanding subsection (i), all funds collected by the Board as a result of the assessment of monetary penalties shall be used to fund a merit scholarship program for undergraduate and graduate students enrolled in accredited accounting degree programs, which program is to be administered by the Board or by an entity or agent identified by the Board.

(d) ANNUAL ACCOUNTING SUPPORT FEE FOR THE BOARD.—

(1) ESTABLISHMENT OF FEE.—The Board shall establish, with the approval of the Commission, a reasonable annual accounting support fee (or a formula for the computation thereof), as may be necessary or appropriate to establish and maintain the Board. Such fee may also cover costs incurred in the Board's first fiscal year (which may be a short fiscal year), or may be levied separately with respect to such short fiscal year.

(2) ASSESSMENTS.—The rules of the Board under paragraph (1) shall provide for the equitable allocation, assessment, and collection by the Board (or an agent appointed by the Board) of the fee established under paragraph (1), among issuers, in accordance with subsection (g), allowing for differentiation among classes of issuers, as appropriate.

(e) ANNUAL ACCOUNTING SUPPORT FEE FOR STANDARD SETTING BODY.—The annual accounting support fee for the standard setting body referred to in subsection (a)—

(1) shall be allocated in accordance with subsection (g), and assessed and collected against each issuer, on behalf of the standard setting body, by 1 or more appropriate designated collection agents, as may be necessary or appropriate to pay for the budget and provide for the expenses of that standard setting body, and to provide for an independent, stable source of funding for such body, subject to review by the Commission; and

(2) may differentiate among different classes of issuers.

(f) LIMITATION ON FEE.—The amount of fees collected under this section for a fiscal year on behalf of the Board or the standards setting body, as the case may be, shall not exceed the recoverable budget expenses of the Board or body, respectively (which may include operating, capital, and accrued items), referred to in subsection (c)(1).

(g) ALLOCATION OF ACCOUNTING SUPPORT FEES AMONG ISSUERS.—Any amount due from issuers (or a particular class of issuers) under this section to fund the budget of the Board or the standard setting body referred to in subsection (a) shall be allocated among and payable by each issuer (or each issuer in

a particular class, as applicable) in an amount equal to the total of such amount, multiplied by a fraction—

(1) the numerator of which is the average monthly equity market capitalization of the issuer for the 12-month period immediately preceding the beginning of the fiscal year to which such budget relates; and

(2) the denominator of which is the average monthly equity market capitalization of all such issuers for such 12-month period.

(h) CONFORMING AMENDMENTS.—Section 13(b)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)(2)) is amended—

(1) in subparagraph (A), by striking “and” at the end; and

(2) in subparagraph (B), by striking the period at the end and inserting the following: “; and

“(C) notwithstanding any other provision of law, pay the allocable share of such issuer of a reasonable annual accounting support fee or fees, determined in accordance with section 109 of the Sarbanes-Oxley Act of 2002.”.

(i) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to render either the Board, the standard setting body referred to in subsection (a), or both, subject to procedures in Congress to authorize or appropriate public funds, or to prevent such organization from utilizing additional sources of revenue for its activities, such as earnings from publication sales, provided that each additional source of revenue shall not jeopardize, in the judgment of the Commission, the actual and perceived independence of such organization.

(j) START-UP EXPENSES OF THE BOARD.—From the unexpended balances of the appropriations to the Commission for fiscal year 2003, the Secretary of the Treasury is authorized to advance to the Board not to exceed the amount necessary to cover the expenses of the Board during its first fiscal year (which may be a short fiscal year).

TITLE II—AUDITOR INDEPENDENCE

SEC. 201. SERVICES OUTSIDE THE SCOPE OF PRACTICE OF AUDITORS.

(a) PROHIBITED ACTIVITIES.—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1) is amended by adding at the end the following:

“(g) PROHIBITED ACTIVITIES.—Except as provided in subsection (h), it shall be unlawful for a registered public accounting firm (and any associated person of that firm, to the extent determined appropriate by the Commission) that performs for any issuer any audit required by this title or the rules of the Commission under this title or, beginning 180 days after the date of commencement of the operations of the Public Company Accounting Oversight Board established under section 101 of the Sarbanes-Oxley Act of 2002 (in this section referred to as the ‘Board’), the rules of the Board, to provide to that issuer, contemporaneously with the audit, any non-audit service, including—

“(1) bookkeeping or other services related to the accounting records or financial statements of the audit client;

“(2) financial information systems design and implementation;

“(3) appraisal or valuation services, fairness opinions, or contribution-in-kind reports;

“(4) actuarial services;

“(5) internal audit outsourcing services;

“(6) management functions or human resources;

“(7) broker or dealer, investment adviser, or investment banking services;

“(8) legal services and expert services unrelated to the audit; and

“(9) any other service that the Board determines, by regulation, is impermissible.

“(h) **PREAPPROVAL REQUIRED FOR NON-AUDIT SERVICES.**—A registered public accounting firm may engage in any non-audit service, including tax services, that is not described in any of paragraphs (1) through (9) of subsection (g) for an audit client, only if the activity is approved in advance by the audit committee of the issuer, in accordance with subsection (i).”.

15 USC 7231.

(b) **EXEMPTION AUTHORITY.**—The Board may, on a case by case basis, exempt any person, issuer, public accounting firm, or transaction from the prohibition on the provision of services under section 10A(g) of the Securities Exchange Act of 1934 (as added by this section), to the extent that such exemption is necessary or appropriate in the public interest and is consistent with the protection of investors, and subject to review by the Commission in the same manner as for rules of the Board under section 107.

SEC. 202. PREAPPROVAL REQUIREMENTS.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(i) **PREAPPROVAL REQUIREMENTS.**—

“(1) **IN GENERAL.**—

“(A) **AUDIT COMMITTEE ACTION.**—All auditing services (which may entail providing comfort letters in connection with securities underwritings or statutory audits required for insurance companies for purposes of State law) and non-audit services, other than as provided in subparagraph (B), provided to an issuer by the auditor of the issuer shall be preapproved by the audit committee of the issuer.

“(B) **DE MINIMUS EXCEPTION.**—The preapproval requirement under subparagraph (A) is waived with respect to the provision of non-audit services for an issuer, if—

“(i) the aggregate amount of all such non-audit services provided to the issuer constitutes not more than 5 percent of the total amount of revenues paid by the issuer to its auditor during the fiscal year in which the nonaudit services are provided;

“(ii) such services were not recognized by the issuer at the time of the engagement to be non-audit services; and

“(iii) such services are promptly brought to the attention of the audit committee of the issuer and approved prior to the completion of the audit by the audit committee or by 1 or more members of the audit committee who are members of the board of directors to whom authority to grant such approvals has been delegated by the audit committee.

“(2) DISCLOSURE TO INVESTORS.—Approval by an audit committee of an issuer under this subsection of a non-audit service to be performed by the auditor of the issuer shall be disclosed to investors in periodic reports required by section 13(a).

“(3) DELEGATION AUTHORITY.—The audit committee of an issuer may delegate to 1 or more designated members of the audit committee who are independent directors of the board of directors, the authority to grant preapprovals required by this subsection. The decisions of any member to whom authority is delegated under this paragraph to preapprove an activity under this subsection shall be presented to the full audit committee at each of its scheduled meetings.

“(4) APPROVAL OF AUDIT SERVICES FOR OTHER PURPOSES.—In carrying out its duties under subsection (m)(2), if the audit committee of an issuer approves an audit service within the scope of the engagement of the auditor, such audit service shall be deemed to have been preapproved for purposes of this subsection.”.

SEC. 203. AUDIT PARTNER ROTATION.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(j) AUDIT PARTNER ROTATION.—It shall be unlawful for a registered public accounting firm to provide audit services to an issuer if the lead (or coordinating) audit partner (having primary responsibility for the audit), or the audit partner responsible for reviewing the audit, has performed audit services for that issuer in each of the 5 previous fiscal years of that issuer.”.

SEC. 204. AUDITOR REPORTS TO AUDIT COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(k) REPORTS TO AUDIT COMMITTEES.—Each registered public accounting firm that performs for any issuer any audit required by this title shall timely report to the audit committee of the issuer—

“(1) all critical accounting policies and practices to be used;

“(2) all alternative treatments of financial information within generally accepted accounting principles that have been discussed with management officials of the issuer, ramifications of the use of such alternative disclosures and treatments, and the treatment preferred by the registered public accounting firm; and

“(3) other material written communications between the registered public accounting firm and the management of the issuer, such as any management letter or schedule of unadjusted differences.”.

SEC. 205. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end the following:

“(58) AUDIT COMMITTEE.—The term ‘audit committee’ means—

“(A) a committee (or equivalent body) established by and amongst the board of directors of an issuer for the

purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and

“(B) if no such committee exists with respect to an issuer, the entire board of directors of the issuer.

“(59) REGISTERED PUBLIC ACCOUNTING FIRM.—The term ‘registered public accounting firm’ has the same meaning as in section 2 of the Sarbanes-Oxley Act of 2002.”.

(b) AUDITOR REQUIREMENTS.—Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1) is amended—

(1) by striking “an independent public accountant” each place that term appears and inserting “a registered public accounting firm”;

(2) by striking “the independent public accountant” each place that term appears and inserting “the registered public accounting firm”;

(3) in subsection (c), by striking “No independent public accountant” and inserting “No registered public accounting firm”; and

(4) in subsection (b)—

(A) by striking “the accountant” each place that term appears and inserting “the firm”;

(B) by striking “such accountant” each place that term appears and inserting “such firm”; and

(C) in paragraph (4), by striking “the accountant’s report” and inserting “the report of the firm”.

(c) OTHER REFERENCES.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 12(b)(1) (15 U.S.C. 78l(b)(1)), by striking “independent public accountants” each place that term appears and inserting “a registered public accounting firm”; and

(2) in subsections (e) and (i) of section 17 (15 U.S.C. 78q), by striking “an independent public accountant” each place that term appears and inserting “a registered public accounting firm”.

(d) CONFORMING AMENDMENT.—Section 10A(f) of the Securities Exchange Act of 1934 (15 U.S.C. 78k(f)) is amended—

(1) by striking “DEFINITION” and inserting “DEFINITIONS”; and

(2) by adding at the end the following: “As used in this section, the term ‘issuer’ means an issuer (as defined in section 3), the securities of which are registered under section 12, or that is required to file reports pursuant to section 15(d), or that files or has filed a registration statement that has not yet become effective under the Securities Act of 1933 (15 U.S.C. 77a et seq.), and that it has not withdrawn.”.

15 USC 78j-1.

SEC. 206. CONFLICTS OF INTEREST.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1), as amended by this Act, is amended by adding at the end the following:

“(1) CONFLICTS OF INTEREST.—It shall be unlawful for a registered public accounting firm to perform for an issuer any audit service required by this title, if a chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for the issuer, was employed by that registered independent public accounting firm and participated in

any capacity in the audit of that issuer during the 1-year period preceding the date of the initiation of the audit.”.

SEC. 207. STUDY OF MANDATORY ROTATION OF REGISTERED PUBLIC ACCOUNTING FIRMS. 15 USC 7232.

(a) **STUDY AND REVIEW REQUIRED.**—The Comptroller General of the United States shall conduct a study and review of the potential effects of requiring the mandatory rotation of registered public accounting firms.

(b) **REPORT REQUIRED.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study and review required by this section. Deadline.

(c) **DEFINITION.**—For purposes of this section, the term “mandatory rotation” refers to the imposition of a limit on the period of years in which a particular registered public accounting firm may be the auditor of record for a particular issuer.

SEC. 208. COMMISSION AUTHORITY. 15 USC 7233.

(a) **COMMISSION REGULATIONS.**—Not later than 180 days after the date of enactment of this Act, the Commission shall issue final regulations to carry out each of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title. Deadline.

(b) **AUDITOR INDEPENDENCE.**—It shall be unlawful for any registered public accounting firm (or an associated person thereof, as applicable) to prepare or issue any audit report with respect to any issuer, if the firm or associated person engages in any activity with respect to that issuer prohibited by any of subsections (g) through (l) of section 10A of the Securities Exchange Act of 1934, as added by this title, or any rule or regulation of the Commission or of the Board issued thereunder.

SEC. 209. CONSIDERATIONS BY APPROPRIATE STATE REGULATORY AUTHORITIES. 15 USC 7234.

In supervising nonregistered public accounting firms and their associated persons, appropriate State regulatory authorities should make an independent determination of the proper standards applicable, particularly taking into consideration the size and nature of the business of the accounting firms they supervise and the size and nature of the business of the clients of those firms. The standards applied by the Board under this Act should not be presumed to be applicable for purposes of this section for small and medium sized nonregistered public accounting firms.

TITLE III—CORPORATE RESPONSIBILITY

SEC. 301. PUBLIC COMPANY AUDIT COMMITTEES.

Section 10A of the Securities Exchange Act of 1934 (15 U.S.C. 78f) is amended by adding at the end the following:

“(m) **STANDARDS RELATING TO AUDIT COMMITTEES.**—

“(1) **COMMISSION RULES.**—

15 USC 78j-1.

Deadline.

“(A) IN GENERAL.—Effective not later than 270 days after the date of enactment of this subsection, the Commission shall, by rule, direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraphs (2) through (6).

“(B) OPPORTUNITY TO CURE DEFECTS.—The rules of the Commission under subparagraph (A) shall provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under subparagraph (A), before the imposition of such prohibition.

“(2) RESPONSIBILITIES RELATING TO REGISTERED PUBLIC ACCOUNTING FIRMS.—The audit committee of each issuer, in its capacity as a committee of the board of directors, shall be directly responsible for the appointment, compensation, and oversight of the work of any registered public accounting firm employed by that issuer (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work, and each such registered public accounting firm shall report directly to the audit committee.

“(3) INDEPENDENCE.—

“(A) IN GENERAL.—Each member of the audit committee of the issuer shall be a member of the board of directors of the issuer, and shall otherwise be independent.

“(B) CRITERIA.—In order to be considered to be independent for purposes of this paragraph, a member of an audit committee of an issuer may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee—

“(i) accept any consulting, advisory, or other compensatory fee from the issuer; or

“(ii) be an affiliated person of the issuer or any subsidiary thereof.

“(C) EXEMPTION AUTHORITY.—The Commission may exempt from the requirements of subparagraph (B) a particular relationship with respect to audit committee members, as the Commission determines appropriate in light of the circumstances.

“(4) COMPLAINTS.—Each audit committee shall establish procedures for—

“(A) the receipt, retention, and treatment of complaints received by the issuer regarding accounting, internal accounting controls, or auditing matters; and

“(B) the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

“(5) AUTHORITY TO ENGAGE ADVISERS.—Each audit committee shall have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

“(6) FUNDING.—Each issuer shall provide for appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation—

“(A) to the registered public accounting firm employed by the issuer for the purpose of rendering or issuing an audit report; and

“(B) to any advisers employed by the audit committee under paragraph (5).”.

SEC. 302. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

15 USC 7241.

(a) **REGULATIONS REQUIRED.**—The Commission shall, by rule, require, for each company filing periodic reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)), that the principal executive officer or officers and the principal financial officer or officers, or persons performing similar functions, certify in each annual or quarterly report filed or submitted under either such section of such Act that—

(1) the signing officer has reviewed the report;

(2) based on the officer’s knowledge, the report does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which such statements were made, not misleading;

(3) based on such officer’s knowledge, the financial statements, and other financial information included in the report, fairly present in all material respects the financial condition and results of operations of the issuer as of, and for, the periods presented in the report;

(4) the signing officers—

(A) are responsible for establishing and maintaining internal controls;

(B) have designed such internal controls to ensure that material information relating to the issuer and its consolidated subsidiaries is made known to such officers by others within those entities, particularly during the period in which the periodic reports are being prepared;

(C) have evaluated the effectiveness of the issuer’s internal controls as of a date within 90 days prior to the report; and

(D) have presented in the report their conclusions about the effectiveness of their internal controls based on their evaluation as of that date;

(5) the signing officers have disclosed to the issuer’s auditors and the audit committee of the board of directors (or persons fulfilling the equivalent function)—

(A) all significant deficiencies in the design or operation of internal controls which could adversely affect the issuer’s ability to record, process, summarize, and report financial data and have identified for the issuer’s auditors any material weaknesses in internal controls; and

(B) any fraud, whether or not material, that involves management or other employees who have a significant role in the issuer’s internal controls; and

(6) the signing officers have indicated in the report whether or not there were significant changes in internal controls or in other factors that could significantly affect internal controls subsequent to the date of their evaluation, including any corrective actions with regard to significant deficiencies and material weaknesses.

(b) **FOREIGN REINCORPORATIONS HAVE NO EFFECT.**—Nothing in this section 302 shall be interpreted or applied in any way to allow any issuer to lessen the legal force of the statement required under this section 302, by an issuer having reincorporated or having engaged in any other transaction that resulted in the transfer of the corporate domicile or offices of the issuer from inside the United States to outside of the United States.

(c) **DEADLINE.**—The rules required by subsection (a) shall be effective not later than 30 days after the date of enactment of this Act.

15 USC 7242.

SEC. 303. IMPROPER INFLUENCE ON CONDUCT OF AUDITS.

(a) **RULES TO PROHIBIT.**—It shall be unlawful, in contravention of such rules or regulations as the Commission shall prescribe as necessary and appropriate in the public interest or for the protection of investors, for any officer or director of an issuer, or any other person acting under the direction thereof, to take any action to fraudulently influence, coerce, manipulate, or mislead any independent public or certified accountant engaged in the performance of an audit of the financial statements of that issuer for the purpose of rendering such financial statements materially misleading.

(b) **ENFORCEMENT.**—In any civil proceeding, the Commission shall have exclusive authority to enforce this section and any rule or regulation issued under this section.

(c) **NO PREEMPTION OF OTHER LAW.**—The provisions of subsection (a) shall be in addition to, and shall not supersede or preempt, any other provision of law or any rule or regulation issued thereunder.

(d) **DEADLINE FOR RULEMAKING.**—The Commission shall—

(1) propose the rules or regulations required by this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules or regulations required by this section, not later than 270 days after that date of enactment.

15 USC 7243.

SEC. 304. FORFEITURE OF CERTAIN BONUSES AND PROFITS.

(a) **ADDITIONAL COMPENSATION PRIOR TO NONCOMPLIANCE WITH COMMISSION FINANCIAL REPORTING REQUIREMENTS.**—If an issuer is required to prepare an accounting restatement due to the material noncompliance of the issuer, as a result of misconduct, with any financial reporting requirement under the securities laws, the chief executive officer and chief financial officer of the issuer shall reimburse the issuer for—

(1) any bonus or other incentive-based or equity-based compensation received by that person from the issuer during the 12-month period following the first public issuance or filing with the Commission (whichever first occurs) of the financial document embodying such financial reporting requirement; and

(2) any profits realized from the sale of securities of the issuer during that 12-month period.

(b) **COMMISSION EXEMPTION AUTHORITY.**—The Commission may exempt any person from the application of subsection (a), as it deems necessary and appropriate.

SEC. 305. OFFICER AND DIRECTOR BARS AND PENALTIES.

(a) **UNFITNESS STANDARD.**—

(1) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)) is amended by striking “substantial unfitness” and inserting “unfitness”.

(2) SECURITIES ACT OF 1933.—Section 20(e) of the Securities Act of 1933 (15 U.S.C. 77t(e)) is amended by striking “substantial unfitness” and inserting “unfitness”.

(b) EQUITABLE RELIEF.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following:

“(5) EQUITABLE RELIEF.—In any action or proceeding brought or instituted by the Commission under any provision of the securities laws, the Commission may seek, and any Federal court may grant, any equitable relief that may be appropriate or necessary for the benefit of investors.”.

SEC. 306. INSIDER TRADES DURING PENSION FUND BLACKOUT PERIODS. 15 USC 7244.

(a) PROHIBITION OF INSIDER TRADING DURING PENSION FUND BLACKOUT PERIODS.—

(1) IN GENERAL.—Except to the extent otherwise provided by rule of the Commission pursuant to paragraph (3), it shall be unlawful for any director or executive officer of an issuer of any equity security (other than an exempted security), directly or indirectly, to purchase, sell, or otherwise acquire or transfer any equity security of the issuer (other than an exempted security) during any blackout period with respect to such equity security if such director or officer acquires such equity security in connection with his or her service or employment as a director or executive officer.

(2) REMEDY.—

(A) IN GENERAL.—Any profit realized by a director or executive officer referred to in paragraph (1) from any purchase, sale, or other acquisition or transfer in violation of this subsection shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such director or executive officer in entering into the transaction.

(B) ACTIONS TO RECOVER PROFITS.—An action to recover profits in accordance with this subsection may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer fails or refuses to bring such action within 60 days after the date of request, or fails diligently to prosecute the action thereafter, except that no such suit shall be brought more than 2 years after the date on which such profit was realized.

(3) RULEMAKING AUTHORIZED.—The Commission shall, in consultation with the Secretary of Labor, issue rules to clarify the application of this subsection and to prevent evasion thereof. Such rules shall provide for the application of the requirements of paragraph (1) with respect to entities treated as a single employer with respect to an issuer under section 414(b), (c), (m), or (o) of the Internal Revenue Code of 1986 to the extent necessary to clarify the application of such requirements and to prevent evasion thereof. Such rules may also provide for

appropriate exceptions from the requirements of this subsection, including exceptions for purchases pursuant to an automatic dividend reinvestment program or purchases or sales made pursuant to an advance election.

(4) **BLACKOUT PERIOD.**—For purposes of this subsection, the term “blackout period”, with respect to the equity securities of any issuer—

(A) means any period of more than 3 consecutive business days during which the ability of not fewer than 50 percent of the participants or beneficiaries under all individual account plans maintained by the issuer to purchase, sell, or otherwise acquire or transfer an interest in any equity of such issuer held in such an individual account plan is temporarily suspended by the issuer or by a fiduciary of the plan; and

(B) does not include, under regulations which shall be prescribed by the Commission—

(i) a regularly scheduled period in which the participants and beneficiaries may not purchase, sell, or otherwise acquire or transfer an interest in any equity of such issuer, if such period is—

(I) incorporated into the individual account plan; and

(II) timely disclosed to employees before becoming participants under the individual account plan or as a subsequent amendment to the plan; or

(ii) any suspension described in subparagraph (A) that is imposed solely in connection with persons becoming participants or beneficiaries, or ceasing to be participants or beneficiaries, in an individual account plan by reason of a corporate merger, acquisition, divestiture, or similar transaction involving the plan or plan sponsor.

(5) **INDIVIDUAL ACCOUNT PLAN.**—For purposes of this subsection, the term “individual account plan” has the meaning provided in section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34), except that such term shall not include a one-participant retirement plan (within the meaning of section 101(i)(8)(B) of such Act (29 U.S.C. 1021(i)(8)(B))).

(6) **NOTICE TO DIRECTORS, EXECUTIVE OFFICERS, AND THE COMMISSION.**—In any case in which a director or executive officer is subject to the requirements of this subsection in connection with a blackout period (as defined in paragraph (4)) with respect to any equity securities, the issuer of such equity securities shall timely notify such director or officer and the Securities and Exchange Commission of such blackout period.

(b) **NOTICE REQUIREMENTS TO PARTICIPANTS AND BENEFICIARIES UNDER ERISA.**—

(1) **IN GENERAL.**—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended by redesignating the second subsection (h) as subsection (j), and by inserting after the first subsection (h) the following new subsection:

“(i) NOTICE OF BLACKOUT PERIODS TO PARTICIPANT OR BENEFICIARY UNDER INDIVIDUAL ACCOUNT PLAN.—

“(1) DUTIES OF PLAN ADMINISTRATOR.—In advance of the commencement of any blackout period with respect to an individual account plan, the plan administrator shall notify the plan participants and beneficiaries who are affected by such action in accordance with this subsection.

“(2) NOTICE REQUIREMENTS.—

“(A) IN GENERAL.—The notices described in paragraph (1) shall be written in a manner calculated to be understood by the average plan participant and shall include—

“(i) the reasons for the blackout period,

“(ii) an identification of the investments and other rights affected,

“(iii) the expected beginning date and length of the blackout period,

“(iv) in the case of investments affected, a statement that the participant or beneficiary should evaluate the appropriateness of their current investment decisions in light of their inability to direct or diversify assets credited to their accounts during the blackout period, and

“(v) such other matters as the Secretary may require by regulation.

“(B) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—Except as otherwise provided in this subsection, notices described in paragraph (1) shall be furnished to all participants and beneficiaries under the plan to whom the blackout period applies at least 30 days in advance of the blackout period.

“(C) EXCEPTION TO 30-DAY NOTICE REQUIREMENT.—In any case in which—

“(i) a deferral of the blackout period would violate the requirements of subparagraph (A) or (B) of section 404(a)(1), and a fiduciary of the plan reasonably so determines in writing, or

“(ii) the inability to provide the 30-day advance notice is due to events that were unforeseeable or circumstances beyond the reasonable control of the plan administrator, and a fiduciary of the plan reasonably so determines in writing,

subparagraph (B) shall not apply, and the notice shall be furnished to all participants and beneficiaries under the plan to whom the blackout period applies as soon as reasonably possible under the circumstances unless such a notice in advance of the termination of the blackout period is impracticable.

“(D) WRITTEN NOTICE.—The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.

“(E) NOTICE TO ISSUERS OF EMPLOYER SECURITIES SUBJECT TO BLACKOUT PERIOD.—In the case of any blackout period in connection with an individual account plan, the plan administrator shall provide timely notice of such

blackout period to the issuer of any employer securities subject to such blackout period.

“(3) EXCEPTION FOR BLACKOUT PERIODS WITH LIMITED APPLICABILITY.—In any case in which the blackout period applies only to 1 or more participants or beneficiaries in connection with a merger, acquisition, divestiture, or similar transaction involving the plan or plan sponsor and occurs solely in connection with becoming or ceasing to be a participant or beneficiary under the plan by reason of such merger, acquisition, divestiture, or transaction, the requirement of this subsection that the notice be provided to all participants and beneficiaries shall be treated as met if the notice required under paragraph (1) is provided to such participants or beneficiaries to whom the blackout period applies as soon as reasonably practicable.

“(4) CHANGES IN LENGTH OF BLACKOUT PERIOD.—If, following the furnishing of the notice pursuant to this subsection, there is a change in the beginning date or length of the blackout period (specified in such notice pursuant to paragraph (2)(A)(iii)), the administrator shall provide affected participants and beneficiaries notice of the change as soon as reasonably practicable. In relation to the extended blackout period, such notice shall meet the requirements of paragraph (2)(D) and shall specify any material change in the matters referred to in clauses (i) through (v) of paragraph (2)(A).

“(5) REGULATORY EXCEPTIONS.—The Secretary may provide by regulation for additional exceptions to the requirements of this subsection which the Secretary determines are in the interests of participants and beneficiaries.

“(6) GUIDANCE AND MODEL NOTICES.—The Secretary shall issue guidance and model notices which meet the requirements of this subsection.

“(7) BLACKOUT PERIOD.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘blackout period’ means, in connection with an individual account plan, any period for which any ability of participants or beneficiaries under the plan, which is otherwise available under the terms of such plan, to direct or diversify assets credited to their accounts, to obtain loans from the plan, or to obtain distributions from the plan is temporarily suspended, limited, or restricted, if such suspension, limitation, or restriction is for any period of more than 3 consecutive business days.

“(B) EXCLUSIONS.—The term ‘blackout period’ does not include a suspension, limitation, or restriction—

“(i) which occurs by reason of the application of the securities laws (as defined in section 3(a)(47) of the Securities Exchange Act of 1934),

“(ii) which is a change to the plan which provides for a regularly scheduled suspension, limitation, or restriction which is disclosed to participants or beneficiaries through any summary of material modifications, any materials describing specific investment alternatives under the plan, or any changes thereto, or

“(iii) which applies only to 1 or more individuals, each of whom is the participant, an alternate payee

(as defined in section 206(d)(3)(K)), or any other beneficiary pursuant to a qualified domestic relations order (as defined in section 206(d)(3)(B)(i)).

“(8) INDIVIDUAL ACCOUNT PLAN.—

“(A) IN GENERAL.—For purposes of this subsection, the term ‘individual account plan’ shall have the meaning provided such term in section 3(34), except that such term shall not include a one-participant retirement plan.

“(B) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of subparagraph (A), the term ‘one-participant retirement plan’ means a retirement plan that—

“(i) on the first day of the plan year—

“(I) covered only the employer (and the employer’s spouse) and the employer owned the entire business (whether or not incorporated), or

“(II) covered only one or more partners (and their spouses) in a business partnership (including partners in an S or C corporation (as defined in section 1361(a) of the Internal Revenue Code of 1986)),

“(ii) meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 (as in effect on the date of the enactment of this paragraph) without being combined with any other plan of the business that covers the employees of the business,

“(iii) does not provide benefits to anyone except the employer (and the employer’s spouse) or the partners (and their spouses),

“(iv) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

“(v) does not cover a business that leases employees.”.

(2) ISSUANCE OF INITIAL GUIDANCE AND MODEL NOTICE.—

The Secretary of Labor shall issue initial guidance and a model notice pursuant to section 101(i)(6) of the Employee Retirement Income Security Act of 1974 (as added by this subsection) not later than January 1, 2003. Not later than 75 days after the date of the enactment of this Act, the Secretary shall promulgate interim final rules necessary to carry out the amendments made by this subsection.

Deadlines.

Regulations.

(3) CIVIL PENALTIES FOR FAILURE TO PROVIDE NOTICE.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(A) in subsection (a)(6), by striking “(5), or (6)” and inserting “(5), (6), or (7)”;

(B) by redesignating paragraph (7) of subsection (c) as paragraph (8); and

(C) by inserting after paragraph (6) of subsection (c) the following new paragraph:

“(7) The Secretary may assess a civil penalty against a plan administrator of up to \$100 a day from the date of the plan administrator’s failure or refusal to provide notice to participants and beneficiaries in accordance with section 101(i). For purposes of this paragraph, each violation with respect to any single participant or beneficiary shall be treated as a separate violation.”.

(3) **PLAN AMENDMENTS.**—If any amendment made by this subsection requires an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after the effective date of this section, if—

(A) during the period after such amendment made by this subsection takes effect and before such first plan year, the plan is operated in good faith compliance with the requirements of such amendment made by this subsection, and

(B) such plan amendment applies retroactively to the period after such amendment made by this subsection takes effect and before such first plan year.

(c) **EFFECTIVE DATE.**—The provisions of this section (including the amendments made thereby) shall take effect 180 days after the date of the enactment of this Act. Good faith compliance with the requirements of such provisions in advance of the issuance of applicable regulations thereunder shall be treated as compliance with such provisions.

15 USC 7245.

Deadline.

SEC. 307. RULES OF PROFESSIONAL RESPONSIBILITY FOR ATTORNEYS.

Not later than 180 days after the date of enactment of this Act, the Commission shall issue rules, in the public interest and for the protection of investors, setting forth minimum standards of professional conduct for attorneys appearing and practicing before the Commission in any way in the representation of issuers, including a rule—

(1) requiring an attorney to report evidence of a material violation of securities law or breach of fiduciary duty or similar violation by the company or any agent thereof, to the chief legal counsel or the chief executive officer of the company (or the equivalent thereof); and

(2) if the counsel or officer does not appropriately respond to the evidence (adopting, as necessary, appropriate remedial measures or sanctions with respect to the violation), requiring the attorney to report the evidence to the audit committee of the board of directors of the issuer or to another committee of the board of directors comprised solely of directors not employed directly or indirectly by the issuer, or to the board of directors.

15 USC 7246.

SEC. 308. FAIR FUNDS FOR INVESTORS.

(a) **CIVIL PENALTIES ADDED TO DISGORGEMENT FUNDS FOR THE RELIEF OF VICTIMS.**—If in any judicial or administrative action brought by the Commission under the securities laws (as such term is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)) the Commission obtains an order requiring disgorgement against any person for a violation of such laws or the rules or regulations thereunder, or such person agrees in settlement of any such action to such disgorgement, and the Commission also obtains pursuant to such laws a civil penalty against such person, the amount of such civil penalty shall, on the motion or at the direction of the Commission, be added to and become part of the disgorgement fund for the benefit of the victims of such violation.

(b) **ACCEPTANCE OF ADDITIONAL DONATIONS.**—The Commission is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, to the United

States for a disgorgement fund described in subsection (a). Such gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the disgorgement fund and shall be available for allocation in accordance with subsection (a).

(c) STUDY REQUIRED.—

(1) SUBJECT OF STUDY.—The Commission shall review and analyze—

(A) enforcement actions by the Commission over the five years preceding the date of the enactment of this Act that have included proceedings to obtain civil penalties or disgorgements to identify areas where such proceedings may be utilized to efficiently, effectively, and fairly provide restitution for injured investors; and

(B) other methods to more efficiently, effectively, and fairly provide restitution to injured investors, including methods to improve the collection rates for civil penalties and disgorgements.

(2) REPORT REQUIRED.—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate within 180 days after of the date of the enactment of this Act, and shall use such findings to revise its rules and regulations as necessary. The report shall include a discussion of regulatory or legislative actions that are recommended or that may be necessary to address concerns identified in the study.

Deadline.

(d) CONFORMING AMENDMENTS.—Each of the following provisions is amended by inserting “, except as otherwise provided in section 308 of the Sarbanes-Oxley Act of 2002” after “Treasury of the United States”:

(1) Section 21(d)(3)(C)(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(3)(C)(i)).

(2) Section 21A(d)(1) of such Act (15 U.S.C. 78u-1(d)(1)).

(3) Section 20(d)(3)(A) of the Securities Act of 1933 (15 U.S.C. 77t(d)(3)(A)).

(4) Section 42(e)(3)(A) of the Investment Company Act of 1940 (15 U.S.C. 80a-41(e)(3)(A)).

(5) Section 209(e)(3)(A) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9(e)(3)(A)).

(e) DEFINITION.—As used in this section, the term “disgorgement fund” means a fund established in any administrative or judicial proceeding described in subsection (a).

TITLE IV—ENHANCED FINANCIAL DISCLOSURES

SEC. 401. DISCLOSURES IN PERIODIC REPORTS.

15 USC 7261.

(a) DISCLOSURES REQUIRED.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) is amended by adding at the end the following:

“(i) ACCURACY OF FINANCIAL REPORTS.—Each financial report that contains financial statements, and that is required to be prepared in accordance with (or reconciled to) generally accepted accounting principles under this title and filed with the Commission shall reflect all material correcting adjustments that have been

identified by a registered public accounting firm in accordance with generally accepted accounting principles and the rules and regulations of the Commission.

Deadline.
Regulations.

“(j) OFF-BALANCE SHEET TRANSACTIONS.—Not later than 180 days after the date of enactment of the Sarbanes-Oxley Act of 2002, the Commission shall issue final rules providing that each annual and quarterly financial report required to be filed with the Commission shall disclose all material off-balance sheet transactions, arrangements, obligations (including contingent obligations), and other relationships of the issuer with unconsolidated entities or other persons, that may have a material current or future effect on financial condition, changes in financial condition, results of operations, liquidity, capital expenditures, capital resources, or significant components of revenues or expenses.”.

Deadline.

(b) COMMISSION RULES ON PRO FORMA FIGURES.—Not later than 180 days after the date of enactment of the Sarbanes-Oxley Act of 2002, the Commission shall issue final rules providing that pro forma financial information included in any periodic or other report filed with the Commission pursuant to the securities laws, or in any public disclosure or press or other release, shall be presented in a manner that—

(1) does not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the pro forma financial information, in light of the circumstances under which it is presented, not misleading; and

(2) reconciles it with the financial condition and results of operations of the issuer under generally accepted accounting principles.

(c) STUDY AND REPORT ON SPECIAL PURPOSE ENTITIES.—

Deadline.

(1) STUDY REQUIRED.—The Commission shall, not later than 1 year after the effective date of adoption of off-balance sheet disclosure rules required by section 13(j) of the Securities Exchange Act of 1934, as added by this section, complete a study of filings by issuers and their disclosures to determine—

(A) the extent of off-balance sheet transactions, including assets, liabilities, leases, losses, and the use of special purpose entities; and

(B) whether generally accepted accounting rules result in financial statements of issuers reflecting the economics of such off-balance sheet transactions to investors in a transparent fashion.

Deadline.

(2) REPORT AND RECOMMENDATIONS.—Not later than 6 months after the date of completion of the study required by paragraph (1), the Commission shall submit a report to the President, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives, setting forth—

(A) the amount or an estimate of the amount of off-balance sheet transactions, including assets, liabilities, leases, and losses of, and the use of special purpose entities by, issuers filing periodic reports pursuant to section 13 or 15 of the Securities Exchange Act of 1934;

(B) the extent to which special purpose entities are used to facilitate off-balance sheet transactions;

(C) whether generally accepted accounting principles or the rules of the Commission result in financial statements of issuers reflecting the economics of such transactions to investors in a transparent fashion;

(D) whether generally accepted accounting principles specifically result in the consolidation of special purpose entities sponsored by an issuer in cases in which the issuer has the majority of the risks and rewards of the special purpose entity; and

(E) any recommendations of the Commission for improving the transparency and quality of reporting off-balance sheet transactions in the financial statements and disclosures required to be filed by an issuer with the Commission.

SEC. 402. ENHANCED CONFLICT OF INTEREST PROVISIONS.

(a) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(k) PROHIBITION ON PERSONAL LOANS TO EXECUTIVES.—

“(1) IN GENERAL.—It shall be unlawful for any issuer (as defined in section 2 of the Sarbanes-Oxley Act of 2002), directly or indirectly, including through any subsidiary, to extend or maintain credit, to arrange for the extension of credit, or to renew an extension of credit, in the form of a personal loan to or for any director or executive officer (or equivalent thereof) of that issuer. An extension of credit maintained by the issuer on the date of enactment of this subsection shall not be subject to the provisions of this subsection, provided that there is no material modification to any term of any such extension of credit or any renewal of any such extension of credit on or after that date of enactment.

“(2) LIMITATION.—Paragraph (1) does not preclude any home improvement and manufactured home loans (as that term is defined in section 5 of the Home Owners’ Loan Act (12 U.S.C. 1464)), consumer credit (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), or any extension of credit under an open end credit plan (as defined in section 103 of the Truth in Lending Act (15 U.S.C. 1602)), or a charge card (as defined in section 127(c)(4)(e) of the Truth in Lending Act (15 U.S.C. 1637(c)(4)(e))), or any extension of credit by a broker or dealer registered under section 15 of this title to an employee of that broker or dealer to buy, trade, or carry securities, that is permitted under rules or regulations of the Board of Governors of the Federal Reserve System pursuant to section 7 of this title (other than an extension of credit that would be used to purchase the stock of that issuer), that is—

“(A) made or provided in the ordinary course of the consumer credit business of such issuer;

“(B) of a type that is generally made available by such issuer to the public; and

“(C) made by such issuer on market terms, or terms that are no more favorable than those offered by the issuer to the general public for such extensions of credit.

“(3) RULE OF CONSTRUCTION FOR CERTAIN LOANS.—Paragraph (1) does not apply to any loan made or maintained

by an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813)), if the loan is subject to the insider lending restrictions of section 22(h) of the Federal Reserve Act (12 U.S.C. 375b)."

SEC. 403. DISCLOSURES OF TRANSACTIONS INVOLVING MANAGEMENT AND PRINCIPAL STOCKHOLDERS.

(a) AMENDMENT.—Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by striking the heading of such section and subsection (a) and inserting the following:

"SEC. 16. DIRECTORS, OFFICERS, AND PRINCIPAL STOCKHOLDERS.

"(a) DISCLOSURES REQUIRED.—

"(1) DIRECTORS, OFFICERS, AND PRINCIPAL STOCKHOLDERS REQUIRED TO FILE.—Every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered pursuant to section 12, or who is a director or an officer of the issuer of such security, shall file the statements required by this subsection with the Commission (and, if such security is registered on a national securities exchange, also with the exchange).

"(2) TIME OF FILING.—The statements required by this subsection shall be filed—

"(A) at the time of the registration of such security on a national securities exchange or by the effective date of a registration statement filed pursuant to section 12(g);

"(B) within 10 days after he or she becomes such beneficial owner, director, or officer;

"(C) if there has been a change in such ownership, or if such person shall have purchased or sold a security-based swap agreement (as defined in section 206(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 78c note)) involving such equity security, before the end of the second business day following the day on which the subject transaction has been executed, or at such other time as the Commission shall establish, by rule, in any case in which the Commission determines that such 2-day period is not feasible.

"(3) CONTENTS OF STATEMENTS.—A statement filed—

"(A) under subparagraph (A) or (B) of paragraph (2) shall contain a statement of the amount of all equity securities of such issuer of which the filing person is the beneficial owner; and

"(B) under subparagraph (C) of such paragraph shall indicate ownership by the filing person at the date of filing, any such changes in such ownership, and such purchases and sales of the security-based swap agreements as have occurred since the most recent such filing under such subparagraph.

"(4) ELECTRONIC FILING AND AVAILABILITY.—Beginning not later than 1 year after the date of enactment of the Sarbanes-Oxley Act of 2002—

"(A) a statement filed under subparagraph (C) of paragraph (2) shall be filed electronically;

"(B) the Commission shall provide each such statement on a publicly accessible Internet site not later than the end of the business day following that filing; and

Deadline.

Deadline.

“(C) the issuer (if the issuer maintains a corporate website) shall provide that statement on that corporate website, not later than the end of the business day following that filing.”.

Deadline.

(b) **EFFECTIVE DATE.**—The amendment made by this section shall be effective 30 days after the date of the enactment of this Act.

15 USC 78p note.

SEC. 404. MANAGEMENT ASSESSMENT OF INTERNAL CONTROLS.

15 USC 7262.

(a) **RULES REQUIRED.**—The Commission shall prescribe rules requiring each annual report required by section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) to contain an internal control report, which shall—

(1) state the responsibility of management for establishing and maintaining an adequate internal control structure and procedures for financial reporting; and

(2) contain an assessment, as of the end of the most recent fiscal year of the issuer, of the effectiveness of the internal control structure and procedures of the issuer for financial reporting.

(b) **INTERNAL CONTROL EVALUATION AND REPORTING.**—With respect to the internal control assessment required by subsection (a), each registered public accounting firm that prepares or issues the audit report for the issuer shall attest to, and report on, the assessment made by the management of the issuer. An attestation made under this subsection shall be made in accordance with standards for attestation engagements issued or adopted by the Board. Any such attestation shall not be the subject of a separate engagement.

SEC. 405. EXEMPTION.

15 USC 7263.

Nothing in section 401, 402, or 404, the amendments made by those sections, or the rules of the Commission under those sections shall apply to any investment company registered under section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

SEC. 406. CODE OF ETHICS FOR SENIOR FINANCIAL OFFICERS.

15 USC 7264.

(a) **CODE OF ETHICS DISCLOSURE.**—The Commission shall issue rules to require each issuer, together with periodic reports required pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reason therefor, such issuer has adopted a code of ethics for senior financial officers, applicable to its principal financial officer and comptroller or principal accounting officer, or persons performing similar functions.

Regulations.

(b) **CHANGES IN CODES OF ETHICS.**—The Commission shall revise its regulations concerning matters requiring prompt disclosure on Form 8–K (or any successor thereto) to require the immediate disclosure, by means of the filing of such form, dissemination by the Internet or by other electronic means, by any issuer of any change in or waiver of the code of ethics for senior financial officers.

Regulations.

(c) **DEFINITION.**—In this section, the term “code of ethics” means such standards as are reasonably necessary to promote—

(1) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;

(2) full, fair, accurate, timely, and understandable disclosure in the periodic reports required to be filed by the issuer; and

(3) compliance with applicable governmental rules and regulations.

(d) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules to implement this section, not later than 180 days after that date of enactment.

15 USC 7265.

SEC. 407. DISCLOSURE OF AUDIT COMMITTEE FINANCIAL EXPERT.

(a) RULES DEFINING “FINANCIAL EXPERT”.—The Commission shall issue rules, as necessary or appropriate in the public interest and consistent with the protection of investors, to require each issuer, together with periodic reports required pursuant to sections 13(a) and 15(d) of the Securities Exchange Act of 1934, to disclose whether or not, and if not, the reasons therefor, the audit committee of that issuer is comprised of at least 1 member who is a financial expert, as such term is defined by the Commission.

(b) CONSIDERATIONS.—In defining the term “financial expert” for purposes of subsection (a), the Commission shall consider whether a person has, through education and experience as a public accountant or auditor or a principal financial officer, comptroller, or principal accounting officer of an issuer, or from a position involving the performance of similar functions—

(1) an understanding of generally accepted accounting principles and financial statements;

(2) experience in—

(A) the preparation or auditing of financial statements of generally comparable issuers; and

(B) the application of such principles in connection with the accounting for estimates, accruals, and reserves;

(3) experience with internal accounting controls; and

(4) an understanding of audit committee functions.

(c) DEADLINE FOR RULEMAKING.—The Commission shall—

(1) propose rules to implement this section, not later than 90 days after the date of enactment of this Act; and

(2) issue final rules to implement this section, not later than 180 days after that date of enactment.

15 USC 7266.

SEC. 408. ENHANCED REVIEW OF PERIODIC DISCLOSURES BY ISSUERS.

(a) REGULAR AND SYSTEMATIC REVIEW.—The Commission shall review disclosures made by issuers reporting under section 13(a) of the Securities Exchange Act of 1934 (including reports filed on Form 10-K), and which have a class of securities listed on a national securities exchange or traded on an automated quotation facility of a national securities association, on a regular and systematic basis for the protection of investors. Such review shall include a review of an issuer’s financial statement.

(b) REVIEW CRITERIA.—For purposes of scheduling the reviews required by subsection (a), the Commission shall consider, among other factors—

(1) issuers that have issued material restatements of financial results;

(2) issuers that experience significant volatility in their stock price as compared to other issuers;

(3) issuers with the largest market capitalization;

(4) emerging companies with disparities in price to earning ratios;

(5) issuers whose operations significantly affect any material sector of the economy; and

(6) any other factors that the Commission may consider relevant.

(c) **MINIMUM REVIEW PERIOD.**—In no event shall an issuer required to file reports under section 13(a) or 15(d) of the Securities Exchange Act of 1934 be reviewed under this section less frequently than once every 3 years.

SEC. 409. REAL TIME ISSUER DISCLOSURES.

Section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m), as amended by this Act, is amended by adding at the end the following:

“(1) **REAL TIME ISSUER DISCLOSURES.**—Each issuer reporting under section 13(a) or 15(d) shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer, in plain English, which may include trend and qualitative information and graphic presentations, as the Commission determines, by rule, is necessary or useful for the protection of investors and in the public interest.”.

TITLE V—ANALYST CONFLICTS OF INTEREST

SEC. 501. TREATMENT OF SECURITIES ANALYSTS BY REGISTERED SECURITIES ASSOCIATIONS AND NATIONAL SECURITIES EXCHANGES.

(a) **RULES REGARDING SECURITIES ANALYSTS.**—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 15C the following new section:

“SEC. 15D. SECURITIES ANALYSTS AND RESEARCH REPORTS.

15 USC 78o–6.

“(a) **ANALYST PROTECTIONS.**—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this section, rules reasonably designed to address conflicts of interest that can arise when securities analysts recommend equity securities in research reports and public appearances, in order to improve the objectivity of research and provide investors with more useful and reliable information, including rules designed—

Deadline.

“(1) to foster greater public confidence in securities research, and to protect the objectivity and independence of securities analysts, by—

“(A) restricting the prepublication clearance or approval of research reports by persons employed by the broker or dealer who are engaged in investment banking activities, or persons not directly responsible for investment research, other than legal or compliance staff;

“(B) limiting the supervision and compensatory evaluation of securities analysts to officials employed by the broker or dealer who are not engaged in investment banking activities; and

“(C) requiring that a broker or dealer and persons employed by a broker or dealer who are involved with investment banking activities may not, directly or indirectly, retaliate against or threaten to retaliate against any securities analyst employed by that broker or dealer or its affiliates as a result of an adverse, negative, or otherwise unfavorable research report that may adversely affect the present or prospective investment banking relationship of the broker or dealer with the issuer that is the subject of the research report, except that such rules may not limit the authority of a broker or dealer to discipline a securities analyst for causes other than such research report in accordance with the policies and procedures of the firm;

“(2) to define periods during which brokers or dealers who have participated, or are to participate, in a public offering of securities as underwriters or dealers should not publish or otherwise distribute research reports relating to such securities or to the issuer of such securities;

“(3) to establish structural and institutional safeguards within registered brokers or dealers to assure that securities analysts are separated by appropriate informational partitions within the firm from the review, pressure, or oversight of those whose involvement in investment banking activities might potentially bias their judgment or supervision; and

“(4) to address such other issues as the Commission, or such association or exchange, determines appropriate.

“(b) DISCLOSURE.—The Commission, or upon the authorization and direction of the Commission, a registered securities association or national securities exchange, shall have adopted, not later than 1 year after the date of enactment of this section, rules reasonably designed to require each securities analyst to disclose in public appearances, and each registered broker or dealer to disclose in each research report, as applicable, conflicts of interest that are known or should have been known by the securities analyst or the broker or dealer, to exist at the time of the appearance or the date of distribution of the report, including—

“(1) the extent to which the securities analyst has debt or equity investments in the issuer that is the subject of the appearance or research report;

“(2) whether any compensation has been received by the registered broker or dealer, or any affiliate thereof, including the securities analyst, from the issuer that is the subject of the appearance or research report, subject to such exemptions as the Commission may determine appropriate and necessary to prevent disclosure by virtue of this paragraph of material non-public information regarding specific potential future investment banking transactions of such issuer, as is appropriate in the public interest and consistent with the protection of investors;

“(3) whether an issuer, the securities of which are recommended in the appearance or research report, currently is, or during the 1-year period preceding the date of the appearance or date of distribution of the report has been, a client of the registered broker or dealer, and if so, stating the types of services provided to the issuer;

“(4) whether the securities analyst received compensation with respect to a research report, based upon (among any other factors) the investment banking revenues (either generally or specifically earned from the issuer being analyzed) of the registered broker or dealer; and

“(5) such other disclosures of conflicts of interest that are material to investors, research analysts, or the broker or dealer as the Commission, or such association or exchange, determines appropriate.

“(c) DEFINITIONS.—In this section—

“(1) the term ‘securities analyst’ means any associated person of a registered broker or dealer that is principally responsible for, and any associated person who reports directly or indirectly to a securities analyst in connection with, the preparation of the substance of a research report, whether or not any such person has the job title of ‘securities analyst’; and

“(2) the term ‘research report’ means a written or electronic communication that includes an analysis of equity securities of individual companies or industries, and that provides information reasonably sufficient upon which to base an investment decision.”.

(b) ENFORCEMENT.—Section 21B(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-2(a)) is amended by inserting “15D,” before “15B”.

(c) COMMISSION AUTHORITY.—The Commission may promulgate and amend its regulations, or direct a registered securities association or national securities exchange to promulgate and amend its rules, to carry out section 15D of the Securities Exchange Act of 1934, as added by this section, as is necessary for the protection of investors and in the public interest.

15 USC 78o-6
note.

TITLE VI—COMMISSION RESOURCES AND AUTHORITY

SEC. 601. AUTHORIZATION OF APPROPRIATIONS.

Section 35 of the Securities Exchange Act of 1934 (15 U.S.C. 78kk) is amended to read as follows:

“SEC. 35. AUTHORIZATION OF APPROPRIATIONS.

“In addition to any other funds authorized to be appropriated to the Commission, there are authorized to be appropriated to carry out the functions, powers, and duties of the Commission, \$776,000,000 for fiscal year 2003, of which—

“(1) \$102,700,000 shall be available to fund additional compensation, including salaries and benefits, as authorized in the Investor and Capital Markets Fee Relief Act (Public Law 107-123; 115 Stat. 2390 et seq.);

“(2) \$108,400,000 shall be available for information technology, security enhancements, and recovery and mitigation activities in light of the terrorist attacks of September 11, 2001; and

“(3) \$98,000,000 shall be available to add not fewer than an additional 200 qualified professionals to provide enhanced oversight of auditors and audit services required by the Federal securities laws, and to improve Commission investigative and

disciplinary efforts with respect to such auditors and services, as well as for additional professional support staff necessary to strengthen the programs of the Commission involving Full Disclosure and Prevention and Suppression of Fraud, risk management, industry technology review, compliance, inspections, examinations, market regulation, and investment management.”.

SEC. 602. APPEARANCE AND PRACTICE BEFORE THE COMMISSION.

The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting after section 4B the following:

15 USC 78d-3.

“SEC. 4C. APPEARANCE AND PRACTICE BEFORE THE COMMISSION.

“(a) **AUTHORITY TO CENSURE.**—The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found by the Commission, after notice and opportunity for hearing in the matter—

“(1) not to possess the requisite qualifications to represent others;

“(2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or

“(3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

“(b) **DEFINITION.**—With respect to any registered public accounting firm or associated person, for purposes of this section, the term ‘improper professional conduct’ means—

“(1) intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards; and

“(2) negligent conduct in the form of—

“(A) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which the registered public accounting firm or associated person knows, or should know, that heightened scrutiny is warranted; or

“(B) repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.”.

SEC. 603. FEDERAL COURT AUTHORITY TO IMPOSE PENNY STOCK BARS.

(a) **SECURITIES EXCHANGE ACT OF 1934.**—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)), as amended by this Act, is amended by adding at the end the following:

“(6) **AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM PARTICIPATING IN AN OFFERING OF PENNY STOCK.**—

“(A) **IN GENERAL.**—In any proceeding under paragraph (1) against any person participating in, or, at the time of the alleged misconduct who was participating in, an offering of penny stock, the court may prohibit that person from participating in an offering of penny stock, conditionally or unconditionally, and permanently or for such period of time as the court shall determine.

“(B) **DEFINITION.**—For purposes of this paragraph, the term ‘person participating in an offering of penny stock’ includes

any person engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of, any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from inclusion in such term.”.

(b) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following:

“(g) AUTHORITY OF A COURT TO PROHIBIT PERSONS FROM PARTICIPATING IN AN OFFERING OF PENNY STOCK.—

“(1) IN GENERAL.—In any proceeding under subsection (a) against any person participating in, or, at the time of the alleged misconduct, who was participating in, an offering of penny stock, the court may prohibit that person from participating in an offering of penny stock, conditionally or unconditionally, and permanently or for such period of time as the court shall determine.

“(2) DEFINITION.—For purposes of this subsection, the term ‘person participating in an offering of penny stock’ includes any person engaging in activities with a broker, dealer, or issuer for purposes of issuing, trading, or inducing or attempting to induce the purchase or sale of, any penny stock. The Commission may, by rule or regulation, define such term to include other activities, and may, by rule, regulation, or order, exempt any person or class of persons, in whole or in part, conditionally or unconditionally, from inclusion in such term.”.

SEC. 604. QUALIFICATIONS OF ASSOCIATED PERSONS OF BROKERS AND DEALERS.

(a) BROKERS AND DEALERS.—Section 15(b)(4) of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended—

(1) by striking subparagraph (F) and inserting the following:

“(F) is subject to any order of the Commission barring or suspending the right of the person to be associated with a broker or dealer;”; and

(2) in subparagraph (G), by striking the period at the end and inserting the following: “; or

“(H) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

“(i) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

“(ii) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.”.

(b) INVESTMENT ADVISERS.—Section 203(e) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(e)) is amended—

(1) by striking paragraph (7) and inserting the following:

“(7) is subject to any order of the Commission barring or suspending the right of the person to be associated with an investment adviser;”;

(2) in paragraph (8), by striking the period at the end and inserting “; or”; and

(3) by adding at the end the following:

“(9) is subject to any final order of a State securities commission (or any agency or officer performing like functions), State authority that supervises or examines banks, savings associations, or credit unions, State insurance commission (or any agency or office performing like functions), an appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813(q))), or the National Credit Union Administration, that—

“(A) bars such person from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in the business of securities, insurance, banking, savings association activities, or credit union activities; or

“(B) constitutes a final order based on violations of any laws or regulations that prohibit fraudulent, manipulative, or deceptive conduct.”.

(c) CONFORMING AMENDMENTS.—

(1) SECURITIES EXCHANGE ACT OF 1934.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(A) in section 3(a)(39)(F) (15 U.S.C. 78c(a)(39)(F))—

(i) by striking “or (G)” and inserting “(H), or (G)”; and

(ii) by inserting “, or is subject to an order or finding,” before “enumerated”;

(B) in each of section 15(b)(6)(A)(i) (15 U.S.C. 78o(b)(6)(A)(i)), paragraphs (2) and (4) of section 15B(c) (15 U.S.C. 78o-4(c)), and subparagraphs (A) and (C) of section 15C(c)(1) (15 U.S.C. 78o-5(c)(1))—

(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”; and

(ii) by striking “or omission” each place that term appears, and inserting “, or is subject to an order or finding;”;

(C) in each of paragraphs (3)(A) and (4)(C) of section 17A(c) (15 U.S.C. 78q-1(c))—

(i) by striking “or (G)” each place that term appears and inserting “(H), or (G)”; and

(ii) by inserting “, or is subject to an order or finding,” before “enumerated” each place that term appears.

(2) INVESTMENT ADVISERS ACT OF 1940.—Section 203(f) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3(f)) is amended—

(A) by striking “or (8)” and inserting “(8), or (9)”; and

(B) by inserting “or (3)” after “paragraph (2)”.

TITLE VII—STUDIES AND REPORTS**SEC. 701. GAO STUDY AND REPORT REGARDING CONSOLIDATION OF PUBLIC ACCOUNTING FIRMS.**15 USC 7201
note.

(a) **STUDY REQUIRED.**—The Comptroller General of the United States shall conduct a study—

(1) to identify—

(A) the factors that have led to the consolidation of public accounting firms since 1989 and the consequent reduction in the number of firms capable of providing audit services to large national and multi-national business organizations that are subject to the securities laws;

(B) the present and future impact of the condition described in subparagraph (A) on capital formation and securities markets, both domestic and international; and

(C) solutions to any problems identified under subparagraph (B), including ways to increase competition and the number of firms capable of providing audit services to large national and multinational business organizations that are subject to the securities laws;

(2) of the problems, if any, faced by business organizations that have resulted from limited competition among public accounting firms, including—

(A) higher costs;

(B) lower quality of services;

(C) impairment of auditor independence; or

(D) lack of choice; and

(3) whether and to what extent Federal or State regulations impede competition among public accounting firms.

(b) **CONSULTATION.**—In planning and conducting the study under this section, the Comptroller General shall consult with—

(1) the Commission;

(2) the regulatory agencies that perform functions similar to the Commission within the other member countries of the Group of Seven Industrialized Nations;

(3) the Department of Justice; and

(4) any other public or private sector organization that the Comptroller General considers appropriate.

(c) **REPORT REQUIRED.**—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report on the results of the study required by this section to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

Deadline.

SEC. 702. COMMISSION STUDY AND REPORT REGARDING CREDIT RATING AGENCIES.

(a) **STUDY REQUIRED.**—

(1) **IN GENERAL.**—The Commission shall conduct a study of the role and function of credit rating agencies in the operation of the securities market.

(2) **AREAS OF CONSIDERATION.**—The study required by this subsection shall examine—

(A) the role of credit rating agencies in the evaluation of issuers of securities;

(B) the importance of that role to investors and the functioning of the securities markets;

(C) any impediments to the accurate appraisal by credit rating agencies of the financial resources and risks of issuers of securities;

(D) any barriers to entry into the business of acting as a credit rating agency, and any measures needed to remove such barriers;

(E) any measures which may be required to improve the dissemination of information concerning such resources and risks when credit rating agencies announce credit ratings; and

(F) any conflicts of interest in the operation of credit rating agencies and measures to prevent such conflicts or ameliorate the consequences of such conflicts.

Deadline.

(b) **REPORT REQUIRED.**—The Commission shall submit a report on the study required by subsection (a) to the President, the Committee on Financial Services of the House of Representatives, and the Committee on Banking, Housing, and Urban Affairs of the Senate not later than 180 days after the date of enactment of this Act.

SEC. 703. STUDY AND REPORT ON VIOLATORS AND VIOLATIONS.

(a) **STUDY.**—The Commission shall conduct a study to determine, based upon information for the period from January 1, 1998, to December 31, 2001—

(1) the number of securities professionals, defined as public accountants, public accounting firms, investment bankers, investment advisers, brokers, dealers, attorneys, and other securities professionals practicing before the Commission—

(A) who have been found to have aided and abetted a violation of the Federal securities laws, including rules or regulations promulgated thereunder (collectively referred to in this section as “Federal securities laws”), but who have not been sanctioned, disciplined, or otherwise penalized as a primary violator in any administrative action or civil proceeding, including in any settlement of such an action or proceeding (referred to in this section as “aiders and abettors”); and

(B) who have been found to have been primary violators of the Federal securities laws;

(2) a description of the Federal securities laws violations committed by aiders and abettors and by primary violators, including—

(A) the specific provision of the Federal securities laws violated;

(B) the specific sanctions and penalties imposed upon such aiders and abettors and primary violators, including the amount of any monetary penalties assessed upon and collected from such persons;

(C) the occurrence of multiple violations by the same person or persons, either as an aider or abettor or as a primary violator; and

(D) whether, as to each such violator, disciplinary sanctions have been imposed, including any censure, suspension, temporary bar, or permanent bar to practice before the Commission; and

(3) the amount of disgorgement, restitution, or any other fines or payments that the Commission has assessed upon and collected from, aiders and abettors and from primary violators.

(b) **REPORT.**—A report based upon the study conducted pursuant to subsection (a) shall be submitted to the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Committee on Financial Services of the House of Representatives not later than 6 months after the date of enactment of this Act.

SEC. 704. STUDY OF ENFORCEMENT ACTIONS.

(a) **STUDY REQUIRED.**—The Commission shall review and analyze all enforcement actions by the Commission involving violations of reporting requirements imposed under the securities laws, and restatements of financial statements, over the 5-year period preceding the date of enactment of this Act, to identify areas of reporting that are most susceptible to fraud, inappropriate manipulation, or inappropriate earnings management, such as revenue recognition and the accounting treatment of off-balance sheet special purpose entities.

(b) **REPORT REQUIRED.**—The Commission shall report its findings to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, not later than 180 days after the date of enactment of this Act, and shall use such findings to revise its rules and regulations, as necessary. The report shall include a discussion of regulatory or legislative steps that are recommended or that may be necessary to address concerns identified in the study.

Deadline.

SEC. 705. STUDY OF INVESTMENT BANKS.

(a) **GAO STUDY.**—The Comptroller General of the United States shall conduct a study on whether investment banks and financial advisers assisted public companies in manipulating their earnings and obfuscating their true financial condition. The study should address the rule of investment banks and financial advisers—

(1) in the collapse of the Enron Corporation, including with respect to the design and implementation of derivatives transactions, transactions involving special purpose vehicles, and other financial arrangements that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company;

(2) in the failure of Global Crossing, including with respect to transactions involving swaps of fiberoptic cable capacity, in the designing transactions that may have had the effect of altering the company's reported financial statements in ways that obscured the true financial picture of the company; and

(3) generally, in creating and marketing transactions which may have been designed solely to enable companies to manipulate revenue streams, obtain loans, or move liabilities off balance sheets without altering the economic and business risks faced by the companies or any other mechanism to obscure a company's financial picture.

(b) **REPORT.**—The Comptroller General shall report to Congress not later than 180 days after the date of enactment of this Act on the results of the study required by this section. The report shall include a discussion of regulatory or legislative steps that

Deadline.

are recommended or that may be necessary to address concerns identified in the study.

Corporate and
Criminal Fraud
Accountability
Act of 2002.

18 USC 1501
note.

TITLE VIII—CORPORATE AND CRIMINAL FRAUD ACCOUNTABILITY

SEC. 801. SHORT TITLE.

This title may be cited as the “Corporate and Criminal Fraud Accountability Act of 2002”.

SEC. 802. CRIMINAL PENALTIES FOR ALTERING DOCUMENTS.

(a) IN GENERAL.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

“§ 1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy

“Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any case filed under title 11, or in relation to or contemplation of any such matter or case, shall be fined under this title, imprisoned not more than 20 years, or both.

“§ 1520. Destruction of corporate audit records

“(a)(1) Any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies, shall maintain all audit or review workpapers for a period of 5 years from the end of the fiscal period in which the audit or review was concluded.

Regulations.

“(2) The Securities and Exchange Commission shall promulgate, within 180 days, after adequate notice and an opportunity for comment, such rules and regulations, as are reasonably necessary, relating to the retention of relevant records such as workpapers, documents that form the basis of an audit or review, memoranda, correspondence, communications, other documents, and records (including electronic records) which are created, sent, or received in connection with an audit or review and contain conclusions, opinions, analyses, or financial data relating to such an audit or review, which is conducted by any accountant who conducts an audit of an issuer of securities to which section 10A(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78j-1(a)) applies. The Commission may, from time to time, amend or supplement the rules and regulations that it is required to promulgate under this section, after adequate notice and an opportunity for comment, in order to ensure that such rules and regulations adequately comport with the purposes of this section.

“(b) Whoever knowingly and willfully violates subsection (a)(1), or any rule or regulation promulgated by the Securities and Exchange Commission under subsection (a)(2), shall be fined under this title, imprisoned not more than 10 years, or both.

“(c) Nothing in this section shall be deemed to diminish or relieve any person of any other duty or obligation imposed by Federal or State law or regulation to maintain, or refrain from destroying, any document.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new items:

“1519. Destruction, alteration, or falsification of records in Federal investigations and bankruptcy.

“1520. Destruction of corporate audit records.”.

SEC. 803. DEBTS NONDISCHARGEABLE IF INCURRED IN VIOLATION OF SECURITIES FRAUD LAWS.

Section 523(a) of title 11, United States Code, is amended—

- (1) in paragraph (17), by striking “or” after the semicolon;
- (2) in paragraph (18), by striking the period at the end and inserting “; or”; and
- (3) by adding at the end, the following:

“(19) that—

“(A) is for—

“(i) the violation of any of the Federal securities laws (as that term is defined in section 3(a)(47) of the Securities Exchange Act of 1934), any of the State securities laws, or any regulation or order issued under such Federal or State securities laws; or

“(ii) common law fraud, deceit, or manipulation in connection with the purchase or sale of any security; and

“(B) results from—

“(i) any judgment, order, consent order, or decree entered in any Federal or State judicial or administrative proceeding;

“(ii) any settlement agreement entered into by the debtor; or

“(iii) any court or administrative order for any damages, fine, penalty, citation, restitutionary payment, disgorgement payment, attorney fee, cost, or other payment owed by the debtor.”.

SEC. 804. STATUTE OF LIMITATIONS FOR SECURITIES FRAUD.

(a) IN GENERAL.—Section 1658 of title 28, United States Code, is amended—

- (1) by inserting “(a)” before “Except”; and
- (2) by adding at the end the following:

“(b) Notwithstanding subsection (a), a private right of action that involves a claim of fraud, deceit, manipulation, or contrivance in contravention of a regulatory requirement concerning the securities laws, as defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)), may be brought not later than the earlier of—

“(1) 2 years after the discovery of the facts constituting the violation; or

“(2) 5 years after such violation.”.

(b) EFFECTIVE DATE.—The limitations period provided by section 1658(b) of title 28, United States Code, as added by this section, shall apply to all proceedings addressed by this section that are commenced on or after the date of enactment of this Act.

(c) NO CREATION OF ACTIONS.—Nothing in this section shall create a new, private right of action.

28 USC 1658
note.

28 USC 1658
note.

28 USC 994 note. **SEC. 805. REVIEW OF FEDERAL SENTENCING GUIDELINES FOR OBSTRUCTION OF JUSTICE AND EXTENSIVE CRIMINAL FRAUD.**

(a) **ENHANCEMENT OF FRAUD AND OBSTRUCTION OF JUSTICE SENTENCES.**—Pursuant to section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and amend, as appropriate, the Federal Sentencing Guidelines and related policy statements to ensure that—

(1) the base offense level and existing enhancements contained in United States Sentencing Guideline 2J1.2 relating to obstruction of justice are sufficient to deter and punish that activity;

(2) the enhancements and specific offense characteristics relating to obstruction of justice are adequate in cases where—

(A) the destruction, alteration, or fabrication of evidence involves—

(i) a large amount of evidence, a large number of participants, or is otherwise extensive;

(ii) the selection of evidence that is particularly probative or essential to the investigation; or

(iii) more than minimal planning; or

(B) the offense involved abuse of a special skill or a position of trust;

(3) the guideline offense levels and enhancements for violations of section 1519 or 1520 of title 18, United States Code, as added by this title, are sufficient to deter and punish that activity;

(4) a specific offense characteristic enhancing sentencing is provided under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) for a fraud offense that endangers the solvency or financial security of a substantial number of victims; and

(5) the guidelines that apply to organizations in United States Sentencing Guidelines, chapter 8, are sufficient to deter and punish organizational criminal misconduct.

Deadline.

(b) **EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.**—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than 180 days after the date of enactment of this Act, in accordance with the procedures set forth in section 219(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SEC. 806. PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES WHO PROVIDE EVIDENCE OF FRAUD.

(a) **IN GENERAL.**—Chapter 73 of title 18, United States Code, is amended by inserting after section 1514 the following:

“§ 1514A. Civil action to protect against retaliation in fraud cases

“(a) **WHISTLEBLOWER PROTECTION FOR EMPLOYEES OF PUBLICLY TRADED COMPANIES.**—No company with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)),

or any officer, employee, contractor, subcontractor, or agent of such company, may discharge, demote, suspend, threaten, harass, or in any other manner discriminate against an employee in the terms and conditions of employment because of any lawful act done by the employee—

“(1) to provide information, cause information to be provided, or otherwise assist in an investigation regarding any conduct which the employee reasonably believes constitutes a violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders, when the information or assistance is provided to or the investigation is conducted by—

“(A) a Federal regulatory or law enforcement agency;

“(B) any Member of Congress or any committee of Congress; or

“(C) a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct); or

“(2) to file, cause to be filed, testify, participate in, or otherwise assist in a proceeding filed or about to be filed (with any knowledge of the employer) relating to an alleged violation of section 1341, 1343, 1344, or 1348, any rule or regulation of the Securities and Exchange Commission, or any provision of Federal law relating to fraud against shareholders.

“(b) ENFORCEMENT ACTION.—

“(1) IN GENERAL.—A person who alleges discharge or other discrimination by any person in violation of subsection (a) may seek relief under subsection (c), by—

“(A) filing a complaint with the Secretary of Labor;

or

“(B) if the Secretary has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

“(2) PROCEDURE.—

“(A) IN GENERAL.—An action under paragraph (1)(A) shall be governed under the rules and procedures set forth in section 42121(b) of title 49, United States Code.

“(B) EXCEPTION.—Notification made under section 42121(b)(1) of title 49, United States Code, shall be made to the person named in the complaint and to the employer.

“(C) BURDENS OF PROOF.—An action brought under paragraph (1)(B) shall be governed by the legal burdens of proof set forth in section 42121(b) of title 49, United States Code.

“(D) STATUTE OF LIMITATIONS.—An action under paragraph (1) shall be commenced not later than 90 days after the date on which the violation occurs.

Deadline.

“(c) REMEDIES.—

“(1) IN GENERAL.—An employee prevailing in any action under subsection (b)(1) shall be entitled to all relief necessary to make the employee whole.

“(2) COMPENSATORY DAMAGES.—Relief for any action under paragraph (1) shall include—

“(A) reinstatement with the same seniority status that the employee would have had, but for the discrimination;

“(B) the amount of back pay, with interest; and

“(C) compensation for any special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

“(d) RIGHTS RETAINED BY EMPLOYEE.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any Federal or State law, or under any collective bargaining agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting after the item relating to section 1514 the following new item:

“1514A. Civil action to protect against retaliation in fraud cases.”.

SEC. 807. CRIMINAL PENALTIES FOR DEFRAUDING SHAREHOLDERS OF PUBLICLY TRADED COMPANIES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“§ 1348. Securities fraud

“Whoever knowingly executes, or attempts to execute, a scheme or artifice—

“(1) to defraud any person in connection with any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)); or

“(2) to obtain, by means of false or fraudulent pretenses, representations, or promises, any money or property in connection with the purchase or sale of any security of an issuer with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l) or that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d));

shall be fined under this title, or imprisoned not more than 25 years, or both.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

“1348. Securities fraud.”.

TITLE IX—WHITE-COLLAR CRIME PENALTY ENHANCEMENTS

White-Collar
Crime Penalty
Enhancement
Act of 2002.

18 USC 1341
note.

SEC. 901. SHORT TITLE.

This title may be cited as the “White-Collar Crime Penalty Enhancement Act of 2002”.

SEC. 902. ATTEMPTS AND CONSPIRACIES TO COMMIT CRIMINAL FRAUD OFFENSES.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1348 as added by this Act the following:

“§ 1349. Attempt and conspiracy

“Any person who attempts or conspires to commit any offense under this chapter shall be subject to the same penalties as those prescribed for the offense, the commission of which was the object of the attempt or conspiracy.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

“1349. Attempt and conspiracy.”.

SEC. 903. CRIMINAL PENALTIES FOR MAIL AND WIRE FRAUD.

(a) MAIL FRAUD.—Section 1341 of title 18, United States Code, is amended by striking “five” and inserting “20”.

(b) WIRE FRAUD.—Section 1343 of title 18, United States Code, is amended by striking “five” and inserting “20”.

SEC. 904. CRIMINAL PENALTIES FOR VIOLATIONS OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

Section 501 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1131) is amended—

- (1) by striking “\$5,000” and inserting “\$100,000”;
- (2) by striking “one year” and inserting “10 years”; and
- (3) by striking “\$100,000” and inserting “\$500,000”.

SEC. 905. AMENDMENT TO SENTENCING GUIDELINES RELATING TO CERTAIN WHITE-COLLAR OFFENSES. 28 USC 994 note.

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this Act.

(b) REQUIREMENTS.—In carrying out this section, the Sentencing Commission shall—

- (1) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses and the penalties set forth in this Act, the growing incidence of serious fraud offenses which are identified above, and the need to modify the sentencing guidelines and policy statements to deter, prevent, and punish such offenses;
- (2) consider the extent to which the guidelines and policy statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this Act are sufficient to deter and punish such offenses, and specifically, are adequate in view of the statutory increases in penalties contained in this Act;
- (3) assure reasonable consistency with other relevant directives and sentencing guidelines;
- (4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the sentencing guidelines; and

(6) assure that the guidelines adequately meet the purposes of sentencing, as set forth in section 3553(a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than 180 days after the date of enactment of this Act, in accordance with the procedures set forth in section 219(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

SEC. 906. CORPORATE RESPONSIBILITY FOR FINANCIAL REPORTS.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1349, as created by this Act, the following:

“§ 1350. Failure of corporate officers to certify financial reports

(a) CERTIFICATION OF PERIODIC FINANCIAL REPORTS.—Each periodic report containing financial statements filed by an issuer with the Securities Exchange Commission pursuant to section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) or 78o(d)) shall be accompanied by a written statement by the chief executive officer and chief financial officer (or equivalent thereof) of the issuer.

“(b) CONTENT.—The statement required under subsection (a) shall certify that the periodic report containing the financial statements fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m or 78o(d)) and that information contained in the periodic report fairly presents, in all material respects, the financial condition and results of operations of the issuer.

“(c) CRIMINAL PENALTIES.—Whoever—

“(1) certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than \$1,000,000 or imprisoned not more than 10 years, or both; or

“(2) willfully certifies any statement as set forth in subsections (a) and (b) of this section knowing that the periodic report accompanying the statement does not comport with all the requirements set forth in this section shall be fined not more than \$5,000,000, or imprisoned not more than 20 years, or both.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

“1350. Failure of corporate officers to certify financial reports.”.

TITLE X—CORPORATE TAX RETURNS

SEC. 1001. SENSE OF THE SENATE REGARDING THE SIGNING OF CORPORATE TAX RETURNS BY CHIEF EXECUTIVE OFFICERS.

It is the sense of the Senate that the Federal income tax return of a corporation should be signed by the chief executive officer of such corporation.

TITLE XI—CORPORATE FRAUD ACCOUNTABILITY

Corporate Fraud
Accountability
Act of 2002.

SEC. 1101. SHORT TITLE.

15 USC 78a note.

This title may be cited as the “Corporate Fraud Accountability Act of 2002”.

SEC. 1102. TAMPERING WITH A RECORD OR OTHERWISE IMPEDING AN OFFICIAL PROCEEDING.

Section 1512 of title 18, United States Code, is amended—

(1) by redesignating subsections (c) through (i) as subsections (d) through (j), respectively; and

(2) by inserting after subsection (b) the following new subsection:

“(c) Whoever corruptly—

“(1) alters, destroys, mutilates, or conceals a record, document, or other object, or attempts to do so, with the intent to impair the object’s integrity or availability for use in an official proceeding; or

“(2) otherwise obstructs, influences, or impedes any official proceeding, or attempts to do so,

shall be fined under this title or imprisoned not more than 20 years, or both.”.

SEC. 1103. TEMPORARY FREEZE AUTHORITY FOR THE SECURITIES AND EXCHANGE COMMISSION.

(a) IN GENERAL.—Section 21C(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78u–3(c)) is amended by adding at the end the following:

“(3) TEMPORARY FREEZE.—

“(A) IN GENERAL.—

“(i) ISSUANCE OF TEMPORARY ORDER.—Whenever, during the course of a lawful investigation involving possible violations of the Federal securities laws by an issuer of publicly traded securities or any of its directors, officers, partners, controlling persons, agents, or employees, it shall appear to the Commission that it is likely that the issuer will make extraordinary payments (whether compensation or otherwise) to any of the foregoing persons, the Commission may petition a Federal district court for a temporary order requiring the issuer to escrow, subject to court supervision, those payments in an interest-bearing account for 45 days.

“(ii) STANDARD.—A temporary order shall be entered under clause (i), only after notice and opportunity for a hearing, unless the court determines that

notice and hearing prior to entry of the order would be impracticable or contrary to the public interest.

“(iii) EFFECTIVE PERIOD.—A temporary order issued under clause (i) shall—

“(I) become effective immediately;

“(II) be served upon the parties subject to it;

and

“(III) unless set aside, limited or suspended by a court of competent jurisdiction, shall remain effective and enforceable for 45 days.

“(iv) EXTENSIONS AUTHORIZED.—The effective period of an order under this subparagraph may be extended by the court upon good cause shown for not longer than 45 additional days, provided that the combined period of the order shall not exceed 90 days.

“(B) PROCESS ON DETERMINATION OF VIOLATIONS.—

“(i) VIOLATIONS CHARGED.—If the issuer or other person described in subparagraph (A) is charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the order shall remain in effect, subject to court approval, until the conclusion of any legal proceedings related thereto, and the affected issuer or other person, shall have the right to petition the court for review of the order.

“(ii) VIOLATIONS NOT CHARGED.—If the issuer or other person described in subparagraph (A) is not charged with any violation of the Federal securities laws before the expiration of the effective period of a temporary order under subparagraph (A) (including any applicable extension period), the escrow shall terminate at the expiration of the 45-day effective period (or the expiration of any extension period, as applicable), and the disputed payments (with accrued interest) shall be returned to the issuer or other affected person.”.

(b) TECHNICAL AMENDMENT.—Section 21C(c)(2) of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3(c)(2)) is amended by striking “This” and inserting “paragraph (1)”.

28 USC 994 note.

SEC. 1104. AMENDMENT TO THE FEDERAL SENTENCING GUIDELINES.

(a) REQUEST FOR IMMEDIATE CONSIDERATION BY THE UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission is requested to—

(1) promptly review the sentencing guidelines applicable to securities and accounting fraud and related offenses;

(2) expeditiously consider the promulgation of new sentencing guidelines or amendments to existing sentencing guidelines to provide an enhancement for officers or directors of publicly traded corporations who commit fraud and related offenses; and

(3) submit to Congress an explanation of actions taken by the Sentencing Commission pursuant to paragraph (2) and

any additional policy recommendations the Sentencing Commission may have for combating offenses described in paragraph (1).

(b) CONSIDERATIONS IN REVIEW.—In carrying out this section, the Sentencing Commission is requested to—

(1) ensure that the sentencing guidelines and policy statements reflect the serious nature of securities, pension, and accounting fraud and the need for aggressive and appropriate law enforcement action to prevent such offenses;

(2) assure reasonable consistency with other relevant directives and with other guidelines;

(3) account for any aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements;

(4) ensure that guideline offense levels and enhancements for an obstruction of justice offense are adequate in cases where documents or other physical evidence are actually destroyed or fabricated;

(5) ensure that the guideline offense levels and enhancements under United States Sentencing Guideline 2B1.1 (as in effect on the date of enactment of this Act) are sufficient for a fraud offense when the number of victims adversely involved is significantly greater than 50;

(6) make any necessary conforming changes to the sentencing guidelines; and

(7) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553 (a)(2) of title 18, United States Code.

(c) EMERGENCY AUTHORITY AND DEADLINE FOR COMMISSION ACTION.—The United States Sentencing Commission is requested to promulgate the guidelines or amendments provided for under this section as soon as practicable, and in any event not later than the 180 days after the date of enactment of this Act, in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under that Act had not expired.

Deadline.

SEC. 1105. AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.

(a) SECURITIES EXCHANGE ACT OF 1934.—Section 21C of the Securities Exchange Act of 1934 (15 U.S.C. 78u-3) is amended by adding at the end the following:

“(f) AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 10(b) or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12, or that is required to file reports pursuant to section 15(d), if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”.

(b) SECURITIES ACT OF 1933.—Section 8A of the Securities Act of 1933 (15 U.S.C. 77h-1) is amended by adding at the end of the following:

“(f) **AUTHORITY OF THE COMMISSION TO PROHIBIT PERSONS FROM SERVING AS OFFICERS OR DIRECTORS.**—In any cease-and-desist proceeding under subsection (a), the Commission may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as it shall determine, any person who has violated section 17(a)(1) or the rules or regulations thereunder, from acting as an officer or director of any issuer that has a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, or that is required to file reports pursuant to section 15(d) of that Act, if the conduct of that person demonstrates unfitness to serve as an officer or director of any such issuer.”.

SEC. 1106. INCREASED CRIMINAL PENALTIES UNDER SECURITIES EXCHANGE ACT OF 1934.

Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended—

(1) by striking “\$1,000,000, or imprisoned not more than 10 years” and inserting “\$5,000,000, or imprisoned not more than 20 years”; and

(2) by striking “\$2,500,000” and inserting “\$25,000,000”.

SEC. 1107. RETALIATION AGAINST INFORMANTS.

(a) **IN GENERAL.**—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

Penalties.

“(e) Whoever knowingly, with the intent to retaliate, takes any action harmful to any person, including interference with the lawful employment or livelihood of any person, for providing to a law enforcement officer any truthful information relating to the commission or possible commission of any Federal offense, shall be fined under this title or imprisoned not more than 10 years, or both.”.

Approved July 30, 2002.

LEGISLATIVE HISTORY—H.R. 3763 (S. 2673):

HOUSE REPORTS: Nos. 107-414 (Comm. on Financial Services) and 107-610 (Comm. of Conference).

SENATE REPORTS: No. 107-205 accompanying S. 2673 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 24, considered and passed House.

July 15, considered and passed Senate, amended, in lieu of S. 2673.

July 25, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

July 30, Presidential remarks and statement.



Public Law 107–205
107th Congress

An Act

To amend the Public Health Service Act with respect to health professions programs regarding the field of nursing.

Aug. 1, 2002
[H.R. 3487]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Nurse Reinvestment Act”.

Nurse
Reinvestment
Act.
42 USC 201 note.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
Sec. 2. Table of contents.

TITLE I—NURSE RECRUITMENT

- Sec. 101. Definitions.
Sec. 102. Public service announcements regarding the nursing profession.
Sec. 103. National Nurse Service Corps.

TITLE II—NURSE RETENTION

- Sec. 201. Building career ladders and retaining quality nurses.
Sec. 202. Comprehensive geriatric education.
Sec. 203. Nurse faculty loan program.
Sec. 204. Reports by General Accounting Office.

TITLE I—NURSE RECRUITMENT

SEC. 101. DEFINITIONS.

Section 801 of the Public Health Service Act (42 U.S.C. 296) is amended by adding at the end the following:

“(9) **AMBULATORY SURGICAL CENTER.**—The term ‘ambulatory surgical center’ has the meaning applicable to such term under title XVIII of the Social Security Act.

“(10) **FEDERALLY QUALIFIED HEALTH CENTER.**—The term ‘Federally qualified health center’ has the meaning given such term under section 1861(aa)(4) of the Social Security Act.

“(11) **HEALTH CARE FACILITY.**—The term ‘health care facility’ means an Indian Health Service health center, a Native Hawaiian health center, a hospital, a Federally qualified health center, a rural health clinic, a nursing home, a home health agency, a hospice program, a public health clinic, a State or local department of public health, a skilled nursing facility, an ambulatory surgical center, or any other facility designated by the Secretary.

“(12) **HOME HEALTH AGENCY.**—The term ‘home health agency’ has the meaning given such term in section 1861(o) of the Social Security Act.

“(13) HOSPICE PROGRAM.—The term ‘hospice program’ has the meaning given such term in section 1861(dd)(2) of the Social Security Act.

“(14) RURAL HEALTH CLINIC.—The term ‘rural health clinic’ has the meaning given such term in section 1861(aa)(2) of the Social Security Act.

“(15) SKILLED NURSING FACILITY.—The term ‘skilled nursing facility’ has the meaning given such term in section 1819(a) of the Social Security Act.”.

SEC. 102. PUBLIC SERVICE ANNOUNCEMENTS REGARDING THE NURSING PROFESSION.

Title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.) is amended by adding at the end the following:

“PART H—PUBLIC SERVICE ANNOUNCEMENTS

42 USC 297w.

“SEC. 851. PUBLIC SERVICE ANNOUNCEMENTS.

“(a) IN GENERAL.—The Secretary shall develop and issue public service announcements that advertise and promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals to enter the nursing profession.

“(b) METHOD.—The public service announcements described in subsection (a) shall be broadcast through appropriate media outlets, including television or radio, in a manner intended to reach as wide and diverse an audience as possible.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.

42 USC 297x.

“SEC. 852. STATE AND LOCAL PUBLIC SERVICE ANNOUNCEMENTS.

“(a) IN GENERAL.—The Secretary may award grants to eligible entities to support State and local advertising campaigns through appropriate media outlets to promote the nursing profession, highlight the advantages and rewards of nursing, and encourage individuals from disadvantaged backgrounds to enter the nursing profession.

“(b) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds received through such grant to acquire local television and radio time, place advertisements in local newspapers, or post information on billboards or on the Internet in a manner intended to reach as wide and diverse an audience as possible, in order to—

“(1) advertise and promote the nursing profession;

“(2) promote nursing education programs;

“(3) inform the public of financial assistance regarding such education programs;

“(4) highlight individuals in the community who are practicing nursing in order to recruit new nurses; or

“(5) provide any other information to recruit individuals for the nursing profession.

“(c) LIMITATION.—An eligible entity that receives a grant under subsection (a) shall not use funds received through such grant to advertise particular employment opportunities.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.”.

SEC. 103. NATIONAL NURSE SERVICE CORPS.

(a) **LOAN REPAYMENT PROGRAM.**—Section 846(a) of the Public Health Service Act (42 U.S.C. 297n(a)) is amended—

(1) in paragraph (3), by striking “in an Indian Health Service health center” and all that follows to the semicolon and inserting “at a health care facility with a critical shortage of nurses”; and

(2) by adding at the end the following: “After fiscal year 2007, the Secretary may not, pursuant to any agreement entered into under this subsection, assign a nurse to any private entity unless that entity is nonprofit.”.

(b) **ESTABLISHMENT OF SCHOLARSHIP PROGRAM.**—Section 846 of the Public Health Service Act (42 U.S.C. 297n) is amended—

(1) in the heading for the section, by striking “LOAN REPAYMENT PROGRAM” and inserting “LOAN REPAYMENT AND SCHOLARSHIP PROGRAMS”;

(2) by redesignating subsections (d), (f), (g), and (h) as subsections (f), (h), (i), and (g), respectively;

(3) by transferring subsections (f) and (g) (as so redesignated) from their current placements, by inserting subsection (f) after subsection (e), and by inserting subsection (g) after subsection (f) (as so inserted); and

(4) by inserting after subsection (c) the following subsection: “(d) **SCHOLARSHIP PROGRAM.**—

“(1) **IN GENERAL.**—The Secretary shall (for fiscal years 2003 and 2004) and may (for fiscal years thereafter) carry out a program of entering into contracts with eligible individuals under which such individuals agree to serve as nurses for a period of not less than 2 years at a health care facility with a critical shortage of nurses, in consideration of the Federal Government agreeing to provide to the individuals scholarships for attendance at schools of nursing.

Contracts.

“(2) **ELIGIBLE INDIVIDUALS.**—In this subsection, the term ‘eligible individual’ means an individual who is enrolled or accepted for enrollment as a full-time or part-time student in a school of nursing.

“(3) **SERVICE REQUIREMENT.**—

“(A) **IN GENERAL.**—The Secretary may not enter into a contract with an eligible individual under this subsection unless the individual agrees to serve as a nurse at a health care facility with a critical shortage of nurses for a period of full-time service of not less than 2 years, or for a period of part-time service in accordance with subparagraph (B).

“(B) **PART-TIME SERVICE.**—An individual may complete the period of service described in subparagraph (A) on a part-time basis if the individual has a written agreement that—

“(i) is entered into by the facility and the individual and is approved by the Secretary; and

“(ii) provides that the period of obligated service will be extended so that the aggregate amount of service performed will equal the amount of service that would be performed through a period of full-time service of not less than 2 years.

“(4) **APPLICABILITY OF CERTAIN PROVISIONS.**—The provisions of subpart III of part D of title III shall, except as inconsistent

with this section, apply to the program established in paragraph (1) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Scholarship Program established in such subpart.”.

(c) PREFERENCE.—Section 846(e) of the Public Health Service Act (42 U.S.C. 297n(e)) is amended by striking “under subsection (a)” and all that follows through the period and inserting “under subsection (a) or (d), the Secretary shall give preference to qualified applicants with the greatest financial need.”.

(d) REPORTS.—Subsection (h) of section 846 of the Public Health Service Act (42 U.S.C. 297n) (as redesignated by subsection (b)(2)) is amended to read as follows:

Deadline.

“(h) REPORTS.—Not later than 18 months after the date of enactment of the Nurse Reinvestment Act, and annually thereafter, the Secretary shall prepare and submit to the Congress a report describing the programs carried out under this section, including statements regarding—

“(1) the number of enrollees, scholarships, loan repayments, and grant recipients;

“(2) the number of graduates;

“(3) the amount of scholarship payments and loan repayments made;

“(4) which educational institution the recipients attended;

“(5) the number and placement location of the scholarship and loan repayment recipients at health care facilities with a critical shortage of nurses;

“(6) the default rate and actions required;

“(7) the amount of outstanding default funds of both the scholarship and loan repayment programs;

“(8) to the extent that it can be determined, the reason for the default;

“(9) the demographics of the individuals participating in the scholarship and loan repayment programs;

“(10) justification for the allocation of funds between the scholarship and loan repayment programs; and

“(11) an evaluation of the overall costs and benefits of the programs.”.

(e) FUNDING.—Subsection (i) of section 846 of the Public Health Service Act (42 U.S.C. 297n) (as redesignated by subsection (b)(2)) is amended to read as follows:

“(i) FUNDING.—

“(1) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of payments under agreements entered into under subsection (a) or (d), there are authorized to be appropriated such sums as may be necessary for each of fiscal years 2003 through 2007.

“(2) ALLOCATIONS.—Of the amounts appropriated under paragraph (1), the Secretary may, as determined appropriate by the Secretary, allocate amounts between the program under subsection (a) and the program under subsection (d).”.

TITLE II—NURSE RETENTION

SEC. 201. BUILDING CAREER LADDERS AND RETAINING QUALITY NURSES.

Section 831 of the Public Health Service Act (42 U.S.C. 296p) is amended to read as follows:

“SEC. 831. NURSE EDUCATION, PRACTICE, AND RETENTION GRANTS.

“(a) EDUCATION PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities for—

“(1) expanding the enrollment in baccalaureate nursing programs;

“(2) developing and implementing internship and residency programs to encourage mentoring and the development of specialties; or

“(3) providing education in new technologies, including distance learning methodologies.

“(b) PRACTICE PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities for—

“(1) establishing or expanding nursing practice arrangements in noninstitutional settings to demonstrate methods to improve access to primary health care in medically underserved communities;

“(2) providing care for underserved populations and other high-risk groups such as the elderly, individuals with HIV/AIDS, substance abusers, the homeless, and victims of domestic violence;

“(3) providing managed care, quality improvement, and other skills needed to practice in existing and emerging organized health care systems; or

“(4) developing cultural competencies among nurses.

“(c) RETENTION PRIORITY AREAS.—The Secretary may award grants to and enter into contracts with eligible entities to enhance the nursing workforce by initiating and maintaining nurse retention programs pursuant to paragraph (1) or (2).

“(1) GRANTS FOR CAREER LADDER PROGRAMS.—The Secretary may award grants to and enter into contracts with eligible entities for programs—

“(A) to promote career advancement for nursing personnel in a variety of training settings, cross training or specialty training among diverse population groups, and the advancement of individuals including to become professional nurses, advanced education nurses, licensed practical nurses, certified nurse assistants, and home health aides; and

“(B) to assist individuals in obtaining education and training required to enter the nursing profession and advance within such profession, such as by providing career counseling and mentoring.

“(2) ENHANCING PATIENT CARE DELIVERY SYSTEMS.—

“(A) GRANTS.—The Secretary may award grants to eligible entities to improve the retention of nurses and enhance patient care that is directly related to nursing activities by enhancing collaboration and communication among nurses and other health care professionals, and

by promoting nurse involvement in the organizational and clinical decisionmaking processes of a health care facility.

“(B) PREFERENCE.—In making awards of grants under this paragraph, the Secretary shall give a preference to applicants that have not previously received an award under this paragraph.

“(C) CONTINUATION OF AN AWARD.—The Secretary shall make continuation of any award under this paragraph beyond the second year of such award contingent on the recipient of such award having demonstrated to the Secretary measurable and substantive improvement in nurse retention or patient care.

“(d) OTHER PRIORITY AREAS.—The Secretary may award grants to or enter into contracts with eligible entities to address other areas that are of high priority to nurse education, practice, and retention, as determined by the Secretary.

“(e) PREFERENCE.—For purposes of any amount of funds appropriated to carry out this section for fiscal year 2003, 2004, or 2005 that is in excess of the amount of funds appropriated to carry out this section for fiscal year 2002, the Secretary shall give preference to awarding grants or entering into contracts under subsections (a)(2) and (c).

Deadline.

“(f) REPORT.—The Secretary shall submit to the Congress before the end of each fiscal year a report on the grants awarded and the contracts entered into under this section. Each such report shall identify the overall number of such grants and contracts and provide an explanation of why each such grant or contract will meet the priority need of the nursing workforce.

“(g) ELIGIBLE ENTITY.—For purposes of this section, the term ‘eligible entity’ includes a school of nursing, a health care facility, or a partnership of such a school and facility.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.”.

SEC. 202. COMPREHENSIVE GERIATRIC EDUCATION.

(a) COMPREHENSIVE GERIATRIC EDUCATION.—Title VIII of the Public Health Service Act (42 U.S.C. 296 et seq.) (as amended by section 102) is amended by adding at the end the following:

“PART I—COMPREHENSIVE GERIATRIC EDUCATION

Grants.
42 USC 298.

“SEC. 855. COMPREHENSIVE GERIATRIC EDUCATION.

“(a) PROGRAM AUTHORIZED.—The Secretary shall award grants to eligible entities to develop and implement, in coordination with programs under section 753, programs and initiatives to train and educate individuals in providing geriatric care for the elderly.

“(b) USE OF FUNDS.—An eligible entity that receives a grant under subsection (a) shall use funds under such grant to—

“(1) provide training to individuals who will provide geriatric care for the elderly;

“(2) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

“(3) train faculty members in geriatrics; or

“(4) provide continuing education to individuals who provide geriatric care.

“(c) APPLICATION.—An eligible entity desiring a grant under subsection (a) shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(d) ELIGIBLE ENTITY.—For purposes of this section, the term ‘eligible entity’ includes a school of nursing, a health care facility, a program leading to certification as a certified nurse assistant, a partnership of such a school and facility, or a partnership of such a program and facility.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.”.

(b) TECHNICAL AMENDMENT.—Section 753(a)(1) of the Public Health Service Act (42 U.S.C. 294c) is amended by striking “, and section 853(2),” and inserting “, and section 801(2),”.

SEC. 203. NURSE FACULTY LOAN PROGRAM.

Part E of title VIII of the Public Health Service Act (42 U.S.C. 297a et seq.) is amended by inserting after section 846 the following:

“NURSE FACULTY LOAN PROGRAM

“SEC. 846A. (a) ESTABLISHMENT.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may enter into an agreement with any school of nursing for the establishment and operation of a student loan fund in accordance with this section, to increase the number of qualified nursing faculty. 42 USC 297n-1.

“(b) AGREEMENTS.—Each agreement entered into under subsection (a) shall—

“(1) provide for the establishment of a student loan fund by the school involved;

“(2) provide for deposit in the fund of—

“(A) the Federal capital contributions to the fund;

“(B) an amount equal to not less than one-ninth of such Federal capital contributions, contributed by such school;

“(C) collections of principal and interest on loans made from the fund; and

“(D) any other earnings of the fund;

“(3) provide that the fund will be used only for loans to students of the school in accordance with subsection (c) and for costs of collection of such loans and interest thereon;

“(4) provide that loans may be made from such fund only to students pursuing a full-time course of study or, at the discretion of the Secretary, a part-time course of study in an advanced degree program described in section 811(b); and

“(5) contain such other provisions as are necessary to protect the financial interests of the United States.

“(c) LOAN PROVISIONS.—Loans from any student loan fund established by a school pursuant to an agreement under subsection (a) shall be made to an individual on such terms and conditions as the school may determine, except that—

“(1) such terms and conditions are subject to any conditions, limitations, and requirements prescribed by the Secretary;

“(2) in the case of any individual, the total of the loans for any academic year made by schools of nursing from loan funds established pursuant to agreements under subsection

(a) may not exceed \$30,000, plus any amount determined by the Secretary on an annual basis to reflect inflation;

“(3) an amount up to 85 percent of any such loan (plus interest thereon) shall be canceled by the school as follows:

“(A) upon completion by the individual of each of the first, second, and third year of full-time employment, required by the loan agreement entered into under this subsection, as a faculty member in a school of nursing, the school shall cancel 20 percent of the principle of, and the interest on, the amount of such loan unpaid on the first day of such employment; and

“(B) upon completion by the individual of the fourth year of full-time employment, required by the loan agreement entered into under this subsection, as a faculty member in a school of nursing, the school shall cancel 25 percent of the principle of, and the interest on, the amount of such loan unpaid on the first day of such employment;

“(4) such a loan may be used to pay the cost of tuition, fees, books, laboratory expenses, and other reasonable education expenses;

“(5) such a loan shall be repayable in equal or graduated periodic installments (with the right of the borrower to accelerate repayment) over the 10-year period that begins 9 months after the individual ceases to pursue a course of study at a school of nursing; and

“(6) such a loan shall—

“(A) beginning on the date that is 3 months after the individual ceases to pursue a course of study at a school of nursing, bear interest on the unpaid balance of the loan at the rate of 3 percent per annum; or

“(B) subject to subsection (e), if the school of nursing determines that the individual will not complete such course of study or serve as a faculty member as required under the loan agreement under this subsection, bear interest on the unpaid balance of the loan at the prevailing market rate.

“(d) PAYMENT OF PROPORTIONATE SHARE.—Where all or any part of a loan, or interest, is canceled under this section, the Secretary shall pay to the school an amount equal to the school’s proportionate share of the canceled portion, as determined by the Secretary.

“(e) REVIEW BY SECRETARY.—At the request of the individual involved, the Secretary may review any determination by a school of nursing under subsection (c)(6)(B).

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2003 through 2007.”.

Deadlines.
42 USC 296 note.

SEC. 204. REPORTS BY GENERAL ACCOUNTING OFFICE.

(a) NATIONAL VARIATIONS.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General of the United States shall conduct a survey to determine national variations in the nursing shortage at hospitals, nursing homes, and other health care providers, and submit a report, including recommendations, to the Congress on Federal remedies to ease nursing shortages. The Comptroller General shall submit to the

Congress this report describing the findings relating to ownership status and associated remedies.

(b) **HIRING DIFFERENCES AMONG CERTAIN PRIVATE ENTITIES.**—The Comptroller General of the United States shall conduct a study to determine differences in the hiring of nurses by nonprofit private entities as compared to the hiring of nurses by private entities that are not nonprofit. In carrying out the study, the Comptroller General shall determine the effect of the inclusion of private entities that are not nonprofit in the program under section 846 of the Public Health Service Act. Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report describing the findings of the study.

(c) **NURSING SCHOLARSHIPS.**—The Comptroller General of the United States shall conduct an evaluation of whether the program carried out under section 846(d) of the Public Health Service Act has demonstrably increased the number of applicants to schools of nursing and, not later than 4 years after the date of the enactment of this Act, submit a report to the Congress on the results of such evaluation.

Approved August 1, 2002.

LEGISLATIVE HISTORY—H.R. 3487:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 19, 20, considered and passed House.

Vol. 148 (2002): July 22, considered and passed Senate, amended. House concurred in Senate amendment.



Public Law 107–206
107th Congress

An Act

Aug. 2, 2002
[H.R. 4775]

Making supplemental appropriations for further recovery from and response to terrorist attacks on the United States for the fiscal year ending September 30, 2002, and for other purposes.

2002
Supplemental
Appropriations
Act for Further
Recovery From
and Response To
Terrorist Attacks
on the United
States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2002, and for other purposes, namely:

TITLE I—SUPPLEMENTAL APPROPRIATIONS

CHAPTER 1

DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

(INCLUDING TRANSFERS OF FUNDS)

For an additional amount for “Office of the Secretary”, \$18,000,000, to remain available until expended: *Provided*, That the Secretary shall transfer these funds to the Agricultural Research Service, the Animal and Plant Health Inspection Service, the Agricultural Marketing Service, and/or the Food Safety and Inspection Service: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

AGRICULTURAL RESEARCH SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$8,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation

of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

BUILDINGS AND FACILITIES

For an additional amount for “Buildings and Facilities”, \$25,000,000, to remain available until expended.

COOPERATIVE STATE RESEARCH, EDUCATION, AND EXTENSION SERVICE

EXTENSION ACTIVITIES

For an additional amount for “Extension Activities”, \$6,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$33,000,000, to remain available until September 30, 2003: *Provided*, That this amount shall include assistance in State efforts to prevent and control transmissible spongiform encephalopathy, including chronic wasting disease and scrapie, in farmed and free-ranging animals: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FOOD SAFETY AND INSPECTION SERVICE

For an additional amount for “Food Safety and Inspection Service”, \$13,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATURAL RESOURCES CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for “Watershed and Flood Prevention Operations”, for emergency recovery operations, \$144,000,000, to remain available until expended: *Provided*, That of this amount, \$50,000,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$50,000,000 shall be available only to the extent an official budget request, that includes designation of \$50,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RURAL DEVELOPMENT

RURAL COMMUNITY ADVANCEMENT PROGRAM

For an additional amount for “Rural Community Advancement Program” for emergency purposes for grants and loans as authorized by 7 U.S.C. 381E(d)(2), 306(a)(14), and 306C, \$20,000,000, with up to \$5,000,000 for contracting with qualified organization(s) to conduct vulnerability assessments for rural community water systems, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RURAL UTILITIES SERVICE

LOCAL TELEVISION LOAN GUARANTEE PROGRAM ACCOUNT

(INCLUDING RESCISSION)

Of funds made available under this heading for the cost of guaranteed loans, including the cost of modifying loans as defined in section 502 of the Congressional Budget Act of 1974, \$20,000,000 are rescinded.

For an additional amount for “Local Television Loan Guarantee Program Account”, \$8,000,000, to remain available until expended.

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL NUTRITION PROGRAM FOR WOMEN, INFANTS,
AND CHILDREN (WIC)

For an additional amount for “Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)”, \$75,000,000, to remain available until September 30, 2003: *Provided*, That of the amounts provided under this heading, the Secretary shall allocate funds, notwithstanding section 17(i) of the Child Nutrition

Act of 1966, as amended, in the manner and under a formula the Secretary deems necessary to respond to caseload requirements.

FOOD STAMP PROGRAM

(RESCISSION)

Of funds which may be reserved by the Secretary for allocation to State agencies under section 16(h)(1) of the Food Stamp Act of 1977 to carry out the Employment and Training program, \$24,000,000 are rescinded and returned to the Treasury.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Food and Drug Administration, Salaries and Expenses”, \$17,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of such Act: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 101. Of the funds made available for the Export Enhancement Program, pursuant to section 301(e) of the Agricultural Trade Act of 1978, as amended by Public Law 104–127, not more than \$33,000,000 shall be available in fiscal year 2002.

SEC. 102. ASSISTANCE TO AGRICULTURAL PRODUCERS WHO HAVE USED WATER FOR IRRIGATION FROM THE RIO GRANDE. (a) IN GENERAL.—The Secretary of Agriculture shall use \$10,000,000 of the funds of the Commodity Credit Corporation to make a grant to the State of Texas, acting through the Texas Department of Agriculture, to provide assistance to agricultural producers in the State of Texas with farming operations along the Rio Grande who have suffered economic losses during the 2001 crop year due to the failure of Mexico to deliver water to the United States in accordance with the Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, and Supplementary Protocol signed November 14, 1944, signed at Washington on February 3, 1944 (59 Stat. 1219; TS 944).

(b) AMOUNT.—The amount of assistance provided to individual agricultural producers under this section shall be proportional to the amount of actual losses described in subsection (a) that were incurred by the producers.

SEC. 103. Not later than 14 days after the date of enactment of this Act, the Secretary of Agriculture shall carry out the transfer of funds under section 2507(a) of the Food Security and Rural Investment Act of 2002 (Public Law 107–171).

SEC. 104. (a) RESCISSION.—The unobligated balances of authority available under section 2108(a) of Public Law 107–20 are rescinded prior to the end of fiscal year 2002.

Deadline.
43 USC 2211
note.

(b) APPROPRIATION.—There is appropriated to the Secretary of Agriculture an amount equal to the unobligated balance rescinded by subsection (a) for expenses through fiscal year 2003 under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1721–1726a) for commodities supplied in connection with dispositions abroad pursuant to title II of said Act.

SEC. 105. Section 416(b)(7)(D)(iv) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(iv)) is amended by striking “subsection.” and inserting in lieu thereof the following: “subsection, or to otherwise carry out the purposes of this subsection.”.

SEC. 106. Notwithstanding any other provision of law and effective on the date of enactment of this Act, the Secretary may use an amount not to exceed \$12,000,000 from the amounts appropriated under the heading “Food Safety and Inspection Service” under the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387) to liquidate over-obligations and over-expenditures of the Food Safety and Inspection Service incurred during previous fiscal years, approved by the Director of the Office of Management and Budget based on documentation provided by the Secretary of Agriculture.

CHAPTER 2

DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” for expenses resulting from the September 11, 2001, terrorist attacks, \$6,750,000: *Provided*, That such sums as are necessary shall be derived from the Working Capital Fund for the development, testing, and deployment of a standards-based, integrated, interoperable computer system for the Immigration and Naturalization Service (“Chimera system”), to be managed by Justice Management Division: *Provided further*, That of the amounts made available under this heading, \$1,000,000 shall only be for the Entry Exit System, to be managed by the Justice Management Division: *Provided further*, That none of the funds appropriated in this Act, or in Public Law 107-117, for the Immigration and Naturalization Service’s Entry Exit System may be obligated until the INS submits a plan for expenditure that: (1) meets the capital planning and investment control review requirements established by the Office of Management and Budget, including OMB Circular A-11, part 3; (2) complies with the acquisition rules, requirements, guidelines, and systems acquisition management practices of the Federal Government; (3) is reviewed by the General Accounting Office; and (4) has been approved by the Committees on Appropriations: *Provided further*, That funds provided under this heading shall only be available for obligation and expenditure in accordance with the procedures applicable to reprogramming notifications set forth in section 605 of Public Law 107-77: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$1,000,000 shall be available only to the extent an

official budget request that includes designation of the \$1,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

(RESCISSION)

Of the amounts made available under this heading in Public Law 107–77, \$7,000,000 are rescinded.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for “Salaries and Expenses” for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$37,900,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PRISONER DETENTION

(RESCISSION)

Of the amounts made available under this heading in Public Law 107–77, \$30,000,000 are rescinded.

ASSETS FORFEITURE FUND

(RESCISSION)

Of the unobligated balances available under this heading, \$5,000,000 are rescinded.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$175,000,000, to remain available until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$165,000,000 shall be available only to the extent that an official budget request that includes designation of the \$165,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

ENFORCEMENT AND BORDER AFFAIRS

For an additional amount for “Salaries and Expenses, Enforcement and Border Affairs” for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$81,250,000, to remain available until expended, of which \$25,000,000 shall only be available for fleet management: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$46,250,000 shall be available only to the extent that an official budget request that includes designation of the \$46,250,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for “Construction” for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$32,100,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

(RESCISSION)

Of the amounts made available under this heading in Public Law 107-77 for buildings and facilities, \$5,000,000 are rescinded.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

(INCLUDING RESCISSION)

For an additional amount for “Justice Assistance” for grants, cooperative agreements, and other assistance authorized by sections 819 and 821 of the Antiterrorism and Effective Death Penalty Act of 1996 and section 1014 of the USA PATRIOT Act (Public Law 107-56) and for other counter-terrorism programs, including first responder training and equipment to respond to acts of terrorism, including incidents involving weapons of mass destruction or chemical or biological weapons, \$151,300,000, to remain available until expended: *Provided*, That no funds under this heading shall be used to duplicate the Federal Emergency Management Agency

Fire Grant program: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Of the amounts made available under this heading for the Office of the Assistant Attorney General for Office of Justice Programs, \$600,000 are rescinded.

COMMUNITY ORIENTED POLICING SERVICES

For an amount to establish the Community Oriented Policing Services' Interoperable Communications Technology Program in consultation with the Office of Science and Technology within the National Institute of Justice, and the Bureau of Justice Assistance, for emergency expenses for activities related to combating terrorism by providing grants to States and localities to improve communications within, and among, law enforcement agencies, \$50,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF COMMERCE AND RELATED AGENCIES

RELATED AGENCIES

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses" for emergency expenses for increased security requirements, \$1,100,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

(RESCISSION)

Of the amounts made available under this heading in prior fiscal years, excepting funds designated for the Suitland Federal Center, \$11,300,000 are rescinded.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For an additional amount for “Scientific and Technical Research and Services” for emergency expenses resulting from new homeland security activities and increased security requirements, \$37,100,000, of which \$20,000,000 is for a cyber-security initiative: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$33,100,000 shall be available only to the extent an official budget request that includes designation of the \$33,100,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING RESCISSION)

For an additional amount for “Operations, Research, and Facilities” for emergency expenses resulting from homeland security activities, \$4,800,000, of which \$2,000,000 is to address critical mapping and charting backlog requirements and \$2,800,000 is for backup capability for National Oceanic and Atmospheric Administration critical satellite products and services, to remain available until September 30, 2003: *Provided*, That \$2,800,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$2,800,000 shall be available only to the extent an official budget request that includes designation of the \$2,800,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Of the unobligated balances remaining under this heading as provided by section 817 of Public Law 106-78, \$8,100,000 are rescinded.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for “Procurement, Acquisition and Construction” for emergency expenses resulting from homeland security activities, \$7,200,000 for a supercomputer backup, to

remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FISHERIES FINANCE PROGRAM ACCOUNT

Funds provided under the heading, “Fisheries Finance Program Account” for the direct loan program authorized by the Merchant Marine Act of 1936, as amended, are available to subsidize gross obligations for the principal amount of direct loans not to exceed \$5,000,000 for Individual Fishing Quota loans, and not to exceed \$19,000,000 for Traditional loans.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” for emergency expenses resulting from new homeland security activities, \$400,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

THE JUDICIARY

SUPREME COURT OF THE UNITED STATES

CARE OF THE BUILDING AND GROUNDS

For an additional amount for “Care of the Building and Grounds” for emergency expenses for security upgrades and renovations of the Supreme Court building, \$10,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” for emergency expenses to enhance security and to provide for extraordinary costs related to terrorist trials, \$7,115,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$3,972,000 shall be available only to the extent that an official budget request

that includes designation of the \$3,972,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF STATE AND RELATED AGENCY

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

DIPLOMATIC AND CONSULAR PROGRAMS

For an additional amount for “Diplomatic and Consular Programs”, for emergency expenses for activities related to combating international terrorism, \$47,450,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For an additional amount for “Educational and Cultural Exchange Programs”, for emergency expenses for activities related to combating international terrorism, \$15,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$5,000,000 shall be available only to the extent an official budget request that includes designation of the \$5,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

EMBASSY SECURITY, CONSTRUCTION, AND MAINTENANCE

For an additional amount for “Embassy Security, Construction, and Maintenance”, for emergency expenses for activities related to combating international terrorism, \$210,516,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$10,000,000 shall be available only to the extent an official budget request that includes designation of the \$10,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for “Contributions to International Organizations”, for emergency expenses for activities related to combating international terrorism, \$7,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is

designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For an additional amount for “Contributions for International Peacekeeping Activities” to make United States peacekeeping payments to the United Nations at a time of multilateral cooperation in the war on terrorism, \$23,034,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RELATED AGENCY

BROADCASTING BOARD OF GOVERNORS

INTERNATIONAL BROADCASTING OPERATIONS

For an additional amount for “International Broadcasting Operations”, for emergency expenses for activities related to combating international terrorism, \$7,400,000, to remain available until September 30, 2003: *Provided*, That funds appropriated by this paragraph shall be available notwithstanding sections 308(c) and 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

BROADCASTING CAPITAL IMPROVEMENTS

For an additional amount for “Broadcasting Capital Improvements” for emergency expenses for activities related to combating international terrorism, \$7,700,000, to remain available until expended: *Provided*, That funds appropriated by this paragraph shall be available notwithstanding section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995.

RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

MARITIME GUARANTEED LOAN (TITLE XI) PROGRAM ACCOUNT

(RESCISSION)

Of the unobligated balances available under this heading, \$5,000,000 are rescinded.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” to respond to increased needs for enforcement and oversight of corporate finance, \$30,900,000 from fees collected in fiscal year 2002, to remain available until expended.

In addition, for an additional amount for “Salaries and Expenses” for emergency expenses resulting from the September 11, 2001, terrorist attacks, \$9,300,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 201. Funds appropriated by this Act for the Broadcasting Board of Governors and the Department of State may be obligated and expended notwithstanding section 15 of the State Department Basic Authorities Act of 1956, as amended.

SEC. 202. Section 286(e)(3) of the Immigration and Nationality Act (8 U.S.C. 1356(e)(3)) is amended—

(1) by striking “is authorized to” and inserting “shall”; and

(2) by striking “authorization” and inserting “requirement”.

SEC. 203. (a)(1) During fiscal year 2002 and each succeeding fiscal year, notwithstanding any provision of the Federal Rules of Criminal Procedure to the contrary, in order to permit victims of crimes associated with the terrorist acts of September 11, 2001, to watch trial proceedings in the criminal case against Zacarias Moussaoui, the trial court in that case shall order, subject to paragraph (3) and subsection (b), closed circuit televising of the trial proceedings to convenient locations the trial court determines are reasonably necessary, for viewing by those victims.

(2)(A) As used in this section and subject to subparagraph (B), the term “victims of crimes associated with the terrorist acts of September 11, 2001” means individuals who—

(i) suffered direct physical harm as a result of the terrorist acts that occurred in New York, Pennsylvania and Virginia on September 11, 2001 (hereafter in this section “terrorist acts”) and were present at the scene of the terrorist acts when they occurred, or immediately thereafter; or

(ii) are the spouse, legal guardian, parent, child, brother, or sister of, or who as determined by the court have a relationship of similar significance to, an individual described in subparagraph (A)(i), if the latter individual is under 18 years of age, incompetent, incapacitated, has a serious injury, or disability that requires assistance of another person for mobility, or is deceased.

(B) The term defined in paragraph (A) shall not apply to an individual who participated or conspired in one or more of the terrorist acts.

(3) Nothing in this section shall be construed to eliminate or limit the district court's discretion to control the manner, circumstances, or availability of the broadcast where necessary to control the courtroom or protect the integrity of the trial proceedings or the safety of the trial participants. The district court's exercise of such discretion shall be entitled to substantial deference.

(b) Except as provided in subsection (a), the terms and restrictions of section 235(b), (c), (d) and (e) of the Antiterrorism and Effective Death Penalty Act of 1996 (42 U.S.C. 10608(b), (c), (d), and (e)), shall apply to the televising of trial proceedings under this section.

SEC. 204. Title II of Public Law 107–77 is amended in the second undesignated paragraph under the heading “Department of Commerce, National Institute of Standards and Technology, Industrial Technology Services” by striking “not to exceed \$60,700,000 shall be available for the award of new grants” and inserting “not less than \$60,700,000 shall be used before October 1, 2002 for the award of new grants”.

115 Stat. 774.

SEC. 205. None of the funds appropriated or otherwise made available by this Act or any other Act may be used to implement, enforce, or otherwise abide by the Memorandum of Agreement signed by the Federal Trade Commission and the Antitrust Division of the Department of Justice on March 5, 2002.

SEC. 206. Public Law 106–256 is amended in section 3(f)(1) by striking “within 18 months of the establishment of the Commission” and inserting “by June 20, 2003”.

33 USC 857–19
note.

SEC. 207. The American Section, International Joint Commission, United States and Canada, is authorized to receive funds from the United States Army Corps of Engineers for the purposes of conducting investigations, undertaking studies, and preparing reports in connection with a reference to the International Joint Commission on the Devils Lake project mentioned in Public Law 106–377.

SEC. 208. Section 282(a)(2)(D) of the Agricultural Marketing Act of 1946 is amended to read as follows:

7 USC 1638a.

“(D) in the case of wild fish, is—

“(i) harvested in the United States, a territory of the United States, or a State, or by a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and

“(ii) processed in the United States, a territory of the United States, or a State, including the waters thereof, or aboard a vessel that is documented under chapter 121 of title 46, United States Code, or registered in the United States; and”.

SEC. 209. Of the amounts appropriated in Public Law 107–77, under the heading “Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities”, for coral reef programs, \$2,500,000, for a cooperative agreement with the National Defense Center of Excellence for Research in Ocean Sciences to conduct coral mapping in the waters of the Hawaiian Islands and the surrounding Exclusive Economic Zone in accordance with the mapping implementation strategy of the United States Coral Reef Task Force.

SEC. 210. In addition to amounts appropriated or otherwise made available by this Act or any other Act, \$11,000,000 is appropriated to enable the Secretary of Commerce to provide economic assistance to fishermen and fishing communities affected by Federal closures and fishing restrictions in the New England groundfish fishery, to remain available until September 30, 2003.

SEC. 211. In addition to amounts appropriated or otherwise made available by this Act or any other Act, \$5,000,000 shall be provided for a National Oceanic and Atmospheric Administration cooperative research program in Massachusetts, New Hampshire, Maine and Rhode Island, to remain available until expended: *Provided*, That of this amount \$500,000 shall be for the cost of a reduction loan as authorized under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936, (46 U.S.C. App. 1279g) to carry out a New England groundfish fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)) that shall—

(1) permanently revoke all fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program; and

(2) ensure that vessels removed under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations.

SEC. 212. Of the amounts appropriated in Public Law 107-77, under the heading “Department of Commerce, National Oceanic and Atmospheric Administration, Operations, Research, and Facilities”, for Oregon groundfish cooperative research, \$500,000 shall be for the cost of a reduction loan as authorized under sections 1111 and 1112 of title XI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1279f and 1279g) to carry out a West Coast groundfish fishing capacity reduction program under section 312(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(b)) that shall—

(1) permanently revoke all fishery licenses, fishery permits, area and species endorsements, and any other fishery privileges issued to a vessel or vessels (or to persons on the basis of their operation or ownership of that vessel or vessels) removed under the program; and

(2) ensure that vessels removed under the program are made permanently ineligible to participate in any fishery worldwide, and that the owners of such vessels will operate only under the United States flag or be scrapped as a reduction vessel pursuant to section 600.1011(c) of title 50, Code of Federal Regulations.

SEC. 213. Amounts appropriated by title V of Public Law 107-77 under the heading “NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION” (115 Stat. 795) shall remain available until expended.

CHAPTER 3

DEPARTMENT OF DEFENSE

MILITARY PERSONNEL

MILITARY PERSONNEL, AIR FORCE

For an additional amount for “Military Personnel, Air Force”, \$206,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For an additional amount for “Operation and Maintenance, Army”, \$209,000,000, to remain available for obligation until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$102,000,000 shall be available only to the extent that an official budget request, that includes designation of \$102,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for “Operation and Maintenance, Navy”, \$48,750,000, to remain available for obligation until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$12,250,000 shall be available only to the extent that an official budget request, that includes designation of \$12,250,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for “Operation and Maintenance, Air Force”, \$65,510,000, to remain available for obligation until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$24,510,000 shall be available only to the extent that an official budget request, that includes designation of \$24,510,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for “Operation and Maintenance, Defense-Wide”, \$721,975,000, to remain available for obligation until September 30, 2003, of which \$390,000,000 may be used, notwithstanding any other provision of law, for payments to reimburse Pakistan, Jordan, and other key cooperating nations for logistical and military support provided to United States military operations in connection with the Global War on Terrorism: *Provided*, That such payments may be made in such amounts as the Secretary may determine in his discretion, based on documentation determined by the Secretary to adequately account for the support provided, in consultation with the Director of the Office of Management and Budget and 15 days following notification to the appropriate Congressional committees: *Provided further*, That such determination shall be final and conclusive upon the accounting officers of the United States: *Provided further*, That amounts for such payments shall be in addition to any other funds that may be available for such purpose: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DEFENSE EMERGENCY RESPONSE FUND

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for the “Defense Emergency Response Fund”, \$11,901,900,000, to remain available for obligation until September 30, 2003, of which \$77,900,000 shall be available for enhancements to North American Air Defense Command capabilities: *Provided*, That the Secretary of Defense may transfer the funds provided herein only to appropriations for military personnel; operation and maintenance; procurement; research, development, test and evaluation; the Defense Health Program; Overseas Humanitarian, Disaster, and Civic Aid; and working capital funds: *Provided further*, That notwithstanding the preceding proviso, \$120,000,000 of the funds provided in this paragraph are available for transfer to any other appropriations accounts of the Department of Defense, for certain classified activities, and notwithstanding any other provision of law and of this Act, such funds may be obligated to carry out projects not otherwise authorized by law: *Provided further*, That any funds transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That during the current fiscal year, upon a determination by the Secretary of Defense that funds previously made available to the “Defense Emergency Response Fund” are required to meet other essential operational or readiness requirements of the military services, the Secretary may transfer up to \$275,000,000 of funds so required to the appropriate funds or appropriations of the Department of Defense, 15 days after notification to the congressional

defense committees: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$601,900,000 shall be available only to the extent that an official budget request that includes designation of \$601,900,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

PROCUREMENT

OTHER PROCUREMENT, ARMY

For an additional amount for “Other Procurement, Army”, \$79,200,000, to remain available for obligation until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

AIRCRAFT PROCUREMENT, NAVY

For an additional amount for “Aircraft Procurement, Navy”, \$22,800,000, to remain available for obligation until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For an additional amount for “Procurement of Ammunition, Navy and Marine Corps”, \$262,000,000, to remain available for obligation until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER PROCUREMENT, NAVY

For an additional amount for “Other Procurement, Navy”, \$2,500,000, to remain available for obligation until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT, MARINE CORPS

For an additional amount for “Procurement, Marine Corps”, \$3,500,000, to remain available for obligation until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

AIRCRAFT PROCUREMENT, AIR FORCE

For an additional amount for “Aircraft Procurement, Air Force”, \$118,000,000, to remain available for obligation until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$25,000,000 shall be available only to the extent that an official budget request, that includes designation of \$25,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

PROCUREMENT OF AMMUNITION, AIR FORCE

For an additional amount for “Procurement of Ammunition, Air Force”, \$115,000,000, to remain available for obligation until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER PROCUREMENT, AIR FORCE

For an additional amount for “Other Procurement, Air Force”, \$747,840,000, to remain available for obligation until September 30, 2004: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for “Procurement, Defense-Wide”, \$104,425,000, to remain available for obligation until September 30, 2004: *Provided*, That funds may be used to purchase two vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles, but not to exceed \$175,000 per vehicle: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$4,925,000 shall be available only to the extent an official budget request, that includes designation of \$4,925,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For an additional amount for “Research, Development, Test and Evaluation, Army”, \$8,200,000, to remain available for obligation until September 30, 2003: *Provided*, That the entire amount

is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For an additional amount for “Research, Development, Test and Evaluation, Navy”, \$9,000,000, to remain available for obligation until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For an additional amount for “Research, Development, Test and Evaluation, Air Force”, \$198,400,000, to remain available for obligation until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$137,600,000 shall be available only to the extent that an official budget request, that includes designation of \$137,600,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For an additional amount for “Research, Development, Test and Evaluation, Defense-Wide”, \$67,000,000, to remain available for obligation until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 301. (a) The appropriation under the heading “Research, Development, Test and Evaluation, Navy” in the Department of Defense Appropriations Act, 2002 (Public Law 107–117) is amended by adding the following proviso immediately after “September 30, 2003”: “: *Provided*, That funds appropriated in this paragraph which are available for the V–22 may be used to meet unique requirements of the Special Operations Forces”.

115 Stat. 2243.

(b) The amendment made by subsection (a) shall be effective as if enacted as part of the Department of Defense Appropriations Act, 2002.

Effective date.

SEC. 302. During the current fiscal year, the restrictions contained in subsection (d) of 22 U.S.C. 5952 and section 502 of the Freedom Support Act (Public Law 102–511) shall not apply if the President certifies in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate that waiving such restrictions is important to the national security interests of the United States.

SEC. 303. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes

of section 504 of the National Security Act of 1947 (50 U.S.C. 414): *Provided*, That any funds appropriated or transferred to the Central Intelligence Agency for agent operations or covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2003.

SEC. 304. (a) Funds appropriated to the Department of Defense for fiscal year 2002 for operation and maintenance under the heading “Chemical Agents and Munitions Destruction, Army”, may be used to pay for additional costs of international inspectors from the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons, pursuant to Articles IV and V of the Chemical Weapons Convention, for inspections and monitoring of Department of Defense sites and commercial sites that perform services under contract to the Department of Defense, resulting from the Department of Defense’s program to accelerate its chemical demilitarization schedule.

(b) Expenses which may be paid under subsection (a) include—

(1) salary costs for performance of inspection and monitoring duties;

(2) travel, including travel to and from the point of entry into the United States and internal United States travel;

(3) per diem, not to exceed United Nations rates and in compliance with United Nations conditions for per diem for that organization; and

(4) expenses for operation and maintenance of inspection and monitoring equipment.

SEC. 305. (a)(1) In fiscal year 2002, funds available to the Department of Defense for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(2) The provision shall also apply to unexpired balances and assistance previously provided from prior years’ Acts available for purposes identified in subsection (a)(1).

(3) The authority in this section is in addition to authorities currently available to provide assistance to Colombia.

(b) The authorities provided in subsection (a) shall not be exercised until the Secretary of Defense certifies to the Congress that the provisions of section 601(b) of this Act have been complied with.

(c) Sections 556, 567, and 568 of Public Law 107-115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106-246, as amended, shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(d) No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this chapter, except for the purpose of acting in self defense or rescuing any United States citizen to include United

States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 306. In addition to amounts appropriated or otherwise made available elsewhere in this Act for the Department of Defense or in the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117), \$75,000,000, to remain available until September 30, 2003, is hereby appropriated to the Department of Defense under the heading “Chemical Agents and Munitions Destruction, Army” for Research, development, test and evaluation, for the purpose of accelerating chemical agent destruction at Department of Defense facilities: *Provided*, That the entire amount made available in this section is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

(RESCISSIONS)

SEC. 307. Of the funds available in Department of Defense Appropriations Acts or otherwise available to the Department of Defense, the following funds are hereby rescinded, from the following accounts in the specified amounts:

“Other Procurement, Air Force”, 2001/2003, \$12,500,000;
“Missile Procurement, Air Force”, 2002/2004, \$11,600,000;
“Other Procurement, Air Force”, 2002/2004, \$52,500,000;
“Procurement, Defense-Wide”, 2002/2004, \$30,000,000; and
“Research, Development, Test and Evaluation, Air Force”, 2002/2003, \$56,500,000.

SEC. 308. During the current fiscal year and hereafter, section 2533a of title 10, United States Code, shall not apply to any transaction entered into to acquire or sustain aircraft under the authority of section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284).

10 USC 2401a
note.

SEC. 309. The Secretary of the Army shall obligate and expend the \$2,000,000 appropriated for the Army by Public Law 107–117 for procurement of smokeless nitrocellulose under Activity 1, instead of under Activity 2, Production Base Support Industrial Facilities, for the purpose of preserving a commercially owned and operated capability of producing defense grade nitrocellulose at the rate of at least 10,000,000 pounds per year in order to preserve a commercial manufacturing capability for munitions precursor supplies for the High Zone Modular Artillery Charge System and to preserve competition in that manufacturing capability.

SEC. 310. Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall obligate, from funds made available in title II of division A of Public Law 107–117 under the heading “Operation and Maintenance, Defense-Wide” (115 Stat. 2233), \$4,000,000 for a grant to support the conversion of the Naval Security Group, Winter Harbor (the naval base on Schoodic Peninsula), Maine, to utilization as a research and education center for Acadia National Park, Maine, including the preparation of a plan for the reutilization of the naval base for

Deadline.

such purpose that will benefit communities in the vicinity of the naval base and visitors to Acadia National Park and will stimulate important research and educational activities.

SEC. 311. Of the amount available for fiscal year 2002 for the Army National Guard for operation and maintenance, \$2,200,000 shall be made available for the Army National Guard for information operations, information assurance operations, and training for such operations.

(RESCISSION)

SEC. 312. Of the funds provided under the heading, “Emergency Response Fund”, in Public Law 107-38 that were not subject to subsequent enactment and not subject to the restrictions of the fifth proviso of that Act, and subsequently transferred to “Defense Emergency Response Fund”, \$224,000,000 of unobligated amounts are hereby rescinded.

(RESCISSION)

SEC. 313. Of the unobligated funds available in titles III and IV of the Department of Defense Appropriations Act, 2002, \$226,000,000, reflecting savings from revised economic assumptions, shall be rescinded within 15 days of enactment of this Act: *Provided*, That this reduction shall be applied on a pro-rata basis to each appropriations account in said titles, and to each line item, program element, project, subproject, and activity within each such account.

CHAPTER 4

DISTRICT OF COLUMBIA

FEDERAL FUNDS

FEDERAL PAYMENT TO THE CHILDREN’S NATIONAL MEDICAL CENTER

For a Federal payment to the Children’s National Medical Center in the District of Columbia for implementing the District Emergency Operations Plan, \$10,000,000, to remain available until September 30, 2003, of which \$8,000,000 shall be for the expansion of quarantine facilities, and \$2,000,000 shall be for the establishment of a decontamination facility for children and families: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia to implement the District Emergency Operations Plan, \$23,000,000, to remain available until December 1, 2003, of which \$12,000,000 is for public safety expenses related to security events in the District of Columbia: *Provided*, That the Chief Financial Officer of the District

of Columbia shall provide a report, within 15 days of an expenditure, to the Committees on Appropriations of the House of Representatives and Senate, detailing any expenditure of these funds: *Provided further*, That \$5,000,000 is for the Unified Communications Center: *Provided further*, That \$6,000,000 is for the construction of containment facilities and other activities to support the regional Bioterrorism Hospital Preparedness Program at the Washington Hospital Center: *Provided further*, That beginning October 1, 2002, the Chief Financial Officer of the Washington Hospital Center shall provide quarterly reports to the Committees on Appropriations of the House of Representatives and Senate, detailing the expenditure of these funds: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT TO THE WASHINGTON METROPOLITAN AREA
TRANSIT AUTHORITY

For a Federal payment to the Washington Metropolitan Area Transit Authority, \$8,000,000, to remain available until September 30, 2003, to contribute to the creation of a regional transportation back-up operations control center: *Provided*, That the General Manager of the Washington Metropolitan Area Transit Authority shall submit a plan for the future financing of a regional transportation back-up operations control center no later than February 5, 2003 to the Committees on Appropriations of the House of Representatives and Senate: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT TO THE METROPOLITAN WASHINGTON COUNCIL
OF GOVERNMENTS

For a Federal payment to the Metropolitan Washington Council of Governments, \$1,750,000, to remain available until September 30, 2003, for support of the Regional Incident Communication and Coordination System, as approved by the Council: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT TO THE WATER AND SEWER AUTHORITY OF THE
DISTRICT OF COLUMBIA

For a Federal payment to the Water and Sewer Authority of the District of Columbia for emergency preparedness, \$1,250,000, to remain available until September 30, 2003, for remote monitoring of water quality: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL PAYMENT FOR FAMILY COURT ACT

(INCLUDING RESCISSION)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 929), \$700,000 made available for the Mayor of the District of Columbia are rescinded.

For a Federal payment to the Mayor of the District of Columbia for carrying out the District of Columbia Family Court Act of 2001, \$700,000, to remain available until September 30, 2003, of which \$200,000 shall be for completion of a plan by the Mayor on integrating the computer systems of the District of Columbia government with the Family Court of the Superior Court of the District of Columbia: *Provided*, That \$500,000 of such amount provided to the Mayor shall be for the Child and Family Services Agency to be used for social workers to implement Family Court reform: *Provided further*, That the availability of these funds shall be subject to the reporting and availability requirements under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 929).

DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia.

For public safety expenses related to security events in the District of Columbia, \$12,000,000, to remain available until December 1, 2003.

For construction of containment facilities and other activities to support the regional Bioterrorism Hospital Preparedness Program at the Washington Hospital Center, \$6,000,000, to remain available until December 1, 2003.

For the Unified Communications Center, \$5,000,000, to remain available until December 1, 2003.

For carrying out the District of Columbia Family Court Act of 2001, \$700,000, to remain available until September 30, 2003.

GOVERNMENTAL DIRECTION AND SUPPORT

The paragraph under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 933) is amended by striking: “*Provided further*, That not less than \$353,000 shall be available to the Office of the Corporation Counsel to support increases in the Attorney Retention Allowance:” and inserting: “*Provided further*, That not less than \$353,000 shall be available to the Office of the Corporation Counsel to support attorney compensation consistent with performance measures contained in a negotiated collective bargaining agreement:”.

PUBLIC SAFETY AND JUSTICE

(RESCISSION)

Notwithstanding any other provision of law, of the local funds appropriated under this heading to the Department of Corrections for support of the Corrections Information Council in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 935), \$100,000 are rescinded.

CORRECTIONS INFORMATION COUNCIL

For operations of the Corrections Information Council, \$100,000 from local funds.

PUBLIC EDUCATION SYSTEM

(RESCISSION)

Notwithstanding any other provision of law, of the local funds appropriated under this heading for public charter schools for the fiscal year ending September 30, 2002, in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 935), \$37,000,000 are rescinded.

HUMAN SUPPORT SERVICES

For an additional amount for “Human Support Services”, \$37,000,000 from local funds: *Provided*, That \$11,000,000 shall be for the Child and Family Services Agency to address increased adoption case rates, higher case loads for adoption and emergency group home utilization: *Provided further*, That \$26,000,000 shall be for the Department of Mental Health to address a Medicaid revenue shortfall.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 940), \$7,950,000 are rescinded.

CERTIFICATES OF PARTICIPATION

For principal and interest payments on the District’s Certificates of Participation, issued to finance the One Judiciary Square

ground lease underlying the building located at One Judiciary Square, \$7,950,000 from local funds.

ENTERPRISE AND OTHER FUNDS

WATER AND SEWER AUTHORITY

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia.

For remote monitoring of water quality, \$1,250,000, to remain available until September 30, 2003.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 401. The District of Columbia may use up to 1 percent of the funds appropriated to the District of Columbia under the Emergency Supplemental Act, 2002 (Public Law 107-117; 115 Stat. 2230), to fund the administrative costs that are needed to fulfill the purposes of that Act. The District may use these funds for this purpose as of January 10, 2002.

SEC. 402. Section 16(d)(2) of the Victims of Violent Crime Compensation Act of 1996 (sec. 4-515(d)(2), D.C. Official Code), as amended by the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 928) is amended to read as follows: “(2) 50 percent of such balance shall be transferred from the Fund to the Mayor and shall be used without fiscal year limitation for outreach activities designed to increase the number of crime victims who apply for such direct compensation payments.”.

SEC. 403. (a) Notwithstanding any other provision of law, the positive fund balance of the general fund of the District government which remained at the end of fiscal year 2000 (as reflected in the complete financial statement and report on the activities of the District government for such fiscal year under section 448(a)(4) of the District of Columbia Home Rule Act) shall be used during fiscal year 2002 to provide the minimum balances required for fiscal year 2002 for the emergency reserve fund under section 450A of the District of Columbia Home Rule Act and the contingency reserve fund under section 450B of such Act.

(b) To the extent that the amount of the positive fund balance described in subsection (a) exceeds the amount required to provide the minimum balances in the reserve funds described in such subsection, the District government shall use the excess amount—

(1) to address potential deficits in the budget of the District government for fiscal year 2002, subject to the same conditions applicable under section 202(j)(3) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 to the obligation and expenditure of the budget reserve and cumulative cash reserve under such section; or

(2) if the Chief Financial Officer of the District of Columbia certifies that the excess amount is available and is not required to address potential deficits in the budget of the District government for fiscal year 2002, for Pay-As-You-Go Capital Funds.

(c) To the extent that the excess amount described in subsection (b) is used to address potential deficits in the budget of the District government for fiscal year 2002, such amount shall remain available until expended.

(d)(1) The item relating to “District of Columbia Funds—Operating Expenses—Repayment of Loans and Interest” in the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 940) is amended by striking “That any funds set aside” and all that follows through “That for equipment leases,” and inserting “That for equipment leases,”.

(2) Section 159(c) of the District of Columbia Appropriations Act, 2001 (Public Law 106-522; 114 Stat. 2482), as amended by section 133(c) of the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 956) is amended by striking paragraph (3).

SEC. 404. The Chief Financial Officer of the Washington Metropolitan Area Transit Authority may use up to \$2,400,000 from funds appropriated under Public Law 107-117 under the account, “Federal Payment to the Washington Metropolitan Area Transit Authority”, that contains funds for protective clothing and breathing apparatus activities, for employee and facility security and completion of the fiber optic network project.

SEC. 405. The District of Columbia Courts may expend up to \$3,000,000 to carry out the District of Columbia Family Court Act of 2001 from the “Federal Payment to the District of Columbia Courts” account: *Provided*, That such funds may be transferred to the “Federal Payment to the District of Columbia Courts” account from the “Federal Payment for Family Court Act” account in reimbursement for such obligations and expenditures as are necessary to implement the District of Columbia Family Court Act of 2001 for the period from October 1, 2001 to September 30, 2002, once funds in the “Federal Payment for Family Court Act” account become available.

SEC. 406. Section 11-908A(b)(4) of the District of Columbia Code (as added by Public Law 107-114) is amended by striking “section 11-1501(b)” and inserting “section 433 of the District of Columbia Home Rule Act”.

115 Stat. 2101.

SEC. 407. (a) Under the heading, “Federal Payment to the Thurgood Marshall Academy Charter School” provided under Public Law 107-96, strike “Anacostia” and insert “Southeast, Washington, D.C.”.

115 Stat. 932.

(b) Under the heading, “Federal Payment to Southeastern University” provided under Public Law 107-96, strike everything after “a public/private partnership” and insert in lieu thereof, “to plan a two year associate degree program.”.

115 Stat. 925.

SEC. 408. Section 119 of the District of Columbia Appropriations Act, 2002 (Public Law 107-96; 115 Stat. 950) is amended as follows:

(1) In the heading, by inserting “AND OTHER FUNDS” after “GRANTS”.

(2) In subsection (a), by inserting “and other funds” after “other grants”.

(3) By amending subsection (b) to read as follows:

“(b) REQUIREMENTS.—

“(1) CHIEF FINANCIAL OFFICER REPORT AND COUNCIL APPROVAL FOR GRANTS.—

“(A) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

“(i) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

“(ii) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.
 “(B) For purposes of subparagraph (A)(ii), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

“(i) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under subparagraph (A)(i); or

“(ii) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under subparagraph (A)(i).

“(2) CERTIFICATION OF CHIEF FINANCIAL OFFICER AND NOTIFICATION OF COMMITTEES FOR OTHER FUNDS.—No funds which are not grants may be accepted, obligated, or expended pursuant to subsection (a)—

“(A) unless the Chief Financial Officer of the District of Columbia certifies that the funds are available and are not required to address potential deficits; and

“(B) until the expiration of the 14-day period which begins on the date the Mayor notifies the Committees on Appropriations of the House of Representatives and Senate of the acceptance, obligation, and expenditure of such funds.”.

(4) In subsection (c)—

(A) by striking “under subsection (b)(2) of this section” and inserting “or other funds under this section”;

(B) by inserting “or other funds” after “or other grant”; and

(C) by striking “such paragraph” and inserting “this section”.

(5) In subsection (d), by inserting “and other funds” after “and other grants”.

Effective date.

SEC. 409. Effective June 30, 2002, the authority which the Chief Financial Officer of the District of Columbia exercised with respect to personnel, procurement, and the preparation of fiscal impact statements during a control period (as defined in Public Law 104-8) shall remain in effect through July 1, 2003 or until such time as the District of Columbia Fiscal Integrity Act becomes effective, whichever occurs sooner.

CHAPTER 5

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for “Operation and Maintenance, General” for emergency expenses, \$108,200,000, to remain available until September 30, 2003: *Provided*, That the entire amount shall be available only to the extent an official budget request that

includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That funds made available under this heading in this Act and in Public Law 107-117 may be used to fund measures and activities undertaken by the Secretary of the Army, acting through the Chief of Engineers, to protect and secure any infrastructure owned or operated by, or on behalf of, the U.S. Army Corps of Engineers, including administrative buildings and facilities; and, in addition, \$32,000,000, to remain available until expended: *Provided*, That using the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to repair, restore, and clean-up Corps' projects and facilities and dredge navigation channels, restore and clean out area streams, provide emergency streambank protection, restore other crucial public infrastructure (including sewer and water facilities), document flood impacts and undertake other flood recovery efforts deemed necessary and advisable by the Chief of Engineers: *Provided further*, That \$10,000,000 of the funds provided shall be for Southern West Virginia, Eastern Kentucky, and Southwestern Virginia: *Provided further*, That the remaining \$22,000,000 shall be available for Western Illinois, Southern Indiana, Eastern Missouri, and the Upper Peninsula of Michigan.

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

WATER AND RELATED RESOURCES

For an additional amount for "Water and Related Resources", \$7,000,000, to remain available until expended: *Provided*, That \$3,000,000 is for the drilling of emergency wells in Santa Fe, New Mexico: *Provided further*, That \$4,000,000 is to be used for the lease of up to 38,000 acre-feet of emergency water for the Rio Grande in New Mexico, in compliance with the existing biological opinion.

DEPARTMENT OF ENERGY

ENERGY PROGRAMS

SCIENCE

For an additional amount for "Science" for emergency expenses necessary to support safeguards and security activities, \$24,000,000: *Provided*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section

251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

ATOMIC ENERGY DEFENSE ACTIVITIES

NATIONAL NUCLEAR SECURITY ADMINISTRATION

WEAPONS ACTIVITIES

(INCLUDING RESCISSION)

For an additional amount for “Weapons Activities” for emergency expenses, \$158,050,000: *Provided*, That \$138,650,000 shall be available only to the extent that an official budget request for \$138,650,000 that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Of the funds appropriated under this heading in Public Law 107-66 and prior Energy and Water Development Appropriations Acts, \$14,460,000 of unexpended balances are rescinded.

DEFENSE NUCLEAR NONPROLIFERATION

For an additional amount for “Defense Nuclear Nonproliferation” for emergency activities necessary to support the safeguarding of nuclear material, \$100,000,000, to remain available until December 31, 2002.

OFFICE OF THE ADMINISTRATOR

For an additional amount for “Office of the Administrator” for emergency expenses, \$1,750,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

ENVIRONMENTAL AND OTHER DEFENSE ACTIVITIES

DEFENSE ENVIRONMENTAL RESTORATION AND WASTE MANAGEMENT

(INCLUDING RESCISSION)

For an additional amount for “Defense Environmental Restoration and Waste Management” for emergency expenses necessary to support safeguards and security activities, \$56,000,000: *Provided*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of

1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

Of the funds appropriated under this heading in Public Law 107-66 and prior Energy and Water Development Appropriations Acts, \$15,540,000 of unexpended balances are rescinded.

DEFENSE FACILITIES CLOSURE PROJECTS

For an additional amount for “Defense Facilities Closure Projects” for emergency expenses necessary to support safeguards and security activities, \$14,000,000: *Provided*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER DEFENSE ACTIVITIES

For an additional amount for “Other Defense Activities” for emergency expenses necessary to support energy security and assurance activities, \$7,000,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 501. The amounts invested by the non-Federal interests in the biomass project at Winona, Mississippi, before the date of enactment of this Act shall constitute full satisfaction of the cost-sharing requirement under section 3002 of the Energy Policy Act of 1992 (42 U.S.C. 13542).

SEC. 502. Section 1 of Public Law 105-204 (112 Stat. 681) is amended—

(1) in subsection (b), by striking “until the date” and all that follows and inserting “until the date that is 30 days after the date on which the Secretary of Energy awards a contract under subsection (c), and no such amounts shall be available for any purpose except to implement the contract.”; and

(2) by striking subsection (c) and inserting the following: “(c) CONTRACTING REQUIREMENTS.—

“(1) IN GENERAL.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code), the Secretary of Energy shall—

“(A) not later than 10 days after the date of enactment of this paragraph, request offerors whose proposals in response to Request for Proposals No. DE-RP05-010R22717 (‘Acquisition of Facilities and Services for Depleted Uranium Hexafluoride (DUF6) Conversion Project’) were included in the competitive range as of

Deadlines.

January 15, 2002, to confirm or reinstate the offers in accordance with this paragraph, with a deadline for offerors to deliver reinstatement or confirmation to the Secretary of Energy not later than 20 days after the date of enactment of this paragraph; and

Deadline.

“(B) not later than 30 days after the date of enactment of this paragraph, select for award of a contract the best value of proposals confirmed or reinstated under subparagraph (A), and award a contract for the scope of work stated in the Request for Proposals, including the design, construction, and operation of—

“(i) a facility described in subsection (a) on the site of the gaseous diffusion plant at Paducah, Kentucky; and

“(ii) a facility described in subsection (a) on the site of the gaseous diffusion plant at Portsmouth, Ohio.

“(2) CONTRACT TERMS.—Notwithstanding any other provision of law (except section 1341 of title 31, United States Code) the Secretary of Energy shall negotiate with the awardee to modify the contract awarded under paragraph (1) to—

Deadline.

“(A) require, as a mandatory item, that groundbreaking for construction occur not later than July 31, 2004, and that construction proceed expeditiously thereafter;

“(B) include as an item of performance the transportation, conversion, and disposition of depleted uranium contained in cylinders located at the Oak Ridge K-25 uranium enrichment facility located in the East Tennessee Technology Park at Oak Ridge, Tennessee, consistent with environmental agreements between the State of Tennessee and the Secretary of Energy; and

“(C) specify that the contractor shall not proceed to perform any part of the contract unless sufficient funds have been appropriated, in advance, specifically to pay for that part of the contract.

Deadline.

“(3) CERTIFICATION OF GROUNDBREAKING.—Not later than 5 days after the date of groundbreaking for each facility, the Secretary of Energy shall submit to Congress a certification that groundbreaking has occurred.

“(d) FUNDING.—

“(1) IN GENERAL.—For purposes of carrying out this section, the Secretary of Energy may use any available appropriations (including transferred unobligated balances).

“(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in addition to any funds made available under paragraph (1), such sums as are necessary to carry out this section.”.

CHAPTER 6

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND HEALTH PROGRAMS FUND

For an additional amount for “Child Survival and Health Programs Fund” for emergency expenses for activities related to combating HIV/AIDS, tuberculosis, and malaria, \$200,000,000, to remain available until June 30, 2003: *Provided*, That such activities should include maternal health and related assistance in communities heavily impacted by HIV/AIDS: *Provided further*, That additional assistance should be provided to prevent transmission of HIV/AIDS from mother to child: *Provided further*, That of the funds appropriated under this heading in this Act, not less than \$100,000,000 should be made available for a further United States contribution to the Global Fund to Fight AIDS, Tuberculosis, and Malaria: *Provided further*, That the cumulative amount of United States contributions to the Global Fund may not exceed the total resources provided by other donors and available for use by the Global Fund as of December 31, 2002: *Provided further*, That of the funds appropriated under this heading, up to \$6,000,000 may be transferred to and merged with funds appropriated by this Act under the heading “Operating Expenses of the United States Agency for International Development” for costs directly related to international health: *Provided further*, That funds appropriated by this paragraph shall be apportioned to the United States Agency for International Development, and the authority of sections 632(a) or 632(b) of the Foreign Assistance Act of 1961, or any similar provision of law, may not be used to transfer or allocate any part of such funds to any agency of the United States Government: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

INTERNATIONAL DISASTER ASSISTANCE

For an additional amount for “International Disaster Assistance” for emergency expenses for activities related to combating international terrorism, including repairing homes of Afghan citizens that were damaged as a result of military operations, \$134,000,000, to remain available until September 30, 2003.

In addition, for an additional amount for “International Disaster Assistance” for assistance for the West Bank and Gaza, \$50,000,000, to remain available until September 30, 2003: *Provided*, That none of the funds appropriated by this Act may be

obligated or expended with respect to providing funds to the Palestinian Authority: *Provided further*, That the entire amount provided under this heading in this Act is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$144,000,000 shall be available only to the extent an official budget request, that includes designation of \$144,000,000, including \$50,000,000 for the West Bank and Gaza, as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

OPERATING EXPENSES OF THE UNITED STATES AGENCY FOR
INTERNATIONAL DEVELOPMENT

For an additional amount for “Operating Expenses of the United States Agency for International Development” for emergency expenses for activities related to combating international terrorism, \$7,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For an additional amount for “Economic Support Fund” for emergency expenses for activities related to combating international terrorism, \$665,000,000, to remain available until June 30, 2003: *Provided*, That of the funds appropriated by this paragraph that are made available for assistance for Pakistan, \$1,000,000 should be made available for programs and activities which support the development of independent media in Pakistan: *Provided further*, That of the funds appropriated by this paragraph, \$10,000,000 should be made available for the establishment of a pilot academic year international youth exchange program for secondary school students from countries with significant Muslim populations: *Provided further*, That funds made available pursuant to the previous proviso shall not be available for a country in which a similar academic year youth exchange program is currently funded by the United States: *Provided further*, That of the funds appropriated by this paragraph, \$200,000,000 shall be made available for assistance for Israel, all or a portion of which may be transferred to, and merged with, funds appropriated by this Act under the heading “NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS” for defensive, non-lethal anti-terrorism assistance in accordance with the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$200,000,000 shall be available only to the extent an official budget request, that includes designation of \$200,000,000 for Israel as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That funds appropriated under this heading, and funds appropriated under

this heading in prior Acts that are made available for the purposes of this paragraph, may be made available notwithstanding section 512 of Public Law 107-115 or any similar provision of law: *Provided further*, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph.

ASSISTANCE FOR THE INDEPENDENT STATES OF THE FORMER SOVIET
UNION

For an additional amount for “Assistance for the Independent States of the Former Soviet Union” for emergency expenses for activities related to combating international terrorism, \$110,000,000, to remain available until June 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL AND LAW ENFORCEMENT

For an additional amount for “International Narcotics Control and Law Enforcement” for emergency expenses for activities related to combating international terrorism, \$117,000,000, to remain available until September 30, 2003: *Provided*, That funds appropriated under this heading should be made available to train and equip a Colombian Armed Forces unit dedicated to apprehending the leaders of paramilitary organizations: *Provided further*, That of the funds appropriated by this paragraph, not to exceed \$6,000,000 may be made available for assistance for the Colombian Armed Forces for purposes of protecting the Cano Limon pipeline: *Provided further*, That prior to the obligation of funds under the previous proviso, the Secretary of State shall submit a report to the Committees on Appropriations describing: (1) the estimated oil revenues collected by the Government of Colombia from the Cano Limon pipeline for the preceding 12 months; (2) the amounts expended during such period by the Government of Colombia and private companies owning a financial interest in the pipeline for primary health care, basic education, micro-enterprise and other programs and activities to improve the lives of the people of Arauca department; (3) steps that are being taken to increase and expand support for these programs and activities; and (4) mechanisms that are being established to adequately monitor such funds: *Provided further*, That of the funds appropriated by this paragraph, not to exceed \$4,000,000 should be made available for law enforcement training for Indonesian police forces: *Provided further*, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$3,000,000 shall be available only to the extent an official budget request, that includes designation of \$3,000,000 as an emergency

requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

MIGRATION AND REFUGEE ASSISTANCE

For an additional amount for “Migration and Refugee Assistance” for emergency expenses for activities related to combating international terrorism, \$40,000,000, to remain available until June 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NONPROLIFERATION, ANTI-TERRORISM, DEMINING AND RELATED PROGRAMS

For an additional amount for “Nonproliferation, Anti-Terrorism, Demining and Related Programs” for emergency expenses for activities related to combating international terrorism, \$88,000,000, to remain available until September 30, 2003: *Provided*, That of the funds appropriated by this paragraph, not to exceed \$12,000,000 should be made available for assistance for Indonesia: *Provided further*, That of the funds appropriated by this paragraph, up to \$1,000,000 may be made available for small arms and light weapons destruction in Afghanistan: *Provided further*, That of the funds appropriated by this paragraph, up to \$1,000,000 may be made available for the Nonproliferation and Disarmament Fund: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$5,000,000 shall be available only to the extent an official budget request, that includes designation of \$5,000,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That funds appropriated by this paragraph shall be subject to the regular notification procedures of the Committees on Appropriations.

MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

FOREIGN MILITARY FINANCING PROGRAM

For an additional amount for “Foreign Military Financing Program” for emergency expenses for activities related to combating international terrorism, \$387,000,000, to remain available until June 30, 2003: *Provided*, That funds made available by this Act for assistance for the Government of Uzbekistan may be made available if the Secretary of State determines and reports to the Committees on Appropriations that the Government of Uzbekistan is making substantial and continuing progress in meeting its

commitments under the “Declaration on the Strategic Partnership and Cooperation Framework Between the Republic of Uzbekistan and the United States of America”: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$30,000,000 shall be available only to the extent an official budget request, that includes designation of \$30,000,000 for the Philippines as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That the Secretary of State shall inform the Committees on Appropriations at least 15 days prior to the obligation of funds appropriated by this paragraph: *Provided further*, That funds appropriated under this heading, and funds appropriated under this heading in prior Acts that are made available for the purposes of this paragraph, may be made available notwithstanding section 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 or any similar provision of law: *Provided further*, That not to exceed \$2,000,000 of the funds appropriated in this paragraph may be obligated for necessary expenses, including the purchase of passenger motor vehicles for use outside of the United States, for the general cost of administering military assistance and sales.

PEACEKEEPING OPERATIONS

For an additional amount for “Peacekeeping Operations” for emergency expenses for activities related to combating international terrorism, \$20,000,000, to remain available until June 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That funds appropriated by this paragraph shall be available only for Afghanistan, and may be made available notwithstanding section 512 of Public Law 107–115 or any similar provision of law.

EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

(RESCISSION)

Of the funds appropriated under the heading “Export-Import Bank of the United States” that are available for tied-aid grants in title I of Public Law 107–115 and under such heading in prior Acts making appropriations for foreign operations, export financing, and related programs, \$50,000,000 are rescinded.

BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

(RESCISSION)

Of the funds appropriated to carry out the provisions of parts I and II of the Foreign Assistance Act of 1961, the Support for East European Democracy (SEED) Act of 1989, and the FREEDOM

Support Act, in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2000 (as contained in Public Law 106-113) and in prior Acts making appropriations for foreign operations, export financing, and related programs, \$60,000,000 are rescinded: *Provided*, That not more than a total of \$25,000,000 may be rescinded from funds appropriated under the heading “Development Assistance” in said Acts: *Provided further*, That no rescission may be made from funds appropriated to carry out the provisions of section 104(c) of the Foreign Assistance Act of 1961.

MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

(RESCISSION)

The unobligated balances of funds provided in Public Law 92-301 and Public Law 93-142 for maintenance of value payments to international financial institutions are rescinded.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 601. (a) COUNTER-TERRORISM AUTHORITY.—

(1) In fiscal year 2002, funds available to the Department of State for assistance to the Government of Colombia shall be available to support a unified campaign against narcotics trafficking, against activities by organizations designated as terrorist organizations such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(2) This provision shall also apply to unexpired balances and assistance previously provided from prior years’ Acts available for the purposes identified in paragraph (1).

(3) The authority in this section is in addition to authorities currently available to provide assistance to Colombia.

(b) In order to ensure effectiveness of United States support for such a unified campaign, prior to the exercise of the authority contained in subsection (a), the Secretary of State shall report to the Committees on Appropriations that—

(1) the newly elected President of Colombia has—

(A) committed, in writing, to establish comprehensive policies to combat illicit drug cultivation, manufacturing, and trafficking (particularly with respect to providing economic opportunities that offer viable alternatives to illicit crops) and to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations;

(B) committed, in writing, to implement significant budgetary and personnel reforms of the Colombian Armed Forces; and

(C) committed, in writing, to support substantial additional Colombian financial and other resources to implement such policies and reforms, particularly to meet the

country's previous commitments under "Plan Colombia";
and

(2) no United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available for Colombia under this chapter.

(c) The authority provided in subsection (a) shall cease to be effective if the Secretary of State has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(d) Sections 556, 567, and 568 of Public Law 107–115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106–246, as amended, shall be applicable to funds made available pursuant to the authority contained in subsection (a).

DONATED SHIPMENT OF HUMANITARIAN ASSISTANCE OVERSEAS

SEC. 602. During fiscal year 2002, of the amounts made available by the United States Agency for International Development to carry out the provisions of section 123(b) of the Foreign Assistance Act of 1961, funds may be made available to non-governmental organizations for administrative costs necessary to implement a program to obtain available donated space on commercial ships for the shipment of humanitarian assistance overseas.

REPORTS ON AFGHANISTAN SECURITY AND DELIVERY OF ASSISTANCE

SEC. 603. The President shall transmit to the Committee on Appropriations and the Committee on International Relations of the House of Representatives and the Committee on Appropriations and the Committee on Foreign Relations of the Senate two reports setting forth a strategy for meeting the security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government. The first report, which should be transmitted no later than 30 days after enactment of this Act, should report on the strategy for meeting the immediate security needs of Afghanistan. The second report, which should be transmitted no later than 90 days after enactment of this Act, should report on a long term strategy for meeting the security needs of Afghanistan and should include a reassessment of the strategy to meet the immediate security needs if they have changed substantially.

President.

Deadline.

Deadline.

CHAPTER 7

DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For an additional amount for “Management of Lands and Resources”, \$658,000, for emergency security expenses, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for “Resource Management”, \$1,038,000, for emergency security expenses, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for “Construction”, \$3,125,000, to remain available until expended, for facility and safety improvements related to homeland security: *Provided*, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For an additional amount for “Operation of the National Park System”, \$1,173,000, for emergency security expenses, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant

to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for “Construction”, \$17,651,000, to remain available until expended: *Provided*, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for “Surveys, Investigations, and Research”, \$26,000,000, to remain available until expended, of which \$20,000,000 is for high resolution mapping and imagery of the Nation’s strategic cities, and of which \$6,000,000 is for data storage infrastructure upgrades and emergency power supply system improvements at the Earth Resources Observation Systems Data Center: *Provided*, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

(INCLUDING RESCISSION OF FUNDS)

For an additional amount for “Operation of Indian Programs”, \$134,000, for emergency security expenses, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Of the funds provided under this heading in Public Law 107-20 for electric power operations and related activities at the San Carlos Irrigation Project, \$10,000,000 are rescinded.

Funds provided under this heading in Public Law 107-20, for electric power operations and related activities at the San Carlos Irrigation Project, and remaining within the account may be used for unanticipated trust reform projects and costs related to the ongoing Cobell litigation or other litigation concerning the management of Indian trust funds: *Provided*, That funds made available herein may, as needed, be transferred to or merged with any account funded in the Interior and Related Agencies Appropriations Act to reimburse costs incurred for these litigation activities.

DEPARTMENTAL OFFICES

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$905,000, for emergency security expenses, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

WILDLAND FIRE MANAGEMENT

For an additional amount to cover necessary expenses for wild-fire suppression operations, \$50,000,000, to remain available until expended: *Provided*, That such funds are also available for repayment of advances to other appropriation accounts from which funds were previously transferred for wildfire suppression: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CAPITAL IMPROVEMENT AND MAINTENANCE

For an additional amount for “Capital Improvement and Maintenance”, \$3,500,000, to remain available until expended, for facility enhancements to protect property from acts of terrorism, vandalism, and theft: *Provided*, That the Congress designates the entire amount as an emergency requirement pursuant to section

251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

RELATED AGENCY

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, of the Smithsonian Institution, \$10,000,000, for emergency security expenses, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CONSTRUCTION

For an additional amount for “Construction”, \$2,000,000, to remain available until expended, for planning, design, and construction of an alcohol collections storage facility at the Museum Support Center: *Provided*, That the Congress designates the entire amount as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 701. Within 10 days of enactment of this Act, funds appropriated to the Forest Service under the heading “Wildland Fire Management” in Public Law 107–63 for the following purposes: \$5,000,000 for research activities and \$10,000,000 for capital improvement and maintenance of fire facilities, shall be released and made available for immediate obligation. These funds are not available for transfer for purposes other than those described in this section.

SEC. 702. None of the funds appropriated in this or any other Act, except funds appropriated to the Office of Management and Budget, shall be available to study the transfer of any research activities from the Smithsonian Institution to the National Science Foundation.

16 USC 668dd
note.

SEC. 703. In fiscal year 2002 and thereafter, the Secretary of the Interior may charge reasonable fees for services provided at Midway Atoll National Wildlife Refuge, including fuel sales, and retain those fees, to be credited to the United States Fish and Wildlife Service, “Resource Management” account and remain available until expended for operation and maintenance of infrastructure and staffing required for non-refuge specific needs, including meeting the terms necessary for an airport operating certificate and the purchase of fuel supplies.

SEC. 704. The Department of the Interior and Related Agencies Appropriations Act, 2002 (Public Law 107-63), under the head “Minerals Management Service, Royalty and Offshore Minerals Management” is amended by striking the word “and” immediately following the word “points,” in the sixth proviso, and by inserting immediately after the word “program” in the sixth proviso “, or under its authority to transfer oil to the Strategic Petroleum Reserve,” and by inserting at the end of the sixth proviso immediately preceding the colon, the following, “and to recover MMS transportation costs, salaries and other administrative costs directly related to filling the Strategic Petroleum Reserve”.

SEC. 705. In entering into agreements with foreign countries pursuant to the Wildfire Suppression Assistance Act (42 U.S.C. 1856m) the Secretary of Agriculture and the Secretary of the Interior are authorized to enter into reciprocal agreements in which the individuals furnished under said agreements to provide wildfire services are considered, for purposes of tort liability, employees of the country receiving said services when the individuals are fighting fires. The Secretary of Agriculture or the Secretary of the Interior shall not enter into any agreement under this provision unless the foreign country (either directly or through its fire organization) agrees to assume any and all liability for the acts or omissions of American firefighters engaged in firefighting in a foreign country. When an agreement is reached for furnishing fire fighting services, the only remedies for acts or omissions committed while fighting fires shall be those provided under the laws of the host country and those remedies shall be the exclusive remedies for any claim arising out of fighting fires in a foreign country. Neither the sending country nor any organization associated with the firefighter shall be subject to any action whatsoever pertaining to or arising out of fighting fires.

SEC. 706. (a) FINDINGS.—Congress finds that—

(1) forest health conditions within the Beaver Park Area and the Norbeck Wildlife Preserve within the Black Hills National Forest are deteriorating and immediate action to treat these areas is in the public interest;

(2) the existing settlement agreement in *Biodiversity Associates v. Laverty*, Civil Action No. 99-N-2173, filed in the United States District Court for the District of Colorado on September 12, 2000, (referred to in this Act as the “Settlement”) prevents timely action to reduce the risk of wildfire in the Beaver Park Roadless Area;

(3) pending litigation (*Sierra Club v. U.S. Forest Service*, Civ. No. 94-D-2273 (D. Colorado)) prevents timely action to reduce the risk of wildfire in the Norbeck Wildlife Preserve;

(4) existing administrative and legal processes cannot address the fire danger in time to enable the Secretary of Agriculture to take action to reduce the danger;

(5) immediate action to address the fire danger in an environmentally responsive manner is supported by the State, local counties, local industry users, and some environmental groups;

(6) the addition of 3,600 acres to the Black Elk Wilderness in the Black Hills National Forest is in the public interest;

(7) the State of South Dakota, Lawrence, Meade and Pennington County fire officials are encouraged to identify “fire emergency zone” areas in which public safety may require a moratorium on issuance of new building permits, and identify the changes in conditions (including the adoption of fire-safe building standards) that may be needed to end these moratoria; and

(8) the State of South Dakota is encouraged to take actions as necessary to create a defensible fuel zone within State lands south and southwest of Sturgis.

(b) PURPOSES.—The purposes of this section are—

(1) to authorize and direct the Secretary of Agriculture (in this section referred to as the “Secretary”) to undertake actions to address promptly the risk of fire and insect infestation; and

(2) to designate an addition to the existing Black Elk Wilderness Area in the Black Hills National Forest.

(c) FIRE AND BEETLE RISK REDUCTION IN EXISTING TIMBER SALE ANALYSIS AREAS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary is authorized to treat additional timber within or outside the existing cutting units for the Piedmont, Kirk, Redhill, Cavern, Deadman, Danno and Vanocker timber sales and within the analysis areas for these sales as is necessary to reduce beetle infestation and fire hazard;

(2) CRITERIA.—In implementing additional treatments within the timber sale analysis areas referred to in paragraph (1), the Secretary shall use in order of priority the following criteria:

(A) Areas within $\frac{1}{4}$ mile of private properties where private property owners have taken or are taking actions to treat their lands.

(B) Stands that are a fire hazard or insect infested, and are near private lands or in proximity to communities.

(C) Areas that have the highest intensity or concentration of insect infestation that will move to other areas.

(D) Stands that are a fire hazard or insect infested, and are near areas of high resource value where retaining green trees is important, such as goshawk nests, sensitive landscapes, recreation areas, and developments.

(E) Stands that are a high fire hazard or insect infested, and are within skidding distance of existing roads.

(F) Concentrations of insect infested trees.

(G) Stands with the highest density that are most susceptible to insect attack and are in close proximity to infested trees.

(3) ADDITIONAL CRITERIA.—In carrying out this subsection, the Secretary shall ensure that—

(A) any additional treatment for the Cavern, Kirk, and Piedmont sales shall comply with provisions 6c, d and e of the Settlement;

(B) any additional treatment for the Deadman and Vanocker sales, shall be consistent with the Black Hills Forest Plan, including the “Phase I Amendment”; and

(C) any additional treatment for the Redhill and Danno sales shall comply with the provisions of 7b, c, and g of the Settlement.

(4) SKID TRAILS.—Notwithstanding the Settlement, the Secretary may authorize access by skid trails to the additional treatment areas referred to in this subsection to remove or treat infested stands, except that the skid trails otherwise restricted by the settlement shall be restored to pre-existing conditions upon completion of treatment activities.

(5) COMPLETION OF TREATMENT ACTIVITIES.—The Secretary shall request timber purchasers to give priority to completing treatment within the Piedmont, Kirk, Redhill, Cavern, Deadman, Danno, and Vanocker timber sale areas to address fire issues and beetle outbreaks.

(d) OTHER TREATMENTS.—

(1) BUFFER ZONES.—The Secretary is authorized to reduce risk to private property adjoining the Black Hills National Forest by treating insect infested trees, dead trees, and downed woody materials on National Forest System lands in T5N, R5E, BHM, Section 35, and T4N, R5E, BHM, Sections 1, 2 and 12 within 200 feet of adjacent private property. The treatments shall comply with the goshawk nest protections and snail protections in provisions 6c and 7g of the Settlement.

(2) ADDITIONAL TREATMENTS.—The Secretary is authorized to treat for insects and fuel reduction National Forest System lands within $\frac{1}{4}$ mile of private property and other non-National Forest System lands near the community of Sturgis, and shall include, where feasible, the following locations:

(A) in T5N, R5E, BHM within $\frac{1}{4}$ mile of the exterior boundary of the Black Hills National Forest in—

- (i) Section 35;
- (ii) Section 27;
- (iii) Section 21;
- (iv) Section 20; and
- (v) Section 18.

(B) in T5N, R4E, BHM—

- (i) Section 13;
- (ii) Section 11;
- (iii) Section 2;
- (iv) Section 3; and
- (v) Section 4.

(3) FUEL BREAKS.—The Secretary shall establish 400-foot fuel breaks as depicted on the map entitled “Beaver Park Fuel Breaks and Fuel Treatment Areas,” dated June 11, 2002. In establishing the fuel breaks, the Secretary—

(A) shall not enter any 30-acre area around historic or active goshawk nest sites identified in Exhibit B1 of the Settlement; and

(B) shall use best efforts to retain the largest green trees and large snags.

(4) LIMITATION.—Treatment actions outside of the Beaver Park Roadless Area authorized by subsection (c) and subsection (d)(1), (2), and (3) shall be limited to no more than 8,000

acres of National Forest System land, pending the issuance of a decision on the proposed Elk Bugs and Fuel project.

(5) **FORBES GULCH.**—To reduce concentrated heavy fuels, the Secretary is authorized to treat not more than 700 acres within the area identified as Forbes Gulch on the map referred to in paragraph (3). Such treatments shall not involve commercial timber sales or road construction, except that the Secretary may permit firewood cutters to remove the timber without construction of any roads. In carrying out the treatments authorized by this paragraph, the Secretary—

(A) may use the Forbes Gulch unclassified road for motorized equipment and vehicles to facilitate ingress and egress of equipment and personnel and may maintain this road to minimum standards necessary for safety and resource protection;

(B) may utilize helicopters to fly in heavy equipment (such as industrial chippers and small tractors) to assist with the project;

(C) shall use best efforts to retain the largest green trees and large snags;

(D) may construct two 10-acre safety zones; and

(E) shall reduce the stand structure to no less than 40 square feet basal area per acre of live trees, if available.

(e) **FIRE SUPPRESSION ACCESS IN THE BEAVER PARK ROADLESS AREA.**—

(1) **PRE-SUPPRESSION PLAN.**—The pre-suppression plan for the Beaver Park Roadless Area provided for in the Settlement may provide for actions authorized by this section, and shall be completed as soon as practicable.

(2) **IMPROVED ACCESS.**—The Secretary is authorized to provide for improved fire equipment access at the perimeter of the Beaver Park Roadless Area by improving classified Forest Roads 139.1, 169.1b, 169.1d, and 139.1b. Such improvements shall be the minimum necessary for crews, equipment and single axle wildfire trucks and may include removing selected trees along roads, constructing pull-outs and turn-arounds, smoothing road surfaces in rough spots, and straightening some corners.

(3) **FORBES GULCH UNCLASSIFIED ROAD.**—To protect public safety and reduce fire risks, the Secretary shall prohibit public access year-long on the Forbes Gulch unclassified road. The Secretary shall conduct a roads analysis process as provided in Forest Service Manual 7710 and the necessary level of analysis and documentation pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) (in this section referred to as “NEPA”) before making a decision to open to public motor vehicle use the Forbes Gulch unclassified road identified on the map entitled “Beaver Park Fuel Breaks and Fuel Treatment Areas,” dated June 11, 2002. Except as provided in subsection (d)(5) and until a decision is issued, the Secretary shall not maintain the Forbes Gulch unclassified road and shall prohibit public access on the road.

(4) **HELISPOTS.**—If sufficient openings for helispots are not available in the Beaver Park Roadless Area, the Secretary is authorized to construct two 5-acre helispots within the Area to transport firefighters and fire equipment into and out of the area.

(5) EASEMENTS.—To facilitate firefighter access into, and escape routes from, Beaver Park Roadless Area, the Secretary shall attempt to acquire easements from the exterior Forest Service boundary to I-90 on the eastern side of Beaver Park Roadless Area, at a minimum, along Tilford Gulch, Forbes Gulch, Pleasant Valley and Bulldog Gulch.

(f) NEEDLES TIMBER SALE AREA.—

(1) NEEDLES TIMBER SALE.—The Needles Timber Sale shall proceed after the Secretary makes modifications in implementation of the Decision Notice to further benefit game animals and birds, as reflected in the memorandum known as the “Burns/Carter memorandum” dated November 10, 1999, and maintained in the Black Hills National Forest Supervisor’s office. The standards to which any road is constructed for the timber sale shall be the minimum necessary to access and remove timber.

(2) RESEARCH COMMITTEE.—By December 1, 2003, the Secretary shall select a committee composed of research scientists who are federal employees to recommend an old growth research area within the Needles area (outside the Needles Timber Sale cutting units). By December 1, 2004, the committee shall make its recommendation to the Secretary. The committee’s recommendation shall be subject to public notice, review and comment.

(g) GRIZZLY TIMBER SALE.—The Grizzly Timber Sale shall proceed after the Secretary makes modifications in implementation of the Decision Notice to further benefit game animals and birds, as reflected in the memorandum known as the “Burns/Carter memorandum” dated November 10, 1999, and maintained in the Black Hills National Forest Supervisor’s office. The standards to which any road is constructed for the timber sale shall be the minimum necessary to access and remove timber.

(h) NORBECK.—The Secretary is authorized to use the full spectrum of management tools including prescribed fire and silvicultural treatments to benefit game animal and bird habitat in meeting the purposes of the Norbeck Organic Act. The management actions required by subsections (f)(1) and (g) are deemed consistent with the Norbeck Organic Act (16 U.S.C. 675–678b).

(i) NORBECK MEMORANDUM OF UNDERSTANDING.—By December 1, 2003, the Secretary shall propose a Memorandum of Understanding with the South Dakota Department of Game, Fish and Parks to, at a minimum, adopt procedures to monitor the effects of management activities, consult on habitat management, concur on program areas of responsibility, and review and recommend as needed any changes to Norbeck Wildlife Preserve direction contained in the 1997 Revised Forest Plan and future plan amendments and revisions. The basis of the MOU will be the guidelines set forth in the May 21, 2002 memo by SDF&P.

(j) PROCESS.—Due to the extraordinary circumstances present here, actions authorized by this section shall proceed immediately and to completion notwithstanding any other provision of law including, but not limited to, NEPA and the National Forest Management Act (16 U.S.C. 1601 et seq.). Such actions shall also not be subject to the notice, comment, and appeal requirements of the Appeals Reform Act, (16 U.S.C. 1612 (note), Pub. Law No. 102-381 sec. 322). Any action authorized by this section shall not be subject to judicial review by any court of the United States.

Except as provided by this section the Settlement remains in full force and effect.

(k) EFFECT OF ACTIONS.—Except for those actions required by subsections (f)(1) and (g), the Secretary shall disclose the effect of actions authorized by this section in the proposed Elk Bugs and Fuels project cumulative effects analysis for past, present, and reasonably foreseeable future actions. The decision for the Elk Bugs and Fuels project shall be issued not later than July 1, 2003.

(l) RESEARCH NATURAL AREA.—Except as provided in this section, the Secretary shall undertake no additional ground disturbing or vegetation removal activities within the Beaver Park Roadless Area until completion of the Phase II amendment to the Black Hills National Forest Plan. The Secretary shall analyze the Beaver Park Roadless Area for suitability as a Research Natural Area, as required by the Settlement. The Secretary shall not consider any of the actions authorized or required by this section to affect the suitability of the Beaver Park Roadless Area for designation as a Research Natural Area.

(m) ROADLESS CHARACTER.—The actions authorized by this section will not affect the determination of the Beaver Park Roadless Area’s wilderness capability, wilderness suitability, and/or roadless character.

(n) WILDERNESS DESIGNATION.—Section 103 of Public Law 96–560 is amended by—

(1) inserting “(1)” after “National Wilderness Preservation System.”; and

(2) adding before “: *Provided, That*” the following: “; and
(2) certain lands in the Black Hills National Forest, South Dakota, which comprise approximately three thousand six hundred acres, as generally depicted on a map entitled ‘Black Elk Wilderness Addition-Proposed,’ dated June 13, 2002, and which shall constitute an addition to the existing Black Elk Wilderness”.

(o) REPORTING.—The Secretary shall report to the Congress on the implementation of this section on or by November 30, 2002, June 30, 2003, and November 30, 2003.

16 USC 1132
note.

Deadlines.

CHAPTER 8

DEPARTMENT OF LABOR

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

Of the funds provided under this heading in Public Law 107–116 for Occupational Safety and Health Administration training grants, not less than \$3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2002 to September 30, 2003, provided that a grantee has demonstrated satisfactory performance.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

The matter preceding the first proviso under this heading in Public Law 107-116 is amended—

(1) by inserting “IV,” after “titles II, III,”; and

(2) by striking “\$311,978,000” and inserting “\$315,333,000”.

The matter under this heading in Public Law 107-116 is amended by striking “\$4,000,000 is for the Columbia Hospital for Women Medical Center in Washington, D.C. to support community outreach programs for children” and inserting “\$4,000,000 is for the All Children’s Hospital, St. Petersburg, Florida to support development of a pediatric clinical research center program”.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

For an additional amount for the Centers for Disease Control and Prevention, “Disease Control, Research, and Training”, \$1,000,000: *Provided*, That the entire amount is designated as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL INSTITUTES OF HEALTH

BUILDINGS AND FACILITIES

(INCLUDING RESCISSION)

Of the funds provided under this heading in Public Law 107-116, \$30,000,000 are rescinded.

115 Stat. 2191. Under this heading in Public Law 107-116, “\$26,000,000” is deleted and “\$36,600,000” is inserted.

ADMINISTRATION FOR CHILDREN AND FAMILIES

CHILDREN AND FAMILIES SERVICES AND PROGRAMS

For an additional amount for “Children and Families Services Programs” for carrying out section 316 of the Family Violence Prevention and Services Act (42 U.S.C. 10416), \$500,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control

Act of 1985, as amended, is transmitted by the President to the Congress.

OFFICE OF THE SECRETARY

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States for “Public Health and Social Services Emergency Fund” for baseline and follow-up screening and clinical examinations, long-term health monitoring and analysis for the emergency services personnel, rescue and recovery personnel, \$90,000,000, to remain available until expended, of which no less than \$25,000,000 shall be available for current and retired firefighters: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF EDUCATION

SCHOOL IMPROVEMENT PROGRAMS

The matter under this heading in Public Law 107–116 is amended by inserting before the period, “: *Provided further*, That of the amount made available under subpart 8, part D, title V of the ESEA, \$2,300,000 shall be available for Digital Educational Programming Grants”.

115 Stat. 2203.

Of the funds provided under this heading in Public Law 107–116 to carry out the Elementary and Secondary Education Act of 1965, \$832,889,000 shall be available to carry out part D of title V, and up to \$11,500,000 may be used to carry out section 2345.

In the statement of the managers of the committee of conference accompanying H.R. 3061 (Public Law 107–116; House Report 107–342), in the matter relating to the Fund for the Improvement of Education under the heading “School Improvement Programs”—

(1) the provision specifying \$200,000 for Fresno At-Risk Youth Services and the provision specifying \$225,000 for the Fresno Unified School District shall be applied by substituting the following for the two provisions: “Fresno Unified School District, Fresno, California, in partnership with the City of Fresno, California, for activities to address the problems of at-risk youth, including afterschool activities and a mobile science unit, \$425,000”;

(2) the provision specifying \$250,000 for the Wellington Public School District, Wellington, KS, shall be deemed to read as follows: “Wellington Public School District, Wellington, KS, for after school activities, \$250,000”;

(3) the provision specifying \$200,000 for the Vermont Higher Education Council shall be deemed to read as follows: “Vermont Higher Education Consortium to develop universal early learning programs to ensure that at least one certified

teacher will be available in center-based child care programs, \$200,000”;

(4) the provision specifying \$250,000 for Education Service District 117 in Wenatchee, WA, shall be deemed to read as follows: “Education Service District 171 in Wenatchee, WA, to equip a community technology center to expand technology-based training, \$250,000”;

(5) the provision specifying \$1,000,000 for the Electronic Data Systems Project shall be deemed to read as follows: “Washington State Department of Education for an electronic data systems project to create a database that would improve the acquisition, analysis and sharing of student information, \$1,000,000”;

(6) the provision specifying \$250,000 for the YMCA of Seattle-King-Snohomish County shall be deemed to read as follows: “YWCA of Seattle-King County-Snohomish County to support women and families through an at-risk youth center and other family supports, \$250,000”;

(7) the provision specifying \$50,000 for Drug Free Pennsylvania shall be deemed to read as follows: “Drug Free Pennsylvania to implement a demonstration project, \$50,000”;

(8) the provision specifying \$20,000,000 for the Commonwealth of Pennsylvania Department of Education shall be deemed to read as follows: “\$20,000,000 is included for a grant to the Commonwealth of Pennsylvania Department of Education to provide assistance, through subgrants, to low-performing school districts that are slated for potential takeover and/or on the Education Empowerment List as prescribed by Pennsylvania State Law. The initiative is intended to improve the management and operations of the school districts; assist with curriculum development; provide after-school, summer and weekend programs; offer teacher and principal professional development and promote the acquisition and effective use of instructional technology and equipment”;

(9) the provision specifying \$1,000,000 for State of Louisiana for Louisiana Online shall be deemed to read as follows: “Online Louisiana, Inc., New Orleans, LA, for a K-12 technology initiative, \$1,000,000”;

(10) the provision specifying \$150,000 for the American Theater Arts for Youth, Inc., Philadelphia, PA, for a Mississippi Arts in Education Program shall be deemed to read as follows: “American Theater Arts for Youth, Inc., for a Mississippi Arts in Education program, \$150,000”;

(11) the provision specifying \$340,000 for the Zero to Five Foundation, Los Angeles, California, shall be deemed to read as follows: “Zero to Five Foundation, Los Angeles, California, to develop an early childhood education and parenting project, \$340,000”;

(12) the provision specifying \$900,000 for the University of Nebraska, Kearney, Nebraska, shall be deemed to read as follows: “University of Nebraska, Kearney, Nebraska, for a Minority Access to Higher Education Program to address the special needs of Hispanic and other minority populations from grades K-12, \$900,000”;

(13) the provision specifying \$25,000 for the American Theater Arts for Youth for an Arts in Education program shall be deemed to read as follows: “American Theater Arts for

Youth, Inc., in Philadelphia, Pennsylvania, for an Arts in Education program, \$25,000”;

(14) the provision specifying \$50,000 for the Lewiston-Auburn College/University of Southern Maine shall be deemed to read as follows: “Lewiston-Auburn College/University of Southern Maine CLASS program to prepare teachers to meet the demands of Maine’s 21st century elementary and middle schools, \$50,000”; and

(15) the provision specifying \$500,000 for the Prairie Lakes Education Cooperative in Madison, South Dakota to advance distance learning for Native Americans in BIA and tribal schools shall be deemed to read as follows: “Sisseton-Wahpeton School Board in Agency Village, South Dakota to advance distance learning for Native American students, \$500,000”.

STUDENT FINANCIAL ASSISTANCE

For an additional amount for “Student Financial Assistance” for Pell Grants, \$1,000,000,000, to remain available through September 30, 2003.

HIGHER EDUCATION

In the statement of the managers of the committee of conference accompanying H.R. 3061 (Public Law 107-116; House Report 107-342), in the matter relating to the Fund for the Improvement of Postsecondary Education under the heading “Higher Education”—

(1) the provision for Nicholls State University, Thibodaux, LA, shall be applied by substituting “Intergenerational Program and Advanced Technology Program” for “International Program”;

(2) the provision specifying \$1,000,000 for the George J. Mitchell Scholarship Research Institute shall be deemed to read as follows: “George J. Mitchell Scholarship Research Institute in Portland, Maine, for an endowment to provide scholarships that allow students attending public schools in Maine to continue their education, \$1,000,000”;

(3) the provision specifying \$10,000,000 for the Shriver Peace Worker Program, Inc. shall be deemed to read as follows: “Shriver Peace Worker Program, Inc. to establish the Sargent Shriver Peace Center, which may include establishing an endowment for such center, for the purpose of supporting graduate research fellowships, professorships, and grants and scholarships for students related to peace studies and social change, \$10,000,000”; and

(4) the provision specifying \$1,000,000 for Cleveland State University shall be deemed to read as follows: “Cleveland State University, College of Education, Cleveland, Ohio, for a K-16 Urban School Leadership initiative, \$1,000,000”.

EDUCATION RESEARCH, STATISTICS, AND ASSESSMENT

The matter under this heading in Public Law 107-116, is amended by inserting before the period the following new proviso: “: *Provided further*, That \$5,000,000 shall be available to extend for one additional year the contract for the Eisenhower National Clearinghouse for Mathematics and Science Education authorized

115 Stat. 2207.

under section 2102(a)(2) of the Elementary and Secondary Education Act of 1965, prior to its amendment by the No Child Left Behind Act of 2001, Public Law 107-110”.

GENERAL PROVISIONS—THIS CHAPTER

20 USC 7703. SEC. 801. The Elementary and Secondary Education Act of 1965 is hereby amended in section 8003 by amending subsection (b)(2)(D)(ii)(III) to read as follows: “For a local educational agency that does not qualify under (B)(i)(II)(aa) of this subsection and has an enrollment of more than 100 but not more than 1,000 children described in subsection (a)(1), the Secretary shall calculate the total number of weighted student units for purposes of subsection (a)(2) by multiplying the number of such children by a factor of 1.25.”.

SEC. 802. The Elementary and Secondary Education Act of 1965 is hereby amended in section 8003(b)(1) by adding the following as subparagraph (G):

“(G) Beginning with fiscal year 2002, for the purpose of calculating a payment under this paragraph for a local educational agency whose local contribution rate was computed under subparagraph (C)(iii) for the previous year, the Secretary shall use a local contribution rate that is not less than 95 percent of the rate that the LEA received for the preceding year.”.

SEC. 803. Amounts made available in Public Law 107-116 for the administrative and related expenses for departmental management for the Department of Labor, the Department of Health and Human Services, and the Department of Education, shall be reduced by \$45,000,000: *Provided*, That this provision shall not apply to the Food and Drug Administration and the Indian Health Service: *Provided further*, That not later than 15 days after the enactment of this Act, the Director of the Office of Management and Budget shall report to the House and Senate Committees on Appropriations the accounts subject to the reductions and the amount to be reduced in each account.

Awards.
Ruth L.
Kirschstein.

SEC. 804. (a) Section 487 of the Public Health Service Act (42 U.S.C. 288) is amended by striking “National Research Service Awards” or “National Research Service Award” each place either appears and inserting in lieu thereof “Ruth L. Kirschstein National Research Service Awards” or “Ruth L. Kirschstein National Research Service Award” as appropriate.

(b) The heading for section 487 of the Public Health Service Act (42 U.S.C. 288) is amended to read as follows: “Ruth L. Kirschstein National Research Service Awards”.

42 USC 242b,
285a-3, 285b-4,
285c-2, 285d-2,
285e-2, 288 note,
300c-16.

(c) Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to “National Research Service Awards” shall be considered to be a reference to “Ruth L. Kirschstein National Research Service Awards”.

SEC. 805. None of the funds provided by this or any other Act may be used to enforce the amendments made by section 166 of the Community Renewal Tax Relief Act of 2000 in Alaska, including the imposition of any penalties.

SEC. 806. In the statement of the managers of the committee of conference accompanying the fiscal year 2001 Labor, Health and Human Services, and Education appropriations bill (Public

Law 106-554; House Report 106-1033), the provision specifying \$464,000 for the Bethel Native Corporation worker demonstration project shall be deemed to read as follows: “for the Alaska CHAR vocational training program, \$100,000 and \$364,000 for the Yuut Elitnavriat People’s Learning Center in Bethel, Alaska for vocational training for Alaska Natives”.

SEC. 807. Notwithstanding any other provision of law, from September 1 through September 30, 2002, the Secretary of Education may transfer to Program Administration an amount necessary to offset any reduction pursuant to section 803 of this Act but not to exceed \$5,000,000 from funds made available in the Department of Education Appropriations Act, 2002, that the Secretary determines are not needed to fully fund all qualified grant applications and would otherwise lapse at the end of fiscal year 2002: *Provided*, That the Committees on Appropriations of both Houses of Congress are notified at least 15 days in advance of any such transfer.

CHAPTER 9

LEGISLATIVE BRANCH

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For an additional amount for salaries and expenses of the House of Representatives, \$1,600,000, as follows:

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For an additional amount for salaries and expenses of standing committees, special and select, authorized by House resolutions, \$1,600,000: *Provided*, That such amount shall remain available for such salaries and expenses until December 31, 2002.

JOINT ITEMS

CAPITOL POLICE BOARD

CAPITOL POLICE

GENERAL EXPENSES

For an additional amount for the Capitol Police Board for necessary expenses of the Capitol Police, including computer equipment and services, training, communications, uniforms, weapons, and reimbursement to the Environmental Protection Agency, Hazardous Substance Superfund for additional expenses incurred for anthrax investigations and cleanup actions, \$16,100,000, to remain available until expended, to be disbursed by the Capitol Police Board or their delegee.

LIBRARY OF CONGRESS

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For an additional amount for “Copyright Office, Salaries and expenses”, \$7,500,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

SEC. 901. The amount otherwise made available under section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58) for fiscal year 2002 to any Senator from the Senators’ Official Personnel and Office Expense Account shall be increased by the amount (not in excess of \$20,000) which the Senator certifies in a written request to the Secretary of the Senate made not later than September 30, 2002, as being necessary for the payment or reimbursement of expenditures incurred or obligated during fiscal year 2002 that—

(1) are otherwise payable from such account, and

(2) are directly related to responses to the terrorist attacks of September 11, 2001, or the discovery of anthrax in the Senate complex and the displacement of Senate offices due to such discovery.

SEC. 902. (a) Chapter 9 of the Emergency Supplemental Act, 2002 (Public Law 107-117; 115 Stat. 2315), is amended—

40 USC 174b-2.

(1) in section 901(a), by striking “buildings and facilities” and insert “buildings and facilities, subject to the availability of appropriations,”.

(b) Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a), is amended by redesignating the subsection (b) added by section 903(c)(2) of the Emergency Supplemental Act, 2002, as subsection (c).

Effective date.
40 USC 174b-2
note.

(c) The amendment made by this section shall take effect as if included in the enactment of the Emergency Supplemental Act, 2002.

SEC. 903. (a) Chapter 9 of the Emergency Supplemental Act, 2002 (Public Law 107-117; 115 Stat. 2315), is amended—

40 USC 175a.

(1) in section 903(a), by striking “buildings and facilities” and insert “buildings and facilities, subject to the availability of appropriations,”.

(b) Section 9 of the Act of July 31, 1946 (40 U.S.C. 212a), is amended by redesignating the subsection (b) added by section 903(c)(2) of the Emergency Supplemental Act, 2002, as subsection (c).

Effective date.
40 USC 175a
note.

(c) The amendment made by this section shall take effect as if included in the enactment of the Emergency Supplemental Act, 2002.

31 USC 1535
note.

SEC. 904. Nothing in section 1535 of title 31, U.S.C. (commonly referred to as the “Economy Act”), or any other provision of such title may be construed to prevent or restrict the Chief Administrative Officer of the House of Representatives from placing orders under such section during any fiscal year in the same manner and to the same extent as the head of any other major organizational unit with an agency may place orders under such section during a fiscal year.

SEC. 905. (a) The Architect of the Capitol is authorized, subject to the availability of appropriations, to acquire (through purchase, lease, or otherwise) buildings and facilities for use as computer backup facilities (and related uses) for offices in the legislative branch. 40 USC 166k.

(b) The acquisition of a building or facility under subsection (a) shall be subject to the approval of—

(1) the House Office Building Commission, in the case of a building or facility acquired for the use of an office of the House of Representatives;

(2) the Committee on Rules and Administration of the Senate, in the case of a building or facility acquired for the use of an office of the Senate; or

(3) the House Office Building Commission in the case of a building or facility acquired for the use of any other office in the legislative branch as part of a joint facility with (1) above, or the Committee on Rules and Administration of the Senate, in the case of a building or facility acquired for the use of any other office in the legislative branch as part of a joint facility with (2) above.

(c) Any building or facility acquired by the Architect of the Capitol pursuant to subsection (a) shall be a part of the United States Capitol Grounds and shall be subject to the provisions of the Act entitled “An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes”, approved July 31, 1946.

(d) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year. Applicability.

SEC. 906. (a) There is hereby established in the Treasury of the United States an account for the Architect of the Capitol to be known as “Capitol Police Buildings and Grounds” (hereinafter in this section referred to as the “account”). 40 USC 166l.

(b) Funds in the account shall be used by the Architect of the Capitol for all necessary expenses for the maintenance, care, and operation of buildings and grounds of the United States Capitol Police.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year. Any amounts provided to the Architect of the Capitol prior to the date of the enactment of this Act for the maintenance, care, and operation of buildings of the United States Capitol Police during fiscal year 2002 shall be transferred to the account. Applicability.

SEC. 907. (a) Subject to the approval of the House Office Building Commission and the Senate Committee on Rules and Administration, the Architect of the Capitol is authorized to acquire (through purchase, lease, transfer from another Federal entity, or otherwise) real property, subject to the availability of appropriations and upon approval of an obligation plan by the Committees on Appropriations of the House and Senate, for the use of the United States Capitol Police. 40 USC 166m.

(b) Any real property acquired by the Architect of the Capitol pursuant to subsection (a) shall be a part of the United States Capitol Grounds and shall be subject to the provisions of the Act entitled “An Act to define the area of the United States Capitol Grounds, to regulate the use thereof, and for other purposes”, approved July 31, 1946.

(c) This section shall apply with respect to fiscal year 2002 and each succeeding fiscal year.

CHAPTER 10

DEPARTMENT OF DEFENSE

MILITARY CONSTRUCTION

MILITARY CONSTRUCTION, AIR FORCE

For an additional amount for “Military Construction, Air Force”, \$7,250,000, to remain available until September 30, 2006: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Military Construction, Defense-wide”, \$21,500,000, to remain available until September 30, 2006: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That notwithstanding any other provision of law, such funds may be obligated or expended to carry out planning and design and military construction projects not otherwise authorized by law.

GENERAL PROVISION—THIS CHAPTER

SEC. 1001. (a) AVAILABILITY OF AMOUNTS FOR MILITARY CONSTRUCTION RELATING TO TERRORISM.—Amounts made available to the Department of Defense from funds appropriated in this Act may be used to carry out military construction projects, not otherwise authorized by law, that the Secretary of Defense determines are necessary to respond to or protect against acts or threatened acts of terrorism.

Deadline.

(b) NOTICE TO CONGRESS.—Not later than 15 days before obligating amounts available under subsection (a) for military construction projects referred to in that subsection, the Secretary shall notify the appropriate committees of Congress of the following:

(1) the determination to use such amounts for the project;
and

(2) the estimated cost of the project and the accompanying Form 1391.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section the term “appropriate committees of Congress” has the meaning given that term in section 2801(4) of title 10, United States Code.

CHAPTER 11

DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

TRANSPORTATION ADMINISTRATIVE SERVICE CENTER

(LIMITATION ON OBLIGATIONS)

Under this heading in Public Law 107-87, as amended by section 1106 of Public Law 107-117, delete “\$116,023,000” and insert “\$128,123,000”. 115 Stat. 2332.

TRANSPORTATION SECURITY ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For additional amounts for emergency expenses to ensure transportation security, \$3,850,200,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of the amounts provided under this head, \$1,030,000,000 shall, immediately upon enactment of this Act, be transferred to Federal Emergency Management Agency “Disaster Relief” for emergency expenses to respond to the September 11, 2001 terrorist attack on the United States: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of such amount, \$480,200,000 shall be available only to the extent an official budget request for a specific dollar amount that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress: *Provided further*, That of the total amount provided herein, the following amounts are available for obligation only for the specific purposes below:

(1) Physical modification of commercial service airports for the purpose of installing checked baggage explosive detection systems, including explosive trace detection systems, \$738,000,000;

(2) Port security activities, \$125,000,000, of which \$105,000,000 shall be distributed under the same terms and conditions as provided for under Public Law 107-117 and of which \$20,000,000 shall be used for developing and conducting port incident training and exercises;

(3) Grants and contracts to enhance security for intercity bus operations, \$15,000,000;

(4) Grants, contracts and interagency agreements for the purpose of deploying Operation Safe Commerce, \$28,000,000;

(5) Procurement of air-ground communications systems and devices for the Federal air marshal program, \$15,000,000;

(6) Grants and contracts for radiation detection system test and evaluation, \$4,000,000;

(7) Grants to airport authorities for pilot projects to improve airport terminal security, \$17,000,000;

(8) Grants and contracts for security research, development, and pilot projects, \$10,000,000; and

(9) Replacement of magnetometers at airport passenger screening locations in commercial service airports, \$23,000,000:

Provided further, That none of the funds in this Act shall be used to recruit or hire personnel into the Transportation Security Administration which would cause the agency to exceed a staffing level of 45,000 full-time permanent positions.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for “Operating Expenses” for emergency expenses for homeland security and other purposes, \$200,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of such amount, \$11,000,000 shall be available only to the extent an official budget request that includes designation of the \$11,000,000 as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For an additional amount for “Acquisition, Construction, and Improvements” for emergency expenses for homeland security and other purposes, \$328,000,000, to remain available until September 30, 2004, of which \$38,100,000 shall be available to acquire, repair, renovate or improve vessels, small boats and related equipment; \$200,000,000 shall be available to acquire new aircraft and increase aviation capability; \$27,729,000 shall be available for other equipment; and \$62,171,000 shall be for shore facilities and aids to navigation facilities: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That of such amount, \$262,000,000 shall be available only to the extent an official budget request that includes designation of the \$262,000,000 as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for “Operations”, \$42,000,000, for security activities at Federal Aviation Administration facilities: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress: *Provided further*, That an additional \$33,000,000 may be derived by transfer from “Facilities and Equipment (Airport and Airway Trust Fund)”.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount for “Facilities and Equipment”, \$7,500,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

For an additional amount to enable the Federal Aviation Administrator to compensate airports for the direct costs associated with new, additional, or revised security requirements imposed on airport operators by the Administrator on or after September 11, 2001, notwithstanding any other provision of law, \$150,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For an additional amount for “Emergency Relief Program”, as authorized by 23 U.S.C. 125, for emergency expenses to respond to the September 11, 2001, terrorist attacks on New York City, \$167,000,000 for the State of New York, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That notwithstanding 23 U.S.C. 120(e), the Federal share for any project on a Federal-aid highway related to the New York City terrorist attacks shall be 100 percent: *Provided further*, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than \$100,000,000 for those projects: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

FEDERAL-AID HIGHWAYS

(HIGHWAY TRUST FUND)

(RESCISSION)

Of the funds apportioned to each state under the programs authorized under sections 1101(a)(1), 1101(a)(2), 1101(a)(3), 1101(a)(4) and 1101(a)(5) of Public Law 105-178, as amended, \$320,000,000 are rescinded.

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For an additional amount for the “Emergency Relief Program”, as authorized by section 125 of title 23, United States Code, \$98,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION

BORDER ENFORCEMENT PROGRAM

(HIGHWAY TRUST FUND)

For necessary expenses of the Border Enforcement Program to respond to the September 11, 2001, terrorist attacks on the

United States, \$19,300,000, to be derived from the Highway Trust Fund, of which \$4,200,000 shall be to implement section 1012 of Public Law 107-56 (USA Patriot Act); \$10,000,000 shall be for drivers' license fraud detection and prevention, the northern border safety and security study, and hazardous material security education and outreach; and \$5,100,000 shall be for the purposes of coordinating drivers' license registration and social security number verification: *Provided*, That in connection with such commercial drivers' license fraud deterrence projects, the Secretary may enter into such contracts or grants with the American Association of Motor Vehicle Administrators, States, or other persons as the Secretary may so designate to carry out these purposes: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

HAZARDOUS MATERIALS SECURITY

(HIGHWAY TRUST FUND)

For necessary expenses to implement the hazardous materials safety permit program pursuant to 49 U.S.C. 5109, \$5,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in such Act is transmitted by the President to the Congress.

FEDERAL RAILROAD ADMINISTRATION

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

For an additional amount for the National Railroad Passenger Corporation for expenses to ensure the continuation of rail passenger operations, \$205,000,000.

FEDERAL TRANSIT ADMINISTRATION

CAPITAL INVESTMENT GRANTS

For an additional amount for "Capital Investment Grants" for emergency expenses to respond to the September 11, 2001, terrorist attacks in New York City, \$1,800,000,000, to remain available until expended to replace, rebuild, or enhance the public transportation systems serving the Borough of Manhattan, New York City, New York: *Provided*, That the Secretary may use up to 1 percent of this amount for oversight activities: *Provided further*, That these funds are subject to grant requirements as determined by the Secretary to ensure that eligible projects will improve substantially the mobility of commuters in Lower Manhattan: *Provided further*, That the Federal share for any project funded from this amount shall be 100 percent: *Provided further*, That these funds are in addition to any other appropriation available for these purposes: *Provided further*, That the entire amount is designated by the

Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1101. Notwithstanding any other provision of law, projects and activities designated on pages 82 through 92 of House Report 107-308 shall be eligible for fiscal year 2002 funds made available for the program for which each project or activity is so designated and projects and activities on pages 116 and 117 shall be awarded those grants upon receipt of an application.

115 Stat. 861.

SEC. 1102. Section 335 of Public Law 107-87 is amended by inserting “and the Transportation Security Administration” after “the Federal Aviation Administration”; by inserting “, aviation security” after “air navigation”, and by inserting “and the TSA for necessary security checkpoints” after the word “facilities”.

16 USC 1851
note; 46 USC
12102; 46 USC
app. 1274 note.

SEC. 1103. Title II of Division C of Public Law 105-277 is amended by striking “of more than 750 gross registered tons” in each place it appears, and inserting in lieu thereof, “of more than 750 gross registered tons (as measured under chapter 145 of title 46) or 1,900 gross registered tons as measured under chapter 143 of that title)”.

SEC. 1104. Section 354 of Public Law 106-346 (114 Stat. 1356A-35) is amended by inserting “or Nail Road” after “Star Landing Road”.

SEC. 1105. Notwithstanding any other provision of law, \$2,750,000 of amounts made available for “Intelligent Transportation Systems” in Public Law 107-87 and Public Law 106-346 shall be made available for activities authorized under section 5118 of Public Law 105-178.

CHAPTER 12

DEPARTMENT OF THE TREASURY

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” for expenses of expanded law enforcement training workload resulting from the September 11, 2001 terrorist attacks against the United States, \$15,870,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

(RESCISSION)

Of the unobligated balance as of June 30, 2002, of the funds made available for “Financial Management Service, Salaries and Expenses” in chapter 10 of title II of Public Law 107-20, \$14,000,000 are rescinded.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$39,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

INTERNAL REVENUE SERVICE

INFORMATION SYSTEMS

(RESCISSION)

Of the available balances under this heading, \$10,000,000 are rescinded.

BUSINESS SYSTEMS MODERNIZATION

For an additional amount for “Internal Revenue Service, Business Systems Modernization”, \$14,000,000, to remain available until September 30, 2003. Such additional amount may not be obligated until the Internal Revenue Service submits to the Committees on Appropriations, and such Committees approve, a plan for the expenditure of such additional amount that complies with the requirements as specified in clauses (1) through (6) under such heading in Public Law 107-67.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses” for expenses related to the September 11, 2001 terrorist attacks against the United States, \$28,530,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as

an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For an additional amount for “Payment to the Postal Service Fund” for emergency expenses to enable the Postal Service to protect postal employees and postal customers from exposure to biohazardous material and to sanitize and screen the mail, \$87,000,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$3,800,000, to remain available until expended: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

(RESCISSION)

Of the funds made available under this heading in Public Law 107-67, \$100,000 are rescinded.

ELECTION ADMINISTRATION REFORM AND RELATED EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the implementation of an Act authorizing funds for the improvement of election administration and related expenses, \$400,000,000, to remain available until expended: *Provided*, That such amounts shall not be available for obligation until the enactment of such Act: *Provided further*, That upon enactment of such Act, the Director of the Office of Management and Budget shall transfer such amounts to the Federal entities authorized by such Act to expend funds for the designated purposes: *Provided further*, That, within 15 days of such transfers, the Director of the Office of Management and Budget shall notify Congress of the amounts transferred to each authorized Federal entity: *Provided further*, That the entities to which the amounts are transferred shall use the amounts to carry out the applicable provisions of such Act: *Provided further*, That the transfer authority provided in this paragraph shall be in addition to any other transfer authority provided in this or any other Act: *Provided further*, That the entire

Deadline.
Notification.

amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

INDEPENDENT AGENCIES

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For an additional amount for “Salaries and Expenses”, \$750,000 for unanticipated costs associated with implementing the Bipartisan Campaign Reform Act.

GENERAL SERVICES ADMINISTRATION

REAL PROPERTY ACTIVITIES

FEDERAL BUILDINGS FUND

For an additional amount for “Federal Buildings Fund” for building security emergency expenses resulting from the September 11, 2001, terrorist attacks on the United States, \$21,800,000: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1201. None of the funds appropriated in this or any other Act may be used to transfer the functions, missions, or activities of the United States Customs Service to the Department of Justice.

SEC. 1202. (a) The Federal Law Enforcement Training Center may, for a period ending not later than 5 years after the date of the enactment of this Act, appoint and maintain a cadre of up to 250 Federal annuitants: (1) without regard to any provision of title 5, United States Code, which might otherwise require the application of competitive hiring procedures; and (2) who shall not be subject to any reduction in pay (for annuity allocable to the period of actual employment) under the provisions of section 8344 or 8468 of such title 5 or similar provision of any other retirement system for employees. A reemployed Federal annuitant as to whom a waiver of reduction under paragraph (2) applies shall not, for any period during which such waiver is in effect, be considered an employee for purposes of subchapter III of chapter 83 or chapter 84 of title 5, United States Code, or such other retirement system (referred to in paragraph (2)) as may apply.

(b) No appointment under this section may be made which would result in the displacement of any employee.

(c) For purposes of this section—

(1) the term “Federal annuitant” means an employee who has retired under the Civil Service Retirement System, the

Deadline.
42 USC 3771
note.

Federal Employees' Retirement System, or any other retirement system for employees;

(2) the term "employee" has the meaning given such term by section 2105 of such title 5; and

(3) the counting of Federal annuitants shall be done on a full time equivalent basis.

20 USC 5207.

SEC. 1203. Notwithstanding any other provision of law, hereafter, for purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), the Eisenhower Exchange Fellowship Program shall be deemed an executive agency for the purposes of carrying out the provisions of 20 U.S.C. 5201, and the employees of and participants in the Eisenhower Exchange Fellowship Program shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency have such access.

CHAPTER 13

DEPARTMENT OF VETERANS AFFAIRS

VETERANS BENEFITS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", \$1,100,000,000, to remain available until expended.

VETERANS HEALTH ADMINISTRATION

MEDICAL CARE

38 USC 1729
note.

For an additional amount for "Medical care", \$417,000,000, to remain available until September 30, 2003: *Provided*, That the funds provided herein be allocated using the VERA methodology: *Provided further*, That for the purposes of enabling the collection from third-party insurance carriers for non-service related medical care of veterans, all Department of Veterans Affairs healthcare facilities are hereby certified as Medicare and Medicaid providers and the Centers for Medicare and Medicaid Services within the Department of Health and Human Services shall issue each Department of Veterans Affairs healthcare facility a provider number as soon as practicable after the date of enactment of this Act: *Provided further*, That nothing in the preceding proviso shall be construed to enable the Department of Veterans Affairs to bill Medicare or Medicaid for any medical services provided by the Veterans Health Administration or to require the Centers for Medicare and Medicaid Services to pay for any medical services provided by the Department of Veterans Affairs: *Provided further*, That \$275,000,000 is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$275,000,000 shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PUBLIC AND INDIAN HOUSING

HOUSING CERTIFICATE FUND

(RESCISSION)

Of the unobligated balances remaining from funds appropriated to the Department of Housing and Urban Development under this heading or the heading “Annual contributions for assisted housing” or any other heading for fiscal year 2002 and prior years, \$388,500,000 is hereby rescinded: *Provided*, That this rescission shall apply first to such unobligated balances under this heading or the heading “Annual contributions for assisted housing”: *Provided further*, That any unobligated balances governed by reallocation provisions under the statute authorizing the program for which the funds were originally appropriated may be available for this rescission subject to the first proviso.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for the “Community development fund” for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, \$783,000,000, to remain available until expended: *Provided*, That the State of New York, in cooperation with the City of New York, shall, through the Lower Manhattan Development Corporation, distribute these funds: *Provided further*, That such funds may be used for assistance for properties and businesses (including the restoration of utility infrastructure) damaged by, and for economic revitalization directly related to, the terrorist attacks on the United States that occurred on September 11, 2001, in New York City and for reimbursement to the State and City of New York for expenditures incurred from the regular Community Development Block Grant formula allocation used to achieve these same purposes: *Provided further*, That the State of New York is authorized to provide such assistance to the City of New York: *Provided further*, That in administering these funds and funds under section 108 of title I of the Housing and Community Development Act of 1974, as amended, used for economic revitalization activities in New York City, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds or guarantees (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the use of such funds or guarantees: *Provided further*, That such funds shall not adversely affect the amount of any formula assistance received by the State of New York, New York City, or any categorical application for other Federal assistance: *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation that the Secretary administers pursuant to title I of the Housing and Community Development Act of 1974, as amended, no later than 5 days before

Federal Register,
publication.
Deadline.

Notification.
Deadline.

the effective date of such waiver: *Provided further*, That the Secretary shall notify the Committees on Appropriations on the proposed allocation of any funds and any related waivers pursuant to this section no later than 5 days before such allocation: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

The referenced statement of the managers under the heading “Community development block grants” in title II of Public Law 105-276 is deemed to be amended by striking “\$250,000 for renovation, accessibility, and asbestos remediation for the Wellstone Neighborhood Center, Wellstone, Missouri” and insert in lieu thereof “\$250,000 for the St. Louis Economic Council for design, infrastructure and construction related to the Enterprise Center-Wellstone in Wellstone, Missouri”.

The referenced statement of the managers under the heading “Community development fund” in title II of Public Law 106-377 is deemed to be amended by striking “\$2,000,000 is for the Louisville Community Development Bank for the Louisville Neighborhood Initiative” and inserting “\$2,000,000 for neighborhood revitalization activities in Louisville, Kentucky, as follows: \$170,000 to the Christian Church Homes of Kentucky for facility upgrades at Chapel House, \$500,000 to the Louisville Medical Center Development Corporation for expansion of a research park, \$400,000 to the Louisville Science Center for construction of a permanent exhibition, \$150,000 to the New Zion Community Development Foundation for renovation of a facility, \$400,000 to the Presbyterian Community Center for construction of a facility, \$180,000 to the St. Stephen Family Life Center for renovation of a facility, and \$200,000 to the United Crescent Hill Ministries for renovation of a facility”.

The referenced statement of the managers under the heading “Community development fund” in title II of Public Law 106-377 is deemed to be amended by striking “\$1,000,000 for the Community Action Agency of Southern New Mexico, Inc. for construction of a regional food bank and supporting offices” and insert in lieu thereof “\$1,000,000 for the Community Action Agency of Southern New Mexico for construction, purchase, or renovation and the equipping of a regional food bank and supporting offices”.

The referenced statement of the managers under the heading “Community development fund” in title II of Public Law 107-73 is deemed to be amended by striking “\$400,000 to the City of Reading, Pennsylvania for the development of the Morgantown Road Industrial Park on what is currently a brownfields site” and insert in lieu thereof “\$400,000 for the City of Reading, Pennsylvania for the development of the American Chain and Cable brownfield site”.

The referenced statement of the managers under the heading “Community development fund” in title II of Public Law 107-73 is deemed to be amended by striking “\$750,000 for the Smart Start Child Care Center and Expertise School of Las Vegas, Nevada for construction of a child care facility” and insert in lieu thereof “\$250,000 for the Smart Start Child Care Center of Las Vegas, Nevada for construction of a child care facility and \$500,000 for Expertise, Inc. of Las Vegas, Nevada for job training”.

The referenced statement of the managers under the heading “Community development fund” in title II of Public Law 107-73 is deemed to be amended by striking “\$3,000,000 for the Louisville Community Development Bank for continuation of the Louisville Neighborhood Initiative” and inserting “\$3,000,000 for neighborhood revitalization activities in Louisville, Kentucky, as follows: \$250,000 to the Bridgehaven Mental Health Agency for planning and development of a facility, \$600,000 to the Cable Life Community Enrichment Corporation for construction of a facility, \$350,000 to Catholic Charities for renovation of a facility, \$500,000 to the Center for Women and Families for an affordable housing program, \$100,000 to the Clifton Cultural Center for renovation of a historic building, \$200,000 to Harrods Creek Community Development for construction of a facility, \$200,000 to the James Taylor Memorial Home for facility improvements, \$600,000 to the Kentucky Art and Craft Foundation for renovation of a facility, and \$200,000 to the Shelby Park Neighborhood Association for facility construction”.

The referenced statement of the managers under the heading “Community development block grants” in title II of Public Law 106-74 is deemed to be amended with respect to the amount made available for the City of Hollister, California by striking “to the City of Hollister, California for the construction of a new fire station” and inserting “to the Monterey County, California Economic Development Agency for a mobile animal slaughter processing unit”.

The unobligated amount appropriated in the third paragraph under the heading “Community development block grants” in chapter 8 of title II of the Emergency Supplemental Act, 2000 (Public Law 106-246; 114 Stat. 565), as subsequently made available under the heading “Community development fund” in chapter 13 of Division A of the Miscellaneous Appropriations Act, 2001 (H.R. 5666 (excluding section 123), 106th Congress, as enacted into law by Public Law 106-554; 114 Stat. 2763D-42), for a grant to the County of Richmond, North Carolina, shall remain available until September 30, 2003, for development and construction of the Richmond County Industrial Park.

The referenced statement of the managers under this heading in title II of Public Law 106-377 is deemed to be amended by striking “\$300,000 for Upper Darby Township, Pennsylvania to assist residents with homes that are sinking due to soil subsidence” and insert in lieu thereof “\$300,000 for Upper Darby Township, Pennsylvania to assist residents with homes that are sinking due to soil subsidence and for the development of a recreation area, including parking, at Shadeland Avenue”.

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking “\$150,000 to Winchester County, Virginia for the historic restoration of the Winchester County Courthouse” and inserting “\$150,000 to Frederick County, Virginia for the historic restoration of the Old Frederick County Courthouse in Winchester, Virginia”.

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended with respect to the amount made available for Family Focus by striking “Family Focus” and inserting “the Weissbourd-Holmes Family Focus Center” and by striking “Evansville” and inserting “Evanston”.

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking

“\$100,000 for Morristown Neighborhood House for the infrastructure improvements to the Manahan Village Resident Center Childcare facility in Morristown, New Jersey” and inserting “\$100,000 to the Somerset Valley YMCA Childcare Center in Somerset County, New Jersey for capital improvements”.

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking “\$600,000 to the Reuben Lindh Family Services in Minneapolis, Minnesota for facilities rehabilitation” and inserting in lieu thereof “\$350,000 to the Plymouth Christian Youth Center in Minneapolis, Minnesota for facilities rehabilitation and \$250,000 to Migizi Communications in Minneapolis, Minnesota to repair and renovate its Family Education Center”.

HOME INVESTMENT PARTNERSHIPS PROGRAM

(RESCISSION)

Of the funds made available under this heading in Public Law 107-73, \$50,000,000 are rescinded from the Downpayment Assistance Initiative.

HOUSING PROGRAMS

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 2002 by not more than \$300,000,000 in uncommitted balances of authorizations of contract authority provided for this purpose in appropriations acts: *Provided*, That up to \$300,000,000 of recaptured section 236 budget authority resulting from the prepayment of mortgages subsidized under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall be rescinded in fiscal year 2002.

INDEPENDENT AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

NATIONAL INSTITUTES OF HEALTH

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For an additional amount for “National Institute of Environmental Health Sciences”, \$8,000,000, to remain available until September 30, 2003, to carry out activities set forth in section 311(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 126(g) of the Superfund Amendments and Reauthorization Act of 1986 in response to the September 11, 2001, terrorist attacks on the United States: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes

designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

AGENCY FOR TOXIC SUBSTANCES AND DISEASE REGISTRY

TOXIC SUBSTANCES AND ENVIRONMENTAL PUBLIC HEALTH

For an additional amount for “Toxic substances and environmental public health”, \$11,300,000, to remain available until September 30, 2003, of which \$1,800,000 is for additional expenses incurred in response to the September 11, 2001, terrorist attacks on the United States, and of which \$9,500,000 is to enhance the States’ capacity to respond to chemical terrorism events: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balance Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

ENVIRONMENTAL PROTECTION AGENCY

SCIENCE AND TECHNOLOGY

For an additional amount for “Science and technology”, \$50,000,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

ENVIRONMENTAL PROGRAMS AND MANAGEMENT

(TRANSFER OF FUNDS)

Of the amount appropriated under this heading in title III of Public Law 107-73 to develop engineering plans for addressing the wastewater infrastructure needs in Rosman, North Carolina as identified in project number 67, \$400,000 shall be transferred to the “State and tribal assistance grants” account to remain available until expended for grants for wastewater and sewer infrastructure improvements in the Town of Rosman, North Carolina.

STATE AND TRIBAL ASSISTANCE GRANTS

The referenced statement of the managers under this heading in Public Law 106-377 is deemed to be amended by striking everything after “\$1,000,000” in reference to item 91 and inserting “to the Northern Kentucky Area Development District for Carroll

County Wastewater Infrastructure Project (\$500,000), City of Owenton Water Collection and Treatment System Improvements and Freshwater Intake Project (\$400,000), Grant County Williamstown Lake Expansion Project (\$50,000), and Pendleton County Williamstown Lake Expansion Project (\$50,000)".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking everything after "for" in reference to item number 202 and inserting "storm water infrastructure improvements".

Grants appropriated under this heading in Public Law 107-73 for drinking water infrastructure needs in the New York City watershed shall be awarded under section 1443(d) of the Safe Drinking Water Act, as amended.

The referenced statement of the managers under this heading in Public Law 106-377 is deemed to be amended by striking everything after "\$2,000,000" in reference to item number 168 and inserting "for the Town of Wallace, North Carolina for a regional wastewater infrastructure improvement project (\$1,000,000), and for the Town of Cary, North Carolina for wastewater infrastructure improvements including the treatment of biosolids (\$1,000,000)".

The referenced statement of managers under this heading in Public Law 107-73 is deemed to be amended in item 19 by inserting the words "water and" after the word "for".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking everything after "sewer" in reference to item number 183 and inserting "and drinking water upgrade project in Anaconda, Montana".

The referenced statement of the managers under this heading in Public Law 107-73 is deemed to be amended by striking "the City of Florence, Montana" in reference to item number 184 and inserting "the Florence County Water and Sewer District".

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For an additional amount for "Disaster relief" for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States in carrying out the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), and the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), \$2,650,700,000, to remain available until expended: *Provided*, That in administering the Mortgage and Rental Assistance Program for victims of September 11, 2001, the Federal Emergency Management Agency will recognize those people who were either directly employed in the Borough of Manhattan or had at least 75 percent of their wages coming from business conducted within the Borough of Manhattan as eligible for assistance under the program, as they were directly impacted by the terrorist attacks: *Provided further*, That FEMA shall provide compensation to previously denied Mortgage and Rental Assistance Program applicants who would qualify under these new guidelines: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

DISASTER ASSISTANCE FOR UNMET NEEDS

For an additional amount for “Disaster assistance for unmet needs”, \$23,200,000, to remain available until September 30, 2004, for use by the Director of the Federal Emergency Management Agency (Director) only for disaster relief, long-term recovery, and mitigation in communities affected by Presidentially-declared natural disasters designated during fiscal year 2002, only to the extent funds are not made available for those activities by the Federal Emergency Management Agency (under its “Disaster relief” program) or the Small Business Administration: *Provided*, That in administering these funds the Director shall allocate these funds to States to be administered by each State in conjunction with its Federal Emergency Management Agency Disaster Relief program: *Provided further*, That each State shall provide not less than 25 percent in non-Federal public matching funds or its equivalent value (other than administrative costs) for any funds allocated to the State under this heading: *Provided further*, That the Director shall allocate these funds based on the unmet needs arising from a Presidentially-declared disaster as identified by the Director as those which have not or will not be addressed by other Federal disaster assistance programs and for which it is deemed appropriate to supplement the efforts and available resources of States, local governments and disaster relief organizations: *Provided further*, That the Director shall establish review groups within the Federal Emergency Management Agency to review each request by a State of its unmet needs and certify as to the actual costs associated with the unmet needs as well as the commitment and ability of each State to provide its match requirement: *Provided further*, That the Director shall publish a notice in the Federal Register governing the allocation and use of the funds under this heading, including provisions for ensuring the compliance of the States with the requirements of this program: *Provided further*, That 10 days prior to distribution of funds, the Director shall submit a list to the House and Senate Committees on Appropriations setting forth the proposed uses of funds and the most recent estimates of unmet needs: *Provided further*, That the Director shall submit quarterly reports to said Committees regarding the actual projects and needs for which funds have been provided under this heading: *Provided further*, That to the extent any funds under this heading are used in a manner inconsistent with the requirements of the program established under this heading and rules issued pursuant thereto, the Director shall recapture an equivalent amount of funds from the State from any existing funds or future funds awarded to the State under this heading or any other program administered by the Federal Emergency Management Agency: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

Notice.
Federal Register,
publication.

Records.

Reports.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For an additional amount for “Emergency management planning and assistance” for emergency expenses to respond to the September 11, 2001, terrorist attacks on the United States, \$447,200,000, to remain available until September 30, 2003, of which \$150,000,000 is for programs as authorized by section 33 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.); \$54,200,000 for the existing national urban search and rescue system; and \$50,000,000 for interoperable communications equipment: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That \$221,800,000 shall be available only to the extent an official budget request, that includes designation of the \$221,800,000 as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

CERRO GRANDE FIRE CLAIMS

For an additional amount for “Cerro Grande fire claims”, \$61,000,000 for claims resulting from the Cerro Grande fires, to remain available until September 30, 2003: *Provided*, That up to 5 percent of the amount made available under this heading may be used for administrative costs: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further*, That the entire amount shall be available only to the extent an official budget request that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to the Congress.

NATIONAL SCIENCE FOUNDATION

EDUCATION AND HUMAN RESOURCES

For an additional amount for “Education and human resources” for emergency expenses to respond to emergent needs in cyber security, \$19,300,000, to remain available until September 30, 2003: *Provided*, That the entire amount is designated by the Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended.

GENERAL PROVISIONS—THIS CHAPTER

SEC. 1301. Notwithstanding the first paragraph of the item in title II of Public Law 107–73 relating to “Federal housing administration, Mutual mortgage insurance program account”, during fiscal year 2002, commitments to guarantee loans to carry out the purposes of section 203(b) of the National Housing Act shall not exceed a loan principal of \$165,000,000,000.

SEC. 1302. Notwithstanding the first paragraph of the item in title II of Public Law 107-73 related to “Federal housing administration, General and special risk program account”, any amounts made available for fiscal year 2002 for the cost of guaranteed loans, as authorized by sections 238 and 519 of the National Housing Act (12 U.S.C. 1715z-3 and 1735c), including the cost of loan guarantee modifications (as that term is defined in section 502 of the Congressional Budget Act of 1974), shall be available to subsidize total loan principal, any part of which is to be guaranteed, of up to \$23,000,000,000.

SEC. 1303. The Secretary of Housing and Urban Development shall begin to enter into new agreements and contracts pursuant to the Asset Control Area Demonstration Program as provided in section 602 of Public Law 105-276 not later than September 15, 2002: *Provided*, That any agreement or contract entered into pursuant to such program shall be consistent with the requirements of such section 602: *Provided further*, That the Department shall develop proposed regulations for this program not later than September 15, 2002.

12 USC 1710
note.
Contracts.

Regulations.
Deadline.

SEC. 1304. The Secretary of Housing and Urban Development shall submit a report every 90 days to the House and Senate Committees on Appropriations on the status of any multifamily housing project (including all hospitals and nursing homes) insured under the National Housing Act that has been in default for longer than 60 days. The report shall include the location of the property, the reason for the default, and all actions taken by the Secretary and owner with regard to the default, including any work-out agreements, the status and terms of any assistance or loans, and any transfer of an ownership interest in the property (including any assistance or loans made to the prior, current or intended owner of the property or to the local unit of government in which the property is located). The initial report shall be submitted no later than September 16, 2002.

Reports.

Deadline.

SEC. 1305. For purposes of facilitating the sale of Stafford Apartments (FHA Project No: 052-44163) for use as student housing—

(1) the Secretary of Housing and Urban Development shall renew the section 8 contract that was associated with such property and that expired during fiscal year 2001 at rent levels not to exceed market rents as determined by the Secretary, subject to annual operating cost adjustment factor increases, and subject to such other conditions as the Secretary may determine appropriate, and the renewal of such contract shall be deemed to have taken effect as of October 1, 2001;

Effective date.

(2) prior to sale of this property for student housing, any funds remaining in the property's residual receipts and reserve for replacement accounts shall be used in connection with the relocation of tenants under this section, and any remaining amounts shall be returned to the Secretary;

(3) subject to the concurrence by the Secretary with the relocation plan for current tenants, the payment in full of mortgages on this property insured pursuant to sections 236(j) and 241(a) of the National Housing Act and the resultant termination of the insurance contracts associated with those mortgages, the payment in full of the loan on this property made pursuant to section 201 of the Housing and Community Development Amendments of 1978, and, as of the date of sale,

the termination of any assistance under section 236(f)(2) of the National Housing Act and section 8 of the United States Housing Act of 1937 and the return to the Secretary of any such assistance that has not been expended, such property may be sold for use as student housing, notwithstanding any federal use restrictions required pursuant to section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a) and section 250 of the National Housing Act (12 U.S.C. 1715z-15);

(4) upon the concurrence by the Secretary of such relocation plan and the sale of such property for use as student housing, all of the tenants of such property shall be relocated and shall receive, subject to the availability of funds, tenant-based assistance under section 8(o) of the United States Housing Act of 1937, notwithstanding any rights of such tenants to elect to remain in such property pursuant to section 8(t) of such Act (42 U.S.C. 1437f(t)) or to receive enhanced voucher assistance under such section; and

(5) the provisions of this section shall only remain effective for 24 months from the date of enactment of this section.

Effective date.

CHAPTER 14

GENERAL PROVISIONS

SEC. 1401. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 1402. Notwithstanding any other provision of law, all adjustments made pursuant to section 251(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 to the highway category and to section 8103(a)(5) of the Transportation Equity Act for the 21st Century for fiscal year 2003 shall be deemed to be zero. This section shall apply immediately to all reports issued pursuant to section 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal year 2003, including the discretionary sequester preview report.

FEDERAL ADMINISTRATIVE AND TRAVEL EXPENSES

(RESCISSIONS)

SEC. 1403. (a) Of the funds available to the agencies of the Federal Government from prior Appropriations Acts, \$350,000,000 are hereby rescinded: *Provided*, That rescissions pursuant to this subsection shall be taken only from administrative and travel accounts: *Provided further*, That rescissions shall be taken on a pro rata basis from funds available to every Federal agency, department, and office in the executive branch, including the Office of the President.

Deadline.
Records.

(b) Within 30 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall submit to the Committees on Appropriations of the House of Representatives and the Senate a listing of the amounts by account of the reductions made pursuant to the provisions of subsection (a) of this section: *Provided*, That the Office of Management and Budget shall also include with such listing an explanation of the

methodology used to identify the offices, accounts, and amounts to be reduced.

SEC. 1404. Any amount appropriated in this Act for which availability is made contingent by a provision of this Act on designation by the President as an emergency requirement pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 shall not be available for obligation unless all such contingent amounts are designated by the President, within 30 days of enactment of this Act, as such emergency requirements.

TITLE II—AMERICAN SERVICE- MEMBERS’ PROTECTION ACT

American
Servicemembers’
Protection Act of
2002.

SEC. 2001. SHORT TITLE.

This title may be cited as the “American Servicemembers’ Protection Act of 2002”.

22 USC 7401
note.

SEC. 2002. FINDINGS.

22 USC 7421.

Congress makes the following findings:

(1) On July 17, 1998, the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, meeting in Rome, Italy, adopted the “Rome Statute of the International Criminal Court”. The vote on whether to proceed with the statute was 120 in favor to 7 against, with 21 countries abstaining. The United States voted against final adoption of the Rome Statute.

(2) As of April 30, 2001, 139 countries had signed the Rome Statute and 30 had ratified it. Pursuant to Article 126 of the Rome Statute, the statute will enter into force on the first day of the month after the 60th day following the date on which the 60th country deposits an instrument ratifying the statute.

(3) Since adoption of the Rome Statute, a Preparatory Commission for the International Criminal Court has met regularly to draft documents to implement the Rome Statute, including Rules of Procedure and Evidence, Elements of Crimes, and a definition of the Crime of Aggression.

(4) During testimony before the Congress following the adoption of the Rome Statute, the lead United States negotiator, Ambassador David Scheffer stated that the United States could not sign the Rome Statute because certain critical negotiating objectives of the United States had not been achieved. As a result, he stated: “We are left with consequences that do not serve the cause of international justice.”.

(5) Ambassador Scheffer went on to tell the Congress that: “Multinational peacekeeping forces operating in a country that has joined the treaty can be exposed to the Court’s jurisdiction even if the country of the individual peacekeeper has not joined the treaty. Thus, the treaty purports to establish an arrangement whereby United States armed forces operating overseas could be conceivably prosecuted by the international court even if the United States has not agreed to be bound by the treaty. Not only is this contrary to the most fundamental principles of treaty law, it could inhibit the ability of the United States to use its military to meet alliance obligations and participate

in multinational operations, including humanitarian interventions to save civilian lives. Other contributors to peacekeeping operations will be similarly exposed.”.

(6) Notwithstanding these concerns, President Clinton directed that the United States sign the Rome Statute on December 31, 2000. In a statement issued that day, he stated that in view of the unremedied deficiencies of the Rome Statute, “I will not, and do not recommend that my successor submit the Treaty to the Senate for advice and consent until our fundamental concerns are satisfied”.

(7) Any American prosecuted by the International Criminal Court will, under the Rome Statute, be denied procedural protections to which all Americans are entitled under the Bill of Rights to the United States Constitution, such as the right to trial by jury.

(8) Members of the Armed Forces of the United States should be free from the risk of prosecution by the International Criminal Court, especially when they are stationed or deployed around the world to protect the vital national interests of the United States. The United States Government has an obligation to protect the members of its Armed Forces, to the maximum extent possible, against criminal prosecutions carried out by the International Criminal Court.

(9) In addition to exposing members of the Armed Forces of the United States to the risk of international criminal prosecution, the Rome Statute creates a risk that the President and other senior elected and appointed officials of the United States Government may be prosecuted by the International Criminal Court. Particularly if the Preparatory Commission agrees on a definition of the Crime of Aggression over United States objections, senior United States officials may be at risk of criminal prosecution for national security decisions involving such matters as responding to acts of terrorism, preventing the proliferation of weapons of mass destruction, and deterring aggression. No less than members of the Armed Forces of the United States, senior officials of the United States Government should be free from the risk of prosecution by the International Criminal Court, especially with respect to official actions taken by them to protect the national interests of the United States.

(10) Any agreement within the Preparatory Commission on a definition of the Crime of Aggression that usurps the prerogative of the United Nations Security Council under Article 39 of the charter of the United Nations to “determine the existence of any act of aggression” would contravene the charter of the United Nations and undermine deterrence.

(11) It is a fundamental principle of international law that a treaty is binding upon its parties only and that it does not create obligations for nonparties without their consent to be bound. The United States is not a party to the Rome Statute and will not be bound by any of its terms. The United States will not recognize the jurisdiction of the International Criminal Court over United States nationals.

SEC. 2003. WAIVER AND TERMINATION OF PROHIBITIONS OF THIS TITLE. 22 USC 7422.

(a) **AUTHORITY TO INITIALLY WAIVE SECTIONS 5 AND 7.**—The President is authorized to waive the prohibitions and requirements of sections 2005 and 2007 for a single period of 1 year. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court has entered into a binding agreement that—

(A) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(i) covered United States persons;

(ii) covered allied persons; and

(iii) individuals who were covered United States persons or covered allied persons; and

(B) ensures that no person described in subparagraph (A) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court.

(b) **AUTHORITY TO EXTEND WAIVER OF SECTIONS 5 AND 7.**—The President is authorized to waive the prohibitions and requirements of sections 2005 and 2007 for successive periods of 1 year each upon the expiration of a previous waiver pursuant to subsection (a) or this subsection. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that the International Criminal Court—

(A) remains party to, and has continued to abide by, a binding agreement that—

(i) prohibits the International Criminal Court from seeking to exercise jurisdiction over the following persons with respect to actions undertaken by them in an official capacity:

(I) covered United States persons;

(II) covered allied persons; and

(III) individuals who were covered United States persons or covered allied persons; and

(ii) ensures that no person described in clause (i) will be arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court; and

(B) has taken no steps to arrest, detain, prosecute, or imprison any person described in clause (i) of subparagraph (A).

(c) **AUTHORITY TO WAIVE SECTIONS 4 AND 6 WITH RESPECT TO AN INVESTIGATION OR PROSECUTION OF A NAMED INDIVIDUAL.**—The President is authorized to waive the prohibitions and requirements of sections 2004 and 2006 to the degree such prohibitions and requirements would prevent United States cooperation with

an investigation or prosecution of a named individual by the International Criminal Court. A waiver under this subsection may be issued only if the President at least 15 days in advance of exercising such authority—

(1) notifies the appropriate congressional committees of the intention to exercise such authority; and

(2) determines and reports to the appropriate congressional committees that—

(A) a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 2005 and 2007 is in effect;

(B) there is reason to believe that the named individual committed the crime or crimes that are the subject of the International Criminal Court's investigation or prosecution;

(C) it is in the national interest of the United States for the International Criminal Court's investigation or prosecution of the named individual to proceed; and

(D) in investigating events related to actions by the named individual, none of the following persons will be investigated, arrested, detained, prosecuted, or imprisoned by or on behalf of the International Criminal Court with respect to actions undertaken by them in an official capacity:

(i) Covered United States persons.

(ii) Covered allied persons.

(iii) Individuals who were covered United States persons or covered allied persons.

(d) **TERMINATION OF WAIVER PURSUANT TO SUBSECTION (c).**—Any waiver or waivers exercised pursuant to subsection (c) of the prohibitions and requirements of sections 2004 and 2006 shall terminate at any time that a waiver pursuant to subsection (a) or (b) of the prohibitions and requirements of sections 2005 and 2007 expires and is not extended pursuant to subsection (b).

(e) **TERMINATION OF PROHIBITIONS OF THIS TITLE.**—The prohibitions and requirements of sections 2004, 2005, 2006, and 2007 shall cease to apply, and the authority of section 2008 shall terminate, if the United States becomes a party to the International Criminal Court pursuant to a treaty made under article II, section 2, clause 2 of the Constitution of the United States.

22 USC 7423.

SEC. 2004. PROHIBITION ON COOPERATION WITH THE INTERNATIONAL CRIMINAL COURT.

(a) **APPLICATION.**—The provisions of this section—

(1) apply only to cooperation with the International Criminal Court and shall not apply to cooperation with an ad hoc international criminal tribunal established by the United Nations Security Council before or after the date of the enactment of this Act to investigate and prosecute war crimes committed in a specific country or during a specific conflict; and

(2) shall not prohibit—

(A) any action permitted under section 2008; or

(B) communication by the United States of its policy with respect to a matter.

(b) **PROHIBITION ON RESPONDING TO REQUESTS FOR COOPERATION.**—Notwithstanding section 1782 of title 28, United States Code, or any other provision of law, no United States Court, and no

agency or entity of any State or local government, including any court, may cooperate with the International Criminal Court in response to a request for cooperation submitted by the International Criminal Court pursuant to the Rome Statute.

(c) PROHIBITION ON TRANSMITTAL OF LETTERS ROGATORY FROM THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding section 1781 of title 28, United States Code, or any other provision of law, no agency of the United States Government may transmit for execution any letter rogatory issued, or other request for cooperation made, by the International Criminal Court to the tribunal, officer, or agency in the United States to whom it is addressed.

(d) PROHIBITION ON EXTRADITION TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government may extradite any person from the United States to the International Criminal Court, nor support the transfer of any United States citizen or permanent resident alien to the International Criminal Court.

(e) PROHIBITION ON PROVISION OF SUPPORT TO THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no agency or entity of the United States Government or of any State or local government, including any court, may provide support to the International Criminal Court.

(f) PROHIBITION ON USE OF APPROPRIATED FUNDS TO ASSIST THE INTERNATIONAL CRIMINAL COURT.—Notwithstanding any other provision of law, no funds appropriated under any provision of law may be used for the purpose of assisting the investigation, arrest, detention, extradition, or prosecution of any United States citizen or permanent resident alien by the International Criminal Court.

(g) RESTRICTION ON ASSISTANCE PURSUANT TO MUTUAL LEGAL ASSISTANCE TREATIES.—The United States shall exercise its rights to limit the use of assistance provided under all treaties and executive agreements for mutual legal assistance in criminal matters, multilateral conventions with legal assistance provisions, and extradition treaties, to which the United States is a party, and in connection with the execution or issuance of any letter rogatory, to prevent the transfer to, or other use by, the International Criminal Court of any assistance provided by the United States under such treaties and letters rogatory.

(h) PROHIBITION ON INVESTIGATIVE ACTIVITIES OF AGENTS.—No agent of the International Criminal Court may conduct, in the United States or any territory subject to the jurisdiction of the United States, any investigative activity relating to a preliminary inquiry, investigation, prosecution, or other proceeding at the International Criminal Court.

SEC. 2005. RESTRICTION ON UNITED STATES PARTICIPATION IN CERTAIN UNITED NATIONS PEACEKEEPING OPERATIONS. 22 USC 7424.

(a) POLICY.—Effective beginning on the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, the President should use the voice and vote of the United States in the United Nations Security Council to ensure that each resolution of the Security Council authorizing any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter

of the United Nations permanently exempts, at a minimum, members of the Armed Forces of the United States participating in such operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by such personnel in connection with the operation.

(b) **RESTRICTION.**—Members of the Armed Forces of the United States may not participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations, the creation of which is authorized by the United Nations Security Council on or after the date that the Rome Statute enters into effect pursuant to Article 126 of the Rome Statute, unless the President has submitted to the appropriate congressional committees a certification described in subsection (c) with respect to such operation.

(c) **CERTIFICATION.**—The certification referred to in subsection (b) is a certification by the President that—

(1) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because, in authorizing the operation, the United Nations Security Council permanently exempted, at a minimum, members of the Armed Forces of the United States participating in the operation from criminal prosecution or other assertion of jurisdiction by the International Criminal Court for actions undertaken by them in connection with the operation;

(2) members of the Armed Forces of the United States are able to participate in the peacekeeping or peace enforcement operation without risk of criminal prosecution or other assertion of jurisdiction by the International Criminal Court because each country in which members of the Armed Forces of the United States participating in the operation will be present either is not a party to the International Criminal Court and has not invoked the jurisdiction of the International Criminal Court pursuant to Article 12 of the Rome Statute, or has entered into an agreement in accordance with Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against members of the Armed Forces of the United States present in that country; or

(3) the national interests of the United States justify participation by members of the Armed Forces of the United States in the peacekeeping or peace enforcement operation.

22 USC 7425.

SEC. 2006. PROHIBITION ON DIRECT OR INDIRECT TRANSFER OF CLASSIFIED NATIONAL SECURITY INFORMATION AND LAW ENFORCEMENT INFORMATION TO THE INTERNATIONAL CRIMINAL COURT.

(a) **IN GENERAL.**—Not later than the date on which the Rome Statute enters into force, the President shall ensure that appropriate procedures are in place to prevent the transfer of classified national security information and law enforcement information to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(b) **INDIRECT TRANSFER.**—The procedures adopted pursuant to subsection (a) shall be designed to prevent the transfer to the United Nations and to the government of any country that is

party to the International Criminal Court of classified national security information and law enforcement information that specifically relates to matters known to be under investigation or prosecution by the International Criminal Court, except to the degree that satisfactory assurances are received from the United Nations or that government, as the case may be, that such information will not be made available to the International Criminal Court for the purpose of facilitating an investigation, apprehension, or prosecution.

(c) CONSTRUCTION.—The provisions of this section shall not be construed to prohibit any action permitted under section 2008.

SEC. 2007. PROHIBITION OF UNITED STATES MILITARY ASSISTANCE TO PARTIES TO THE INTERNATIONAL CRIMINAL COURT. 22 USC 7426.

(a) PROHIBITION OF MILITARY ASSISTANCE.—Subject to subsections (b) and (c), and effective 1 year after the date on which the Rome Statute enters into force pursuant to Article 126 of the Rome Statute, no United States military assistance may be provided to the government of a country that is a party to the International Criminal Court.

(b) NATIONAL INTEREST WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that it is important to the national interest of the United States to waive such prohibition.

(c) ARTICLE 98 WAIVER.—The President may, without prior notice to Congress, waive the prohibition of subsection (a) with respect to a particular country if he determines and reports to the appropriate congressional committees that such country has entered into an agreement with the United States pursuant to Article 98 of the Rome Statute preventing the International Criminal Court from proceeding against United States personnel present in such country.

(d) EXEMPTION.—The prohibition of subsection (a) shall not apply to the government of—

- (1) a NATO member country;
- (2) a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand); or
- (3) Taiwan.

SEC. 2008. AUTHORITY TO FREE MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND CERTAIN OTHER PERSONS DETAINED OR IMPRISONED BY OR ON BEHALF OF THE INTERNATIONAL CRIMINAL COURT. 22 USC 7427.

(a) AUTHORITY.—The President is authorized to use all means necessary and appropriate to bring about the release of any person described in subsection (b) who is being detained or imprisoned by, on behalf of, or at the request of the International Criminal Court.

(b) PERSONS AUTHORIZED TO BE FREED.—The authority of subsection (a) shall extend to the following persons:

- (1) Covered United States persons.
- (2) Covered allied persons.
- (3) Individuals detained or imprisoned for official actions taken while the individual was a covered United States person

or a covered allied person, and in the case of a covered allied person, upon the request of such government.

(c) **AUTHORIZATION OF LEGAL ASSISTANCE.**—When any person described in subsection (b) is arrested, detained, investigated, prosecuted, or imprisoned by, on behalf of, or at the request of the International Criminal Court, the President is authorized to direct any agency of the United States Government to provide—

(1) legal representation and other legal assistance to that person (including, in the case of a person entitled to assistance under section 1037 of title 10, United States Code, representation and other assistance in the manner provided in that section);

(2) exculpatory evidence on behalf of that person; and

(3) defense of the interests of the United States through appearance before the International Criminal Court pursuant to Article 18 or 19 of the Rome Statute, or before the courts or tribunals of any country.

(d) **BRISES AND OTHER INDUCEMENTS NOT AUTHORIZED.**—This section does not authorize the payment of bribes or the provision of other such incentives to induce the release of a person described in subsection (b).

22 USC 7428.

SEC. 2009. ALLIANCE COMMAND ARRANGEMENTS.

Deadline.

(a) **REPORT ON ALLIANCE COMMAND ARRANGEMENTS.**—Not later than 6 months after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a report with respect to each military alliance to which the United States is party—

(1) describing the degree to which members of the Armed Forces of the United States may, in the context of military operations undertaken by or pursuant to that alliance, be placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court because they are nationals of a party to the International Criminal Court; and

(2) evaluating the degree to which members of the Armed Forces of the United States engaged in military operations undertaken by or pursuant to that alliance may be exposed to greater risks as a result of being placed under the command or operational control of foreign military officers subject to the jurisdiction of the International Criminal Court.

Deadline.

(b) **DESCRIPTION OF MEASURES TO ACHIEVE ENHANCED PROTECTION FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES.**—Not later than 1 year after the date of the enactment of this Act, the President should transmit to the appropriate congressional committees a description of modifications to command and operational control arrangements within military alliances to which the United States is a party that could be made in order to reduce any risks to members of the Armed Forces of the United States identified pursuant to subsection (a)(2).

(c) **SUBMISSION IN CLASSIFIED FORM.**—The report under subsection (a), and the description of measures under subsection (b), or appropriate parts thereof, may be submitted in classified form.

22 USC 7429.

SEC. 2010. WITHHOLDINGS.

Funds withheld from the United States share of assessments to the United Nations or any other international organization during any fiscal year pursuant to section 705 of the Admiral

James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted by section 1000(a)(7) of Public Law 106–113; 113 Stat. 1501A–460), are authorized to be transferred to the Embassy Security, Construction and Maintenance Account of the Department of State.

SEC. 2011. APPLICATION OF SECTIONS 2004 AND 2006 TO EXERCISE OF CONSTITUTIONAL AUTHORITIES. 22 USC 7430.

(a) IN GENERAL.—Sections 2004 and 2006 shall not apply to any action or actions with respect to a specific matter involving the International Criminal Court taken or directed by the President on a case-by-case basis in the exercise of the President’s authority as Commander in Chief of the Armed Forces of the United States under article II, section 2 of the United States Constitution or in the exercise of the executive power under article II, section 1 of the United States Constitution.

(b) NOTIFICATION TO CONGRESS.—

President.
Deadline.
Notification.

(1) IN GENERAL.—Subject to paragraph (2), not later than 15 days after the President takes or directs an action or actions described in subsection (a) that would otherwise be prohibited under section 2004 or 2006, the President shall submit a notification of such action to the appropriate congressional committees. A notification under this paragraph shall include a description of the action, a determination that the action is in the national interest of the United States, and a justification for the action.

(2) EXCEPTION.—If the President determines that a full notification under paragraph (1) could jeopardize the national security of the United States or compromise a United States law enforcement activity, not later than 15 days after the President takes or directs an action or actions referred to in paragraph (1) the President shall notify the appropriate congressional committees that an action has been taken and a determination has been made pursuant to this paragraph. The President shall provide a full notification under paragraph (1) not later than 15 days after the reasons for the determination under this paragraph no longer apply.

Deadline.
Notification.

(c) CONSTRUCTION.—Nothing in this section shall be construed as a grant of statutory authority to the President to take any action.

SEC. 2012. NONDELEGATION.

22 USC 7431.

The authorities vested in the President by sections 2003 and 2011(a) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law. The authority vested in the President by section 2005(c)(3) may not be delegated by the President pursuant to section 301 of title 3, United States Code, or any other provision of law to any official other than the Secretary of Defense, and if so delegated may not be subdelegated.

SEC. 2013. DEFINITIONS.

22 USC 7432.

As used in this title and in section 706 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means the Committee

on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) **CLASSIFIED NATIONAL SECURITY INFORMATION.**—The term “classified national security information” means information that is classified or classifiable under Executive Order 12958 or a successor Executive order.

(3) **COVERED ALLIED PERSONS.**—The term “covered allied persons” means military personnel, elected or appointed officials, and other persons employed by or working on behalf of the government of a NATO member country, a major non-NATO ally (including Australia, Egypt, Israel, Japan, Jordan, Argentina, the Republic of Korea, and New Zealand), or Taiwan, for so long as that government is not a party to the International Criminal Court and wishes its officials and other persons working on its behalf to be exempted from the jurisdiction of the International Criminal Court.

(4) **COVERED UNITED STATES PERSONS.**—The term “covered United States persons” means members of the Armed Forces of the United States, elected or appointed officials of the United States Government, and other persons employed by or working on behalf of the United States Government, for so long as the United States is not a party to the International Criminal Court.

(5) **EXTRADITION.**—The terms “extradition” and “extradite” mean the extradition of a person in accordance with the provisions of chapter 209 of title 18, United States Code, (including section 3181(b) of such title) and such terms include both extradition and surrender as those terms are defined in Article 102 of the Rome Statute.

(6) **INTERNATIONAL CRIMINAL COURT.**—The term “International Criminal Court” means the court established by the Rome Statute.

(7) **MAJOR NON-NATO ALLY.**—The term “major non-NATO ally” means a country that has been so designated in accordance with section 517 of the Foreign Assistance Act of 1961.

(8) **PARTICIPATE IN ANY PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.**—The term “participate in any peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations” means to assign members of the Armed Forces of the United States to a United Nations military command structure as part of a peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations in which those members of the Armed Forces of the United States are subject to the command or operational control of one or more foreign military officers not appointed in conformity with article II, section 2, clause 2 of the Constitution of the United States.

(9) **PARTY TO THE INTERNATIONAL CRIMINAL COURT.**—The term “party to the International Criminal Court” means a government that has deposited an instrument of ratification, acceptance, approval, or accession to the Rome Statute, and has not withdrawn from the Rome Statute pursuant to Article 127 thereof.

(10) **PEACEKEEPING OPERATION UNDER CHAPTER VI OF THE CHARTER OF THE UNITED NATIONS OR PEACE ENFORCEMENT OPERATION UNDER CHAPTER VII OF THE CHARTER OF THE UNITED NATIONS.**—The term “peacekeeping operation under chapter VI of the charter of the United Nations or peace enforcement operation under chapter VII of the charter of the United Nations” means any military operation to maintain or restore international peace and security that—

(A) is authorized by the United Nations Security Council under chapter VI or VII of the charter of the United Nations; and

(B) is paid for from assessed contributions of United Nations members that are made available for peacekeeping or peace enforcement activities.

(11) **ROME STATUTE.**—The term “Rome Statute” means the Rome Statute of the International Criminal Court, adopted by the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court on July 17, 1998.

(12) **SUPPORT.**—The term “support” means assistance of any kind, including financial support, transfer of property or other material support, services, intelligence sharing, law enforcement cooperation, the training or detail of personnel, and the arrest or detention of individuals.

(13) **UNITED STATES MILITARY ASSISTANCE.**—The term “United States military assistance” means—

(A) assistance provided under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.); or

(B) defense articles or defense services furnished with the financial assistance of the United States Government, including through loans and guarantees, under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

SEC. 2014. REPEAL OF LIMITATION.

The Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117) is amended by striking section 8173.

115 Stat. 2289.

SEC. 2015. ASSISTANCE TO INTERNATIONAL EFFORTS.

22 USC 7433.

Nothing in this title shall prohibit the United States from rendering assistance to international efforts to bring to justice Saddam Hussein, Slobodan Milosovic, Osama bin Laden, other members of Al Queda, leaders of Islamic Jihad, and other foreign nationals accused of genocide, war crimes or crimes against humanity.

TITLE III—OTHER MATTERS

SEC. 3001. AMENDMENTS TO THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

Section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (title II of Public Law 98–67; 19 U.S.C. 2703(b)(2)(A)) is amended—

(1) in clause (i), by adding at the end the following:

“Apparel articles shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel

articles shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.”; and (2) in clause (ii), by adding at the end the following:

“Apparel articles shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.”.

19 USC 3203
note.

(b) ANDEAN TRADE PREFERENCE ACT.—Any duty free or other preferential treatment provided under the Andean Trade Preference Act to apparel articles assembled from fabric formed in the United States shall apply to such articles only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled if the fabrics are knit fabrics, is carried out in the United States. Any duty-free or other preferential treatment provided under the Andean Trade Preference Act to apparel articles assembled from fabric formed in the United States shall apply to such articles only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled if the fabrics are woven fabrics, is carried out in the United States.

19 USC 2703
note.

(c) EFFECTIVE DATE.—Subsection (b) and the amendments made by subsection (a) shall take effect—

(1) 90 days after the date of the enactment of this Act,

or

(2) September 1, 2002,

whichever occurs first.

Rural Service
Improvement Act
of 2002.
Alaska.
Postal service.
39 USC 101 note.
39 USC 5402
note.

SEC. 3002. RURAL SERVICE IMPROVEMENT.

(a) SHORT TITLE.—This title may be cited as the “Rural Service Improvement Act of 2002”.

(b) FINDINGS.—Congress makes the following findings:

(1) The State of Alaska is the largest State in the Union and has a very limited system of roads connecting communities.

(2) Alaska has more pilots per capita than any other State in the Union.

(3) Pilots flying in Alaska are often the most skilled and best-prepared pilots in the world.

(4) Air travel within the State of Alaska is often hampered by severe weather conditions and treacherous terrain.

(5) The United States Government owns nearly $\frac{2}{3}$ of Alaska’s landmass, including large tracts of land separating isolated communities within the State.

(6) Such Federal ownership has inhibited the ability of Alaskans to build roads connecting isolated communities.

(7) Most communities and a large portion of the population within the State can only be reached by air.

(8) The vast majority of food items and everyday necessities destined for these isolated communities and populations can only be transported through the air.

(9) The Intra-Alaska Bypass Mail system, created by Congress and operated by the United States Postal Service under section 5402 of title 39, United States Code, with input from

the Department of Transportation, connecting hundreds of rural and isolated communities within the State, is a critical piece of the Alaska and the national transportation system. The system is like a 4-legged stool, designed to—

(A) provide the most affordable means of delivering food and everyday necessities to these rural and isolated communities;

(B) establish a system whereby the Postal Service can meet its obligations to deliver mail to every house and business in the United States;

(C) support affordable and reliable passenger service; and

(D) support affordable and reliable nonmail freight service.

(10) Without the Intra-Alaska Bypass Mail system—

(A) it would be difficult and more expensive for the Postal Service to meet its obligation of delivering mail to every house and business in the United States; and

(B) food, medicine, freight, and everyday necessities and passenger service for these rural and isolated communities would cost several times the current level.

(11) Attempts by Congress to support passenger and nonmail freight service in Alaska using the Intra-Alaska Bypass Mail system have yielded some positive results, but some carriers have been manipulating the system by carrying few, if any, passengers and little nonmail freight while earning most of their revenues from the carriage of nonpriority bypass mail.

(12) As long as the Federal Government continues to own large tracts of land within the State of Alaska which impede access to isolated communities, it is in the best interest of the Postal Service, the residents of Alaska and the United States—

(A) to ensure that the Intra-Alaska Bypass Mail system remains strong, viable, and affordable for the Postal Service;

(B) to ensure that residents of rural and isolated communities in Alaska continue to have affordable, reliable, and safe passenger service;

(C) to ensure that residents of rural and isolated communities in Alaska continue to have affordable, reliable, and safe nonmail freight service;

(D) to encourage that intra-Alaska air carriers move toward safer, more secure, and more reliable air transportation under the Federal Aviation Administration's guidelines and in accordance with part 121 of title 14, Code of Federal Regulations, where such operations are supported by the needs of the community; and

(E) that Congress, pursuant to the authority granted under Article I, section 8 of the United States Constitution to establish Post Offices and post roads, make changes to ensure that the Intra-Alaska Bypass Mail system continues to be used to support substantial passenger and nonmail freight service and to reduce costs for the Postal Service.

(c) SELECTION OF CARRIERS OF NONPRIORITY BYPASS MAIL TO CERTAIN POINTS IN ALASKA.—

(1) DEFINITIONS.—Section 5402 of title 39, United States Code, is amended—

(A) by striking subsection (e);

(B) by redesignating subsections (a) through (d) as subsections (b) through (e), respectively; and

(C) by inserting before subsection (b), as redesignated, the following:

“(a) In this section—

“(1) the term ‘acceptance point’ means the point at which nonpriority bypass mail originates;

“(2) the terms ‘air carrier’, ‘interstate air transportation’, and ‘foreign air transportation’ have the meanings given such terms in section 40102(a) of title 49, United States Code;

“(3) the term ‘base fare’ means the fare paid to the carrier issuing the passenger ticket or carrying nonmail freight which may entail service being provided by more than 1 carrier;

“(4) the term ‘bush carrier’ means a carrier operating aircraft certificated within the payload capacity requirements of subsection (g)(1)(D)(i) on a city pair route;

“(5) the term ‘bush passenger carrier’ means a passenger carrier that meets the requirements of subsection (g)(1)(D)(i) and provides passenger service on a city pair route;

“(6) the term ‘bush route’ means an air route in which only a bush carrier is tendered nonpriority bypass mail between the origination point, being either an acceptance point or a hub, as determined by the Postal Service, and the destination city;

“(7) the term ‘city pair’ means service between an origin and destination city pair;

“(8) the term ‘composite rate’—

“(A) means a combination of mainline and bush rates paid to a bush carrier for a direct flight from an acceptance point to a bush destination beyond a hub point; and

“(B) shall be based on the mainline rate paid to the hub, plus the lowest bush rate paid to bush carriers in the State of Alaska for the distance traveled from the hub point to the destination point;

“(9) the term ‘equitable tender’ means the practice of the Postal Service of equitably distributing mail on a fair and reasonable basis between those air carriers that offer equivalent services and costs between 2 communities in accordance with the regulations of the Postal Service;

“(10) the term ‘existing mainline carrier’ means a mainline carrier (as defined in this subsection) that on January 1, 2001, was—

“(A) certified under part 121;

“(B) qualified to provide mainline nonpriority bypass mail service; and

“(C) actually engaged in the carriage of mainline nonpriority bypass mail through scheduled service in the State of Alaska;

“(11) the term ‘mainline carrier’ means a carrier operating aircraft under part 121 and certificated within the payload capacity requirements of subsection (g)(1)(D)(ii) on a given city pair route;

“(12) the term ‘mainline route’ means a city pair in which a mainline carrier is tendered nonpriority bypass mail;

“(13) the term ‘new’, when referencing a carrier, means a carrier that—

“(A) meets the respective requirements of clause (i) or (ii) of subsection (g)(1)(D), depending on the type of route being served and the size of aircraft being used to provide service; and

“(B) began providing nonpriority bypass mail service on a city pair route in the State of Alaska after January 1, 2001;

“(14) the term ‘part 121’ means part 121 of title 14, Code of Federal Regulations;

“(15) the term ‘part 135’ means part 135 of title 14, Code of Federal Regulations;

“(16) the term ‘scheduled service’ means—

“(A) flights are operated in common carriage available to the general public under a published schedule;

“(B) flight schedules are announced in advance in systems specified by the Postal Service, in addition to the Official Airline Guide or the air cargo equivalent of that Guide;

“(C) flights depart whether full or not; and

“(D) customers contract for carriage separately on a regular basis;

“(17) the term ‘Secretary’ means the Secretary of Transportation;

“(18) the term ‘121 bush passenger carrier’ means a bush passenger carrier providing passenger service on bush routes under part 121;

“(19) the term ‘121 mainline passenger carrier’ means a mainline carrier providing passenger service through scheduled service on routes under part 121;

“(20) the term ‘121 passenger aircraft’ means an aircraft flying passengers on a city pair route that is operated under part 121;

“(21) the term ‘121 passenger carrier’ means a passenger carrier that provides scheduled service under part 121;

“(22) the term ‘135 bush passenger carrier’ means a bush passenger carrier providing passenger service through scheduled service on bush routes under part 135; and

“(23) the term ‘135 passenger carrier’ means a passenger carrier that provides scheduled service under part 135.”.

(2) REQUIREMENTS FOR SELECTION.—Section 5402(g)(1) of title 39, United States Code, is amended—

(A) in the matter preceding subparagraph (A), by inserting after “in the State of Alaska,” the following: “shall adhere to an equitable tender policy within a qualified group of carriers, in accordance with the regulations of the Postal Service, and”;

(B) in subparagraph (C) by striking “to the best” and all that follows before the semicolon; and

(C) in subparagraph (D) by inserting “with at least 3 scheduled (noncontract) flights per week between two points” after “scheduled service”.

(3) APPLICATION OF RATES.—Section 5402(g)(2) of title 39, United States Code, is amended—

(A) by striking “and” at the end of subparagraph (A);

(B) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(C) by adding at the end the following:

“(C) shall offer a bush passenger carrier providing service on a route in the State of Alaska between an acceptance point and a hub not served by a mainline carrier the opportunity to receive equitable tender of nonpriority bypass mail at mainline service rates when a mainline carrier begins serving that route if the bush passenger carrier—

“(i) meets the requirements of paragraph (1);

“(ii) provided at least 20 percent of the passenger service (as calculated in subsection (h)(5)) between such city pair for the 6 months immediately preceding the date on which the bush carrier seeks such tender; and

“(iii) continues to provide not less than 20 percent of the passenger service on the city pair while seeking such tender;

“(D) shall offer bush passenger carriers and nonmail freight carriers the opportunity to receive equitable tender of nonpriority bypass mail at mainline service rates from a hub point to a destination city in the State of Alaska if the city pair is also being served by a mainline carrier and—

“(i) for a passenger carrier—

“(I) the carrier meets the requirements of paragraph (1);

“(II) the carrier provided at least 20 percent of the passenger service (as calculated in subsection (h)(5)) on the city pair route for the 6 months immediately preceding the date on which the carrier seeks such tender; and

“(III) the carrier continues to provide not less than 20 percent of the passenger service on the route; or

“(ii) for a nonmail freight carrier—

“(I) the carrier meets the requirements of paragraph (1); and

“(II) the carrier provided at least 25 percent of the nonmail freight service (as calculated in subsection (i)(6)) on the city pair route for the 6 months immediately preceding the date on which the carrier seeks such tender;

“(E)(i) shall not offer equitable tender of nonpriority mainline bypass mail at mainline rates to a bush carrier operating from an acceptance point to a hub point in the State of Alaska, except as described in subparagraph (C); and

“(ii) may tender nonpriority bypass mail at bush rates to a bush carrier from an acceptance point to a hub point in the State of Alaska if the Postal Service determines that—

“(I) the bush carrier meets the requirements of paragraph (1);

“(II) the service to be provided on such route by the bush carrier is not otherwise available through direct mainline service; and

“(III) tender of mail to such bush carrier will not decrease the efficiency of nonpriority bypass mail service (in terms of payments to all carriers providing service on the city pair route and timely delivery) for the route;

“(F) may offer tender of nonpriority bypass mail to a passenger carrier from an acceptance point to a destination city beyond a hub point in the State of Alaska at a composite rate if the Postal Service determines that—

“(i) the carrier provides passenger service in accordance with the requirements of subsection (h)(2);

“(ii) the carrier qualifies under subsection (h) to be tendered nonpriority bypass mail out of the hub point being bypassed;

“(iii) the tender of such mail will not decrease efficiency of delivery of nonpriority bypass mail service into or out of the hub point being bypassed; and

“(iv) such tender will result in reduced payments to the carrier by the Postal Service over flying the entire route; and

“(G) notwithstanding subparagraph (F), shall offer equitable tender of nonpriority bypass mail in proportion to passenger and nonmail freight mail pools described in this section between qualified passenger and nonmail freight carriers on a route from an acceptance point to a bush destination in the State of Alaska at a composite rate if—

“(i)(I) for a passenger carrier, the carrier receiving the composite rate provided 20 percent of the passenger service on the city pair route for the 12 months immediately preceding the date on which the carrier seeks tender of such mail; or

“(II) for a nonmail freight carrier, the carrier receiving the composite rate provided at least 25 percent of the nonmail freight service for the 12 months immediately preceding the date on which the carrier seeks tender of such mail; and

“(ii)(I) nonpriority bypass mail was being tendered to a passenger carrier or a nonmail freight carrier at a composite rate on such city pair route on January 1, 2000; or

“(II) the hub being bypassed was not served by a mainline carrier on January 1, 2000.

The tender of nonpriority bypass mail under subparagraph (G) shall be on an equitable basis between the qualified carriers that provide the direct service on the city pair route and the qualified carriers that provide service between the hub point being bypassed and the destination point, based on the volume of nonpriority bypass mail on both routes.”

(4) SELECTION OF CARRIERS TO HUB POINTS.—Section 5402(g) of title 39, United States Code, is amended by adding at the end the following:

“(4)(A) Except as provided under subparagraph (B) and paragraph (5), the Postal Service shall select only existing mainline carriers to provide nonpriority bypass mail service between an acceptance point and a hub point in the State of Alaska.

“(B) The Postal Service may select a carrier other than an existing mainline carrier to provide nonpriority bypass mail service on a mainline route in the State of Alaska if—

“(i) the Postal Service determines (in accordance with criteria established in advance by the Postal Service) that the mail service between the acceptance point and the hub point

is deficient and provides written notice of the determination to existing mainline carriers to the hub point; and

“(ii) after the 30-day period following issuance of notice under clause (i), including notice of inadequate capacity, the Postal Service determines that deficiencies in service to the hub point have not been eliminated.

“(5)(A) The Postal Service shall offer equitable tender of nonpriority bypass mail to a new 121 mainline passenger carrier entering a mainline route in the State of Alaska, if the carrier—

“(i) meets the requirements of subsection (g)(1)(D)(ii); and

“(ii) has provided at least 75 percent of the number of insured passenger seats as the number of available passenger seats being provided by the mainline passenger carrier providing the greatest number of available passenger seats on that route for the 6 months immediately preceding the date on which the carrier seeks tender of such mail.

“(B) A new 121 mainline passenger carrier that is tendered nonpriority mainline bypass mail under subparagraph (A)—

“(i) shall be eligible for equitable tender of such mail only on city pair routes where the carrier meets the conditions of subparagraph (A);

“(ii) may not count the passenger service provided under subparagraph (A) toward the carrier meeting the minimum requirements of this section; and

“(iii) shall provide at least 20 percent of the passenger service (as determined for bush passenger carriers in subsection (h)(5)) on such route to remain eligible to be tendered nonpriority mainline bypass mail.

“(C) Notwithstanding subparagraph (A) and paragraph (1)(B), a new 121 mainline passenger carrier, otherwise qualified under this subsection, may immediately receive equitable tender of nonpriority mainline bypass mail to a hub point in the State of Alaska if the carrier meets the requirements of subparagraphs (A), (C), and (D) of paragraph (1) and subsection (h)(2)(B) and—

“(i) all qualified 121 mainline passenger carriers discontinue service on the city pair route; or

“(ii) no 121 mainline passenger carrier serves the city pair route.

“(D) A carrier operating under a code share agreement on the date of enactment of the Rural Service Improvement Act of 2002 that received tender of nonpriority mainline bypass mail on a city pair route in the State of Alaska may count the passenger service provided under the entire code share arrangement on such route if the code share agreement terminates. That carrier shall continue to provide at least 20 percent of the passenger service (as determined for bush passenger carriers in subsection (h)(5)) between the city pair as a 121 mainline passenger carrier while seeking such tender.

“(6)(A) Notwithstanding paragraph (1)(B), passenger carriers providing essential air service under a Department of Transportation order issued under subchapter II of chapter 417 of title 49, United States Code, shall be tendered all nonpriority mail, in addition to all nonpriority bypass mail, by the Postal Service to destination cities in the State of Alaska served by the essential air service flights consistent with that order unless the Postal Service finds that an essential air service carrier's service does not meet the needs of the Postal Service.

“(B) Service provided under this paragraph, including service provided to points served in conjunction with service being subsidized under the Essential Air Service contract, may not be applied toward any of the minimum eligibility requirements of this section.”.

(5) SELECTION OF CARRIERS TO BUSH POINTS.—Section 5402 of title 39, United States Code, is amended by adding at the end the following:

“(h)(1) Except as provided under paragraph (7), on a city pair route in the State of Alaska, the Postal Service shall offer equitable tender of 70 percent of the nonpriority bypass mail on the route to all carriers providing scheduled passenger service in accordance with part 121 or part 135 that—

“(A) meet the requirements of subsection (g)(1);

“(B) provided 20 percent or more of the passenger service (as calculated in paragraph (5)) between the city pair for the 12 months preceding the date on which the 121 passenger aircraft or the 135 passenger carrier seek tender of nonpriority bypass mail; and

“(C) meet the requirements of paragraph (2).

“(2) To remain eligible for equitable tender under this subsection, the carrier or aircraft shall—

“(A) continue to provide not less than 20 percent of the passenger service on the city pair route for which the carrier is seeking the tender of such nonpriority bypass mail;

“(B)(i) for operations under part 121, operate aircraft type certificated to carry at least 19 passengers;

“(ii) for operations under part 135, operate aircraft type certificated to carry at least 5 passengers; or

“(iii) for operations under part 135 where only a water landing is available, operate aircraft type certificated to carry at least 3 passengers;

“(C) insure all available passenger seats on the city pair route on which the carrier seeks tender of such mail; and

“(D) operate flights under its published schedule.

“(3)(A) Except as provided under subparagraph (E), if a 135 passenger carrier serves a city pair route in the State of Alaska and meets the requirements of paragraph (1) or (2) when a 121 passenger carrier becomes qualified to be tendered nonpriority bypass mail on such route with a 121 passenger aircraft in accordance with paragraphs (1) and (2), the qualifying 135 passenger carriers on that route shall convert to operations with a 121 passenger aircraft within 5 years after the 121 passenger aircraft begins receiving tender on that route in order to remain eligible for equitable tender under paragraph (1). The 135 carrier shall—

“(i) begin the process of conversion not later than 2 years after the 121 passenger aircraft begins carrying nonpriority bypass mail on that route; and

“(ii) submit a part 121 compliance statement not later than 4 years after the 121 passenger aircraft begins carrying nonpriority bypass mail on that route.

“(B) Completion of conversion under subparagraph (A) shall not be required if all 121 passenger carriers discontinue the carriage of nonpriority bypass mail with 121 passenger aircraft on the city pair route.

“(C) Any qualified carrier operating in the State of Alaska under this section may request a waiver from subparagraph (A). Such a request, at the discretion of the Secretary, may be granted

for good cause shown. The requesting party shall state the basis for such a waiver.

“(D) If after 6 years and 3 months following the date of enactment of the Rural Service Improvement Act of 2002, a 135 passenger carrier is providing service on a city pair route in the State of Alaska and a 121 passenger aircraft becomes eligible to receive tender of nonpriority bypass mail on the route, that 135 passenger carrier shall convert to operations under part 121 within 12 months of the 121 passenger carrier being tendered nonpriority bypass mail. The Postal Service shall not continue the tender of nonpriority bypass mail to a 135 passenger carrier that fails to convert to part 121 operations within 12 months after the 121 passenger carrier being tendered such mail under this paragraph.

“(E) Notwithstanding the requirements of this subsection, if only 1 passenger carrier or aircraft is qualified to be tendered nonpriority bypass mail as a passenger carrier or aircraft on a city pair route in the State of Alaska, the Postal Service shall tender 20 percent of the nonpriority bypass mail described under paragraph (1) to the passenger carrier or aircraft providing the next highest level of passenger service on such route.

“(4) Qualification for the tender of mail under this subsection shall not be counted toward the minimum qualifications necessary to be tendered nonpriority bypass mail on any other route.

“(5)(A)(i) In this section, the percent of passenger service shall be a percentage calculated using data collected under subsection (k).

“(ii) To ensure accurate reporting of market share the Postal Service shall compare the resulting percentage under clause (i) to the lesser of—

“(I) the amount of the passenger excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for passengers actually flown by a carrier from the origination point to the destination point, divided by the value of the total passenger excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all passenger carriers providing service from the hub point to the bush destination point; or

“(II) the amount of half of the passenger excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for passengers actually flown by a carrier on the city pair route, divided by the value of the total passenger excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all passenger carriers providing service between the origination point and the destination point.

“(B) For the purposes of calculating passenger service as described under subparagraph (A), a bush passenger carrier providing intervillage bush passenger service may include the carriage of passengers carried along any point of the route between the route’s origination point and the final destination point. Such calculation shall be based only on the carriage of passengers on regularly scheduled flights and only on flights being flown in a direction away from the hub point. Passenger service provided on chartered flights shall not be included in the carrier’s calculation of passenger service.

“(6)(A) The Secretary shall establish new bush rates for passenger carriers operating in the State of Alaska receiving tender of nonpriority bypass mail under this subsection.

“(B) The Secretary shall establish a bush rate based on data collected under subsection (k) from 121 bush passenger carriers. Such rates shall be paid to all bush passenger carriers operating on city pair routes in the State of Alaska where a 121 bush passenger carrier is tendered nonpriority bypass mail.

“(C) The Secretary shall establish a bush rate based on data collected under subsection (k) from 135 bush passenger carriers. Such rates shall be paid to all bush passenger carriers operating on bush city pair routes in the State of Alaska where no 121 bush passenger carrier is tendered nonpriority bypass mail.

“(D) The Secretary shall establish a bush rate based on data collected under subsection (k) from bush passenger carriers operating aircraft on city pair routes where only water landings are available. Such rates shall be paid to all bush passenger carriers operating on the city pair routes in the State of Alaska where only water landings are available.

“(7) The percentage rate in paragraph (1) shall be 75 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.

“(i)(1) Except as provided under paragraph (7), on a city pair route in the State of Alaska, the Postal Service shall offer equitable tender of 20 percent of the nonpriority bypass mail on such route to those carriers transporting 25 percent or more of the total nonmail freight (in revenue or weight as determined by the Postal Service), for the 12 months immediately preceding the date on which the freight carrier seeks tender of such mail.

“(2) To remain eligible for equitable tender under this subsection, a freight carrier shall continue to provide not less than 25 percent of the nonmail freight service on the city pair route for which the carrier is seeking tender of such mail.

“(3) If a new freight carrier enters a market, the freight carrier shall meet the minimum requirements of subsection (g)(1) and shall operate for 12 months on a city pair route in the State of Alaska before being eligible for equitable tender of nonpriority bypass mail on that route.

“(4) If no carrier qualifies for tender of nonpriority bypass mail on a city pair route in the State of Alaska under this subsection, such mail to be divided under this subsection, as described in paragraph (1), shall be tendered to the nonmail freight carrier providing the highest percentage of nonmail freight service (in terms of revenue or weight as determined by the Postal Service as calculated under paragraph (6)) on the city pair route. If no nonmail freight carrier is present on a city pair route in the State of Alaska to receive tender of nonpriority bypass mail under this paragraph, the nonpriority bypass mail to be divided under paragraph (1) shall be divided equitably among carriers qualified under subsection (h).

“(5) Qualification for the tender of mail under this subsection shall not be counted toward the minimum qualifications necessary to be tendered nonpriority bypass mail on any other route.

“(6)(A) In this subsection, the percent of nonmail freight shall be calculated as a percentage, using the data provided pursuant to subsection (k), by dividing the revenue or weight (as determined by the Postal Service) of nonmail freight earned by or carried

by a carrier from the transport of nonmail freight from an origination point to a destination point by the total amount of revenue or weight of nonmail freight earned by or carried by all carriers from the transport of nonmail freight from the origination point to the destination point.

“(B) To ensure accurate reporting of market share the Postal Service shall compare the resulting percentage under subparagraph (A) to the lesser of—

“(i) the amount of the freight excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for nonmail freight actually flown by a carrier from the origination point to the destination point, divided by the value of the total nonmail freight excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all nonmail freight carriers providing service from the origination point to the destination point; or

“(ii) the amount of half of the nonmail freight excise tax paid by or on behalf of a carrier, as determined by reviewing the collected amount of base fares for nonmail freight actually flown by a carrier on the city pair route, divided by the value of the total nonmail freight excise taxes, as determined by reviewing the collected amount of base fares paid by or on behalf of all nonmail freight carriers providing service on the city pair route.

“(7) The percentage rate in paragraph (1) shall be 25 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.

“(j)(1) Except as provided by paragraph (3), there shall be equitable tender of 10 percent of the nonpriority bypass mail to all carriers on each city pair route in the State of Alaska meeting the requirements of subsection (g)(1) that do not otherwise qualify for tender under subsection (h) or (i).

“(2) If no carrier qualifies under this subsection with respect to a city pair route, the 10 percent of nonpriority bypass mail allocated under paragraph (1) shall be divided evenly between the pools described under subsections (h) and (i) to be equitably tendered among qualified carriers under such subsections, such that—

“(A) the amount of nonpriority bypass mail available for tender among qualified carriers under subsection (h) shall be 75 percent; and

“(B) the amount of nonpriority bypass mail available for tender among qualified carriers under subsection (i) shall be 25 percent.

“(3)(A) Except as provided by subparagraph (B), the percentage rate under paragraph (1) shall be 0 percent beginning 3 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002.

“(B) The percentage rate under paragraph (1) shall remain 10 percent for equitable tender for 6 years and 3 months after the date of enactment of the Rural Service Improvement Act of 2002 for a nonpriority bypass mail carrier on bush routes in the State of Alaska originating from the main hub of the carrier designated under subparagraph (C), if the carrier seeking the tender of such mail—

“(i) meets the requirements of subsection (g)(1);

“(ii) is not qualified under subsection (h) or (i);

“(iii) operates routes originating from the main hub of the carrier designated under subparagraph (C); and

“(iv) has invested at least \$500,000 in a physical hanger facility prior to January 1, 2002 in such a hub city.

“(C) For purposes of subparagraph (B), a carrier may designate only one hub city as its main hub and once such designation is transmitted to the Postal Service it may not be changed. Such selection and transmission must be transmitted to the Postal Service within 6 months of the date of enactment of the Rural Service Improvement Act of 2002. A carrier attempting to receive tender of nonpriority bypass mail under this subsection shall not be eligible for such tender after the carrier becomes qualified for tender of nonpriority bypass mail under subsection (h) or (i) on any route. The purchase of another carrier’s hanger facility after such date of enactment shall not be considered sufficient to meet the requirement of subparagraph (B)(iv).

“(k)(1) At least once every 2 years, in conjunction with annual updates, the Secretary shall review the need for a bush mail rate investigation. The Secretary shall use show cause procedures to speedily and more accurately determine the cost of providing bush mail service. In determining such rates, the Secretary shall not take into account the cost of passenger insurance rates or premiums paid by the passenger carriers or other costs associated with passenger service.

“(2) In order to ensure sufficient, reliable, and timely traffic data to meet the requirements of this subsection, the Secretary shall require—

“(A) the monthly submission of the bush carrier’s data on T-100 diskettes, or any other suitable form of data collection, as determined by the Secretary; and

“(B) the carriers to retain all books, records, and other source and summary documentation to support their reports and to preserve and maintain such documentation in a manner that readily permits the audit and examination by representatives of the Postal Service or the Secretary.

“(3) Documentation under paragraph (2) shall be retained for 7 years or until the Secretary indicates that the records may be destroyed. Copies of flight logs for aircraft sold or disposed of shall be retained.

“(4) Carriers qualified to be tendered nonpriority bypass mail shall submit to the Secretary the number and type of aircraft in the carrier’s fleet, the level of passenger insurance covering its fleet, and the name of the insurance company providing such coverage.

“(5) Not later than 30 days after the last day of each calendar month, carriers qualified or attempting to be qualified to be tendered nonpriority bypass mail shall report to the Secretary the excise taxes paid by city pair to the Department of the Treasury and the weight of and revenue earned by the carriage of nonmail freight. Final compiled data shall be made available to carriers providing service in the hub. Deadline.

“(l) No qualified carrier may be tendered nonpriority bypass mail under subsections (h) and (i) simultaneously on a route unless no other carrier is tendered mail under either subsection.

“(m)(1) Carriers qualifying for tender of nonpriority bypass mail under subsections (h) and (i) simultaneously shall be tendered such mail under subsection (h).

“(2) A carrier shall be tendered nonpriority bypass mail under subsection (i) if that carrier—

“(A) was qualified under both subsections (h) and (i) simultaneously; and

“(B) becomes unqualified under subsection (h) but remains qualified under subsection (i).

“(n)(1) A carrier operation resulting from a merger or acquisition between any 2 carriers operating between points in the State of Alaska shall have the passenger and nonmail freight of all such merged or acquired carriers on the applicable route counted toward meeting the resulting carrier’s minimum requirements to receive equitable tender of nonpriority bypass mail on such route for the 12-month period following the date of the merger or acquisition.

“(2) After the 12-month period described under paragraph (1), the carrier resulting from the merger or acquisition shall demonstrate that the carrier meets the minimum passenger or nonmail freight carriage requirements of this section to continue receiving tender of such mail.

“(o) In addition to any penalties applied to a carrier by the Federal Aviation Administration or the Secretary, any carrier that significantly misstates passenger or nonmail freight data required to be reported under this section on any route, in an attempt to qualify for tender of nonpriority bypass mail, shall receive—

“(1) a 1-month suspension of tender of nonpriority bypass mail on the route where the data was misstated for the first offense;

“(2) a 6-month suspension of tender of nonpriority bypass mail on the route where the data was misstated for the second offense;

“(3) a 1-year suspension of tender of all nonpriority bypass mail in the entire State of Alaska for the third offense in the State; and

“(4) a permanent suspension of tender of all nonpriority bypass mail in the entire State of Alaska for the fourth offense in the State.

“(p)(1) The Postal Service or the Secretary, in carrying out subsection (g)(2), (h), or (i), may deny equitable tender to an otherwise qualified carrier that does not operate under this section in good faith or under the intent of this section.

“(2) The Postal Service or the Secretary may waive any provision of subsection (h) or (i), if the carrier provides substantial passenger or nonmail freight service on the route in the State of Alaska where the carrier seeks tender of nonpriority mail and nonpriority bypass mail.

“(3) To ensure adequate competition among passenger carriers on a mainline route in the State of Alaska the Postal Service or the Secretary may waive the requirements of subsection (g)(1)(D), (g)(2)(E), (g)(4), or (g)(5), or any provision of subsection (h) if a 121 bush passenger carrier seeks tender of nonpriority bypass mail on a mainline route in the State of Alaska not served by a 121 mainline passenger carrier and the 121 bush passenger carrier provides substantial passenger service on the route. Waivers provided for under this paragraph shall be granted only in extreme cases of lack of competition and only to extent that are absolutely necessary to meet the minimum needs of the community. Waivers granted under this subsection shall cease to be valid once a qualified

mainline passenger carrier begins providing service and seeks tender of nonpriority bypass mail in accordance with this section on the city pair route. The receipt of waivers and subsequent operation of service on a city pair route under this subsection shall not be counted towards meeting the requirements of any part of this section for any other city pair route.

“(4) In granting waivers for or denying tender to carriers under this subsection, the Postal Service or the Secretary shall consider in the following order of importance—

“(A) the passenger needs of the destination to be served (including amount and level);

“(B) the nonmail freight needs of the destination to be served;

“(C) the amount of nonpriority bypass mail service already available to the destination;

“(D) the mail needs of the destination to be served;

“(E) the savings to the Postal Service in terms of payments made to carriers;

“(F) the amount or level of passenger service already available to the destination; and

“(G) the amount of nonmail freight service already available to the destination.

“(q) The Secretary shall make a regular review of carriers receiving, or attempting to qualify to receive, equitable tender of nonpriority bypass mail on a city pair route in the State of Alaska. If the Secretary suspends or revokes an operating certificate, the Secretary shall notify the Postal Service. Upon such notification, the Postal Service shall cease tender of mail to such carrier until the Secretary certifies the carrier is operating in a safe manner. Upon such receipt, the carrier shall demonstrate that it otherwise meets the minimum carriage requirements of this section before being tendered mail under this section.

“(r) The Postal Service shall have the authority to tender nonpriority bypass mail to any carrier that meets the requirements of subsection (g)(1) on any city pair route in the State of Alaska on an emergency basis. Such emergency tender shall cease when a carrier qualifies for tender on such route under the terms of this section.

“(s) Notwithstanding any other provision of law, and except for written contracts authorized under subsections (b), (c) and (d), tender by the Postal Service of any category of mail to a carrier for transportation between any two points in the State of Alaska shall not give rise to any contract between the Postal Service and a carrier, nor shall any such carrier acquire any right in continued or future tender of such mail by virtue of past or present receipt of such mail. This subsection shall apply to any case commenced before, on, or after the date of enactment of this subsection.”.

(d) ACTIONS OF AIR CARRIERS TO QUALIFY.—Beginning 6 months after the date of enactment of this Act, if the Secretary determines, based on the Secretary’s findings and recommendations of the Postal Service, that an air carrier being tendered nonpriority bush bypass mail is not taking actions to attempt to qualify as a bush passenger or nonmail freight carrier under section 5402 of title 39, United States Code (as amended by this title), the Postal Service shall immediately cease tender of all nonpriority bypass mail to such carrier.

39 USC 5402
note.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) TITLE 39.—Section 5402 of title 39, United States Code, is amended—

(A) in subsections (b) through (e) (as redesignated by this title) and subsection (f) by striking “Secretary of Transportation” each place it appears and inserting “Secretary”; and

(B) in subsection (f)—

(i) by striking “subsections (a), (b), and (c)” and inserting “subsections (b), (c), and (d)”; and

(ii) by striking “subsection (d)” and inserting “subsection (e)”.

(2) TITLE 49.—Section 41901(a) of title 49, United States Code, is amended by striking “5402(d)” and inserting “5402(e)”.

Deadline.
39 USC 5402
note.

(f) REPORTS TO CONGRESS.—Not later than 18 months after the date of enactment of this Act, the Postal Service and the Secretary of Transportation shall submit a report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on the progress of implementing this title.

39 USC 5402
note.

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided under paragraph (2), this title (including the amendments made by this title) shall take effect on the date of enactment of this Act.

(2) SELECTION OF CARRIERS.—The amendment made by subsection (c)(5) shall take effect 15 months after the date of enactment of this Act.

1 USC 112 note.

(h) In publishing the Act in slip form and in the United States Statutes at Large pursuant to section 112, of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end an appendix setting forth the text of the bill referred to in subsection (a).

SEC. 3003. AMENDMENTS TO THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

43 USC 1626.

In subsection (e)(4) of the Alaska Native Claims Settlement Act created by section 702 of Public Law 107-117—

(1) paragraph (B) is amended by—

(A) striking “subsection (e)(2)” and inserting in lieu thereof “subsections (e)(1) or (e)(2)”; and

(B) striking “obligations under section 7 of P.L. 87-305” and inserting in lieu thereof “small or small disadvantaged business subcontracting goals under section 502 of P.L. 100-656, provided that where lower tier subcontractors exist, the entity shall designate the appropriate contractor or contractors to receive such credit”; and

(2) paragraph (C) is amended by striking “subsection (e)(2)” and inserting “subsection (e)(1) or (e)(2)”.

This Act may be cited as the “2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States”.

Approved August 2, 2002.

LEGISLATIVE HISTORY—H.R. 4775 (S. 2551):

HOUSE REPORTS: Nos. 107–480 (Comm. on Appropriations) and 107–593 (Comm. of Conference).

SENATE REPORTS: No. 107–156 accompanying S. 2551 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 22–24, considered and passed House.

June 3–6, considered and passed Senate, amended.

July 23, House agreed to conference report.

July 24, Senate agreed to conference report.



Public Law 107–207
107th Congress

An Act

Aug. 5, 2002
[H.R. 2175]

To protect infants who are born alive.

Born-Alive
Infants
Protection Act of
2002.
1 USC 1 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Born-Alive Infants Protection Act of 2002”.

SEC. 2. DEFINITION OF BORN-ALIVE INFANT.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

“§ 8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant

“(a) In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the words ‘person’, ‘human being’, ‘child’, and ‘individual’, shall include every infant member of the species homo sapiens who is born alive at any stage of development.

“(b) As used in this section, the term ‘born alive’, with respect to a member of the species homo sapiens, means the complete expulsion or extraction from his or her mother of that member, at any stage of development, who after such expulsion or extraction breathes or has a beating heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, regardless of whether the umbilical cord has been cut, and regardless of whether the expulsion or extraction occurs as a result of natural or induced labor, cesarean section, or induced abortion.

“(c) Nothing in this section shall be construed to affirm, deny, expand, or contract any legal status or legal right applicable to any member of the species homo sapiens at any point prior to being ‘born alive’ as defined in this section.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by adding at the end the following new item:

“8. ‘Person’, ‘human being’, ‘child’, and ‘individual’ as including born-alive infant.”.

Approved August 5, 2002.

LEGISLATIVE HISTORY—H.R. 2175:

HOUSE REPORTS: No. 107–186 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 12, considered and passed House.

July 18, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Aug. 5, Presidential remarks.



Public Law 107–208
107th Congress

An Act

To amend the Immigration and Nationality Act to determine whether an alien is a child, for purposes of classification as an immediate relative, based on the age of the alien on the date the classification petition with respect to the alien is filed, and for other purposes.

Aug. 6, 2002
[H.R. 1209]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Status
Protection Act.
8 USC 1101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Child Status Protection Act”.

SEC. 2. USE OF AGE ON PETITION FILING DATE, PARENT’S NATURALIZATION DATE, OR MARRIAGE TERMINATION DATE, IN DETERMINING STATUS AS IMMEDIATE RELATIVE.

Section 201 of the Immigration and Nationality Act (8 U.S.C. 1151) is amended by adding at the end the following:

“(f) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE IMMEDIATE RELATIVES.—

“(1) AGE ON PETITION FILING DATE.—Except as provided in paragraphs (2) and (3), for purposes of subsection (b)(2)(A)(i), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using the age of the alien on the date on which the petition is filed with the Attorney General under section 204 to classify the alien as an immediate relative under subsection (b)(2)(A)(i).

“(2) AGE ON PARENT’S NATURALIZATION DATE.—In the case of a petition under section 204 initially filed for an alien child’s classification as a family-sponsored immigrant under section 203(a)(2)(A), based on the child’s parent being lawfully admitted for permanent residence, if the petition is later converted, due to the naturalization of the parent, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i), the determination described in paragraph (1) shall be made using the age of the alien on the date of the parent’s naturalization.

“(3) AGE ON MARRIAGE TERMINATION DATE.—In the case of a petition under section 204 initially filed for an alien’s classification as a family-sponsored immigrant under section 203(a)(3), based on the alien’s being a married son or daughter of a citizen, if the petition is later converted, due to the legal termination of the alien’s marriage, to a petition to classify the alien as an immediate relative under subsection (b)(2)(A)(i) or as an unmarried son or daughter of a citizen under section 203(a)(1), the determination described in paragraph (1) shall

be made using the age of the alien on the date of the termination of the marriage.”.

SEC. 3. TREATMENT OF CERTAIN UNMARRIED SONS AND DAUGHTERS SEEKING STATUS AS FAMILY-SPONSORED, EMPLOYMENT-BASED, AND DIVERSITY IMMIGRANTS.

Section 203 of the Immigration and Nationality Act (8 U.S.C. 1153) is amended by adding at the end the following:

“(h) RULES FOR DETERMINING WHETHER CERTAIN ALIENS ARE CHILDREN.—

“(1) IN GENERAL.—For purposes of subsections (a)(2)(A) and (d), a determination of whether an alien satisfies the age requirement in the matter preceding subparagraph (A) of section 101(b)(1) shall be made using—

“(A) the age of the alien on the date on which an immigrant visa number becomes available for such alien (or, in the case of subsection (d), the date on which an immigrant visa number became available for the alien’s parent), but only if the alien has sought to acquire the status of an alien lawfully admitted for permanent residence within one year of such availability; reduced by

“(B) the number of days in the period during which the applicable petition described in paragraph (2) was pending.

“(2) PETITIONS DESCRIBED.—The petition described in this paragraph is—

“(A) with respect to a relationship described in subsection (a)(2)(A), a petition filed under section 204 for classification of an alien child under subsection (a)(2)(A); or

“(B) with respect to an alien child who is a derivative beneficiary under subsection (d), a petition filed under section 204 for classification of the alien’s parent under subsection (a), (b), or (c).

“(3) RETENTION OF PRIORITY DATE.—If the age of an alien is determined under paragraph (1) to be 21 years of age or older for the purposes of subsections (a)(2)(A) and (d), the alien’s petition shall automatically be converted to the appropriate category and the alien shall retain the original priority date issued upon receipt of the original petition.”.

SEC. 4. USE OF AGE ON PARENT’S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ASYLUM.

Section 208(b)(3) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(3)) is amended to read as follows:

“(3) TREATMENT OF SPOUSE AND CHILDREN.—

“(A) IN GENERAL.—A spouse or child (as defined in section 101(b)(1) (A), (B), (C), (D), or (E)) of an alien who is granted asylum under this subsection may, if not otherwise eligible for asylum under this section, be granted the same status as the alien if accompanying, or following to join, such alien.

“(B) CONTINUED CLASSIFICATION OF CERTAIN ALIENS AS CHILDREN.—An unmarried alien who seeks to accompany, or follow to join, a parent granted asylum under this subsection, and who was under 21 years of age on the date on which such parent applied for asylum under this section, shall continue to be classified as a child for purposes of this paragraph and section 209(b)(3), if the alien attained

21 years of age after such application was filed but while it was pending.”.

SEC. 5. USE OF AGE ON PARENT'S APPLICATION FILING DATE IN DETERMINING ELIGIBILITY FOR ADMISSION AS REFUGEE.

Section 207(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1157(c)(2)) is amended—

(1) by striking “(2)” and inserting “(2)(A)”; and

(2) by adding at the end the following:

“(B) An unmarried alien who seeks to accompany, or follow to join, a parent granted admission as a refugee under this subsection, and who was under 21 years of age on the date on which such parent applied for refugee status under this section, shall continue to be classified as a child for purposes of this paragraph, if the alien attained 21 years of age after such application was filed but while it was pending.”.

SEC. 6. TREATMENT OF CLASSIFICATION PETITIONS FOR UNMARRIED SONS AND DAUGHTERS OF NATURALIZED CITIZENS.

Section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) is amended by adding at the end the following:

“(k) PROCEDURES FOR UNMARRIED SONS AND DAUGHTERS OF CITIZENS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), in the case of a petition under this section initially filed for an alien unmarried son or daughter's classification as a family-sponsored immigrant under section 203(a)(2)(B), based on a parent of the son or daughter being an alien lawfully admitted for permanent residence, if such parent subsequently becomes a naturalized citizen of the United States, such petition shall be converted to a petition to classify the unmarried son or daughter as a family-sponsored immigrant under section 203(a)(1).

“(2) EXCEPTION.—Paragraph (1) does not apply if the son or daughter files with the Attorney General a written statement that he or she elects not to have such conversion occur (or if it has occurred, to have such conversion revoked). Where such an election has been made, any determination with respect to the son or daughter's eligibility for admission as a family-sponsored immigrant shall be made as if such naturalization had not taken place.

“(3) PRIORITY DATE.—Regardless of whether a petition is converted under this subsection or not, if an unmarried son or daughter described in this subsection was assigned a priority date with respect to such petition before such naturalization, he or she may maintain that priority date.

“(4) CLARIFICATION.—This subsection shall apply to a petition if it is properly filed, regardless of whether it was approved or not before such naturalization.”.

Applicability.

SEC. 7. IMMIGRATION BENEFITS FOR CERTAIN ALIEN CHILDREN NOT AFFECTED.

Section 204(a)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(D)) is amended by adding at the end the following new clause:

“(iii) Nothing in the amendments made by the Child Status Protection Act shall be construed to limit or deny any right or benefit provided under this subparagraph.”.

Applicability.
8 USC 1151 note.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to any alien who is a derivative beneficiary or any other beneficiary of—

(1) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) approved before such date but only if a final determination has not been made on the beneficiary’s application for an immigrant visa or adjustment of status to lawful permanent residence pursuant to such approved petition;

(2) a petition for classification under section 204 of the Immigration and Nationality Act (8 U.S.C. 1154) pending on or after such date; or

(3) an application pending before the Department of Justice or the Department of State on or after such date.

Approved August 6, 2002.

LEGISLATIVE HISTORY—H.R. 1209 (S. 672):

HOUSE REPORTS: No. 107–45 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): June 6, considered and passed House.

Vol. 148 (2002): June 13, considered and passed Senate, amended.
July 22, House concurred in Senate amendment.



Public Law 107–209
107th Congress

Joint Resolution

Conferring honorary citizenship of the United States posthumously on Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette.

Aug. 6, 2002

[S.J. Res. 13]

Whereas the United States has conferred honorary citizenship on four other occasions in more than 200 years of its independence, and honorary citizenship is and should remain an extraordinary honor not lightly conferred nor frequently granted;

Whereas Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette or General Lafayette, voluntarily put forth his own money and risked his life for the freedom of Americans; Whereas the Marquis de Lafayette, by an Act of Congress, was voted to the rank of Major General;

Whereas, during the Revolutionary War, General Lafayette was wounded at the Battle of Brandywine, demonstrating bravery that forever endeared him to the American soldiers;

Whereas the Marquis de Lafayette secured the help of France to aid the United States' colonists against Great Britain;

Whereas the Marquis de Lafayette was conferred the honor of honorary citizenship by the Commonwealth of Virginia and the State of Maryland;

Whereas the Marquis de Lafayette was the first foreign dignitary to address Congress, an honor which was accorded to him upon his return to the United States in 1824;

Whereas, upon his death, both the House of Representatives and the Senate draped their chambers in black as a demonstration of respect and gratitude for his contribution to the independence of the United States;

Whereas an American flag has flown over his grave in France since his death and has not been removed, even while France was occupied by Nazi Germany during World War II; and

Whereas the Marquis de Lafayette gave aid to the United States in her time of need and is forever a symbol of freedom: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Marie Joseph Paul Yves Roche Gilbert du Motier, the Marquis de Lafayette, is proclaimed posthumously to be an honorary citizen of the United States of America.

Approved August 6, 2002.

LEGISLATIVE HISTORY—S.J. Res. 13:

HOUSE REPORTS: No. 107-595 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 18, considered and passed Senate.

Vol. 148 (2002): July 22, considered and passed House, amended.
July 24, Senate concurred in House amendments.



Public Law 107–210
107th Congress

An Act

To extend the Andean Trade Preference Act, to grant additional trade benefits under that Act, and for other purposes.

Aug. 6, 2002
[H.R. 3009]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Trade Act of 2002”.

Trade Act of
2002.
19 USC 3801
note.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into 5 divisions as follows:

- (1) DIVISION A.—Trade Adjustment Assistance.
- (2) DIVISION B.—Bipartisan Trade Promotion Authority.
- (3) DIVISION C.—Andean Trade Preference Act.
- (4) DIVISION D.—Extension of Certain Preferential Trade Treatment and Other Provisions.
- (5) DIVISION E.—Miscellaneous Provisions.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

- Sec. 1. Short title.
Sec. 2. Organization of Act into divisions; table of contents.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

Sec. 101. Short title.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance For Workers

- Sec. 111. Reauthorization of trade adjustment assistance program.
Sec. 112. Filing of petitions and provision of rapid response assistance; expedited review of petitions by secretary of labor.
Sec. 113. Group eligibility requirements.
Sec. 114. Qualifying requirements for trade readjustment allowances.
Sec. 115. Waivers of training requirements.
Sec. 116. Amendments to limitations on trade readjustment allowances.
Sec. 117. Annual total amount of payments for training.
Sec. 118. Provision of employer-based training.
Sec. 119. Coordination with title I of the Workforce Investment Act of 1998.
Sec. 120. Expenditure period.
Sec. 121. Job search allowances.
Sec. 122. Relocation allowances.
Sec. 123. Repeal of NAFTA transitional adjustment assistance program.
Sec. 124. Demonstration project for alternative trade adjustment assistance for older workers.
Sec. 125. Declaration of policy; sense of Congress.

Subtitle B—Trade Adjustment Assistance For Firms

Sec. 131. Reauthorization of program.

Subtitle C—Trade Adjustment Assistance For Farmers

Sec. 141. Trade adjustment assistance for farmers.

- Sec. 142. Conforming amendments.
- Sec. 143. Study on TAA for fishermen.

Subtitle D—Effective Date

- Sec. 151. Effective date.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE
INDIVIDUALS

- Sec. 201. Credit for health insurance costs of individuals receiving a trade readjustment allowance or a benefit from the Pension Benefit Guaranty Corporation.
- Sec. 202. Advance payment of credit for health insurance costs of eligible individuals.
- Sec. 203. Health insurance assistance for eligible individuals.

TITLE III—CUSTOMS REAUTHORIZATION

- Sec. 301. Short title.

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL
OPERATIONS

- Sec. 311. Authorization of appropriations for noncommercial operations, commercial operations, and air and marine interdiction.
- Sec. 312. Antiterrorist and illicit narcotics detection equipment for the United States-Mexico border, United States-Canada border, and Florida and the Gulf Coast seaports.
- Sec. 313. Compliance with performance plan requirements.

CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE

- Sec. 321. Authorization of appropriations for program to prevent child pornography/child sexual exploitation.

CHAPTER 3—MISCELLANEOUS PROVISIONS

- Sec. 331. Additional Customs Service officers for United States-Canada Border.
- Sec. 332. Study and report relating to personnel practices of the Customs Service.
- Sec. 333. Study and report relating to accounting and auditing procedures of the Customs Service.
- Sec. 334. Establishment and implementation of cost accounting system; reports.
- Sec. 335. Study and report relating to timeliness of prospective rulings.
- Sec. 336. Study and report relating to customs user fees.
- Sec. 337. Fees for customs inspections at express courier facilities.
- Sec. 338. National Customs Automation Program.
- Sec. 339. Authorization of appropriations for customs staffing.

CHAPTER 4—ANTITERRORISM PROVISIONS

- Sec. 341. Immunity for United States officials that act in good faith.
- Sec. 342. Emergency adjustments to offices, ports of entry, or staffing of the customs service.
- Sec. 343. Mandatory advanced electronic information for cargo and other improved Customs reporting procedures.
- Sec. 343A. Secure systems of transportation.
- Sec. 344. Border search authority for certain contraband in outbound mail.
- Sec. 345. Authorization of appropriations for reestablishment of customs operations in New York City.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

- Sec. 351. GAO audit of textile transshipment monitoring by Customs Service.
- Sec. 352. Authorization of appropriations for textile transshipment enforcement operations.
- Sec. 353. Implementation of the African Growth and Opportunity Act.

Subtitle B—Office of the United States Trade Representative

- Sec. 361. Authorization of appropriations.

Subtitle C—United States International Trade Commission

- Sec. 371. Authorization of appropriations.

Subtitle D—Other trade provisions

- Sec. 381. Increase in aggregate value of articles exempt from duty acquired abroad by United States residents.

Sec. 382. Regulatory audit procedures.

Sec. 383. Payment of duties and fees.

DIVISION B—BIPARTISAN TRADE PROMOTION AUTHORITY

TITLE XXI—TRADE PROMOTION AUTHORITY

Sec. 2101. Short title and findings.

Sec. 2102. Trade negotiating objectives.

Sec. 2103. Trade agreements authority.

Sec. 2104. Consultations and assessment.

Sec. 2105. Implementation of trade agreements.

Sec. 2106. Treatment of certain trade agreements for which negotiations have already begun.

Sec. 2107. Congressional Oversight Group.

Sec. 2108. Additional implementation and enforcement requirements.

Sec. 2109. Committee staff.

Sec. 2110. Conforming amendments.

Sec. 2111. Report on impact of trade promotion authority.

Sec. 2112. Interests of small business.

Sec. 2113. Definitions.

DIVISION C—ANDEAN TRADE PREFERENCE ACT

TITLE XXXI—ANDEAN TRADE PREFERENCE

Sec. 3101. Short title.

Sec. 3102. Findings.

Sec. 3103. Articles eligible for preferential treatment.

Sec. 3104. Termination.

Sec. 3105. Report on Free Trade Agreement with Israel.

Sec. 3106. Modification of duty treatment for tuna.

Sec. 3107. Trade benefits under the caribbean basin economic recovery act.

Sec. 3108. Trade benefits under the African Growth and Opportunity Act.

DIVISION D—EXTENSION OF CERTAIN PREFERENTIAL TRADE TREATMENT

TITLE XLI—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

Sec. 4101. Extension of generalized system of preferences.

Sec. 4102. Amendments to generalized system of preferences.

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

Sec. 5101. Wool provisions.

Sec. 5102. Duty suspension on wool.

Subtitle B—Other Provisions

Sec. 5201. Fund for WTO dispute settlements.

Sec. 5202. Certain steam or other vapor generating boilers used in nuclear facilities.

Sec. 5203. Sugar tariff-rate quota circumvention.

DIVISION A—TRADE ADJUSTMENT ASSISTANCE

SEC. 101. SHORT TITLE.

This division may be cited as the “Trade Adjustment Assistance Reform Act of 2002”.

Trade
Adjustment
Assistance
Reform Act of
2002.
19 USC 2101
note.

TITLE I—TRADE ADJUSTMENT ASSISTANCE PROGRAM

Subtitle A—Trade Adjustment Assistance For Workers

SEC. 111. REAUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) ASSISTANCE FOR WORKERS.—Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking “October 1, 1998, and ending September 30, 2001,” each place it appears and inserting “October 1, 2001, and ending September 30, 2007,”.

(b) ASSISTANCE FOR FIRMS.—Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking “October 1, 1998, and ending September 30, 2001” and inserting “October 1, 2001, and ending September 30, 2007,”.

(c) TERMINATION.—Section 285 of the Trade Act of 1974 is amended to read as follows:

19 USC note
prec. 2271.

“SEC. 285. TERMINATION.

“(a) ASSISTANCE FOR WORKERS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), trade adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 2 after September 30, 2007.

“(2) EXCEPTION.—Notwithstanding paragraph (1), a worker shall continue to receive trade adjustment assistance benefits and other benefits under chapter 2 for any week for which the worker meets the eligibility requirements of that chapter, if on or before September 30, 2007, the worker is—

“(A) certified as eligible for trade adjustment assistance benefits under chapter 2 of this title; and

“(B) otherwise eligible to receive trade adjustment assistance benefits under chapter 2.

“(b) OTHER ASSISTANCE.—

“(1) ASSISTANCE FOR FIRMS.—Technical assistance may not be provided under chapter 3 after September 30, 2007.

“(2) ASSISTANCE FOR FARMERS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), adjustment assistance, vouchers, allowances, and other payments or benefits may not be provided under chapter 6 after September 30, 2007.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), an agricultural commodity producer (as defined in section 291(2)) shall continue to receive adjustment assistance benefits and other benefits under chapter 6, for any week for which the agricultural commodity producer meets the eligibility requirements of chapter 6, if on or before September 30, 2007, the agricultural commodity producer is—

“(i) certified as eligible for adjustment assistance benefits under chapter 6; and

“(ii) is otherwise eligible to receive adjustment assistance benefits under such chapter 6.”.

SEC. 112. FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE; EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.

(a) FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE.—Section 221(a) of the Trade Act of 1974 (19 U.S.C. 2271(a)) is amended to read as follows:

“(a)(1) A petition for certification of eligibility to apply for adjustment assistance for a group of workers under this chapter may be filed simultaneously with the Secretary and with the Governor of the State in which such workers’ firm or subdivision is located by any of the following:

“(A) The group of workers (including workers in an agricultural firm or subdivision of any agricultural firm).

“(B) The certified or recognized union or other duly authorized representative of such workers.

“(C) Employers of such workers, one-stop operators or one-stop partners (as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801)), including State employment security agencies, or the State dislocated worker unit established under title I of such Act, on behalf of such workers.

“(2) Upon receipt of a petition filed under paragraph (1), the Governor shall—

“(A) ensure that rapid response assistance, and appropriate core and intensive services (as described in section 134 of the Workforce Investment Act of 1998 (29 U.S.C. 2864)) authorized under other Federal laws are made available to the workers covered by the petition to the extent authorized under such laws; and

“(B) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

“(3) Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.”

(b) EXPEDITED REVIEW OF PETITIONS BY SECRETARY OF LABOR.—Section 223(a) of such Act (19 U.S.C. 2273(a)) is amended in the first sentence by striking “60 days” and inserting “40 days”.

SEC. 113. GROUP ELIGIBILITY REQUIREMENTS.

(a) TRADE ADJUSTMENT ASSISTANCE PROGRAM.—

(1) IN GENERAL.—Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(A) by amending subsection (a) to read as follows:

“(a) IN GENERAL.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that—

“(1) a significant number or proportion of the workers in such workers’ firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated; and

“(2)(A)(i) the sales or production, or both, of such firm or subdivision have decreased absolutely;

“(ii) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased; and

“(iii) the increase in imports described in clause (ii) contributed importantly to such workers’ separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

“(B)(i) there has been a shift in production by such workers’ firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

“(ii)(I) the country to which the workers’ firm has shifted production of the articles is a party to a free trade agreement with the United States;

“(II) the country to which the workers’ firm has shifted production of the articles is a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

“(III) there has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.”;

(B) by redesignating subsection (b) as subsection (c); and

(C) by inserting after subsection (a) the following:

“(b) ADVERSELY AFFECTED SECONDARY WORKERS.—A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for trade adjustment assistance benefits under this chapter if the Secretary determines that—

“(1) a significant number or proportion of the workers in the workers’ firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

“(2) the workers’ firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility under subsection (a), and such supply or production is related to the article that was the basis for such certification (as defined in subsection (c) (3) and (4)); and

“(3) either—

“(A) the workers’ firm is a supplier and the component parts it supplied to the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers’ firm; or

“(B) a loss of business by the workers’ firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers’ separation or threat of separation determined under paragraph (1).”.

19 USC 2272.

(b) DEFINITIONS.—Section 222(c) of such Act, as redesignated by paragraph (1)(A), is amended—

(1) in the matter preceding paragraph (1), by striking “subsection (a)(3)” and inserting “this section”; and

(2) by adding at the end the following:

“(3) DOWNSTREAM PRODUCER.—The term ‘downstream producer’ means a firm that performs additional, value-added production processes for a firm or subdivision, including a firm that performs final assembly or finishing, directly for another firm (or subdivision), for articles that were the basis for a certification of eligibility under subsection (a) of a group of

workers employed by such other firm, if the certification of eligibility under subsection (a) is based on an increase in imports from, or a shift in production to, Canada or Mexico.

“(4) SUPPLIER.—The term ‘supplier’ means a firm that produces and supplies directly to another firm (or subdivision) component parts for articles that were the basis for a certification of eligibility under subsection (a) of a group of workers employed by such other firm.”.

SEC. 114. QUALIFYING REQUIREMENTS FOR TRADE READJUSTMENT ALLOWANCES.

(a) CLARIFICATION OF CERTAIN REDUCTIONS.—Section 231(a)(3)(B) of the Trade Act of 1974 (19 U.S.C. 2291(a)(3)(B)) is amended by inserting after “any unemployment insurance” the following: “, except additional compensation that is funded by a State and is not reimbursed from any Federal funds,”.

(b) ENROLLMENT IN TRAINING REQUIREMENT.—Section 231(a)(5)(A) of such Act (19 U.S.C. 2291(a)(5)(A)) is amended—

(1) by inserting “(i)” after “(A)”;

(2) by adding “and” after the comma at the end; and

(3) by adding at the end the following:

“(ii) the enrollment required under clause (i) occurs no later than the latest of—

“(I) the last day of the 16th week after the worker’s most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2),

“(II) the last day of the 8th week after the week in which the Secretary issues a certification covering the worker,

“(III) 45 days after the later of the dates specified in subclause (I) or (II), if the Secretary determines there are extenuating circumstances that justify an extension in the enrollment period, or

“(IV) the last day of a period determined by the Secretary to be approved for enrollment after the termination of a waiver issued pursuant to subsection (c),”.

SEC. 115. WAIVERS OF TRAINING REQUIREMENTS.

(a) IN GENERAL.—Section 231(c) of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

“(c) WAIVERS OF TRAINING REQUIREMENTS.—

“(1) ISSUANCE OF WAIVERS.—The Secretary may issue a written statement to an adversely affected worker waiving the requirement to be enrolled in training described in subsection (a)(5)(A) if the Secretary determines that it is not feasible or appropriate for the worker, because of 1 or more of the following reasons:

“(A) RECALL.—The worker has been notified that the worker will be recalled by the firm from which the separation occurred.

“(B) MARKETABLE SKILLS.—The worker possesses marketable skills for suitable employment (as determined pursuant to an assessment of the worker, which may include the profiling system under section 303(j) of the Social Security Act (42 U.S.C. 503(j)), carried out in accordance with guidelines issued by the Secretary) and there

is a reasonable expectation of employment at equivalent wages in the foreseeable future.

“(C) RETIREMENT.—The worker is within 2 years of meeting all requirements for entitlement to either—

“(i) old-age insurance benefits under title II of the Social Security Act (42 U.S.C. 401 et seq.) (except for application therefor); or

“(ii) a private pension sponsored by an employer or labor organization.

“(D) HEALTH.—The worker is unable to participate in training due to the health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to the availability for work, active search for work, or refusal to accept work under Federal or State unemployment compensation laws.

“(E) ENROLLMENT UNAVAILABLE.—The first available enrollment date for the approved training of the worker is within 60 days after the date of the determination made under this paragraph, or, if later, there are extenuating circumstances for the delay in enrollment, as determined pursuant to guidelines issued by the Secretary.

“(F) TRAINING NOT AVAILABLE.—Training approved by the Secretary is not reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 3 of the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2302), and employers), no training that is suitable for the worker is available at a reasonable cost, or no training funds are available.

“(2) DURATION OF WAIVERS.—

“(A) IN GENERAL.—A waiver issued under paragraph (1) shall be effective for not more than 6 months after the date on which the waiver is issued, unless the Secretary determines otherwise.

“(B) REVOCATION.—The Secretary shall revoke a waiver issued under paragraph (1) if the Secretary determines that the basis of a waiver is no longer applicable to the worker and shall notify the worker in writing of the revocation.

“(3) AGREEMENTS UNDER SECTION 239.—

“(A) ISSUANCE BY COOPERATING STATES.—Pursuant to an agreement under section 239, the Secretary may authorize a cooperating State to issue waivers as described in paragraph (1).

“(B) SUBMISSION OF STATEMENTS.—An agreement under section 239 shall include a requirement that the cooperating State submit to the Secretary the written statements provided under paragraph (1) and a statement of the reasons for the waiver.”.

(b) CONFORMING AMENDMENT.—Section 231(a)(5)(C) of such Act (19 U.S.C. 2291(a)(5)(C)) is amended by striking “certified”.

SEC. 116. AMENDMENTS TO LIMITATIONS ON TRADE READJUSTMENT ALLOWANCES.

(a) **INCREASE IN MAXIMUM NUMBER OF WEEKS.**—Section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)) is amended—

(1) in paragraph (2), by inserting after “104-week period” the following: “(or, in the case of an adversely affected worker who requires a program of remedial education (as described in section 236(a)(5)(D)) in order to complete training approved for the worker under section 236, the 130-week period)”; and

(2) in paragraph (3), by striking “26” each place it appears and inserting “52”.

(b) **SPECIAL RULE RELATING TO BREAK IN TRAINING.**—Section 233(f) of the Trade Act of 1974 (19 U.S.C. 2293(f)) is amended in the matter preceding paragraph (1) by striking “14 days” and inserting “30 days”.

(c) **ADDITIONAL WEEKS FOR INDIVIDUALS IN NEED OF REMEDIAL EDUCATION.**—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended by adding at the end the following:

“(g) Notwithstanding any other provision of this section, in order to assist an adversely affected worker to complete training approved for the worker under section 236 which includes a program of remedial education (as described in section 236(a)(5)(D)), and in accordance with regulations prescribed by the Secretary, payments may be made as trade readjustment allowances for up to 26 additional weeks in the 26-week period that follows the last week of entitlement to trade readjustment allowances otherwise payable under this chapter.”.

SEC. 117. ANNUAL TOTAL AMOUNT OF PAYMENTS FOR TRAINING.

Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(2)(A)) is amended by striking “\$80,000,000” and all that follows through “\$70,000,000” and inserting “\$220,000,000”.

SEC. 118. PROVISION OF EMPLOYER-BASED TRAINING.

(a) **IN GENERAL.**—Section 236(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 2296(a)(5)(A)) is amended to read as follows:

“(A) employer-based training, including—

“(i) on-the-job training, and

“(ii) customized training.”.

(b) **REIMBURSEMENT.**—Section 236(c)(8) of such Act (19 U.S.C. 2296(c)(8)) is amended to read as follows:

“(8) the employer is provided reimbursement of not more than 50 percent of the wage rate of the participant, for the cost of providing the training and additional supervision related to the training.”.

(c) **DEFINITION.**—Section 236 of such Act (19 U.S.C. 2296) is amended by adding at the end the following new subsection:

“(f) For purposes of this section, the term ‘customized training’ means training that is—

“(1) designed to meet the special requirements of an employer or group of employers;

“(2) conducted with a commitment by the employer or group of employers to employ an individual upon successful completion of the training; and

“(3) for which the employer pays for a significant portion (but in no case less than 50 percent) of the cost of such training, as determined by the Secretary.”.

SEC. 119. COORDINATION WITH TITLE I OF THE WORKFORCE INVESTMENT ACT OF 1998.

Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by inserting before the period at the end of the first sentence the following: “, including the services provided through one-stop delivery systems described in section 134(c) of the Workforce Investment Act of 1998 (29 U.S.C. 2864(c))”.

SEC. 120. EXPENDITURE PERIOD.

Section 245 of the Trade Act of 1974 (19 U.S.C. 2317), as amended by section 111(a) of this Act, is further amended by amending subsection (b) to read as follows:

“(b) PERIOD OF EXPENDITURE.—Funds obligated for any fiscal year to carry out activities under sections 235 through 238 may be expended by each State receiving such funds during that fiscal year and the succeeding two fiscal years.”.

SEC. 121. JOB SEARCH ALLOWANCES.

Section 237 of the Trade Act of 1974 (19 U.S.C. 2297) is amended to read as follows:

“SEC. 237. JOB SEARCH ALLOWANCES.

“(a) JOB SEARCH ALLOWANCE AUTHORIZED.—

“(1) IN GENERAL.—An adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application with the Secretary for payment of a job search allowance.

“(2) APPROVAL OF APPLICATIONS.—The Secretary may grant an allowance pursuant to an application filed under paragraph (1) when all of the following apply:

“(A) ASSIST ADVERSELY AFFECTED WORKER.—The allowance is paid to assist an adversely affected worker who has been totally separated in securing a job within the United States.

“(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

“(C) APPLICATION.—The worker has filed an application for the allowance with the Secretary before—

“(i) the later of—

“(I) the 365th day after the date of the certification under which the worker is certified as eligible; or

“(II) the 365th day after the date of the worker’s last total separation; or

“(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

“(b) AMOUNT OF ALLOWANCE.—

“(1) IN GENERAL.—An allowance granted under subsection (a) shall provide reimbursement to the worker of 90 percent of the cost of necessary job search expenses as prescribed by the Secretary in regulations.

“(2) MAXIMUM ALLOWANCE.—Reimbursement under this subsection may not exceed \$1,250 for any worker.

“(3) ALLOWANCE FOR SUBSISTENCE AND TRANSPORTATION.—Reimbursement under this subsection may not be made for

Deadlines.

subsistence and transportation expenses at levels exceeding those allowable under section 236(b) (1) and (2).

“(c) EXCEPTION.—Notwithstanding subsection (b), the Secretary shall reimburse any adversely affected worker for necessary expenses incurred by the worker in participating in a job search program approved by the Secretary.”.

SEC. 122. RELOCATION ALLOWANCES.

Section 238 of the Trade Act of 1974 (19 U.S.C. 2298) is amended to read as follows:

“SEC. 238. RELOCATION ALLOWANCES.

“(a) RELOCATION ALLOWANCE AUTHORIZED.—

“(1) IN GENERAL.—Any adversely affected worker covered by a certification issued under subchapter A of this chapter may file an application for a relocation allowance with the Secretary, and the Secretary may grant the relocation allowance, subject to the terms and conditions of this section.

“(2) CONDITIONS FOR GRANTING ALLOWANCE.—A relocation allowance may be granted if all of the following terms and conditions are met:

“(A) ASSIST AN ADVERSELY AFFECTED WORKER.—The relocation allowance will assist an adversely affected worker in relocating within the United States.

“(B) LOCAL EMPLOYMENT NOT AVAILABLE.—The Secretary determines that the worker cannot reasonably be expected to secure suitable employment in the commuting area in which the worker resides.

“(C) TOTAL SEPARATION.—The worker is totally separated from employment at the time relocation commences.

“(D) SUITABLE EMPLOYMENT OBTAINED.—The worker—

“(i) has obtained suitable employment affording a reasonable expectation of long-term duration in the area in which the worker wishes to relocate; or

“(ii) has obtained a bona fide offer of such employment.

“(E) APPLICATION.—The worker filed an application with the Secretary before—

“(i) the later of—

“(I) the 425th day after the date of the certification under subchapter A of this chapter; or

“(II) the 425th day after the date of the worker’s last total separation; or

“(ii) the date that is the 182d day after the date on which the worker concluded training, unless the worker received a waiver under section 231(c).

“(b) AMOUNT OF ALLOWANCE.—The relocation allowance granted to a worker under subsection (a) includes—

“(1) 90 percent of the reasonable and necessary expenses (including, but not limited to, subsistence and transportation expenses at levels not exceeding those allowable under section 236(b) (1) and (2) specified in regulations prescribed by the Secretary, incurred in transporting the worker, the worker’s family, and household effects; and

“(2) a lump sum equivalent to 3 times the worker’s average weekly wage, up to a maximum payment of \$1,250.

“(c) LIMITATIONS.—A relocation allowance may not be granted to a worker unless—

Deadlines.

“(1) the relocation occurs within 182 days after the filing of the application for relocation assistance; or

“(2) the relocation occurs within 182 days after the conclusion of training, if the worker entered a training program approved by the Secretary under section 236(b) (1) and (2).”.

SEC. 123. REPEAL OF NAFTA TRANSITIONAL ADJUSTMENT ASSISTANCE PROGRAM.

(a) **IN GENERAL.**—Subchapter D of chapter 2 of title II of such Act (19 U.S.C. 2331) is repealed.

(b) **CONFORMING AMENDMENTS.**—

(1) Section 225(b) (1) and (2) of the Trade Act of 1974 (19 U.S.C. 2275(b) (1) and (2)) is amended by striking “or subchapter D” each place it appears.

(2) Section 249A of such Act (19 U.S.C. 2322) is repealed.

(3) The table of contents of such Act is amended—

(A) by striking the item relating to section 249A; and

(B) by striking the items relating to subchapter D of chapter 2 of title II.

19 USC 2395.

(4) Section 284(a) of such Act is amended by striking “or section 250(c)”.

19 USC 2331
note.

(c) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The amendments made by this section shall apply with respect to petitions filed under chapter 2 of title II of the Trade Act of 1974, on or after the date that is 90 days after the date of enactment of this Act.

(2) **WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.**—Notwithstanding subsection (a), a worker receiving benefits under chapter 2 of title II of the Trade Act of 1974 shall continue to receive (or be eligible to receive) benefits and services under chapter 2 of title II of the Trade Act of 1974, as in effect on the day before the amendments made by this section take effect under subsection (a), for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date.

SEC. 124. DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.

(a) **DEMONSTRATION PROGRAM.**—Chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) is amended by striking section 246 and inserting the following new section:

19 USC 2318.

“SEC. 246. DEMONSTRATION PROJECT FOR ALTERNATIVE TRADE ADJUSTMENT ASSISTANCE FOR OLDER WORKERS.

“(a) IN GENERAL.—

Deadline.

“(1) ESTABLISHMENT.—Not later than 1 year after the date of enactment of the Trade Adjustment Assistance Reform Act of 2002, the Secretary shall establish an alternative trade adjustment assistance program for older workers that provides the benefits described in paragraph (2).

“(2) BENEFITS.

“(A) PAYMENTS.—A State shall use the funds provided to the State under section 241 to pay, for a period not to exceed 2 years, to a worker described in paragraph (3)(B), 50 percent of the difference between—

“(i) the wages received by the worker from reemployment; and

“(ii) the wages received by the worker at the time of separation.

“(B) HEALTH INSURANCE.—A worker described in paragraph (3)(B) participating in the program established under paragraph (1) is eligible to receive, for a period not to exceed 2 years, a credit for health insurance costs under section 35 of the Internal Revenue Code of 1986, as added by section 201 of the Trade Act of 2002.

“(3) ELIGIBILITY.—

“(A) FIRM ELIGIBILITY.—

“(i) IN GENERAL.—The Secretary shall provide the opportunity for a group of workers on whose behalf a petition is filed under section 221 to request that the group of workers be certified for the alternative trade adjustment assistance program under this section at the time the petition is filed.

“(ii) CRITERIA.—In determining whether to certify a group of workers as eligible for the alternative trade adjustment assistance program, the Secretary shall consider the following criteria:

“(I) Whether a significant number of workers in the workers’ firm are 50 years of age or older.

“(II) Whether the workers in the workers’ firm possess skills that are not easily transferable.

“(III) The competitive conditions within the workers’ industry.

“(iii) DEADLINE.—The Secretary shall determine whether the workers in the group are eligible for the alternative trade adjustment assistance program by the date specified in section 223(a).

“(B) INDIVIDUAL ELIGIBILITY.—A worker in the group that the Secretary has certified as eligible for the alternative trade adjustment assistance program may elect to receive benefits under the alternative trade adjustment assistance program if the worker—

“(i) is covered by a certification under subchapter A of this chapter;

“(ii) obtains reemployment not more than 26 weeks after the date of separation from the adversely affected employment;

“(iii) is at least 50 years of age; and

“(iv) earns not more than \$50,000 a year in wages from reemployment;

“(v) is employed on a full-time basis as defined by State law in the State in which the worker is employed; and

“(vi) does not return to the employment from which the worker was separated.

“(4) TOTAL AMOUNT OF PAYMENTS.—The payments described in paragraph (2)(A) made to a worker may not exceed \$10,000 per worker during the 2-year eligibility period.

“(5) LIMITATION ON OTHER BENEFITS.—Except as provided in section 238(a)(2)(B), if a worker is receiving payments pursuant to the program established under paragraph (1), the worker shall not be eligible to receive any other benefits under this title.

“(b) TERMINATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), no payments may be made by a State under the program established under subsection (a)(1) after the date that is 5 years after the date on which such program is implemented by the State.

“(2) EXCEPTION.—Notwithstanding paragraph (1), a worker receiving payments under the program established under subsection (a)(1) on the termination date described in paragraph (1) shall continue to receive such payments provided that the worker meets the criteria described in subsection (a)(3)(B).”.

(b) TABLE OF CONTENTS.—The Trade Act of 1974 (U.S.C. et seq.) is amended in the table of contents by inserting after the item relating to section 245 the following new item:

“Sec. 246. Demonstration project for alternative trade adjustment assistance for older workers.”.

19 USC 2271
note.

SEC. 125. DECLARATION OF POLICY; SENSE OF CONGRESS.

(a) DECLARATION OF POLICY.—Congress reiterates that, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974, workers are eligible for transportation, childcare, and healthcare assistance, as well as other related assistance under programs administered by the Department of Labor.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Labor, working independently and in conjunction with the States, should, in accordance with section 225 of the Trade Act of 1974, provide more specific information about benefit allowances, training, and other employment services, and the petition and application procedures (including appropriate filing dates) for such allowances, training, and services, under the trade adjustment assistance program under chapter 2 of title II of the Trade Act of 1974 to workers who are applying for, or are certified to receive, assistance under that program, including information on all other Federal assistance available to such workers.

Subtitle B—Trade Adjustment Assistance For Firms

SEC. 131. REAUTHORIZATION OF PROGRAM.

Section 256(b) of chapter 3 of title II of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended to read as follows:

“(b) There are authorized to be appropriated to the Secretary \$16,000,000 for each of fiscal years 2003 through 2007, to carry out the Secretary’s functions under this chapter in connection with furnishing adjustment assistance to firms. Amounts appropriated under this subsection shall remain available until expended.”.

Subtitle C—Trade Adjustment Assistance For Farmers

SEC. 141. TRADE ADJUSTMENT ASSISTANCE FOR FARMERS.

(a) IN GENERAL.—Title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq.) is amended by adding at the end the following new chapter:

“CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS**“SEC. 291. DEFINITIONS.**

19 USC 2401.

“In this chapter:

“(1) **AGRICULTURAL COMMODITY.**—The term ‘agricultural commodity’ means any agricultural commodity (including livestock) in its raw or natural state.

“(2) **AGRICULTURAL COMMODITY PRODUCER.**—The term ‘agricultural commodity producer’ has the same meaning as the term ‘person’ as prescribed by regulations promulgated under section 1001(5) of the Food Security Act of 1985 (7 U.S.C. 1308(5)).

“(3) **CONTRIBUTED IMPORTANTLY.**—

“(A) **IN GENERAL.**—The term ‘contributed importantly’ means a cause which is important but not necessarily more important than any other cause.

“(B) **DETERMINATION OF CONTRIBUTED IMPORTANTLY.**—The determination of whether imports of articles like or directly competitive with an agricultural commodity with respect to which a petition under this chapter was filed contributed importantly to a decline in the price of the agricultural commodity shall be made by the Secretary.

“(4) **DULY AUTHORIZED REPRESENTATIVE.**—The term ‘duly authorized representative’ means an association of agricultural commodity producers.

“(5) **NATIONAL AVERAGE PRICE.**—The term ‘national average price’ means the national average price paid to an agricultural commodity producer for an agricultural commodity in a marketing year as determined by the Secretary.

“(6) **SECRETARY.**—The term ‘Secretary’ means the Secretary of Agriculture.

“SEC. 292. PETITIONS; GROUP ELIGIBILITY.

19 USC 2401a.

“(a) **IN GENERAL.**—A petition for a certification of eligibility to apply for adjustment assistance under this chapter may be filed with the Secretary by a group of agricultural commodity producers or by their duly authorized representative. Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.

Notice.
Federal Register,
publication.

“(b) **HEARINGS.**—If the petitioner, or any other person found by the Secretary to have a substantial interest in the proceedings, submits not later than 10 days after the date of the Secretary’s publication under subsection (a) a request for a hearing, the Secretary shall provide for a public hearing and afford such interested person an opportunity to be present, to produce evidence, and to be heard.

“(c) **GROUP ELIGIBILITY REQUIREMENTS.**—The Secretary shall certify a group of agricultural commodity producers as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

“(1) that the national average price for the agricultural commodity, or a class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is less than 80 percent of the average of the national average price for such agricultural commodity, or such class of goods, for

the 5 marketing years preceding the most recent marketing year; and

“(2) that increases in imports of articles like or directly competitive with the agricultural commodity, or class of goods within the agricultural commodity, produced by the group contributed importantly to the decline in price described in paragraph (1).

“(d) SPECIAL RULE FOR QUALIFIED SUBSEQUENT YEARS.—A group of agricultural commodity producers certified as eligible under section 293 shall be eligible to apply for assistance under this chapter in any qualified year after the year the group is first certified, if the Secretary determines that—

“(1) the national average price for the agricultural commodity, or class of goods within the agricultural commodity, produced by the group for the most recent marketing year for which the national average price is available is equal to or less than the price determined under subsection (c)(1); and

“(2) the requirements of subsection (c)(2) are met.

“(e) DETERMINATION OF QUALIFIED YEAR AND COMMODITY.—In this chapter:

“(1) QUALIFIED YEAR.—The term ‘qualified year’, with respect to a group of agricultural commodity producers certified as eligible under section 293, means each consecutive year after the year in which the group is certified and in which the Secretary makes the determination under subsection (c) or (d), as the case may be.

“(2) CLASSES OF GOODS WITHIN A COMMODITY.—In any case in which there are separate classes of goods within an agricultural commodity, the Secretary shall treat each class as a separate commodity in determining group eligibility, the national average price, and level of imports under this section and section 296.

19 USC 2401b.

“SEC. 293. DETERMINATIONS BY SECRETARY OF AGRICULTURE.

Deadline.

“(a) IN GENERAL.—As soon as practicable after the date on which a petition is filed under section 292, but in any event not later than 40 days after that date, the Secretary shall determine whether the petitioning group meets the requirements of section 292 (c) or (d), as the case may be, and shall, if the group meets the requirements, issue a certification of eligibility to apply for assistance under this chapter covering agricultural commodity producers in any group that meets the requirements. Each certification shall specify the date on which eligibility under this chapter begins.

Federal Register, publication.

“(b) NOTICE.—Upon making a determination on a petition, the Secretary shall promptly publish a summary of the determination in the Federal Register, together with the Secretary’s reasons for making the determination.

Federal Register, publication.

“(c) TERMINATION OF CERTIFICATION.—Whenever the Secretary determines, with respect to any certification of eligibility under this chapter, that the decline in price for the agricultural commodity covered by the certification is no longer attributable to the conditions described in section 292, the Secretary shall terminate such certification and promptly cause notice of such termination to be published in the Federal Register, together with the Secretary’s reasons for making such determination.

“SEC. 294. STUDY BY SECRETARY OF AGRICULTURE WHEN INTERNATIONAL TRADE COMMISSION BEGINS INVESTIGATION. 19 USC 2401c.

“(a) IN GENERAL.—Whenever the International Trade Commission (in this chapter referred to as the ‘Commission’) begins an investigation under section 202 with respect to an agricultural commodity, the Commission shall immediately notify the Secretary of the investigation. Upon receipt of the notification, the Secretary shall immediately conduct a study of—

“(1) the number of agricultural commodity producers producing a like or directly competitive agricultural commodity who have been or are likely to be certified as eligible for adjustment assistance under this chapter, and

“(2) the extent to which the adjustment of such producers to the import competition may be facilitated through the use of existing programs.

“(b) REPORT.—Not later than 15 days after the day on which the Commission makes its report under section 202(f), the Secretary shall submit a report to the President setting forth the findings of the study described in subsection (a). Upon making the report to the President, the Secretary shall also promptly make the report public (with the exception of information which the Secretary determines to be confidential) and shall have a summary of the report published in the Federal Register.

Deadline.

Federal Register,
publication.

“SEC. 295. BENEFIT INFORMATION TO AGRICULTURAL COMMODITY PRODUCERS. 19 USC 2401d.

“(a) IN GENERAL.—The Secretary shall provide full information to agricultural commodity producers about the benefit allowances, training, and other employment services available under this title and about the petition and application procedures, and the appropriate filing dates, for such allowances, training, and services. The Secretary shall provide whatever assistance is necessary to enable groups to prepare petitions or applications for program benefits under this title.

“(b) NOTICE OF BENEFITS.—

“(1) IN GENERAL.—The Secretary shall mail written notice of the benefits available under this chapter to each agricultural commodity producer that the Secretary has reason to believe is covered by a certification made under this chapter.

“(2) OTHER NOTICE.—The Secretary shall publish notice of the benefits available under this chapter to agricultural commodity producers that are covered by each certification made under this chapter in newspapers of general circulation in the areas in which such producers reside.

Publication.

“(3) OTHER FEDERAL ASSISTANCE.—The Secretary shall also provide information concerning procedures for applying for and receiving all other Federal assistance and services available to workers facing economic distress.

“SEC. 296. QUALIFYING REQUIREMENTS FOR AGRICULTURAL COMMODITY PRODUCERS. 19 USC 2401e.

“(a) IN GENERAL.—

“(1) REQUIREMENTS.—Payment of a trade adjustment allowance shall be made to an adversely affected agricultural commodity producer covered by a certification under this chapter who files an application for such allowance within 90 days after the date on which the Secretary makes a determination

and issues a certification of eligibility under section 293, if the following conditions are met:

“(A) The producer submits to the Secretary sufficient information to establish the amount of agricultural commodity covered by the application filed under subsection (a) that was produced by the producer in the most recent year.

“(B) The producer certifies that the producer has not received cash benefits under any provision of this title other than this chapter.

“(C) The producer’s net farm income (as determined by the Secretary) for the most recent year is less than the producer’s net farm income for the latest year in which no adjustment assistance was received by the producer under this chapter.

“(D) The producer certifies that the producer has met with an Extension Service employee or agent to obtain, at no cost to the producer, information and technical assistance that will assist the producer in adjusting to import competition with respect to the adversely affected agricultural commodity, including—

“(i) information regarding the feasibility and desirability of substituting 1 or more alternative commodities for the adversely affected agricultural commodity; and

“(ii) technical assistance that will improve the competitiveness of the production and marketing of the adversely affected agricultural commodity by the producer, including yield and marketing improvements.

“(2) LIMITATIONS.—

“(A) ADJUSTED GROSS INCOME.—

“(i) IN GENERAL.—Notwithstanding any other provision of this chapter, an agricultural commodity producer shall not be eligible for assistance under this chapter in any year in which the average adjusted gross income of the producer exceeds the level set forth in section 1001D of the Food Security Act of 1985.

“(ii) CERTIFICATION.—To comply with the limitation under subparagraph (A), an individual or entity shall provide to the Secretary—

“(I) a certification by a certified public accountant or another third party that is acceptable to the Secretary that the average adjusted gross income of the producer does not exceed the level set forth in section 1001D of the Food Security Act of 1985; or

“(II) information and documentation regarding the adjusted gross income of the producer through other procedures established by the Secretary.

“(B) COUNTER-CYCLICAL PAYMENTS.—The total amount of payments made to an agricultural producer under this chapter during any crop year may not exceed the limitation on counter-cyclical payments set forth in section 1001(c) of the Food Security Act of 1985.

“(C) DEFINITIONS.—In this subsection:

“(i) ADJUSTED GROSS INCOME.—The term ‘adjusted gross income’ means adjusted gross income of an agricultural commodity producer—

“(I) as defined in section 62 of the Internal Revenue Code of 1986 and implemented in accordance with procedures established by the Secretary; and

“(II) that is earned directly or indirectly from all agricultural and nonagricultural sources of an individual or entity for a fiscal or corresponding crop year.

“(ii) AVERAGE ADJUSTED GROSS INCOME.—

“(I) IN GENERAL.—The term ‘average adjusted gross income’ means the average adjusted gross income of a producer for each of the 3 preceding taxable years.

“(II) EFFECTIVE ADJUSTED GROSS INCOME.—In the case of a producer that does not have an adjusted gross income for each of the 3 preceding taxable years, the Secretary shall establish rules that provide the producer with an effective adjusted gross income for the applicable year.

“(b) AMOUNT OF CASH BENEFITS.—

“(1) IN GENERAL.—Subject to the provisions of section 298, an adversely affected agricultural commodity producer described in subsection (a) shall be entitled to adjustment assistance under this chapter in an amount equal to the product of—

“(A) one-half of the difference between—

“(i) an amount equal to 80 percent of the average of the national average price of the agricultural commodity covered by the application described in subsection (a) for the 5 marketing years preceding the most recent marketing year, and

“(ii) the national average price of the agricultural commodity for the most recent marketing year, and

“(B) the amount of the agricultural commodity produced by the agricultural commodity producer in the most recent marketing year.

“(2) SPECIAL RULE FOR SUBSEQUENT QUALIFIED YEARS.—

The amount of cash benefits for a qualified year shall be determined in the same manner as cash benefits are determined under paragraph (1) except that the average national price of the agricultural commodity shall be determined under paragraph (1)(A)(i) by using the 5-marketing-year period used to determine the amount of cash benefits for the first certification.

“(c) MAXIMUM AMOUNT OF CASH ASSISTANCE.—The maximum amount of cash benefits an agricultural commodity producer may receive in any 12-month period shall not exceed \$10,000.

“(d) LIMITATIONS ON OTHER ASSISTANCE.—An agricultural commodity producer entitled to receive a cash benefit under this chapter—

“(1) shall not be eligible for any other cash benefit under this title, and

“(2) shall be entitled to employment services and training benefits under part II of subchapter B of chapter 2.

19 USC 2401f.

“SEC. 297. FRAUD AND RECOVERY OF OVERPAYMENTS.

“(a) IN GENERAL.—

“(1) REPAYMENT.—If the Secretary, or a court of competent jurisdiction, determines that any person has received any payment under this chapter to which the person was not entitled, such person shall be liable to repay such amount to the Secretary, except that the Secretary may waive such repayment if the Secretary determines, in accordance with guidelines prescribed by the Secretary, that—

“(A) the payment was made without fault on the part of such person; and

“(B) requiring such repayment would be contrary to equity and good conscience.

“(2) RECOVERY OF OVERPAYMENT.—Unless an overpayment is otherwise recovered, or waived under paragraph (1), the Secretary shall recover the overpayment by deductions from any sums payable to such person under this chapter.

“(b) FALSE STATEMENT.—A person shall, in addition to any other penalty provided by law, be ineligible for any further payments under this chapter—

“(1) if the Secretary, or a court of competent jurisdiction, determines that the person—

“(A) knowingly has made, or caused another to make, a false statement or representation of a material fact; or

“(B) knowingly has failed, or caused another to fail, to disclose a material fact; and

“(2) as a result of such false statement or representation, or of such nondisclosure, such person has received any payment under this chapter to which the person was not entitled.

“(c) NOTICE AND DETERMINATION.—Except for overpayments determined by a court of competent jurisdiction, no repayment may be required, and no deduction may be made, under this section until a determination under subsection (a)(1) by the Secretary has been made, notice of the determination and an opportunity for a fair hearing thereon has been given to the person concerned, and the determination has become final.

“(d) PAYMENT TO TREASURY.—Any amount recovered under this section shall be returned to the Treasury of the United States.

“(e) PENALTIES.—Whoever makes a false statement of a material fact knowing it to be false, or knowingly fails to disclose a material fact, for the purpose of obtaining or increasing for himself or for any other person any payment authorized to be furnished under this chapter shall be fined not more than \$10,000 or imprisoned for not more than 1 year, or both.

19 USC 2401g.

“SEC. 298. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated and there are appropriated to the Department of Agriculture not to exceed \$90,000,000 for each of the fiscal years 2003 through 2007 to carry out the purposes of this chapter.

“(b) PROPORTIONATE REDUCTION.—If in any year the amount appropriated under this chapter is insufficient to meet the requirements for adjustment assistance payable under this chapter, the amount of assistance payable under this chapter shall be reduced proportionately.”.

(b) **EFFECTIVE DATE.**—The amendments made by this title shall take effect on the date that is 180 days after the date of enactment of this Act. 19 USC 2401 note.

SEC. 142. CONFORMING AMENDMENTS.

(a) **JUDICIAL REVIEW.**—

(1) Section 284(a) of the Trade Act of 1974 (19 U.S.C. 2395(a)) is amended—

(A) by inserting “an agricultural commodity producer (as defined in section 291(2)) aggrieved by a determination of the Secretary of Agriculture under section 293, ” after “section 251 of this title,”; and

(B) in the second sentence of subsection (a) and in subsections (b) and (c), by striking “or the Secretary of Commerce” each place it appears and inserting “, the Secretary of Commerce, or the Secretary of Agriculture”.

(b) **CHAPTERS 6.**—The table of contents for title II of the Trade Act of 1974, as amended by subparagraph (A), is amended by inserting after the items relating to chapter 5 the following:

“CHAPTER 6—ADJUSTMENT ASSISTANCE FOR FARMERS

“Sec. 291. Definitions.

“Sec. 292. Petitions; group eligibility.

“Sec. 293. Determinations by Secretary of Agriculture.

“Sec. 294. Study by Secretary of Agriculture when International Trade Commission begins investigation.

“Sec. 295. Benefit information to agricultural commodity producers.

“Sec. 296. Qualifying requirements for agricultural commodity producers.

“Sec. 297. Fraud and recovery of overpayments.

“Sec. 298. Authorization of appropriations.”.

SEC. 143. STUDY ON TAA FOR FISHERMEN.

Not later than 1 year after the date of enactment of this Act, the Secretary of Commerce shall conduct a study and report to Congress regarding whether a trade adjustment assistance program is appropriate and feasible for fishermen. For purposes of the preceding sentence, the term “fishermen” means any person who is engaged in commercial fishing or is a United States fish processor.

19 USC 2251 note.
Deadline.

Subtitle D—Effective Date

SEC. 151. EFFECTIVE DATE.

(a) **IN GENERAL.**—Except as otherwise provided in sections 123(c) and 141(b), and subsections (b), (c), and (d) of this section, the amendments made by this division shall apply to petitions for certification filed under chapter 2 or 3 of title II of the Trade Act of 1974 on or after the date that is 90 days after the date of enactment of this Act.

(b) **WORKERS CERTIFIED AS ELIGIBLE BEFORE EFFECTIVE DATE.**—Notwithstanding subsection (a), a worker shall continue to receive (or be eligible to receive) trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week for which the worker meets the eligibility requirements of such chapter 2 as in effect on such date, if on or before such date, the worker—

(1) was certified as eligible for trade adjustment assistance benefits under such chapter as in effect on such date; and

19 USC note
prec. 2271.

(2) would otherwise be eligible to receive trade adjustment assistance benefits under such chapter as in effect on such date.

(c) WORKERS WHO BECAME ELIGIBLE DURING QUALIFIED PERIOD.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, any worker who would have been eligible to receive trade adjustment assistance or other benefits under chapter 2 of title II of the Trade Act of 1974 during the qualified period if such chapter 2 had been in effect during such period, shall be eligible to receive trade adjustment assistance and other benefits under chapter 2 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the worker meets the eligibility requirements of such chapter 2 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term “qualified period” means the period beginning on January 11, 2002, and ending on the date that is 90 days after the date of enactment of this Act.

(d) ADJUSTMENT ASSISTANCE FOR FIRMS.—

(1) IN GENERAL.—Notwithstanding subsection (a) or any other provision of law, including section 285 of the Trade Act of 1974, and except as provided in paragraph (2), any firm that would have been eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974 during the qualified period if such chapter 3 had been in effect during such period, shall be eligible to receive adjustment assistance under chapter 3 of title II of the Trade Act of 1974, as in effect on September 30, 2001, for any week during the qualified period for which the firm meets the eligibility requirements of such chapter 3 as in effect on September 30, 2001.

(2) QUALIFIED PERIOD.—For purposes of this subsection, the term “qualified period” means the period beginning on October 1, 2001, and ending on the date that is 90 days after the date of enactment of this Act.

TITLE II—CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS

SEC. 201. CREDIT FOR HEALTH INSURANCE COSTS OF INDIVIDUALS RECEIVING A TRADE READJUSTMENT ALLOWANCE OR A BENEFIT FROM THE PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 35 as section 36 and inserting after section 34 the following new section:

26 USC 35.

“SEC. 35. HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

“(a) IN GENERAL.—In the case of an individual, there shall be allowed as a credit against the tax imposed by subtitle A an amount equal to 65 percent of the amount paid by the taxpayer

for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

“(b) ELIGIBLE COVERAGE MONTH.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible coverage month’ means any month if—

“(A) as of the first day of such month, the taxpayer—

“(i) is an eligible individual,

“(ii) is covered by qualified health insurance, the premium for which is paid by the taxpayer,

“(iii) does not have other specified coverage, and

“(iv) is not imprisoned under Federal, State, or local authority, and

“(B) such month begins more than 90 days after the date of the enactment of the Trade Act of 2002.

“(2) JOINT RETURNS.—In the case of a joint return, the requirements of paragraph (1)(A) shall be treated as met with respect to any month if at least 1 spouse satisfies such requirements.

“(c) ELIGIBLE INDIVIDUAL.—For purposes of this section—

“(1) IN GENERAL.—The term ‘eligible individual’ means—

“(A) an eligible TAA recipient,

“(B) an eligible alternative TAA recipient, and

“(C) an eligible PBGC pension recipient.

“(2) ELIGIBLE TAA RECIPIENT.—The term ‘eligible TAA recipient’ means, with respect to any month, any individual who is receiving for any day of such month a trade readjustment allowance under chapter 2 of title II of the Trade Act of 1974 or who would be eligible to receive such allowance if section 231 of such Act were applied without regard to subsection (a)(3)(B) of such section. An individual shall continue to be treated as an eligible TAA recipient during the first month that such individual would otherwise cease to be an eligible TAA recipient by reason of the preceding sentence.

“(3) ELIGIBLE ALTERNATIVE TAA RECIPIENT.—The term ‘eligible alternative TAA recipient’ means, with respect to any month, any individual who—

“(A) is a worker described in section 246(a)(3)(B) of the Trade Act of 1974 who is participating in the program established under section 246(a)(1) of such Act, and

“(B) is receiving a benefit for such month under section 246(a)(2) of such Act.

An individual shall continue to be treated as an eligible alternative TAA recipient during the first month that such individual would otherwise cease to be an eligible alternative TAA recipient by reason of the preceding sentence.

“(4) ELIGIBLE PBGC PENSION RECIPIENT.—The term ‘eligible PBGC pension recipient’ means, with respect to any month, any individual who—

“(A) has attained age 55 as of the first day of such month, and

“(B) is receiving a benefit for such month any portion of which is paid by the Pension Benefit Guaranty Corporation under title IV of the Employee Retirement Income Security Act of 1974.

“(d) QUALIFYING FAMILY MEMBER.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualifying family member’ means—

“(A) the taxpayer’s spouse, and

“(B) any dependent of the taxpayer with respect to whom the taxpayer is entitled to a deduction under section 151(c).

Such term does not include any individual who has other specified coverage.

“(2) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If paragraph (2) or (4) of section 152(e) applies to any child with respect to any calendar year, in the case of any taxable year beginning in such calendar year, such child shall be treated as described in paragraph (1)(B) with respect to the custodial parent (within the meaning of section 152(e)(1)) and not with respect to the noncustodial parent.

“(e) QUALIFIED HEALTH INSURANCE.—For purposes of this section—

“(1) IN GENERAL.—The term ‘qualified health insurance’ means any of the following:

“(A) Coverage under a COBRA continuation provision (as defined in section 9832(d)(1)).

“(B) State-based continuation coverage provided by the State under a State law that requires such coverage.

“(C) Coverage offered through a qualified State high risk pool (as defined in section 2744(c)(2) of the Public Health Service Act).

“(D) Coverage under a health insurance program offered for State employees.

“(E) Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees.

“(F) Coverage through an arrangement entered into by a State and—

“(i) a group health plan (including such a plan which is a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974),

“(ii) an issuer of health insurance coverage,

“(iii) an administrator, or

“(iv) an employer.

“(G) Coverage offered through a State arrangement with a private sector health care coverage purchasing pool.

“(H) Coverage under a State-operated health plan that does not receive any Federal financial participation.

“(I) Coverage under a group health plan that is available through the employment of the eligible individual’s spouse.

“(J) In the case of any eligible individual and such individual’s qualifying family members, coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date that such individual became separated from the employment which qualified such individual for—

“(i) in the case of an eligible TAA recipient, the allowance described in subsection (c)(2),

“(ii) in the case of an eligible alternative TAA recipient, the benefit described in subsection (c)(3)(B), or

“(iii) in the case of any eligible PBGC pension recipient, the benefit described in subsection (c)(4)(B).

For purposes of this subparagraph, the term ‘individual health insurance’ means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan and does not include Federal- or State-based health insurance coverage.

“(2) REQUIREMENTS FOR STATE-BASED COVERAGE.—

“(A) IN GENERAL.—The term ‘qualified health insurance’ does not include any coverage described in subparagraphs (B) through (H) of paragraph (1) unless the State involved has elected to have such coverage treated as qualified health insurance under this section and such coverage meets the following requirements:

“(i) GUARANTEED ISSUE.—Each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs credit eligibility certificate described in section 7527 and pays the remainder of such premium.

“(ii) NO IMPOSITION OF PREEXISTING CONDITION EXCLUSION.—No pre-existing condition limitations are imposed with respect to any qualifying individual.

“(iii) NONDISCRIMINATORY PREMIUM.—The total premium (as determined without regard to any subsidies) with respect to a qualifying individual may not be greater than the total premium (as so determined) for a similarly situated individual who is not a qualifying individual.

“(iv) SAME BENEFITS.—Benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not qualifying individuals.

“(B) QUALIFYING INDIVIDUAL.—For purposes of this paragraph, the term ‘qualifying individual’ means—

“(i) an eligible individual for whom, as of the date on which the individual seeks to enroll in the coverage described in subparagraphs (B) through (H) of paragraph (1), the aggregate of the periods of creditable coverage (as defined in section 9801(c)) is 3 months or longer and who, with respect to any month, meets the requirements of clauses (iii) and (iv) of subsection (b)(1)(A); and

“(ii) the qualifying family members of such eligible individual.

“(3) EXCEPTION.—The term ‘qualified health insurance’ shall not include—

“(A) a flexible spending or similar arrangement, and

“(B) any insurance if substantially all of its coverage is of excepted benefits described in section 9832(c).

“(f) OTHER SPECIFIED COVERAGE.—For purposes of this section, an individual has other specified coverage for any month if, as of the first day of such month—

“(1) SUBSIDIZED COVERAGE.—

“(A) IN GENERAL.—Such individual is covered under any insurance which constitutes medical care (except insurance substantially all of the coverage of which is of excepted benefits described in section 9832(c)) under any health plan maintained by any employer (or former employer) of the taxpayer or the taxpayer’s spouse and at least 50 percent of the cost of such coverage (determined under section 4980B) is paid or incurred by the employer.

“(B) ELIGIBLE ALTERNATIVE TAA RECIPIENTS.—In the case of an eligible alternative TAA recipient, such individual is either—

“(i) eligible for coverage under any qualified health insurance (other than insurance described in subparagraph (A), (B), or (F) of subsection (e)(1)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4)) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse, or

“(ii) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse.

“(C) TREATMENT OF CAFETERIA PLANS.—For purposes of subparagraphs (A) and (B), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d)).

“(2) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

“(A) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

“(B) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

“(3) CERTAIN OTHER COVERAGE.—Such individual—

“(A) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, or

“(B) is entitled to receive benefits under chapter 55 of title 10, United States Code.

“(g) SPECIAL RULES.—

“(1) COORDINATION WITH ADVANCE PAYMENTS OF CREDIT.—With respect to any taxable year, the amount which would (but for this subsection) be allowed as a credit to the taxpayer under subsection (a) shall be reduced (but not below zero) by the aggregate amount paid on behalf of such taxpayer under section 7527 for months beginning in such taxable year.

“(2) COORDINATION WITH OTHER DEDUCTIONS.—Amounts taken into account under subsection (a) shall not be taken into account in determining any deduction allowed under section 162(l) or 213.

“(3) MSA DISTRIBUTIONS.—Amounts distributed from an Archer MSA (as defined in section 220(d)) shall not be taken into account under subsection (a).

“(4) DENIAL OF CREDIT TO DEPENDENTS.—No credit shall be allowed under this section to any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual’s taxable year begins.

“(5) BOTH SPOUSES ELIGIBLE INDIVIDUALS.—The spouse of the taxpayer shall not be treated as a qualifying family member for purposes of subsection (a), if—

“(A) the taxpayer is married at the close of the taxable year,

“(B) the taxpayer and the taxpayer’s spouse are both eligible individuals during the taxable year, and

“(C) the taxpayer files a separate return for the taxable year.

“(6) MARITAL STATUS; CERTAIN MARRIED INDIVIDUALS LIVING APART.—Rules similar to the rules of paragraphs (3) and (4) of section 21(e) shall apply for purposes of this section.

“(7) INSURANCE WHICH COVERS OTHER INDIVIDUALS.—For purposes of this section, rules similar to the rules of section 213(d)(6) shall apply with respect to any contract for qualified health insurance under which amounts are payable for coverage of an individual other than the taxpayer and qualifying family members.

“(8) TREATMENT OF PAYMENTS.—For purposes of this section—

“(A) PAYMENTS BY SECRETARY.—Payments made by the Secretary on behalf of any individual under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) shall be treated as having been made by the taxpayer on the first day of the month for which such payment was made.

“(B) PAYMENTS BY TAXPAYER.—Payments made by the taxpayer for eligible coverage months shall be treated as having been made by the taxpayer on the first day of the month for which such payment was made.

“(9) REGULATIONS.—The Secretary may prescribe such regulations and other guidance as may be necessary or appropriate to carry out this section, section 6050T, and section 7527.”.

(b) PROMOTION OF STATE HIGH RISK POOLS.—Title XXVII of the Public Health Service Act is amended by inserting after section 2744 the following new section:

“SEC. 2745. PROMOTION OF QUALIFIED HIGH RISK POOLS.

“(a) SEED GRANTS TO STATES.—The Secretary shall provide from the funds appropriated under subsection (c)(1) a grant of up to \$1,000,000 to each State that has not created a qualified high risk pool as of the date of the enactment of this section for the State’s costs of creation and initial operation of such a pool.

“(b) MATCHING FUNDS FOR OPERATION OF POOLS.—

“(1) IN GENERAL.—In the case of a State that has established a qualified high risk pool that—

“(A) restricts premiums charged under the pool to no more than 150 percent of the premium for applicable standard risk rates;

“(B) offers a choice of two or more coverage options through the pool; and

“(C) has in effect a mechanism reasonably designed to ensure continued funding of losses incurred by the State after the end of fiscal year 2004 in connection with operation of the pool;

the Secretary shall provide, from the funds appropriated under subsection (c)(2) and allotted to the State under paragraph (2), a grant of up to 50 percent of the losses incurred by the State in connection with the operation of the pool.

“(2) ALLOTMENT.—The amounts appropriated under subsection (c)(2) for a fiscal year shall be made available to the States in accordance with a formula that is based upon the number of uninsured individuals in the States.

“(c) FUNDING.—Out of any money in the Treasury of the United States not otherwise appropriated, there are authorized and appropriated—

“(1) \$20,000,000 for fiscal year 2003 to carry out subsection (a); and

“(2) \$40,000,000 for each of fiscal years 2003 and 2004 to carry out subsection (b).

Funds appropriated under this subsection for a fiscal year shall remain available for obligation through the end of the following fiscal year. Nothing in this section shall be construed as providing a State with an entitlement to a grant under this section.

“(d) QUALIFIED HIGH RISK POOL AND STATE DEFINED.—For purposes of this section, the term ‘qualified high risk pool’ has the meaning given such term in section 2744(c)(2) and the term ‘State’ means any of the 50 States and the District of Columbia.”.

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 1324(b) of title 31, United States Code, is amended by inserting before the period “, or from section 35 of such Code”.

(2) The table of sections for subpart C of part IV of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the last item and inserting the following new items:

“Sec. 35. Health insurance costs of eligible individuals.

“Sec. 36. Overpayments of tax.”.

26 USC 35 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 2001.

(2) STATE HIGH RISK POOLS.—The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 202. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

(a) IN GENERAL.—Chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end the following new section:

“SEC. 7527. ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS. 26 USC 7527.

“(a) GENERAL RULE.—Not later than August 1, 2003, the Secretary shall establish a program for making payments on behalf of certified individuals to providers of qualified health insurance (as defined in section 35(e)) for such individuals. Deadline.

“(b) LIMITATION ON ADVANCE PAYMENTS DURING ANY TAXABLE YEAR.—The Secretary may make payments under subsection (a) only to the extent that the total amount of such payments made on behalf of any individual during the taxable year does not exceed 65 percent of the amount paid by the taxpayer for coverage of the taxpayer and qualifying family members under qualified health insurance for eligible coverage months beginning in the taxable year.

“(c) CERTIFIED INDIVIDUAL.—For purposes of this section, the term ‘certified individual’ means any individual for whom a qualified health insurance costs credit eligibility certificate is in effect.

“(d) QUALIFIED HEALTH INSURANCE COSTS CREDIT ELIGIBILITY CERTIFICATE.—For purposes of this section, the term ‘qualified health insurance costs credit eligibility certificate’ means any written statement that an individual is an eligible individual (as defined in section 35(c)) if such statement provides such information as the Secretary may require for purposes of this section and—

“(1) in the case of an eligible TAA recipient (as defined in section 35(c)(2)) or an eligible alternative TAA recipient (as defined in section 35(c)(3)), is certified by the Secretary of Labor (or by any other person or entity designated by the Secretary), or

“(2) in the case of an eligible PBGC pension recipient (as defined in section 35(c)(4)), is certified by the Pension Benefit Guaranty Corporation (or by any other person or entity designated by the Secretary).”.

(b) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Subsection (l) of section 6103 of such Code (relating to disclosure of returns and return information for purposes other than tax administration) is amended by adding at the end the following new paragraph: 26 USC 6103.

“(18) DISCLOSURE OF RETURN INFORMATION FOR PURPOSES OF CARRYING OUT A PROGRAM FOR ADVANCE PAYMENT OF CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.—The Secretary may disclose to providers of health insurance for any certified individual (as defined in section 7527(c)) return information with respect to such certified individual only to the extent necessary to carry out the program established by section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals).”.

(2) PROCEDURES AND RECORDKEEPING RELATED TO DISCLOSURES.—Subsection (p) of such section is amended—

(A) in paragraph (3)(A) by striking “or (17)” and inserting “(17), or (18)”, and

(B) in paragraph (4) by inserting “or (17)” after “any other person described in subsection (l)(16)” each place it appears.

(3) UNAUTHORIZED INSPECTION OF RETURNS OR RETURN INFORMATION.—Section 7213A(a)(1)(B) of such Code is amended 26 USC 7213A.

by striking “section 6103(n)” and inserting “subsection (l)(18) or (n) of section 6103”.

(c) INFORMATION REPORTING.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning transactions with other persons) is amended by inserting after section 6050S the following new section:

26 USC 6050T.

“SEC. 6050T. RETURNS RELATING TO CREDIT FOR HEALTH INSURANCE COSTS OF ELIGIBLE INDIVIDUALS.

“(a) REQUIREMENT OF REPORTING.—Every person who is entitled to receive payments for any month of any calendar year under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals) with respect to any certified individual (as defined in section 7527(c)) shall, at such time as the Secretary may prescribe, make the return described in subsection (b) with respect to each such individual.

“(b) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

“(1) is in such form as the Secretary may prescribe, and

“(2) contains—

“(A) the name, address, and TIN of each individual referred to in subsection (a),

“(B) the number of months for which amounts were entitled to be received with respect to such individual under section 7527 (relating to advance payment of credit for health insurance costs of eligible individuals),

“(C) the amount entitled to be received for each such month, and

“(D) such other information as the Secretary may prescribe.

“(c) STATEMENTS TO BE FURNISHED TO INDIVIDUALS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

“(1) the name and address of the person required to make such return and the phone number of the information contact for such person, and

“(2) the information required to be shown on the return with respect to such individual.

Deadline.

The written statement required under the preceding sentence shall be furnished on or before January 31 of the year following the calendar year for which the return under subsection (a) is required to be made.”.

(2) ASSESSABLE PENALTIES.—

26 USC 6724.

(A) Subparagraph (B) of section 6724(d)(1) of such Code (relating to definitions) is amended by redesignating clauses (xi) through (xvii) as clauses (xii) through (xviii), respectively, and by inserting after clause (x) the following new clause:

“(xi) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals),”.

(B) Paragraph (2) of section 6724(d) of such Code is amended by striking “or” at the end of subparagraph (Z),

by striking the period at the end of subparagraph (AA) and inserting “, or”, and by adding after subparagraph (AA) the following new subparagraph:

“(BB) section 6050T (relating to returns relating to credit for health insurance costs of eligible individuals).”.

(d) CLERICAL AMENDMENTS.—

(1) ADVANCE PAYMENT.—The table of sections for chapter 77 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“Sec. 7527. Advance payment of credit for health insurance costs of eligible individuals.”.

(2) INFORMATION REPORTING.—The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6050S the following new item:

“Sec. 6050T. Returns relating to credit for health insurance costs of eligible individuals.”.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

26 USC 6050T
note.

SEC. 203. HEALTH INSURANCE ASSISTANCE FOR ELIGIBLE INDIVIDUALS.

(a) ELIGIBILITY FOR GRANTS.—Section 173(a) of the Workforce Investment Act of 1998 (29 U.S.C. 2918(a)) is amended—

(1) in paragraph (2), by striking “and” at the end;

(2) in paragraph (3), by striking the period and inserting “, and”; and

(3) by adding at the end the following:

“(4) from funds appropriated under section 174(c)—

“(A) to a State or entity (as defined in section 173(c)(1)(B)) to carry out subsection (f), including providing assistance to eligible individuals; and

“(B) to a State or entity (as so defined) to carry out subsection (g), including providing assistance to eligible individuals.”.

(b) USE OF FUNDS FOR HEALTH INSURANCE COVERAGE.—Section 173 of the Workforce Investment Act of 1998 (29 U.S.C. 2918) is amended by adding at the end the following:

“(f) HEALTH INSURANCE COVERAGE ASSISTANCE FOR ELIGIBLE INDIVIDUALS.—

“(1) IN GENERAL.—Funds made available to a State or entity under paragraph (4)(A) of subsection (a) may be used by the State or entity for the following:

“(A) HEALTH INSURANCE COVERAGE.—To assist an eligible individual and such individual’s qualifying family members in enrolling in qualified health insurance.

“(B) ADMINISTRATIVE AND START-UP EXPENSES.—To pay the administrative expenses related to the enrollment of eligible individuals and such individuals’ qualifying family members in qualified health insurance, including—

“(i) eligibility verification activities;

“(ii) the notification of eligible individuals of available qualified health insurance options;

“(iii) processing qualified health insurance costs credit eligibility certificates provided for under section 7527 of the Internal Revenue Code of 1986;

“(iv) providing assistance to eligible individuals in enrolling in qualified health insurance;

“(v) the development or installation of necessary data management systems; and

“(vi) any other expenses determined appropriate by the Secretary, including start-up costs and on going administrative expenses to carry out clauses (iv) through (ix) of paragraph (2)(A).

“(2) QUALIFIED HEALTH INSURANCE.—For purposes of this subsection and subsection (g)—

“(A) IN GENERAL.—The term ‘qualified health insurance’ means any of the following:

“(i) Coverage under a COBRA continuation provision (as defined in section 733(d)(1) of the Employee Retirement Income Security Act of 1974).

“(ii) State-based continuation coverage provided by the State under a State law that requires such coverage.

“(iii) Coverage offered through a qualified State high risk pool (as defined in section 2744(c)(2) of the Public Health Service Act).

“(iv) Coverage under a health insurance program offered for State employees.

“(v) Coverage under a State-based health insurance program that is comparable to the health insurance program offered for State employees.

“(vi) Coverage through an arrangement entered into by a State and—

“(I) a group health plan (including such a plan which is a multiemployer plan as defined in section 3(37) of the Employee Retirement Income Security Act of 1974),

“(II) an issuer of health insurance coverage,

“(III) an administrator, or

“(IV) an employer.

“(vii) Coverage offered through a State arrangement with a private sector health care coverage purchasing pool.

“(viii) Coverage under a State-operated health plan that does not receive any Federal financial participation.

“(ix) Coverage under a group health plan that is available through the employment of the eligible individual’s spouse.

“(x) In the case of any eligible individual and such individual’s qualifying family members, coverage under individual health insurance if the eligible individual was covered under individual health insurance during the entire 30-day period that ends on the date that such individual became separated from the employment which qualified such individual for—

“(I) in the case of an eligible TAA recipient, the allowance described in section 35(c)(2) of the Internal Revenue Code of 1986,

“(II) in the case of an eligible alternative TAA recipient, the benefit described in section 35(c)(3)(B) of such Code, or

“(III) in the case of any eligible PBGC pension recipient, the benefit described in section 35(c)(4)(B) of such Code.

For purposes of this clause, the term ‘individual health insurance’ means any insurance which constitutes medical care offered to individuals other than in connection with a group health plan and does not include Federal- or State-based health insurance coverage.

“(B) REQUIREMENTS FOR STATE-BASED COVERAGE.—

“(i) IN GENERAL.—The term ‘qualified health insurance’ does not include any coverage described in clauses (ii) through (viii) of subparagraph (A) unless the State involved has elected to have such coverage treated as qualified health insurance under this paragraph and such coverage meets the following requirements:

“(I) GUARANTEED ISSUE.—Each qualifying individual is guaranteed enrollment if the individual pays the premium for enrollment or provides a qualified health insurance costs credit eligibility certificate described in section 7527 of the Internal Revenue Code of 1986 and pays the remainder of such premium.

“(II) NO IMPOSITION OF PREEXISTING CONDITION EXCLUSION.—No pre-existing condition limitations are imposed with respect to any qualifying individual.

“(III) NONDISCRIMINATORY PREMIUM.—The total premium (as determined without regard to any subsidies) with respect to a qualifying individual may not be greater than the total premium (as so determined) for a similarly situated individual who is not a qualifying individual.

“(IV) SAME BENEFITS.—Benefits under the coverage are the same as (or substantially similar to) the benefits provided to similarly situated individuals who are not qualifying individuals.

“(ii) QUALIFYING INDIVIDUAL.—For purposes of this subparagraph, the term ‘qualifying individual’ means—

“(I) an eligible individual for whom, as of the date on which the individual seeks to enroll in clauses (ii) through (viii) of subparagraph (A), the aggregate of the periods of creditable coverage (as defined in section 9801(c) of the Internal Revenue Code of 1986) is 3 months or longer and who, with respect to any month, meets the requirements of clauses (iii) and (iv) of section 35(b)(1)(A) of such Code; and

“(II) the qualifying family members of such eligible individual.

“(C) EXCEPTION.—The term ‘qualified health insurance’ shall not include—

“(i) a flexible spending or similar arrangement, and

“(ii) any insurance if substantially all of its coverage is of excepted benefits described in section 733(c)

of the Employee Retirement Income Security Act of 1974.

“(3) AVAILABILITY OF FUNDS.—

“(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States or entities for grants under this subsection, the Secretary shall—

Deadline.

“(i) not later than 15 days after the date on which the Secretary receives a completed application from a State or entity, notify the State or entity of the determination of the Secretary with respect to the approval or disapproval of such application;

“(ii) in the case of an application of a State or other entity that is disapproved by the Secretary, provide technical assistance, at the request of the State or entity, in a timely manner to enable the State or entity to submit an approved application; and

“(iii) develop procedures to expedite the provision of funds to States and entities with approved applications.

“(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(A) to carry out subsection (a)(4)(A) are available to States and entities throughout the period described in section 174(c)(2)(A).

“(4) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this subsection and subsection (g), the term ‘eligible individual’ means—

“(A) an eligible TAA recipient (as defined in section 35(c)(2) of the Internal Revenue Code of 1986),

“(B) an eligible alternative TAA recipient (as defined in section 35(c)(3) of the Internal Revenue Code of 1986), and

“(C) an eligible PBGC pension recipient (as defined in section 35(c)(4) of the Internal Revenue Code of 1986), who, as of the first day of the month, does not have other specified coverage and is not imprisoned under Federal, State, or local authority.

“(5) QUALIFYING FAMILY MEMBER DEFINED.—For purposes of this subsection and subsection (g)—

“(A) IN GENERAL.—The term ‘qualifying family member’ means—

“(i) the eligible individual’s spouse, and

“(ii) any dependent of the eligible individual with respect to whom the individual is entitled to a deduction under section 151(c) of the Internal Revenue Code of 1986.

Such term does not include any individual who has other specified coverage.

“(B) SPECIAL DEPENDENCY TEST IN CASE OF DIVORCED PARENTS, ETC.—If paragraph (2) or (4) of section 152(e) of such Code applies to any child with respect to any calendar year, in the case of any taxable year beginning in such calendar year, such child shall be treated as described in subparagraph (A)(ii) with respect to the custodial parent (within the meaning of section 152(e)(1) of such Code) and not with respect to the noncustodial parent.

“(6) STATE.—For purposes of this subsection and subsection (g), the term ‘State’ includes an entity as defined in subsection (c)(1)(B).

“(7) OTHER SPECIFIED COVERAGE.—For purposes of this subsection, an individual has other specified coverage for any month if, as of the first day of such month—

“(A) SUBSIDIZED COVERAGE.—

“(i) IN GENERAL.—Such individual is covered under any insurance which constitutes medical care (except insurance substantially all of the coverage of which is of excepted benefits described in section 9832(c) of the Internal Revenue Code of 1986) under any health plan maintained by any employer (or former employer) of the taxpayer or the taxpayer’s spouse and at least 50 percent of the cost of such coverage (determined under section 4980B of such Code) is paid or incurred by the employer.

“(ii) ELIGIBLE ALTERNATIVE TAA RECIPIENTS.—In the case of an eligible alternative TAA recipient (as defined in section 35(c)(3) of the Internal Revenue Code of 1986), such individual is either—

“(I) eligible for coverage under any qualified health insurance (other than insurance described in clause (i), (ii), or (vi) of paragraph (2)(A)) under which at least 50 percent of the cost of coverage (determined under section 4980B(f)(4) of such Code) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse, or

“(II) covered under any such qualified health insurance under which any portion of the cost of coverage (as so determined) is paid or incurred by an employer (or former employer) of the taxpayer or the taxpayer’s spouse.

“(iii) TREATMENT OF CAFETERIA PLANS.—For purposes of clauses (i) and (ii), the cost of coverage shall be treated as paid or incurred by an employer to the extent the coverage is in lieu of a right to receive cash or other qualified benefits under a cafeteria plan (as defined in section 125(d) of the Internal Revenue Code of 1986).

“(B) COVERAGE UNDER MEDICARE, MEDICAID, OR SCHIP.—Such individual—

“(i) is entitled to benefits under part A of title XVIII of the Social Security Act or is enrolled under part B of such title, or

“(ii) is enrolled in the program under title XIX or XXI of such Act (other than under section 1928 of such Act).

“(C) CERTAIN OTHER COVERAGE.—Such individual—

“(i) is enrolled in a health benefits plan under chapter 89 of title 5, United States Code, or

“(ii) is entitled to receive benefits under chapter 55 of title 10, United States Code.

“(g) INTERIM HEALTH INSURANCE COVERAGE AND OTHER ASSISTANCE.—

“(1) IN GENERAL.—Funds made available to a State or entity under paragraph (4)(B) of subsection (a) may be used by the State or entity to provide assistance and support services to eligible individuals, including health care coverage to the extent provided under subsection (f)(1)(A), transportation, child care, dependent care, and income assistance.

“(2) INCOME SUPPORT.—With respect to any income assistance provided to an eligible individual with such funds, such assistance shall supplement and not supplant other income support or assistance provided under chapter 2 of title II of the Trade Act of 1974 (19 U.S.C. 2271 et seq.) (as in effect on the day before the effective date of the Trade Act of 2002) or the unemployment compensation laws of the State where the eligible individual resides.

“(3) HEALTH INSURANCE COVERAGE.—With respect to any assistance provided to an eligible individual with such funds in enrolling in qualified health insurance, the following rules shall apply:

“(A) The State or entity may provide assistance in obtaining such coverage to the eligible individual and to such individual’s qualifying family members.

“(B) Such assistance shall supplement and may not supplant any other State or local funds used to provide health care coverage and may not be included in determining the amount of non-Federal contributions required under any program.

“(4) AVAILABILITY OF FUNDS.—

“(A) EXPEDITED PROCEDURES.—With respect to applications submitted by States or entities for grants under this subsection, the Secretary shall—

“(i) not later than 15 days after the date on which the Secretary receives a completed application from a State or entity, notify the State or entity of the determination of the Secretary with respect to the approval or disapproval of such application;

“(ii) in the case of an application of a State or entity that is disapproved by the Secretary, provide technical assistance, at the request of the State or entity, in a timely manner to enable the State or entity to submit an approved application; and

“(iii) develop procedures to expedite the provision of funds to States and entities with approved applications.

“(B) AVAILABILITY AND DISTRIBUTION OF FUNDS.—The Secretary shall ensure that funds made available under section 174(c)(1)(B) to carry out subsection (a)(4)(B) are available to States and entities throughout the period described in section 174(c)(2)(B).

“(5) INCLUSION OF CERTAIN INDIVIDUALS AS ELIGIBLE INDIVIDUALS.—For purposes of this subsection, the term ‘eligible individual’ includes an individual who is a member of a group of workers certified after April 1, 2002, under chapter 2 of title II of the Trade Act of 1974 (as in effect on the day before the effective date of the Trade Act of 2002) and is participating in the trade adjustment allowance program under such chapter (as so in effect) or who would be determined to be participating in such program under such chapter (as

Deadline.

so in effect) if such chapter were applied without regard to section 231(a)(3)(B) of the Trade Act of 1974 (as so in effect).”.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 174 of the Workforce Investment Act of 1998 (29 U.S.C. 2919) is amended by adding at the end the following:

“(c) ASSISTANCE FOR ELIGIBLE WORKERS.—

“(1) AUTHORIZATION AND APPROPRIATION FOR FISCAL YEAR 2002.—There are authorized to be appropriated and appropriated—

“(A) to carry out subsection (a)(4)(A) of section 173, \$10,000,000 for fiscal year 2002; and

“(B) to carry out subsection (a)(4)(B) of section 173, \$50,000,000 for fiscal year 2002.

“(2) AUTHORIZATION OF APPROPRIATIONS FOR SUBSEQUENT FISCAL YEARS.—There are authorized to be appropriated—

“(A) to carry out subsection (a)(4)(A) of section 173, \$60,000,000 for each of fiscal years 2003 through 2007; and

“(B) to carry out subsection (a)(4)(B) of section 173—

“(i) \$100,000,000 for fiscal year 2003; and

“(ii) \$50,000,000 for fiscal year 2004.

“(3) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to—

“(A) paragraphs (1)(A) and (2)(A) for each fiscal year shall, notwithstanding section 189(g), remain available for obligation during the pendency of any outstanding claim under the Trade Act of 1974, as amended by the Trade Act of 2002; and

“(B) paragraph (1)(B) and (2)(B), for each fiscal year shall, notwithstanding section 189(g), remain available during the period that begins on the date of enactment of the Trade Act of 2002 and ends on September 30, 2004.”.

(d) CONFORMING AMENDMENT.—Section 132(a)(2)(A) of the Workforce Investment Act of 1998 (29 U.S.C. 2862(a)(2)(A)) is amended by inserting “, other than under subsection (a)(4), (f), and (g)” after “grants”.

(e) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

(1) ERISA AMENDMENTS.—Section 605 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1165) is amended—

(A) by inserting “(a) IN GENERAL.—” before “For purposes of this part”; and

(B) by adding at the end the following:

“(b) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

“(1) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a), such individual may elect continuation coverage under this part during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

Deadline.

“(2) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the

60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

“(3) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

“(A) beginning on the date of the TAA-related loss of coverage, and

“(B) ending on the first day of the 60-day election period described in paragraph (1), shall be disregarded for purposes of determining the 63-day periods referred to in section 701(c)(2), section 2701(c)(2) of the Public Health Service Act, and section 9801(c)(2) of the Internal Revenue Code of 1986.

“(4) DEFINITIONS.—For purposes of this subsection:

“(A) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term ‘nonelecting TAA-eligible individual’ means a TAA-eligible individual who—

“(i) has a TAA-related loss of coverage; and

“(ii) did not elect continuation coverage under this part during the TAA-related election period.

“(B) TAA-ELIGIBLE INDIVIDUAL.—The term ‘TAA-eligible individual’ means—

“(i) an eligible TAA recipient (as defined in paragraph (2) of section 35(c) of the Internal Revenue Code of 1986), and

“(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

“(C) TAA-RELATED ELECTION PERIOD.—The term ‘TAA-related election period’ means, with respect to a TAA-related loss of coverage, the 60-day election period under this part which is a direct consequence of such loss.

“(D) TAA-RELATED LOSS OF COVERAGE.—The term ‘TAA-related loss of coverage’ means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.”.

(2) PHSA AMENDMENTS.—Section 2205 of the Public Health Service Act (42 U.S.C. 300bb-5) is amended—

(A) by inserting “(a) IN GENERAL.—” before “For purposes of this title”; and

(B) by adding at the end the following:

“(b) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

Deadline.

“(1) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subsection (a), such individual may elect continuation coverage under this title during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage.

“(2) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under paragraph (1) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

“(3) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to paragraph (1), the period—

“(A) beginning on the date of the TAA-related loss of coverage, and

“(B) ending on the first day of the 60-day election period described in paragraph (1), shall be disregarded for purposes of determining the 63-day periods referred to in section 2701(c)(2), section 701(c)(2) of the Employee Retirement Income Security Act of 1974, and section 9801(c)(2) of the Internal Revenue Code of 1986.

“(4) DEFINITIONS.—For purposes of this subsection:

“(A) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term ‘nonelecting TAA-eligible individual’ means a TAA-eligible individual who—

“(i) has a TAA-related loss of coverage; and

“(ii) did not elect continuation coverage under this part during the TAA-related election period.

“(B) TAA-ELIGIBLE INDIVIDUAL.—The term ‘TAA-eligible individual’ means—

“(i) an eligible TAA recipient (as defined in paragraph (2) of section 35(c) of the Internal Revenue Code of 1986), and

“(ii) an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

“(C) TAA-RELATED ELECTION PERIOD.—The term ‘TAA-related election period’ means, with respect to a TAA-related loss of coverage, the 60-day election period under this part which is a direct consequence of such loss.

“(D) TAA-RELATED LOSS OF COVERAGE.—The term ‘TAA-related loss of coverage’ means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.”.

(3) IRC AMENDMENTS.—Paragraph (5) of section 4980B(f) of the Internal Revenue Code of 1986 (relating to election) is amended by adding at the end the following: 26 USC 4980B.

“(C) TEMPORARY EXTENSION OF COBRA ELECTION PERIOD FOR CERTAIN INDIVIDUALS.—

“(i) IN GENERAL.—In the case of a nonelecting TAA-eligible individual and notwithstanding subparagraph (A), such individual may elect continuation coverage under this subsection during the 60-day period that begins on the first day of the month in which the individual becomes a TAA-eligible individual, but only if such election is made not later than 6 months after the date of the TAA-related loss of coverage. Deadline.

“(ii) COMMENCEMENT OF COVERAGE; NO REACH-BACK.—Any continuation coverage elected by a TAA-eligible individual under clause (i) shall commence at the beginning of the 60-day election period described in such paragraph and shall not include any period prior to such 60-day election period.

“(iii) PREEXISTING CONDITIONS.—With respect to an individual who elects continuation coverage pursuant to clause (i), the period—

“(I) beginning on the date of the TAA-related loss of coverage, and

“(II) ending on the first day of the 60-day election period described in clause (i), shall be disregarded for purposes of determining the 63-day periods referred to in section 9801(c)(2), section 701(c)(2) of the Employee Retirement Income Security Act of 1974, and section 2701(c)(2) of the Public Health Service Act.

“(iv) DEFINITIONS.—For purposes of this subsection:

“(I) NONELECTING TAA-ELIGIBLE INDIVIDUAL.—The term ‘nonelecting TAA-eligible individual’ means a TAA-eligible individual who has a TAA-related loss of coverage and did not elect continuation coverage under this subsection during the TAA-related election period.

“(II) TAA-ELIGIBLE INDIVIDUAL.—The term ‘TAA-eligible individual’ means an eligible TAA recipient (as defined in paragraph (2) of section 35(c)) and an eligible alternative TAA recipient (as defined in paragraph (3) of such section).

“(III) TAA-RELATED ELECTION PERIOD.—The term ‘TAA-related election period’ means, with respect to a TAA-related loss of coverage, the 60-day election period under this subsection which is a direct consequence of such loss.

“(IV) TAA-RELATED LOSS OF COVERAGE.—The term ‘TAA-related loss of coverage’ means, with respect to an individual whose separation from employment gives rise to being an TAA-eligible individual, the loss of health benefits coverage associated with such separation.”.

29 USC 2918
note.

(f) RULE OF CONSTRUCTION.—Nothing in this title (or the amendments made by this title), other than provisions relating to COBRA continuation coverage and reporting requirements, shall be construed as creating any new mandate on any party regarding health insurance coverage.

Customs Border
Security Act of
2002.

TITLE III—CUSTOMS REAUTHORIZATION

19 USC 1654
note.

SEC. 301. SHORT TITLE.

This Act may be cited as the “Customs Border Security Act of 2002”.

Subtitle A—United States Customs Service

CHAPTER 1—DRUG ENFORCEMENT AND OTHER NONCOMMERCIAL AND COMMERCIAL OPERATIONS

SEC. 311. AUTHORIZATION OF APPROPRIATIONS FOR NONCOMMERCIAL OPERATIONS, COMMERCIAL OPERATIONS, AND AIR AND MARINE INTERDICTION.

(a) NONCOMMERCIAL OPERATIONS.—Section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended—

(1) by striking subparagraph (A), and inserting the following:

“(A) \$1,365,456,000 for fiscal year 2003.”; and

(2) by striking subparagraph (B), and inserting the following:

“(B) \$1,399,592,400 for fiscal year 2004.”.

(b) COMMERCIAL OPERATIONS.—

(1) IN GENERAL.—Section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)) is amended—

(A) by striking clause (i), and inserting the following:

“(i) \$1,642,602,000 for fiscal year 2003.”; and

(B) by striking clause (ii), and inserting the following:

“(ii) \$1,683,667,050 for fiscal year 2004.”.

(2) AUTOMATED COMMERCIAL ENVIRONMENT COMPUTER SYSTEM.—Of the amount made available for each of fiscal years 2003 and 2004 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by paragraph (1), \$308,000,000 shall be available until expended for each such fiscal year for the development, establishment, and implementation of the Automated Commercial Environment computer system.

19 USC 2075
note.

(3) REPORTS.—Not later than 90 days after the date of the enactment of this Act, and not later than the end of each subsequent 90-day period, the Commissioner of Customs shall prepare and submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report demonstrating that the development and establishment of the Automated Commercial Environment computer system is being carried out in a cost-effective manner and meets the modernization requirements of title VI of the North American Free Trade Agreement Implementation Act.

Deadline.
19 USC 2075
note.

(c) AIR AND MARINE INTERDICTION.—Section 301(b)(3) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(3)) is amended—

(1) by striking subparagraph (A), and inserting the following:

“(A) \$170,829,000 for fiscal year 2003.”; and

(2) by striking subparagraph (B), and inserting the following:

“(B) \$175,099,725 for fiscal year 2004.”.

(d) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 301(a) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(a)) is amended by adding at the end the following:

“(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the operations of the Customs Service as provided for in subsection (b).”.

SEC. 312. ANTITERRORIST AND ILLICIT NARCOTICS DETECTION EQUIPMENT FOR THE UNITED STATES-MEXICO BORDER, UNITED STATES-CANADA BORDER, AND FLORIDA AND THE GULF COAST SEAPORTS.

(a) **FISCAL YEAR 2003.**—Of the amounts made available for fiscal year 2003 under section 301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 311(a) of this Act, \$90,244,000 shall be available until expended for acquisition and other expenses associated with implementation and deployment of antiterrorist and illicit narcotics detection equipment along the United States-Mexico border, the United States-Canada border, and Florida and the Gulf Coast seaports, as follows:

(1) **UNITED STATES-MEXICO BORDER.**—For the United States-Mexico border, the following:

(A) \$6,000,000 for 8 Vehicle and Container Inspection Systems (VACIS).

(B) \$11,200,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) \$13,000,000 for the upgrade of 8 fixed-site truck x-rays from the present energy level of 450,000 electron volts to 1,000,000 electron volts (1-MeV).

(D) \$7,200,000 for 8 1-MeV pallet x-rays.

(E) \$1,000,000 for 200 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(F) \$600,000 for 50 contraband detection kits to be distributed among all southwest border ports based on traffic volume.

(G) \$500,000 for 25 ultrasonic container inspection units to be distributed among all ports receiving liquid-filled cargo and to ports with a hazardous material inspection facility.

(H) \$2,450,000 for 7 automated targeting systems.

(I) \$360,000 for 30 rapid tire deflator systems to be distributed to those ports where port runners are a threat.

(J) \$480,000 for 20 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(K) \$1,000,000 for 20 remote watch surveillance camera systems at ports where there are suspicious activities at loading docks, vehicle queues, secondary inspection lanes, or areas where visual surveillance or observation is obscured.

(L) \$1,254,000 for 57 weigh-in-motion sensors to be distributed among the ports with the greatest volume of outbound traffic.

(M) \$180,000 for 36 AM traffic information radio stations, with 1 station to be located at each border crossing.

(N) \$1,040,000 for 260 inbound vehicle counters to be installed at every inbound vehicle lane.

(O) \$950,000 for 38 spotter camera systems to counter the surveillance of customs inspection activities by persons outside the boundaries of ports where such surveillance activities are occurring.

(P) \$390,000 for 60 inbound commercial truck transponders to be distributed to all ports of entry.

(Q) \$1,600,000 for 40 narcotics vapor and particle detectors to be distributed to each border crossing.

(R) \$400,000 for license plate reader automatic targeting software to be installed at each port to target inbound vehicles.

(2) UNITED STATES-CANADA BORDER.—For the United States-Canada border, the following:

(A) \$3,000,000 for 4 Vehicle and Container Inspection Systems (VACIS).

(B) \$8,800,000 for 4 mobile truck x-rays with transmission and backscatter imaging.

(C) \$3,600,000 for 4 1-MeV pallet x-rays.

(D) \$250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) \$300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(F) \$240,000 for 10 portable Treasury Enforcement Communications Systems (TECS) terminals to be moved among ports as needed.

(G) \$400,000 for 10 narcotics vapor and particle detectors to be distributed to each border crossing based on traffic volume.

(3) FLORIDA AND GULF COAST SEAPORTS.—For Florida and the Gulf Coast seaports, the following:

(A) \$4,500,000 for 6 Vehicle and Container Inspection Systems (VACIS).

(B) \$11,800,000 for 5 mobile truck x-rays with transmission and backscatter imaging.

(C) \$7,200,000 for 8 1-MeV pallet x-rays.

(D) \$250,000 for 50 portable contraband detectors (busters) to be distributed among ports where the current allocations are inadequate.

(E) \$300,000 for 25 contraband detection kits to be distributed among ports based on traffic volume.

(b) FISCAL YEAR 2004.—Of the amounts made available for fiscal year 2004 under section 301(b)(1)(B) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(B)), as amended by section 311(a) of this Act, \$9,000,000 shall be available until expended for the maintenance and support of the equipment and training of personnel to maintain and support the equipment described in subsection (a).

(c) ACQUISITION OF TECHNOLOGICALLY SUPERIOR EQUIPMENT; TRANSFER OF FUNDS.—

(1) IN GENERAL.—The Commissioner of Customs may use amounts made available for fiscal year 2003 under section

301(b)(1)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)(A)), as amended by section 311(a) of this Act, for the acquisition of equipment other than the equipment described in subsection (a) if such other equipment—

(A)(i) is technologically superior to the equipment described in subsection (a); and

(ii) will achieve at least the same results at a cost that is the same or less than the equipment described in subsection (a); or

(B) can be obtained at a lower cost than the equipment described in subsection (a).

(2) TRANSFER OF FUNDS.—Notwithstanding any other provision of this section, the Commissioner of Customs may reallocate an amount not to exceed 10 percent of—

(A) the amount specified in any of subparagraphs (A) through (R) of subsection (a)(1) for equipment specified in any other of such subparagraphs (A) through (R);

(B) the amount specified in any of subparagraphs (A) through (G) of subsection (a)(2) for equipment specified in any other of such subparagraphs (A) through (G); and

(C) the amount specified in any of subparagraphs (A) through (E) of subsection (a)(3) for equipment specified in any other of such subparagraphs (A) through (E).

SEC. 313. COMPLIANCE WITH PERFORMANCE PLAN REQUIREMENTS.

As part of the annual performance plan for each of the fiscal years 2003 and 2004 covering each program activity set forth in the budget of the United States Customs Service, as required under section 1115 of title 31, United States Code, the Commissioner of Customs shall establish performance goals and performance indicators, and shall comply with all other requirements contained in paragraphs (1) through (6) of subsection (a) of such section with respect to each of the activities to be carried out pursuant to section 312.

CHAPTER 2—CHILD CYBER-SMUGGLING CENTER OF THE CUSTOMS SERVICE

SEC. 321. AUTHORIZATION OF APPROPRIATIONS FOR PROGRAM TO PREVENT CHILD PORNOGRAPHY/CHILD SEXUAL EXPLOITATION.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Customs Service \$10,000,000 for fiscal year 2003 to carry out the program to prevent child pornography/child sexual exploitation established by the Child Cyber-Smuggling Center of the Customs Service.

(b) USE OF AMOUNTS FOR CHILD PORNOGRAPHY CYBER TIPLINE.—Of the amount appropriated under subsection (a), the Customs Service shall provide 3.75 percent of such amount to the National Center for Missing and Exploited Children for the operation of the child pornography cyber tipline of the Center and for increased public awareness of the tipline.

CHAPTER 3—MISCELLANEOUS PROVISIONS**SEC. 331. ADDITIONAL CUSTOMS SERVICE OFFICERS FOR UNITED STATES-CANADA BORDER.**

Of the amount made available for fiscal year 2003 under paragraphs (1) and (2)(A) of section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)), as amended by section 311 of this Act, \$28,300,000 shall be available until expended for the Customs Service to hire approximately 285 additional Customs Service officers to address the needs of the offices and ports along the United States-Canada border.

SEC. 332. STUDY AND REPORT RELATING TO PERSONNEL PRACTICES OF THE CUSTOMS SERVICE.

(a) **STUDY.**—The Commissioner of Customs shall conduct a study of current personnel practices of the Customs Service, including an overview of performance standards and the effect and impact of the collective bargaining process on drug interdiction efforts of the Customs Service and a comparison of duty rotation policies of the Customs Service and other Federal agencies that employ similarly situated personnel.

(b) **REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

Deadline.

SEC. 333. STUDY AND REPORT RELATING TO ACCOUNTING AND AUDITING PROCEDURES OF THE CUSTOMS SERVICE.

(a) **STUDY.**—(1) The Commissioner of Customs shall conduct a study of actions by the Customs Service to ensure that appropriate training is being provided to Customs Service personnel who are responsible for financial auditing of importers.

(2) In conducting the study, the Commissioner—

(A) shall specifically identify those actions taken to comply with provisions of law that protect the privacy and trade secrets of importers, such as section 552(b) of title 5, United States Code, and section 1905 of title 18, United States Code; and

(B) shall provide for public notice and comment relating to verification of the actions described in subparagraph (A).

(b) **REPORT.**—Not later than 6 months after the date of the enactment of this Act, the Commissioner of Customs shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

Deadline.

SEC. 334. ESTABLISHMENT AND IMPLEMENTATION OF COST ACCOUNTING SYSTEM; REPORTS.19 USC 2082
note.

(a) **ESTABLISHMENT AND IMPLEMENTATION.**—

(1) **IN GENERAL.**—Not later than September 30, 2003, the Commissioner of Customs shall, in accordance with the audit of the Customs Service's fiscal years 2000 and 1999 financial statements (as contained in the report of the Office of the Inspector General of the Department of the Treasury issued on February 23, 2001), establish and implement a cost accounting system for expenses incurred in both commercial and noncommercial operations of the Customs Service.

Deadline.

(2) **ADDITIONAL REQUIREMENT.**—The cost accounting system described in paragraph (1) shall provide for an identification of expenses based on the type of operation, the port at which the operation took place, the amount of time spent on the operation by personnel of the Customs Service, and an identification of expenses based on any other appropriate classification necessary to provide for an accurate and complete accounting of the expenses.

(b) **REPORTS.**—Beginning on the date of the enactment of this Act and ending on the date on which the cost accounting system described in subsection (a) is fully implemented, the Commissioner of Customs shall prepare and submit to Congress on a quarterly basis a report on the progress of implementing the cost accounting system pursuant to subsection (a).

19 USC 1625
note.

SEC. 335. STUDY AND REPORT RELATING TO TIMELINESS OF PROSPECTIVE RULINGS.

(a) **STUDY.**—The Comptroller General shall conduct a study on the extent to which the Office of Regulations and Rulings of the Customs Service has made improvements to decrease the amount of time to issue prospective rulings from the date on which a request for the ruling is received by the Customs Service.

Deadline.

(b) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing the results of the study conducted under subsection (a).

(c) **DEFINITION.**—In this section, the term “prospective ruling” means a ruling that is requested by an importer on goods that are proposed to be imported into the United States and that relates to the proper classification, valuation, or marking of such goods.

SEC. 336. STUDY AND REPORT RELATING TO CUSTOMS USER FEES.

(a) **STUDY.**—The Comptroller General shall conduct a study on the extent to which the amount of each customs user fee imposed under section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(a)) is commensurate with the level of services provided by the Customs Service relating to the fee so imposed.

Deadline.

(b) **REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report in classified form containing—

(1) the results of the study conducted under subsection (a); and

(2) recommendations for the appropriate amount of the customs user fees if such results indicate that the fees are not commensurate with the level of services provided by the Customs Service.

SEC. 337. FEES FOR CUSTOMS INSPECTIONS AT EXPRESS COURIER FACILITIES.

(a) **IN GENERAL.**—Section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) is amended as follows:

(1) In subparagraph (A)—

(A) in the matter preceding clause (i), by striking “the processing of merchandise that is informally entered or released” and inserting “the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at an amount that is less than \$2,000 (or such higher amount as the Secretary of the Treasury may set by regulation pursuant to section 498 of the Tariff Act of 1930), except such items entered for transportation and exportation or immediate exportation”; and

(B) by striking clause (ii), and inserting the following:

“(ii) Subject to the provisions of subparagraph (B), in the case of an express consignment carrier facility or centralized hub facility, \$.66 per individual airway bill or bill of lading.”.

(2) By redesignating subparagraph (B) as subparagraph

(C) and inserting after subparagraph (A) the following:

“(B)(i) Beginning in fiscal year 2004, the Secretary of the Treasury may adjust (not more than once per fiscal year) the amount described in subparagraph (A)(ii) to an amount that is not less than \$.35 and not more than \$1.00 per individual airway bill or bill of lading. The Secretary shall provide notice in the Federal Register of a proposed adjustment under the preceding sentence and the reasons therefor and shall allow for public comment on the proposed adjustment.

“(ii) Notwithstanding section 451 of the Tariff Act of 1930, the payment required by subparagraph (A)(ii) shall be the only payment required for reimbursement of the Customs Service in connection with the processing of an individual airway bill or bill of lading in accordance with such subparagraph and for providing services at express consignment carrier facilities or centralized hub facilities, except that the Customs Service may require such facilities to cover expenses of the Customs Service for adequate office space, equipment, furnishings, supplies, and security.

“(iii)(I) The payment required by subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid on a quarterly basis by the carrier using the facility to the Customs Service in accordance with regulations prescribed by the Secretary of the Treasury.

“(II) 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall, in accordance with section 524 of the Tariff Act of 1930, be deposited in the Customs User Fee Account and shall be used to directly reimburse each appropriation for the amount paid out of that appropriation for the costs incurred in providing services to express consignment carrier facilities or centralized hub facilities. Amounts deposited in accordance with the preceding sentence shall be available until expended for the provision of customs services to express consignment carrier facilities or centralized hub facilities.

“(III) Notwithstanding section 524 of the Tariff Act of 1930, the remaining 50 percent of the amount of payments received under subparagraph (A)(ii) and clause (ii) of this subparagraph shall be paid to the Secretary of

the Treasury, which is in lieu of the payment of fees under subsection (a)(10) of this section.”.

19 USC 58c note.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) take effect on October 1, 2002.

SEC. 338. NATIONAL CUSTOMS AUTOMATION PROGRAM.

Section 411(b) of the Tariff Act of 1930 (19 U.S.C. 1411(b)) is amended by striking the second sentence and inserting the following: “The Secretary may, by regulation, require the electronic submission of information described in subsection (a) or any other information required to be submitted to the Customs Service separately pursuant to this subpart.”.

SEC. 339. AUTHORIZATION OF APPROPRIATIONS FOR CUSTOMS STAFFING.

There are authorized to be appropriated to the Department of Treasury such sums as may be necessary to provide an increase in the annual rate of basic pay—

(1) for all journeyman Customs inspectors and Canine Enforcement Officers who have completed at least one year’s service and are receiving an annual rate of basic pay for positions at GS–9 of the General Schedule under section 5332 of title 5, United States Code, from the annual rate of basic pay payable for positions at GS–9 of the General Schedule under such section 5332, to an annual rate of basic pay payable for positions at GS–11 of the General Schedule under such section 5332; and

(2) for the support staff associated with the personnel described in subparagraph (A), at the appropriate GS level of the General Schedule under such section 5332.

CHAPTER 4—ANTITERRORISM PROVISIONS

SEC. 341. IMMUNITY FOR UNITED STATES OFFICIALS THAT ACT IN GOOD FAITH.

(a) **IMMUNITY.**—Section 3061 of the Revised Statutes (19 U.S.C. 482) is amended—

(1) by striking “Any of the officers” and inserting “(a) Any of the officers”; and

(2) by adding at the end the following:

“(b) Any officer or employee of the United States conducting a search of a person pursuant to subsection (a) shall not be held liable for any civil damages as a result of such search if the officer or employee performed the search in good faith and used reasonable means while effectuating such search.”.

19 USC 482 note.
Deadline.

(b) **REQUIREMENT TO POST POLICY AND PROCEDURES FOR SEARCHES OF PASSENGERS.**—Not later than 30 days after the date of the enactment of this Act, the Commissioner of Customs shall ensure that at each Customs border facility appropriate notice is posted that provides a summary of the policy and procedures of the Customs Service for searching passengers, including a statement of the policy relating to the prohibition on the conduct of profiling of passengers based on gender, race, color, religion, or ethnic background.

SEC. 342. EMERGENCY ADJUSTMENTS TO OFFICES, PORTS OF ENTRY, OR STAFFING OF THE CUSTOMS SERVICE.

Section 318 of the Tariff Act of 1930 (19 U.S.C. 1318) is amended—

(1) by striking “Whenever the President” and inserting “(a) Whenever the President”; and

(2) by adding at the end the following:

“(b)(1) Notwithstanding any other provision of law, the Secretary of the Treasury, when necessary to respond to a national emergency declared under the National Emergencies Act (50 U.S.C. 1601 et seq.) or to a specific threat to human life or national interests, is authorized to take the following actions on a temporary basis:

“(A) Eliminate, consolidate, or relocate any office or port of entry of the Customs Service.

“(B) Modify hours of service, alter services rendered at any location, or reduce the number of employees at any location.

“(C) Take any other action that may be necessary to respond directly to the national emergency or specific threat.

“(2) Notwithstanding any other provision of law, the Commissioner of Customs, when necessary to respond to a specific threat to human life or national interests, is authorized to close temporarily any Customs office or port of entry or take any other lesser action that may be necessary to respond to the specific threat.

“(3) The Secretary of the Treasury or the Commissioner of Customs, as the case may be, shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate not later than 72 hours after taking any action under paragraph (1) or (2).”.

Notification.
Deadline.

SEC. 343. MANDATORY ADVANCED ELECTRONIC INFORMATION FOR CARGO AND OTHER IMPROVED CUSTOMS REPORTING PROCEDURES.

19 USC 2071
note.

(a) CARGO INFORMATION.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo destined for importation into the United States or exportation from the United States, prior to such importation or exportation.

(2) INFORMATION REQUIRED.—The information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information as the Secretary determines to be reasonably necessary to ensure aviation, maritime, and surface transportation safety and security pursuant to those laws enforced and administered by the Customs Service.

(3) PARAMETERS.—In developing regulations pursuant to paragraph (1), the Secretary shall adhere to the following parameters:

(A) The Secretary shall solicit comments from and consult with a broad range of parties likely to be affected by the regulations, including importers, exporters, carriers, customs brokers, and freight forwarders, among other interested parties.

(B) In general, the requirement to provide particular information shall be imposed on the party most likely to have direct knowledge of that information. Where requiring information from the party with direct knowledge of that information is not practicable, the regulations shall take into account how, under ordinary commercial practices, information is acquired by the party on which the requirement is imposed, and whether and how such party is able to verify the information. Where information is not reasonably verifiable by the party on which a requirement is imposed, the regulations shall permit that party to transmit information on the basis of what it reasonably believes to be true.

(C) The Secretary shall take into account the existence of competitive relationships among the parties on which requirements to provide particular information are imposed.

(D) Where the regulations impose requirements on carriers of cargo, they shall take into account differences among different modes of transportation, including differences in commercial practices, operational characteristics, and technological capacity to collect and transmit information electronically.

(E) The regulations shall take into account the extent to which the technology necessary for parties to transmit and the Customs Service to receive and analyze data in a timely fashion is available. To the extent that the Secretary determines that the necessary technology will not be widely available to particular modes of transportation or other affected parties until after promulgation of the regulations, the regulations shall provide interim requirements appropriate for the technology that is available at the time of promulgation.

(F) The information collected pursuant to the regulations shall be used exclusively for ensuring aviation, maritime, and surface transportation safety and security, and shall not be used for determining entry or for any other commercial enforcement purposes.

(G) The regulations shall protect the privacy of business proprietary and any other confidential information provided to the Customs Service. However, this parameter does not repeal, amend, or otherwise modify other provisions of law relating to the public disclosure of information transmitted to the Customs Service.

(H) In determining the timing for transmittal of any information, the Secretary shall balance likely impact on flow of commerce with impact on aviation, maritime, and surface transportation safety and security. With respect to requirements that may be imposed on carriers of cargo, the timing for transmittal of information shall take into account differences among different modes of transportation, as described in subparagraph (D).

(I) Where practicable, the regulations shall avoid imposing requirements that are redundant with one another or that are redundant with requirements in other provisions of law.

(J) The Secretary shall determine whether it is appropriate to provide transition periods between promulgation of the regulations and the effective date of the regulations and shall prescribe such transition periods in the regulations, as appropriate. The Secretary may determine that different transition periods are appropriate for different classes of affected parties.

(K) With respect to requirements imposed on carriers, the Secretary, in consultation with the Postmaster General, shall determine whether it is appropriate to impose the same or similar requirements on shipments by the United States Postal Service. If the Secretary determines that such requirements are appropriate, then they shall be set forth in the regulations.

(L) Not later than 60 days prior to promulgation of the regulations, the Secretary shall transmit to the Committees on Finance and Commerce, Science, and Transportation of the Senate and the Committees on Ways and Means and Transportation and Infrastructure of the House of Representatives a report setting forth—

- (i) the proposed regulations;
- (ii) an explanation of how particular requirements in the proposed regulations meet the needs of aviation, maritime, and surface transportation safety and security;
- (iii) an explanation of how the Secretary expects the proposed regulations to affect the commercial practices of affected parties; and
- (iv) an explanation of how the proposed regulations address particular comments received from interested parties.

(b) DOCUMENTATION OF WATERBORNE CARGO.—Part II of title IV of the Tariff Act of 1930 is amended by inserting after section 431 the following new section:

“SEC. 431A. DOCUMENTATION OF WATERBORNE CARGO.

19 USC 1431a.

“(a) APPLICABILITY.—This section shall apply to all cargo to be exported that is moved by a vessel carrier from a port in the United States.

“(b) DOCUMENTATION REQUIRED.—(1) No shipper of cargo subject to this section (including an ocean transportation intermediary that is a non-vessel-operating common carrier (as defined in section 3(17)(B) of the Shipping Act of 1984 (46 U.S.C. App. 1702(17)(B))) may tender or cause to be tendered to a vessel carrier cargo subject to this section for loading on a vessel in a United States port, unless such cargo is properly documented pursuant to this subsection.

“(2) For the purposes of this subsection, cargo shall be considered properly documented if the shipper submits to the vessel carrier or its agent a complete set of shipping documents no later than 24 hours after the cargo is delivered to the marine terminal operator, but under no circumstances later than 24 hours prior to departure of the vessel.

“(3) A complete set of shipping documents shall include—

“(A) for shipments for which a shipper’s export declaration is required, a copy of the export declaration or, if the shipper files such declarations electronically in the Automated Export

System, the complete bill of lading, and the master or equivalent shipping instructions, including the Internal Transaction Number (ITN); or

“(B) for shipments for which a shipper’s export declaration is not required, a shipper’s export declaration exemption statement and such other documents or information as the Secretary may by regulation prescribe.

Regulations.

“(4) The Secretary shall by regulation prescribe the time, manner, and form by which shippers shall transmit documents or information required under this subsection to the Customs Service.

“(c) LOADING UNDOCUMENTED CARGO PROHIBITED.—

“(1) No marine terminal operator (as defined in section 3(14) of the Shipping Act of 1984 (46 U.S.C. App. 1702(14))) may load, or cause to be loaded, any cargo subject to this section on a vessel unless instructed by the vessel carrier operating the vessel that such cargo has been properly documented in accordance with this section.

Notification.

“(2) When cargo is booked by 1 vessel carrier to be transported on the vessel of another vessel carrier, the booking carrier shall notify the operator of the vessel that the cargo has been properly documented in accordance with this section. The operator of the vessel may rely on such notification in releasing the cargo for loading aboard the vessel.

“(d) REPORTING OF UNDOCUMENTED CARGO.—A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal. For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier’s vessel), the vessel carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

“(e) ASSESSMENT OF PENALTIES.—Whoever is found to have violated subsection (b) of this section shall be liable to the United States for civil penalties in a monetary amount up to the value of the cargo, or the actual cost of the transportation, whichever is greater.

“(f) SEIZURE OF UNDOCUMENTED CARGO.—

“(1) Any cargo that is not properly documented pursuant to this section and has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal operator shall be subject to search, seizure, and forfeiture.

“(2) The shipper of any such cargo is liable to the marine terminal operator and to the ocean carrier for demurrage and other applicable charges for any undocumented cargo which has been notified to or searched or seized by the Customs Service for the entire period the cargo remains under the order and direction of the Customs Service. Unless the cargo is seized by the Customs Service and forfeited, the marine terminal operator and the ocean carrier shall have a lien on the cargo for the amount of the demurrage and other charges.

“(g) EFFECT ON OTHER PROVISIONS.—Nothing in this section shall be construed, interpreted, or applied to relieve or excuse any party from compliance with any obligation or requirement

arising under any other law, regulation, or order with regard to the documentation or carriage of cargo.”

(c) SECRETARY.—For purposes of this section, the term “Secretary” means the Secretary of the Treasury. If, at the time the regulations required by subsection (a)(1) are promulgated, the Customs Service is no longer located in the Department of the Treasury, then the Secretary of the Treasury shall exercise the authority under subsection (a) jointly with the Secretary of the Department in which the Customs Service is located.

19 USC 2071
note.

SEC. 343A. SECURE SYSTEMS OF TRANSPORTATION.

19 USC 2071
note.
Establishment.

(a) JOINT TASK FORCE.—The Secretary of the Treasury shall establish a joint task force to evaluate, prototype, and certify secure systems of transportation. The joint task force shall be comprised of officials from the Department of Transportation and the Customs Service, and any other officials that the Secretary deems appropriate. The task force shall establish a program to evaluate and certify secure systems of international intermodal transport no later than 1 year after the date of enactment of this Act. The task force shall solicit and consider input from a broad range of interested parties.

Deadline.

(b) PROGRAM REQUIREMENTS.—At a minimum the program referred to in subsection (a) shall require certified systems of international intermodal transport to be significantly more secure than existing transportation programs, and the program shall—

(1) establish standards and a process for screening and evaluating cargo prior to import into or export from the United States;

(2) establish standards and a process for a system of securing cargo and monitoring it while in transit;

(3) establish standards and a process for allowing the United States Government to ensure and validate compliance with the program elements; and

(4) include any other elements that the task force deems necessary to ensure the security and integrity of the international intermodal transport movements.

(c) RECOGNITION OF CERTIFIED SYSTEMS.—

(1) SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall recognize certified systems of intermodal transport in the requirements of a national security plan for United States seaports, and in the provisions requiring planning to reopen United States ports for commerce.

(2) COMMISSIONER OF CUSTOMS.—The Commissioner of Customs shall recognize certified systems of intermodal transport in the evaluation of cargo risk for purposes of United States imports and exports.

(d) REPORT.—Within 1 year after the program described in subsection (a) is implemented, the Secretary of the Treasury shall transmit a report to the Committees on Commerce, Science, and Transportation and Finance of the Senate and the Committees on Transportation and Infrastructure and Ways and Means of the House of Representatives that—

Deadline.

(1) evaluates the program and its requirements;

(2) states the Secretary’s views as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than under existing procedures;

(3) states the Secretary's views as to the integrity of the procedures, technology, or systems evaluated as part of the program; and

(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology should be incorporated in a nationwide system for certified systems of intermodal transport.

SEC. 344. BORDER SEARCH AUTHORITY FOR CERTAIN CONTRABAND IN OUTBOUND MAIL.

(a) IN GENERAL.—The Tariff Act of 1930 is amended by inserting after section 582 the following:

19 USC 1583.

“SEC. 583. EXAMINATION OF OUTBOUND MAIL.

“(a) EXAMINATION.—

“(1) IN GENERAL.—For purposes of ensuring compliance with the Customs laws of the United States and other laws enforced by the Customs Service, including the provisions of law described in paragraph (2), a Customs officer may, subject to the provisions of this section, stop and search at the border, without a search warrant, mail of domestic origin transmitted for export by the United States Postal Service and foreign mail transiting the United States that is being imported or exported by the United States Postal Service.

“(2) PROVISIONS OF LAW DESCRIBED.—The provisions of law described in this paragraph are the following:

“(A) Section 5316 of title 31, United States Code (relating to reports on exporting and importing monetary instruments).

“(B) Sections 1461, 1463, 1465, and 1466, and chapter 110 of title 18, United States Code (relating to obscenity and child pornography).

“(C) Section 1003 of the Controlled Substances Import and Export Act (relating to exportation of controlled substances) (21 U.S.C. 953).

“(D) The Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

“(E) Section 38 of the Arms Export Control Act (22 U.S.C. 2778).

“(F) The International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

“(b) SEARCH OF MAIL NOT SEALED AGAINST INSPECTION AND OTHER MAIL.—Mail not sealed against inspection under the postal laws and regulations of the United States, mail which bears a Customs declaration, and mail with respect to which the sender or addressee has consented in writing to search, may be searched by a Customs officer.

“(c) SEARCH OF MAIL SEALED AGAINST INSPECTION WEIGHING IN EXCESS OF 16 OUNCES.—

“(1) IN GENERAL.—Mail weighing in excess of 16 ounces sealed against inspection under the postal laws and regulations of the United States may be searched by a Customs officer, subject to paragraph (2), if there is reasonable cause to suspect that such mail contains one or more of the following:

“(A) Monetary instruments, as defined in section 1956 of title 18, United States Code.

“(B) A weapon of mass destruction, as defined in section 2332a(b) of title 18, United States Code.

“(C) A drug or other substance listed in schedule I, II, III, or IV in section 202 of the Controlled Substances Act (21 U.S.C. 812).

“(D) National defense and related information transmitted in violation of any of sections 793 through 798 of title 18, United States Code.

“(E) Merchandise mailed in violation of section 1715 or 1716 of title 18, United States Code.

“(F) Merchandise mailed in violation of any provision of chapter 71 (relating to obscenity) or chapter 110 (relating to sexual exploitation and other abuse of children) of title 18, United States Code.

“(G) Merchandise mailed in violation of the Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq.).

“(H) Merchandise mailed in violation of section 38 of the Arms Export Control Act (22 U.S.C. 2778).

“(I) Merchandise mailed in violation of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.).

“(J) Merchandise mailed in violation of the Trading with the Enemy Act (50 U.S.C. App. 1 et seq.).

“(K) Merchandise subject to any other law enforced by the Customs Service.

“(2) LIMITATION.—No person acting under the authority of paragraph (1) shall read, or authorize any other person to read, any correspondence contained in mail sealed against inspection unless prior to so reading—

“(A) a search warrant has been issued pursuant to rule 41 of the Federal Rules of Criminal Procedure; or

“(B) the sender or addressee has given written authorization for such reading.

“(d) SEARCH OF MAIL SEALED AGAINST INSPECTION WEIGHING 16 OUNCES OR LESS.—Notwithstanding any other provision of this section, subsection (a)(1) shall not apply to mail weighing 16 ounces or less sealed against inspection under the postal laws and regulations of the United States.”.

(b) CERTIFICATION BY SECRETARY.—Not later than 3 months after the date of enactment of this section, the Secretary of State shall determine whether the application of section 583 of the Tariff Act of 1930 to foreign mail transiting the United States that is imported or exported by the United States Postal Service is being handled in a manner consistent with international law and any international obligation of the United States. Section 583 of such Act shall not apply to such foreign mail unless the Secretary certifies to Congress that the application of such section 583 is consistent with international law and any international obligation of the United States.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section and the amendments made by this section shall take effect on the date of enactment of this Act.

(2) CERTIFICATION WITH RESPECT TO FOREIGN MAIL.—The provisions of section 583 of the Tariff Act of 1930 relating to foreign mail transiting the United States that is imported or exported by the United States Postal Service shall not take effect until the Secretary of State certifies to Congress, pursuant to subsection (b), that the application of such section 583

Deadline.
19 USC 1583
note.

19 USC 1583
note.

is consistent with international law and any international obligation of the United States.

SEC. 345. AUTHORIZATION OF APPROPRIATIONS FOR REESTABLISHMENT OF CUSTOMS OPERATIONS IN NEW YORK CITY.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) **IN GENERAL.**—There is authorized to be appropriated for the reestablishment of operations of the Customs Service in New York, New York, such sums as may be necessary for fiscal year 2003.

(2) **OPERATIONS DESCRIBED.**—The operations referred to in paragraph (1) include, but are not limited to, the following:

(A) Operations relating to the Port Director of New York City, the New York Customs Management Center (including the Director of Field Operations), and the Special Agent-In-Charge for New York.

(B) Commercial operations, including textile enforcement operations and salaries and expenses of—

(i) trade specialists who determine the origin and value of merchandise;

(ii) analysts who monitor the entry data into the United States of textiles and textile products; and

(iii) Customs officials who work with foreign governments to examine textile makers and verify entry information.

(b) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

CHAPTER 5—TEXTILE TRANSSHIPMENT PROVISIONS

SEC. 351. GAO AUDIT OF TEXTILE TRANSSHIPMENT MONITORING BY CUSTOMS SERVICE.

(a) **GAO AUDIT.**—The Comptroller General of the United States shall conduct an audit of the system established and carried out by the Customs Service to monitor transshipment.

Deadline.

(b) **REPORT.**—Not later than 9 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Ways and Means of the House of Representatives and Committee on Finance of the Senate a report that contains the results of the study conducted under subsection (a), including recommendations for improvements to the transshipment monitoring system if applicable.

(c) **TRANSSHIPMENT DESCRIBED.**—Transshipment within the meaning of this section has occurred when preferential treatment under any provision of law has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of the preceding sentence, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under the provision of law in question.

SEC. 352. AUTHORIZATION OF APPROPRIATIONS FOR TEXTILE TRANSSHIPMENT ENFORCEMENT OPERATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS.—

(1) **IN GENERAL.**—There is authorized to be appropriated for transshipment (as described in section 351(c)) enforcement

operations, outreach, and education of the Customs Service \$9,500,000 for fiscal year 2003.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(b) USE OF FUNDS.—Of the amount appropriated pursuant to the authorization of appropriations under subsection (a), the following amounts are authorized to be made available for the following purposes:

(1) IMPORT SPECIALISTS.—\$1,463,000 for 21 Customs import specialists to be assigned to selected ports for documentation review to support detentions and exclusions and 1 additional Customs import specialist assigned to the Customs headquarters textile program to administer the program and provide oversight.

(2) INSPECTORS.—\$652,080 for 10 Customs inspectors to be assigned to selected ports to examine targeted high-risk shipments.

(3) INVESTIGATORS.—(A) \$1,165,380 for 10 investigators to be assigned to selected ports to investigate instances of smuggling, quota and trade agreement circumvention, and use of counterfeit visas to enter inadmissible goods.

(B) \$149,603 for 1 investigator to be assigned to the Customs headquarters textile program to coordinate and ensure implementation of textile production verification team results from an investigation perspective.

(4) INTERNATIONAL TRADE SPECIALISTS.—\$226,500 for 3 international trade specialists to be assigned to Customs headquarters to be dedicated to illegal textile transshipment policy issues, outreach, education, and other free trade agreement enforcement issues.

(5) PERMANENT IMPORT SPECIALISTS FOR HONG KONG.—\$500,000 for 2 permanent import specialist positions and \$500,000 for 2 investigators to be assigned to Hong Kong to work with Hong Kong and other government authorities in Southeast Asia to assist such authorities in pursuing proactive enforcement of bilateral trade agreements.

(6) VARIOUS PERMANENT TRADE POSITIONS.—\$3,500,000 for the following:

(A) 2 permanent positions to be assigned to the Customs attaché office in Central America to address trade enforcement issues for that region.

(B) 2 permanent positions to be assigned to the Customs attaché office in South Africa to address trade enforcement issues pursuant to the African Growth and Opportunity Act (title I of Public Law 106-200).

(C) 4 permanent positions to be assigned to the Customs attaché office in Mexico to address the threat of illegal textile transshipment through Mexico and other related issues under the North American Free Trade Agreement Act.

(D) 2 permanent positions to be assigned to the Customs attaché office in Seoul, South Korea, to address the trade issues in the geographic region.

(E) 2 permanent positions to be assigned to the proposed Customs attaché office in New Delhi, India, to

address the threat of illegal textile transshipment and other trade enforcement issues.

(F) 2 permanent positions to be assigned to the Customs attaché office in Rome, Italy, to address trade enforcement issues in the geographic region, including issues under free trade agreements with Jordan and Israel.

(7) ATTORNEYS.—\$179,886 for 2 attorneys for the Office of the Chief Counsel of the Customs Service to pursue cases regarding illegal textile transshipment.

(8) AUDITORS.—\$510,000 for 6 Customs auditors to perform internal control reviews and document and record reviews of suspect importers.

(9) ADDITIONAL TRAVEL FUNDS.—\$250,000 for deployment of additional textile production verification teams to sub-Saharan Africa.

(10) TRAINING.—(A) \$75,000 for training of Customs personnel.

(B) \$200,000 for training for foreign counterparts in risk management analytical techniques and for teaching factory inspection techniques, model law development, and enforcement techniques.

(11) OUTREACH.—\$60,000 for outreach efforts to United States importers.

SEC. 353. IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT.

Of the amount made available for fiscal year 2003 under section 301(b)(2)(A) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(2)(A)), as amended by section 311(b)(1) of this Act, \$1,317,000 shall be available until expended for the Customs Service to provide technical assistance to help sub-Saharan African countries develop and implement effective visa and anti-transshipment systems as required by the African Growth and Opportunity Act (title I of Public Law 106-200), as follows:

(1) TRAVEL FUNDS.—\$600,000 for import specialists, special agents, and other qualified Customs personnel to travel to sub-Saharan African countries to provide technical assistance in developing and implementing effective visa and anti-transshipment systems.

(2) IMPORT SPECIALISTS.—\$266,000 for 4 import specialists to be assigned to Customs headquarters to be dedicated to providing technical assistance to sub-Saharan African countries for developing and implementing effective visa and anti-transshipment systems.

(3) DATA RECONCILIATION ANALYSTS.—\$151,000 for 2 data reconciliation analysts to review apparel shipments.

(4) SPECIAL AGENTS.—\$300,000 for 2 special agents to be assigned to Customs headquarters to be available to provide technical assistance to sub-Saharan African countries in the performance of investigations and other enforcement initiatives.

Subtitle B—Office of the United States Trade Representative

SEC. 361. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 141(g)(1) of the Trade Act of 1974 (19 U.S.C. 2171(g)(1)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “not to exceed”;

(B) by striking clause (i), and inserting the following:

“(i) \$32,300,000 for fiscal year 2003.”; and

(C) by striking clause (ii), and inserting the following:

“(ii) \$33,108,000 for fiscal year 2004.”; and

(2) in subparagraph (B)—

(A) in clause (i), by adding “and” at the end;

(B) by striking clause (ii); and

(C) by redesignating clause (iii) as clause (ii).

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 141(g) of the Trade Act of 1974 (19 U.S.C. 2171(g)) is amended by adding at the end the following:

“(3) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the United States Trade Representative shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Office to carry out its functions.”. Deadline.

(c) ADDITIONAL STAFF FOR OFFICE OF ASSISTANT U.S. TRADE REPRESENTATIVE FOR CONGRESSIONAL AFFAIRS.—

(1) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary for fiscal year 2003 for the salaries and expenses of two additional legislative specialist employee positions within the Office of the Assistant United States Trade Representative for Congressional Affairs.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

Subtitle C—United States International Trade Commission

SEC. 371. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Section 330(e)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)(A)) is amended—

(1) by striking clause (i), and inserting the following:

“(i) \$54,000,000 for fiscal year 2003.”; and

(2) by striking clause (ii), and inserting the following:

“(ii) \$57,240,000 for fiscal year 2004.”.

(b) SUBMISSION OF OUT-YEAR BUDGET PROJECTIONS.—Section 330(e) of the Tariff Act of 1930 (19 U.S.C. 1330(e)(2)) is amended by adding at the end the following:

“(4) By not later than the date on which the President submits to Congress the budget of the United States Government for a fiscal year, the Commission shall submit to the Committee on Deadline.

Ways and Means of the House of Representatives and the Committee on Finance of the Senate the projected amount of funds for the succeeding fiscal year that will be necessary for the Commission to carry out its functions.”.

Subtitle D—Other trade provisions

SEC. 381. INCREASE IN AGGREGATE VALUE OF ARTICLES EXEMPT FROM DUTY ACQUIRED ABROAD BY UNITED STATES RESIDENTS.

(a) IN GENERAL.—Subheading 9804.00.65 of the Harmonized Tariff Schedule of the United States is amended in the article description column by striking “\$400” and inserting “\$800”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 90 days after the date of the enactment of this Act.

SEC. 382. REGULATORY AUDIT PROCEDURES.

Section 509(b) of the Tariff Act of 1930 (19 U.S.C. 1509(b)) is amended by adding at the end the following:

“(6)(A) If during the course of any audit concluded under this subsection, the Customs Service identifies overpayments of duties or fees or over-declarations of quantities or values that are within the time period and scope of the audit that the Customs Service has defined, then in calculating the loss of revenue or monetary penalties under section 592, the Customs Service shall treat the overpayments or over-declarations on finally liquidated entries as an offset to any underpayments or underdeclarations also identified on finally liquidated entries, if such overpayments or over-declarations were not made by the person being audited for the purpose of violating any provision of law.

“(B) Nothing in this paragraph shall be construed to authorize a refund not otherwise authorized under section 520.”.

SEC. 383. PAYMENT OF DUTIES AND FEES.

Section 505(a) of the Tariff Act of 1930 (19 U.S.C. 1505(a)) is amended to read as follows:

“(a) DEPOSIT OF ESTIMATED DUTIES AND FEES.—Unless the entry is subject to a periodic payment or the merchandise is entered for warehouse or transportation, or under bond, the importer of record shall deposit with the Customs Service at the time of entry, or at such later time as the Secretary may prescribe by regulation (but not later than 10 working days after entry or release) the amount of duties and fees estimated to be payable on such merchandise. As soon as a periodic payment module of the Automated Commercial Environment is developed, but no later than October 1, 2004, a participating importer of record, or the importer’s filer, may deposit estimated duties and fees for entries of merchandise no later than the 15th day of the month following the month in which the merchandise is entered or released, whichever comes first.”.

Deadline.

**DIVISION B—BIPARTISAN TRADE
PROMOTION AUTHORITY****TITLE XXI—TRADE PROMOTION
AUTHORITY**

Bipartisan Trade
Promotion
Authority Act of
2002.

SEC. 2101. SHORT TITLE AND FINDINGS.

19 USC 3801.

(a) **SHORT TITLE.**—This title may be cited as the “Bipartisan Trade Promotion Authority Act of 2002”.

(b) **FINDINGS.**—The Congress makes the following findings:

(1) The expansion of international trade is vital to the national security of the United States. Trade is critical to the economic growth and strength of the United States and to its leadership in the world. Stable trading relationships promote security and prosperity. Trade agreements today serve the same purposes that security pacts played during the Cold War, binding nations together through a series of mutual rights and obligations. Leadership by the United States in international trade fosters open markets, democracy, and peace throughout the world.

(2) The national security of the United States depends on its economic security, which in turn is founded upon a vibrant and growing industrial base. Trade expansion has been the engine of economic growth. Trade agreements maximize opportunities for the critical sectors and building blocks of the economy of the United States, such as information technology, telecommunications and other leading technologies, basic industries, capital equipment, medical equipment, services, agriculture, environmental technology, and intellectual property. Trade will create new opportunities for the United States and preserve the unparalleled strength of the United States in economic, political, and military affairs. The United States, secured by expanding trade and economic opportunities, will meet the challenges of the twenty-first century.

(3) Support for continued trade expansion requires that dispute settlement procedures under international trade agreements not add to or diminish the rights and obligations provided in such agreements. Therefore—

(A) the recent pattern of decisions by dispute settlement panels of the WTO and the Appellate Body to impose obligations and restrictions on the use of antidumping, countervailing, and safeguard measures by WTO members under the Antidumping Agreement, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards has raised concerns; and

(B) the Congress is concerned that dispute settlement panels of the WTO and the Appellate Body appropriately apply the standard of review contained in Article 17.6 of the Antidumping Agreement, to provide deference to a permissible interpretation by a WTO member of provisions of that Agreement, and to the evaluation by a WTO member of the facts where that evaluation is unbiased and objective and the establishment of the facts is proper.

19 USC 3802.

SEC. 2102. TRADE NEGOTIATING OBJECTIVES.

(a) **OVERALL TRADE NEGOTIATING OBJECTIVES.**—The overall trade negotiating objectives of the United States for agreements subject to the provisions of section 2103 are—

(1) to obtain more open, equitable, and reciprocal market access;

(2) to obtain the reduction or elimination of barriers and distortions that are directly related to trade and that decrease market opportunities for United States exports or otherwise distort United States trade;

(3) to further strengthen the system of international trading disciplines and procedures, including dispute settlement;

(4) to foster economic growth, raise living standards, and promote full employment in the United States and to enhance the global economy;

(5) to ensure that trade and environmental policies are mutually supportive and to seek to protect and preserve the environment and enhance the international means of doing so, while optimizing the use of the world's resources;

(6) to promote respect for worker rights and the rights of children consistent with core labor standards of the ILO (as defined in section 2113(6)) and an understanding of the relationship between trade and worker rights;

(7) to seek provisions in trade agreements under which parties to those agreements strive to ensure that they do not weaken or reduce the protections afforded in domestic environmental and labor laws as an encouragement for trade;

(8) to ensure that trade agreements afford small businesses equal access to international markets, equitable trade benefits, and expanded export market opportunities, and provide for the reduction or elimination of trade barriers that disproportionately impact small businesses; and

(9) to promote universal ratification and full compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

(b) **PRINCIPAL TRADE NEGOTIATING OBJECTIVES.**—

(1) **TRADE BARRIERS AND DISTORTIONS.**—The principal negotiating objectives of the United States regarding trade barriers and other trade distortions are—

(A) to expand competitive market opportunities for United States exports and to obtain fairer and more open conditions of trade by reducing or eliminating tariff and nontariff barriers and policies and practices of foreign governments directly related to trade that decrease market opportunities for United States exports or otherwise distort United States trade; and

(B) to obtain reciprocal tariff and nontariff barrier elimination agreements, with particular attention to those tariff categories covered in section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(2) **TRADE IN SERVICES.**—The principal negotiating objective of the United States regarding trade in services is to reduce or eliminate barriers to international trade in services, including regulatory and other barriers that deny national treatment and market access or unreasonably restrict the establishment or operations of service suppliers.

(3) FOREIGN INVESTMENT.—Recognizing that United States law on the whole provides a high level of protection for investment, consistent with or greater than the level required by international law, the principal negotiating objectives of the United States regarding foreign investment are to reduce or eliminate artificial or trade-distorting barriers to foreign investment, while ensuring that foreign investors in the United States are not accorded greater substantive rights with respect to investment protections than United States investors in the United States, and to secure for investors important rights comparable to those that would be available under United States legal principles and practice, by—

(A) reducing or eliminating exceptions to the principle of national treatment;

(B) freeing the transfer of funds relating to investments;

(C) reducing or eliminating performance requirements, forced technology transfers, and other unreasonable barriers to the establishment and operation of investments;

(D) seeking to establish standards for expropriation and compensation for expropriation, consistent with United States legal principles and practice;

(E) seeking to establish standards for fair and equitable treatment consistent with United States legal principles and practice, including the principle of due process;

(F) providing meaningful procedures for resolving investment disputes;

(G) seeking to improve mechanisms used to resolve disputes between an investor and a government through—

(i) mechanisms to eliminate frivolous claims and to deter the filing of frivolous claims;

(ii) procedures to ensure the efficient selection of arbitrators and the expeditious disposition of claims;

(iii) procedures to enhance opportunities for public input into the formulation of government positions; and

(iv) providing for an appellate body or similar mechanism to provide coherence to the interpretations of investment provisions in trade agreements; and

(H) ensuring the fullest measure of transparency in the dispute settlement mechanism, to the extent consistent with the need to protect information that is classified or business confidential, by—

(i) ensuring that all requests for dispute settlement are promptly made public;

(ii) ensuring that—

(I) all proceedings, submissions, findings, and decisions are promptly made public; and

(II) all hearings are open to the public; and

(iii) establishing a mechanism for acceptance of amicus curiae submissions from businesses, unions, and nongovernmental organizations.

(4) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding trade-related intellectual property are—

(A) to further promote adequate and effective protection of intellectual property rights, including through—

(i)(I) ensuring accelerated and full implementation of the Agreement on Trade-Related Aspects of Intellectual Property Rights referred to in section 101(d)(15) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(15)), particularly with respect to meeting enforcement obligations under that agreement; and

(II) ensuring that the provisions of any multilateral or bilateral trade agreement governing intellectual property rights that is entered into by the United States reflect a standard of protection similar to that found in United States law;

(ii) providing strong protection for new and emerging technologies and new methods of transmitting and distributing products embodying intellectual property;

(iii) preventing or eliminating discrimination with respect to matters affecting the availability, acquisition, scope, maintenance, use, and enforcement of intellectual property rights;

(iv) ensuring that standards of protection and enforcement keep pace with technological developments, and in particular ensuring that rightholders have the legal and technological means to control the use of their works through the Internet and other global communication media, and to prevent the unauthorized use of their works; and

(v) providing strong enforcement of intellectual property rights, including through accessible, expeditious, and effective civil, administrative, and criminal enforcement mechanisms;

(B) to secure fair, equitable, and nondiscriminatory market access opportunities for United States persons that rely upon intellectual property protection; and

(C) to respect the Declaration on the TRIPS Agreement and Public Health, adopted by the World Trade Organization at the Fourth Ministerial Conference at Doha, Qatar on November 14, 2001.

(5) TRANSPARENCY.—The principal negotiating objective of the United States with respect to transparency is to obtain wider and broader application of the principle of transparency through—

(A) increased and more timely public access to information regarding trade issues and the activities of international trade institutions;

(B) increased openness at the WTO and other international trade fora by increasing public access to appropriate meetings, proceedings, and submissions, including with regard to dispute settlement and investment; and

(C) increased and more timely public access to all notifications and supporting documentation submitted by parties to the WTO.

(6) ANTI-CORRUPTION.—The principal negotiating objectives of the United States with respect to the use of money or other things of value to influence acts, decisions, or omissions of foreign governments or officials or to secure any improper advantage in a manner affecting trade are—

(A) to obtain high standards and appropriate domestic enforcement mechanisms applicable to persons from all countries participating in the applicable trade agreement that prohibit such attempts to influence acts, decisions, or omissions of foreign governments; and

(B) to ensure that such standards do not place United States persons at a competitive disadvantage in international trade.

(7) IMPROVEMENT OF THE WTO AND MULTILATERAL TRADE AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of the World Trade Organization, the Uruguay Round Agreements, and other multilateral and bilateral trade agreements are—

(A) to achieve full implementation and extend the coverage of the World Trade Organization and such agreements to products, sectors, and conditions of trade not adequately covered; and

(B) to expand country participation in and enhancement of the Information Technology Agreement and other trade agreements.

(8) REGULATORY PRACTICES.—The principal negotiating objectives of the United States regarding the use of government regulation or other practices by foreign governments to provide a competitive advantage to their domestic producers, service providers, or investors and thereby reduce market access for United States goods, services, and investments are—

(A) to achieve increased transparency and opportunity for the participation of affected parties in the development of regulations;

(B) to require that proposed regulations be based on sound science, cost-benefit analysis, risk assessment, or other objective evidence;

(C) to establish consultative mechanisms among parties to trade agreements to promote increased transparency in developing guidelines, rules, regulations, and laws for government procurement and other regulatory regimes; and

(D) to achieve the elimination of government measures such as price controls and reference pricing which deny full market access for United States products.

(9) ELECTRONIC COMMERCE.—The principal negotiating objectives of the United States with respect to electronic commerce are—

(A) to ensure that current obligations, rules, disciplines, and commitments under the World Trade Organization apply to electronic commerce;

(B) to ensure that—

(i) electronically delivered goods and services receive no less favorable treatment under trade rules and commitments than like products delivered in physical form; and

(ii) the classification of such goods and services ensures the most liberal trade treatment possible;

(C) to ensure that governments refrain from implementing trade-related measures that impede electronic commerce;

(D) where legitimate policy objectives require domestic regulations that affect electronic commerce, to obtain

commitments that any such regulations are the least restrictive on trade, nondiscriminatory, and transparent, and promote an open market environment; and

(E) to extend the moratorium of the World Trade Organization on duties on electronic transmissions.

(10) RECIPROCAL TRADE IN AGRICULTURE.—(A) The principal negotiating objective of the United States with respect to agriculture is to obtain competitive opportunities for United States exports of agricultural commodities in foreign markets substantially equivalent to the competitive opportunities afforded for foreign exports in United States markets and to achieve fairer and more open conditions of trade in bulk, specialty crop, and value-added commodities by—

(i) reducing or eliminating, by a date certain, tariffs or other charges that decrease market opportunities for United States exports—

(I) giving priority to those products that are subject to significantly higher tariffs or subsidy regimes of major producing countries; and

(II) providing reasonable adjustment periods for United States import-sensitive products, in close consultation with the Congress on such products before initiating tariff reduction negotiations;

(ii) reducing tariffs to levels that are the same as or lower than those in the United States;

(iii) reducing or eliminating subsidies that decrease market opportunities for United States exports or unfairly distort agriculture markets to the detriment of the United States;

(iv) allowing the preservation of programs that support family farms and rural communities but do not distort trade;

(v) developing disciplines for domestic support programs, so that production that is in excess of domestic food security needs is sold at world prices;

(vi) eliminating government policies that create price-depressing surpluses;

(vii) eliminating state trading enterprises whenever possible;

(viii) developing, strengthening, and clarifying rules and effective dispute settlement mechanisms to eliminate practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of the United States, particularly with respect to import-sensitive products, including—

(I) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms, with emphasis on requiring price transparency in the operation of state trading enterprises and such other mechanisms in order to end cross subsidization, price discrimination, and price undercutting;

(II) unjustified trade restrictions or commercial requirements, such as labeling, that affect new technologies, including biotechnology;

(III) unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements;

(IV) other unjustified technical barriers to trade;
and

(V) restrictive rules in the administration of tariff rate quotas;

(ix) eliminating practices that adversely affect trade in perishable or cyclical products, while improving import relief mechanisms to recognize the unique characteristics of perishable and cyclical agriculture;

(x) ensuring that import relief mechanisms for perishable and cyclical agriculture are as accessible and timely to growers in the United States as those mechanisms that are used by other countries;

(xi) taking into account whether a party to the negotiations has failed to adhere to the provisions of already existing trade agreements with the United States or has circumvented obligations under those agreements;

(xii) taking into account whether a product is subject to market distortions by reason of a failure of a major producing country to adhere to the provisions of already existing trade agreements with the United States or by the circumvention by that country of its obligations under those agreements;

(xiii) otherwise ensuring that countries that accede to the World Trade Organization have made meaningful market liberalization commitments in agriculture;

(xiv) taking into account the impact that agreements covering agriculture to which the United States is a party, including the North American Free Trade Agreement, have on the United States agricultural industry;

(xv) maintaining bona fide food assistance programs and preserving United States market development and export credit programs; and

(xvi) striving to complete a general multilateral round in the World Trade Organization by January 1, 2005, and seeking the broadest market access possible in multilateral, regional, and bilateral negotiations, recognizing the effect that simultaneous sets of negotiations may have on United States import-sensitive commodities (including those subject to tariff-rate quotas).

(B)(i) Before commencing negotiations with respect to agriculture, the United States Trade Representative, in consultation with the Congress, shall seek to develop a position on the treatment of seasonal and perishable agricultural products to be employed in the negotiations in order to develop an international consensus on the treatment of seasonal or perishable agricultural products in investigations relating to dumping and safeguards and in any other relevant area.

(ii) During any negotiations on agricultural subsidies, the United States Trade Representative shall seek to establish the common base year for calculating the Aggregated Measurement of Support (as defined in the Agreement on Agriculture) as the end of each country's Uruguay Round implementation period, as reported in each country's Uruguay Round market access schedule.

(iii) The negotiating objective provided in subparagraph (A) applies with respect to agricultural matters to be addressed in any trade agreement entered into under section 2103(a)

or (b), including any trade agreement entered into under section 2103(a) or (b) that provides for accession to a trade agreement to which the United States is already a party, such as the North American Free Trade Agreement and the United States-Canada Free Trade Agreement.

(11) LABOR AND THE ENVIRONMENT.—The principal negotiating objectives of the United States with respect to labor and the environment are—

(A) to ensure that a party to a trade agreement with the United States does not fail to effectively enforce its environmental or labor laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the United States and that party after entry into force of a trade agreement between those countries;

(B) to recognize that parties to a trade agreement retain the right to exercise discretion with respect to investigatory, prosecutorial, regulatory, and compliance matters and to make decisions regarding the allocation of resources to enforcement with respect to other labor or environmental matters determined to have higher priorities, and to recognize that a country is effectively enforcing its laws if a course of action or inaction reflects a reasonable exercise of such discretion, or results from a bona fide decision regarding the allocation of resources, and no retaliation may be authorized based on the exercise of these rights or the right to establish domestic labor standards and levels of environmental protection;

(C) to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(6));

(D) to strengthen the capacity of United States trading partners to protect the environment through the promotion of sustainable development;

(E) to reduce or eliminate government practices or policies that unduly threaten sustainable development;

(F) to seek market access, through the elimination of tariffs and nontariff barriers, for United States environmental technologies, goods, and services; and

(G) to ensure that labor, environmental, health, or safety policies and practices of the parties to trade agreements with the United States do not arbitrarily or unjustifiably discriminate against United States exports or serve as disguised barriers to trade.

(12) DISPUTE SETTLEMENT AND ENFORCEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement and enforcement of trade agreements are—

(A) to seek provisions in trade agreements providing for resolution of disputes between governments under those trade agreements in an effective, timely, transparent, equitable, and reasoned manner, requiring determinations based on facts and the principles of the agreements, with the goal of increasing compliance with the agreements;

(B) to seek to strengthen the capacity of the Trade Policy Review Mechanism of the World Trade Organization to review compliance with commitments;

(C) to seek adherence by panels convened under the Dispute Settlement Understanding and by the Appellate Body to the standard of review applicable under the Uruguay Round Agreement involved in the dispute, including greater deference, where appropriate, to the fact-finding and technical expertise of national investigating authorities;

(D) to seek provisions encouraging the early identification and settlement of disputes through consultation;

(E) to seek provisions to encourage the provision of trade-expanding compensation if a party to a dispute under the agreement does not come into compliance with its obligations under the agreement;

(F) to seek provisions to impose a penalty upon a party to a dispute under the agreement that—

(i) encourages compliance with the obligations of the agreement;

(ii) is appropriate to the parties, nature, subject matter, and scope of the violation; and

(iii) has the aim of not adversely affecting parties or interests not party to the dispute while maintaining the effectiveness of the enforcement mechanism; and

(G) to seek provisions that treat United States principal negotiating objectives equally with respect to—

(i) the ability to resort to dispute settlement under the applicable agreement;

(ii) the availability of equivalent dispute settlement procedures; and

(iii) the availability of equivalent remedies.

(13) **WTO EXTENDED NEGOTIATIONS.**—The principal negotiating objectives of the United States regarding trade in civil aircraft are those set forth in section 135(c) of the Uruguay Round Agreements Act (19 U.S.C. 3355(c)) and regarding rules of origin are the conclusion of an agreement described in section 132 of that Act (19 U.S.C. 3552).

(14) **TRADE REMEDY LAWS.**—The principal negotiating objectives of the United States with respect to trade remedy laws are—

(A) to preserve the ability of the United States to enforce rigorously its trade laws, including the anti-dumping, countervailing duty, and safeguard laws, and avoid agreements that lessen the effectiveness of domestic and international disciplines on unfair trade, especially dumping and subsidies, or that lessen the effectiveness of domestic and international safeguard provisions, in order to ensure that United States workers, agricultural producers, and firms can compete fully on fair terms and enjoy the benefits of reciprocal trade concessions; and

(B) to address and remedy market distortions that lead to dumping and subsidization, including overcapacity, cartelization, and market-access barriers.

(15) **BORDER TAXES.**—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the WTO rules with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily on direct taxes for revenue rather than indirect taxes.

(16) TEXTILE NEGOTIATIONS.—The principal negotiating objectives of the United States with respect to trade in textiles and apparel articles are to obtain competitive opportunities for United States exports of textiles and apparel in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports in United States markets and to achieve fairer and more open conditions of trade in textiles and apparel.

(17) WORST FORMS OF CHILD LABOR.—The principal negotiating objective of the United States with respect to the trade-related aspects of the worst forms of child labor are to seek commitments by parties to trade agreements to vigorously enforce their own laws prohibiting the worst forms of child labor.

President.

(c) PROMOTION OF CERTAIN PRIORITIES.—In order to address and maintain United States competitiveness in the global economy, the President shall—

(1) seek greater cooperation between the WTO and the ILO;

(2) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to promote respect for core labor standards (as defined in section 2113(6)) and to promote compliance with ILO Convention No. 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

Reports.

(3) seek to establish consultative mechanisms among parties to trade agreements to strengthen the capacity of United States trading partners to develop and implement standards for the protection of the environment and human health based on sound science, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the content and operation of such mechanisms;

(4) conduct environmental reviews of future trade and investment agreements, consistent with Executive Order 13141 of November 16, 1999, and its relevant guidelines, and report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such reviews;

(5) review the impact of future trade agreements on United States employment, including labor markets, modeled after Executive Order 13141 to the extent appropriate in establishing procedures and criteria, report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on such review, and make that report available to the public;

(6) take into account other legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, and consumer interests and the law and regulations related thereto;

(7) direct the Secretary of Labor to consult with any country seeking a trade agreement with the United States concerning that country's labor laws and provide technical assistance to that country if needed;

(8) in connection with any trade negotiations entered into under this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating, on a time frame determined in accordance with section 2107(b)(2)(E);

(9) with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor;

(10) continue to promote consideration of multilateral environmental agreements and consult with parties to such agreements regarding the consistency of any such agreement that includes trade measures with existing environmental exceptions under Article XX of the GATT 1994;

(11) report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate, not later than 12 months after the imposition of a penalty or remedy by the United States permitted by a trade agreement to which this title applies, on the effectiveness of the penalty or remedy applied under United States law in enforcing United States rights under the trade agreement; and

Reports.

(12) seek to establish consultative mechanisms among parties to trade agreements to examine the trade consequences of significant and unanticipated currency movements and to scrutinize whether a foreign government engaged in a pattern of manipulating its currency to promote a competitive advantage in international trade.

The report under paragraph (11) shall address whether the penalty or remedy was effective in changing the behavior of the targeted party and whether the penalty or remedy had any adverse impact on parties or interests not party to the dispute.

(d) CONSULTATIONS.—

(1) CONSULTATIONS WITH CONGRESSIONAL ADVISERS.—In the course of negotiations conducted under this title, the United States Trade Representative shall consult closely and on a timely basis with, and keep fully apprised of the negotiations, the Congressional Oversight Group convened under section 2107 and all committees of the House of Representatives and the Senate with jurisdiction over laws that would be affected by a trade agreement resulting from the negotiations.

(2) CONSULTATION BEFORE AGREEMENT INITIALED.—In the course of negotiations conducted under this title, the United States Trade Representative shall—

(A) consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the congressional advisers for trade policy and negotiations appointed under section 161 of the Trade Act of 1974 (19 U.S.C. 2211), the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Congressional Oversight Group convened under section 2107; and

(B) with regard to any negotiations and agreement relating to agricultural trade, also consult closely and on a timely basis (including immediately before initialing an agreement) with, and keep fully apprised of the negotiations, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(e) ADHERENCE TO OBLIGATIONS UNDER URUGUAY ROUND AGREEMENTS.—In determining whether to enter into negotiations with a particular country, the President shall take into account the extent to which that country has implemented, or has accelerated the implementation of, its obligations under the Uruguay Round Agreements.

19 USC 3803.

SEC. 2103. TRADE AGREEMENTS AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) IN GENERAL.—Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President—

(A) may enter into trade agreements with foreign countries before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c); and

(B) may, subject to paragraphs (2) and (3), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties,

as the President determines to be required or appropriate to carry out any such trade agreement.

The President shall notify the Congress of the President's intention to enter into an agreement under this subsection.

(2) LIMITATIONS.—No proclamation may be made under paragraph (1) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of the enactment of this Act) to a rate of duty which is less than 50 percent of the rate of such duty that applies on such date of enactment;

(B) reduces the rate of duty below that applicable under the Uruguay Round Agreements, on any import sensitive agricultural product; or

(C) increases any rate of duty above the rate that applied on the date of the enactment of this Act.

(3) AGGREGATE REDUCTION; EXEMPTION FROM STAGING.—

(A) AGGREGATE REDUCTION.—Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if—

President.
Notification.

- (i) a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed under paragraph (1) to carry out such agreement with respect to such article; and
- (ii) a reduction equal to the amount applicable under clause (i) had taken effect at 1-year intervals after the effective date of such first reduction.

(B) EXEMPTION FROM STAGING.—No staging is required under subparagraph (A) with respect to a duty reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) ROUNDING.—If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by an amount equal to the lesser of—

- (A) the difference between the reduction without regard to this paragraph and the next lower whole number; or
- (B) one-half of 1 percent ad valorem.

(5) OTHER LIMITATIONS.—A rate of duty reduction that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction is included within an implementing bill provided for under section 2105 and that bill is enacted into law.

(6) OTHER TARIFF MODIFICATIONS.—Notwithstanding paragraphs (1)(B), (2)(A), (2)(C), and (3) through (5), and subject to the consultation and layover requirements of section 115 of the Uruguay Round Agreements Act, the President may proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX, as defined in section 2(5) of that Act, if the United States agrees to such modification or staged rate reduction in a negotiation for the reciprocal elimination or harmonization of duties under the auspices of the World Trade Organization.

(7) AUTHORITY UNDER URUGUAY ROUND AGREEMENTS ACT NOT AFFECTED.—Nothing in this subsection shall limit the authority provided to the President under section 111(b) of the Uruguay Round Agreements Act (19 U.S.C. 3521(b)).

(b) AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) IN GENERAL.—(A) Whenever the President determines that—

- (i) one or more existing duties or any other import restriction of any foreign country or the United States or any other barrier to, or other distortion of, international trade unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy, or
- (ii) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect, and that the purposes, policies, priorities, and objectives of this title will be promoted thereby, the President may enter into a trade agreement described in subparagraph (B) during the period described in subparagraph (C).

(B) The President may enter into a trade agreement under subparagraph (A) with foreign countries providing for—

(i) the reduction or elimination of a duty, restriction, barrier, or other distortion described in subparagraph (A); or

(ii) the prohibition of, or limitation on the imposition of, such barrier or other distortion.

(C) The President may enter into a trade agreement under this paragraph before—

(i) June 1, 2005; or

(ii) June 1, 2007, if trade authorities procedures are extended under subsection (c).

(2) CONDITIONS.—A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 2102(a) and (b) and the President satisfies the conditions set forth in section 2104.

(3) BILLS QUALIFYING FOR TRADE AUTHORITIES PROCEDURES.—(A) The provisions of section 151 of the Trade Act of 1974 (in this title referred to as “trade authorities procedures”) apply to a bill of either House of Congress which contains provisions described in subparagraph (B) to the same extent as such section 151 applies to implementing bills under that section. A bill to which this paragraph applies shall hereafter in this title be referred to as an “implementing bill”.

(B) The provisions referred to in subparagraph (A) are—

(i) a provision approving a trade agreement entered into under this subsection and approving the statement of administrative action, if any, proposed to implement such trade agreement; and

(ii) if changes in existing laws or new statutory authority are required to implement such trade agreement or agreements, provisions, necessary or appropriate to implement such trade agreement or agreements, either repealing or amending existing laws or providing new statutory authority.

(c) EXTENSION DISAPPROVAL PROCESS FOR CONGRESSIONAL TRADE AUTHORITIES PROCEDURES.—

(1) IN GENERAL.—Except as provided in section 2105(b)—

(A) the trade authorities procedures apply to implementing bills submitted with respect to trade agreements entered into under subsection (b) before July 1, 2005; and

(B) the trade authorities procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under subsection (b) after June 30, 2005, and before July 1, 2007, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 2005.

(2) REPORT TO CONGRESS BY THE PRESIDENT.—If the President is of the opinion that the trade authorities procedures should be extended to implementing bills described in paragraph (1)(B), the President shall submit to the Congress, not later than March 1, 2005, a written report that contains a request for such extension, together with—

Deadline.

(A) a description of all trade agreements that have been negotiated under subsection (b) and the anticipated schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

(3) OTHER REPORTS TO CONGRESS.—

President.
Deadlines.

(A) REPORT BY THE ADVISORY COMMITTEE.—The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of the President's decision to submit a report to the Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains—

(i) its views regarding the progress that has been made in negotiations to achieve the purposes, policies, priorities, and objectives of this title; and

(ii) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

(B) REPORT BY ITC.—The President shall promptly inform the International Trade Commission of the President's decision to submit a report to the Congress under paragraph (2). The International Trade Commission shall submit to the Congress as soon as practicable, but not later than May 1, 2005, a written report that contains a review and analysis of the economic impact on the United States of all trade agreements implemented between the date of enactment of this Act and the date on which the President decides to seek an extension requested under paragraph (2).

(4) STATUS OF REPORTS.—The reports submitted to the Congress under paragraphs (2) and (3), or any portion of such reports, may be classified to the extent the President determines appropriate.

(5) EXTENSION DISAPPROVAL RESOLUTIONS.—(A) For purposes of paragraph (1), the term “extension disapproval resolution” means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: “That the _____ disapproves the request of the President for the extension, under section 2103(c)(1)(B)(i) of the Bipartisan Trade Promotion Authority Act of 2002, of the trade authorities procedures under that Act to any implementing bill submitted with respect to any trade agreement entered into under section 2103(b) of that Act after June 30, 2005.”, with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be referred, in the House of Representatives, to the Committee on Ways and Means and, in addition, to the Committee on Rules.

(C) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution after June 30, 2005.

(d) COMMENCEMENT OF NEGOTIATIONS.—In order to contribute to the continued economic expansion of the United States, the President shall commence negotiations covering tariff and nontariff barriers affecting any industry, product, or service sector, and expand existing sectoral agreements to countries that are not parties to those agreements, in cases where the President determines that such negotiations are feasible and timely and would benefit the United States. Such sectors include agriculture, commercial services, intellectual property rights, industrial and capital goods, government procurement, information technology products, environmental technology and services, medical equipment and services, civil aircraft, and infrastructure products. In so doing, the President shall take into account all of the principal negotiating objectives set forth in section 2102(b).

19 USC 3804.

President.

SEC. 2104. CONSULTATIONS AND ASSESSMENT.

(a) NOTICE AND CONSULTATION BEFORE NEGOTIATION.—The President, with respect to any agreement that is subject to the provisions of section 2103(b), shall—

(1) provide, at least 90 calendar days before initiating negotiations, written notice to the Congress of the President's intention to enter into the negotiations and set forth therein the date the President intends to initiate such negotiations, the specific United States objectives for the negotiations, and whether the President intends to seek an agreement, or changes to an existing agreement;

(2) before and after submission of the notice, consult regarding the negotiations with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, such other committees of the House and Senate as the President deems appropriate, and the Congressional Oversight group convened under section 2107; and

(3) upon the request of a majority of the members of the Congressional Oversight Group under section 2107(c), meet with the Congressional Oversight Group before initiating the negotiations or at any other time concerning the negotiations.

(b) NEGOTIATIONS REGARDING AGRICULTURE.—

(1) IN GENERAL.—Before initiating or continuing negotiations the subject matter of which is directly related to the subject matter under section 2102(b)(10)(A)(i) with any country,

the President shall assess whether United States tariffs on agricultural products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country. In addition, the President shall consider whether the tariff levels bound and applied throughout the world with respect to imports from the United States are higher than United States tariffs and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(2) SPECIAL CONSULTATIONS ON IMPORT SENSITIVE PRODUCTS.—(A) Before initiating negotiations with regard to agriculture, and, with respect to the Free Trade Area for the Americas and negotiations with regard to agriculture under the auspices of the World Trade Organization, as soon as practicable after the enactment of this Act, the United States Trade Representative shall—

(i) identify those agricultural products subject to tariff-rate quotas on the date of enactment of this Act, and agricultural products subject to tariff reductions by the United States as a result of the Uruguay Round Agreements, for which the rate of duty was reduced on January 1, 1995, to a rate which was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994;

(ii) consult with the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning—

(I) whether any further tariff reductions on the products identified under clause (i) should be appropriate, taking into account the impact of any such tariff reduction on the United States industry producing the product concerned;

(II) whether the products so identified face unjustified sanitary or phytosanitary restrictions, including those not based on scientific principles in contravention of the Uruguay Round Agreements; and

(III) whether the countries participating in the negotiations maintain export subsidies or other programs, policies, or practices that distort world trade in such products and the impact of such programs, policies, and practices on United States producers of the products;

(iii) request that the International Trade Commission prepare an assessment of the probable economic effects of any such tariff reduction on the United States industry producing the product concerned and on the United States economy as a whole; and

(iv) upon complying with clauses (i), (ii), and (iii), notify the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate of those products identified under clause (i) for which the Trade Representative intends to seek tariff liberalization in the negotiations and the reasons for seeking such tariff liberalization.

(B) If, after negotiations described in subparagraph (A) are commenced—

(i) the United States Trade Representative identifies any additional agricultural product described in subparagraph (A)(i) for tariff reductions which were not the subject of a notification under subparagraph (A)(iv), or

(ii) any additional agricultural product described in subparagraph (A)(i) is the subject of a request for tariff reductions by a party to the negotiations,

the Trade Representative shall, as soon as practicable, notify the committees referred to in subparagraph (A)(iv) of those products and the reasons for seeking such tariff reductions.

(3) NEGOTIATIONS REGARDING THE FISHING INDUSTRY.—Before initiating, or continuing, negotiations which directly relate to fish or shellfish trade with any country, the President shall consult with the Committee on Ways and Means and the Committee on Resources of the House of Representatives, and the Committee on Finance and the Committee on Commerce, Science, and Transportation of the Senate, and shall keep the Committees apprised of negotiations on an ongoing and timely basis.

(c) NEGOTIATIONS REGARDING TEXTILES.—Before initiating or continuing negotiations the subject matter of which is directly related to textiles and apparel products with any country, the President shall assess whether United States tariffs on textile and apparel products that were bound under the Uruguay Round Agreements are lower than the tariffs bound by that country and whether the negotiation provides an opportunity to address any such disparity. The President shall consult with the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate concerning the results of the assessment, whether it is appropriate for the United States to agree to further tariff reductions based on the conclusions reached in the assessment, and how all applicable negotiating objectives will be met.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

(1) CONSULTATION.—Before entering into any trade agreement under section 2103(b), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate;

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement; and

(C) the Congressional Oversight Group convened under section 2107.

(2) SCOPE.—The consultation described in paragraph (1) shall include consultation with respect to—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, priorities, and objectives of this title; and

(C) the implementation of the agreement under section 2105, including the general effect of the agreement on existing laws.

(3) REPORT REGARDING UNITED STATES TRADE REMEDY LAWS.—

President.
Deadlines.

(A) CHANGES IN CERTAIN TRADE LAWS.—The President, at least 180 calendar days before the day on which the President enters into a trade agreement under section 2103(b), shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(i) the range of proposals advanced in the negotiations with respect to that agreement, that may be in the final agreement, and that could require amendments to title VII of the Tariff Act of 1930 or to chapter 1 of title II of the Trade Act of 1974; and

(ii) how these proposals relate to the objectives described in section 2102(b)(14).

(B) CERTAIN AGREEMENTS.—With respect to a trade agreement entered into with Chile or Singapore, the report referred to in subparagraph (A) shall be submitted by the President at least 90 calendar days before the day on which the President enters into that agreement.

(C) RESOLUTIONS.—(i) At any time after the transmission of the report under subparagraph (A), if a resolution is introduced with respect to that report in either House of Congress, the procedures set forth in clauses (iii) through (vi) shall apply to that resolution if—

(I) no other resolution with respect to that report has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to those procedures; and

(II) no procedural disapproval resolution under section 2105(b) introduced with respect to a trade agreement entered into pursuant to the negotiations to which the report under subparagraph (A) relates has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be.

(ii) For purposes of this subparagraph, the term “resolution” means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: “That the ____ finds that the proposed changes to United States trade remedy laws contained in the report of the President transmitted to the Congress on ____ under section 2104(d)(3) of the Bipartisan Trade Promotion Authority Act of 2002 with respect to ____, are inconsistent with the negotiating objectives described in section 2102(b)(14) of that Act.”, with the first blank space being filled with the name of the resolving House of Congress, the second blank space being filled with the appropriate date of the

report, and the third blank space being filled with the name of the country or countries involved.

(iii) Resolutions in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee.

(iv) Resolutions in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(iv) It is not in order for the House of Representatives to consider any resolution that is not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(v) It is not in order for the Senate to consider any resolution that is not reported by the Committee on Finance.

(vi) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to floor consideration of certain resolutions in the House and Senate) shall apply to resolutions.

Deadlines. (e) ADVISORY COMMITTEE REPORTS.—The report required under section 135(e)(1) of the Trade Act of 1974 regarding any trade agreement entered into under section 2103(a) or (b) of this Act shall be provided to the President, the Congress, and the United States Trade Representative not later than 30 days after the date on which the President notifies the Congress under section 2103(a)(1) or 2105(a)(1)(A) of the President's intention to enter into the agreement.

(f) ITC ASSESSMENT.—

President. (1) IN GENERAL.—The President, at least 90 calendar days before the day on which the President enters into a trade agreement under section 2103(b), shall provide the International Trade Commission (referred to in this subsection as “the Commission”) with the details of the agreement as it exists at that time and request the Commission to prepare and submit an assessment of the agreement as described in paragraph (2). Between the time the President makes the request under this paragraph and the time the Commission submits the assessment, the President shall keep the Commission current with respect to the details of the agreement.

Reports. (2) ITC ASSESSMENT.—Not later than 90 calendar days after the President enters into the agreement, the Commission shall submit to the President and the Congress a report assessing the likely impact of the agreement on the United States economy as a whole and on specific industry sectors, including the impact the agreement will have on the gross domestic product, exports and imports, aggregate employment and employment opportunities, the production, employment, and competitive position of industries likely to be significantly affected by the agreement, and the interests of United States consumers.

(3) REVIEW OF EMPIRICAL LITERATURE.—In preparing the assessment, the Commission shall review available economic assessments regarding the agreement, including literature regarding any substantially equivalent proposed agreement, and shall provide in its assessment a description of the analyses used and conclusions drawn in such literature, and a discussion of areas of consensus and divergence between the various analyses and conclusions, including those of the Commission regarding the agreement.

SEC. 2105. IMPLEMENTATION OF TRADE AGREEMENTS.

19 USC 3805.

(a) IN GENERAL.—

(1) NOTIFICATION AND SUBMISSION.—Any agreement entered into under section 2103(b) shall enter into force with respect to the United States if (and only if)—

President.

(A) the President, at least 90 calendar days before the day on which the President enters into the trade agreement, notifies the House of Representatives and the Senate of the President's intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

Federal Register,
publication.

(B) within 60 days after entering into the agreement, the President submits to the Congress a description of those changes to existing laws that the President considers would be required in order to bring the United States into compliance with the agreement;

(C) after entering into the agreement, the President submits to the Congress, on a day on which both Houses of Congress are in session, a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill described in section 2103(b)(3);

(ii) a statement of any administrative action proposed to implement the trade agreement; and

(iii) the supporting information described in paragraph (2); and

(D) the implementing bill is enacted into law.

(2) SUPPORTING INFORMATION.—The supporting information required under paragraph (1)(C)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, priorities, and objectives of this title; and

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i);

(II) whether and how the agreement changes provisions of an agreement previously negotiated;

(III) how the agreement serves the interests of United States commerce;

(IV) how the implementing bill meets the standards set forth in section 2103(b)(3); and

(V) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in section 2102(c) regarding the promotion of certain priorities.

(3) RECIPROCAL BENEFITS.—In order to ensure that a foreign country that is not a party to a trade agreement entered into under section 2103(b) does not receive benefits under the agreement unless the country is also subject to the obligations under the agreement, the implementing bill submitted with respect to the agreement shall provide that the benefits and obligations under the agreement apply only to the parties to the agreement, if such application is consistent with the terms of the agreement. The implementing bill may also provide that the benefits and obligations under the agreement do not apply uniformly to all parties to the agreement, if such application is consistent with the terms of the agreement.

(4) DISCLOSURE OF COMMITMENTS.—Any agreement or other understanding with a foreign government or governments (whether oral or in writing) that—

(A) relates to a trade agreement with respect to which the Congress enacts an implementing bill under trade authorities procedures, and

(B) is not disclosed to the Congress before an implementing bill with respect to that agreement is introduced in either House of Congress, shall not be considered to be part of the agreement approved by the Congress and shall have no force and effect under United States law or in any dispute settlement body.

(b) LIMITATIONS ON TRADE AUTHORITIES PROCEDURES.—

(1) FOR LACK OF NOTICE OR CONSULTATIONS.—

(A) IN GENERAL.—The trade authorities procedures shall not apply to any implementing bill submitted with respect to a trade agreement or trade agreements entered into under section 2103(b) if during the 60-day period beginning on the date that one House of Congress agrees to a procedural disapproval resolution for lack of notice or consultations with respect to such trade agreement or agreements, the other House separately agrees to a procedural disapproval resolution with respect to such trade agreement or agreements.

(B) PROCEDURAL DISAPPROVAL RESOLUTION.—(i) For purposes of this paragraph, the term “procedural disapproval resolution” means a resolution of either House of Congress, the sole matter after the resolving clause of which is as follows: “That the President has failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002 on negotiations with respect to _____ and, therefore, the trade authorities procedures under that Act shall not apply to any implementing bill submitted with respect to such trade agreement or agreements.”, with the blank space being filled with a description of the trade agreement or agreements with respect to which the President is considered to have failed or refused to notify or consult.

(ii) For purposes of clause (i), the President has “failed or refused to notify or consult in accordance with the Bipartisan Trade Promotion Authority Act of 2002” on negotiations with respect to a trade agreement or trade agreements if—

(I) the President has failed or refused to consult (as the case may be) in accordance with section 2104 or 2105 with respect to the negotiations, agreement, or agreements;

(II) guidelines under section 2107(b) have not been developed or met with respect to the negotiations, agreement, or agreements;

(III) the President has not met with the Congressional Oversight Group pursuant to a request made under section 2107(c) with respect to the negotiations, agreement, or agreements; or

(IV) the agreement or agreements fail to make progress in achieving the purposes, policies, priorities, and objectives of this title.

(2) PROCEDURES FOR CONSIDERING RESOLUTIONS.—(A) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) may be introduced by any Member of the House;

(II) shall be referred to the Committee on Ways and Means and, in addition, to the Committee on Rules; and

(III) may not be amended by either Committee; and

(ii) in the Senate—

(I) may be introduced by any Member of the Senate;

(II) shall be referred to the Committee on Finance; and

(III) may not be amended.

(B) The provisions of section 152(d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192(d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to a procedural disapproval resolution introduced with respect to a trade agreement if no other procedural disapproval resolution with respect to that trade agreement has previously been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, and if no resolution described in section 2104(d)(3)(C)(ii) with respect to that trade agreement has been reported in that House of Congress by the Committee on Ways and Means or the Committee on Finance, as the case may be, pursuant to the procedures set forth in clauses (iii) through (vi) of such section 2104(d)(3)(C).

(C) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and, in addition, by the Committee on Rules.

(D) It is not in order for the Senate to consider any procedural disapproval resolution not reported by the Committee on Finance.

Deadline.
Reports.

(3) **FOR FAILURE TO MEET OTHER REQUIREMENTS.**—Not later than December 31, 2002, the Secretary of Commerce, in consultation with the Secretary of State, the Secretary of the Treasury, the Attorney General, and the United States Trade Representative, shall transmit to the Congress a report setting forth the strategy of the executive branch to address concerns of the Congress regarding whether dispute settlement panels and the Appellate Body of the WTO have added to obligations, or diminished rights, of the United States, as described in section 2101(b)(3). Trade authorities procedures shall not apply to any implementing bill with respect to an agreement negotiated under the auspices of the WTO unless the Secretary of Commerce has issued such report in a timely manner.

(c) **RULES OF HOUSE OF REPRESENTATIVES AND SENATE.**—Subsection (b) of this section, section 2103(c), and section 2104(d)(3)(C) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such are deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

19 USC 3806.

SEC. 2106. TREATMENT OF CERTAIN TRADE AGREEMENTS FOR WHICH NEGOTIATIONS HAVE ALREADY BEGUN.

(a) **CERTAIN AGREEMENTS.**—Notwithstanding the prenegotiation notification and consultation requirement described in section 2104(a), if an agreement to which section 2103(b) applies—

(1) is entered into under the auspices of the World Trade Organization,

(2) is entered into with Chile,

(3) is entered into with Singapore, or

(4) establishes a Free Trade Area for the Americas,

and results from negotiations that were commenced before the date of the enactment of this Act, subsection (b) shall apply.

(b) **TREATMENT OF AGREEMENTS.**—In the case of any agreement to which subsection (a) applies—

(1) the applicability of the trade authorities procedures to implementing bills shall be determined without regard to the requirements of section 2104(a) (relating only to 90 days notice prior to initiating negotiations), and any procedural disapproval resolution under section 2105(b)(1)(B) shall not be in order on the basis of a failure or refusal to comply with the provisions of section 2104(a); and

(2) the President shall, as soon as feasible after the enactment of this Act—

(A) notify the Congress of the negotiations described in subsection (a), the specific United States objectives in the negotiations, and whether the President is seeking a new agreement or changes to an existing agreement; and

(B) before and after submission of the notice, consult regarding the negotiations with the committees referred

President.

to in section 2104(a)(2) and the Congressional Oversight Group convened under section 2107.

SEC. 2107. CONGRESSIONAL OVERSIGHT GROUP.

19 USC 3807.

(a) MEMBERS AND FUNCTIONS.—

(1) IN GENERAL.—By not later than 60 days after the date of the enactment of this Act, and not later than 30 days after the convening of each Congress, the chairman of the Committee on Ways and Means of the House of Representatives and the chairman of the Committee on Finance of the Senate shall convene the Congressional Oversight Group.

Deadline.

(2) MEMBERSHIP FROM THE HOUSE.—In each Congress, the Congressional Oversight Group shall be comprised of the following Members of the House of Representatives:

(A) The chairman and ranking member of the Committee on Ways and Means, and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the House of Representatives which would have, under the Rules of the House of Representatives, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(3) MEMBERSHIP FROM THE SENATE.—In each Congress, the Congressional Oversight Group shall also be comprised of the following members of the Senate:

(A) The chairman and ranking member of the Committee on Finance and 3 additional members of such Committee (not more than 2 of whom are members of the same political party).

(B) The chairman and ranking member, or their designees, of the committees of the Senate which would have, under the Rules of the Senate, jurisdiction over provisions of law affected by a trade agreement negotiations for which are conducted at any time during that Congress and to which this title would apply.

(4) ACCREDITATION.—Each member of the Congressional Oversight Group described in paragraph (2)(A) and (3)(A) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in negotiations for any trade agreement to which this title applies. Each member of the Congressional Oversight Group described in paragraph (2)(B) and (3)(B) shall be accredited by the United States Trade Representative on behalf of the President as an official adviser to the United States delegation in the negotiations by reason of which the member is in the Congressional Oversight Group. The Congressional Oversight Group shall consult with and provide advice to the Trade Representative regarding the formulation of specific objectives, negotiating strategies and positions, the development of the applicable trade agreement, and compliance and enforcement of the negotiated commitments under the trade agreement.

(5) CHAIR.—The Congressional Oversight Group shall be chaired by the Chairman of the Committee on Ways and Means

of the House of Representatives and the Chairman of the Committee on Finance of the Senate.

(b) GUIDELINES.—

(1) PURPOSE AND REVISION.—The United States Trade Representative, in consultation with the chairmen and ranking minority members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate—

(A) shall, within 120 days after the date of the enactment of this Act, develop written guidelines to facilitate the useful and timely exchange of information between the Trade Representative and the Congressional Oversight Group convened under this section; and

(B) may make such revisions to the guidelines as may be necessary from time to time.

(2) CONTENT.—The guidelines developed under paragraph (1) shall provide for, among other things—

(A) regular, detailed briefings of the Congressional Oversight Group regarding negotiating objectives, including the promotion of certain priorities referred to in section 2102(c), and positions and the status of the applicable negotiations, beginning as soon as practicable after the Congressional Oversight Group is convened, with more frequent briefings as trade negotiations enter the final stage;

(B) access by members of the Congressional Oversight Group, and staff with proper security clearances, to pertinent documents relating to the negotiations, including classified materials;

(C) the closest practicable coordination between the Trade Representative and the Congressional Oversight Group at all critical periods during the negotiations, including at negotiation sites;

(D) after the applicable trade agreement is concluded, consultation regarding ongoing compliance and enforcement of negotiated commitments under the trade agreement; and

(E) the time frame for submitting the report required under section 2102(c)(8).

(c) REQUEST FOR MEETING.—Upon the request of a majority of the Congressional Oversight Group, the President shall meet with the Congressional Oversight Group before initiating negotiations with respect to a trade agreement, or at any other time concerning the negotiations.

19 USC 3808.

SEC. 2108. ADDITIONAL IMPLEMENTATION AND ENFORCEMENT REQUIREMENTS.

President.

(a) IN GENERAL.—At the time the President submits to the Congress the final text of an agreement pursuant to section 2105(a)(1)(C), the President shall also submit a plan for implementing and enforcing the agreement. The implementation and enforcement plan shall include the following:

(1) BORDER PERSONNEL REQUIREMENTS.—A description of additional personnel required at border entry points, including a list of additional customs and agricultural inspectors.

(2) AGENCY STAFFING REQUIREMENTS.—A description of additional personnel required by Federal agencies responsible for monitoring and implementing the trade agreement,

including personnel required by the Office of the United States Trade Representative, the Department of Commerce, the Department of Agriculture (including additional personnel required to implement sanitary and phytosanitary measures in order to obtain market access for United States exports), the Department of the Treasury, and such other agencies as may be necessary.

(3) CUSTOMS INFRASTRUCTURE REQUIREMENTS.—A description of the additional equipment and facilities needed by the United States Customs Service.

(4) IMPACT ON STATE AND LOCAL GOVERNMENTS.—A description of the impact the trade agreement will have on State and local governments as a result of increases in trade.

(5) COST ANALYSIS.—An analysis of the costs associated with each of the items listed in paragraphs (1) through (4).

(b) BUDGET SUBMISSION.—The President shall include a request for the resources necessary to support the plan described in subsection (a) in the first budget that the President submits to the Congress after the submission of the plan.

President.

SEC. 2109. COMMITTEE STAFF.

19 USC 3809.

The grant of trade promotion authority under this title is likely to increase the activities of the primary committees of jurisdiction in the area of international trade. In addition, the creation of the Congressional Oversight Group under section 2107 will increase the participation of a broader number of Members of Congress in the formulation of United States trade policy and oversight of the international trade agenda for the United States. The primary committees of jurisdiction should have adequate staff to accommodate these increases in activities.

SEC. 2110. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Title I of the Trade Act of 1974 (19 U.S.C. 2111 et seq.) is amended as follows:

(1) IMPLEMENTING BILL.—

(A) Section 151(b)(1) (19 U.S.C. 2191(b)(1)) is amended by striking “section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988, or section 282 of the Uruguay Round Agreements Act” and inserting “section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002”.

(B) Section 151(c)(1) (19 U.S.C. 2191(c)(1)) is amended by striking “or section 282 of the Uruguay Round Agreements Act” and inserting “, section 282 of the Uruguay Round Agreements Act, or section 2105(a)(1) of the Bipartisan Trade Promotion Authority Act of 2002”.

(2) ADVICE FROM INTERNATIONAL TRADE COMMISSION.—Section 131 (19 U.S.C. 2151) is amended—

(A) in subsection (a)—

(i) in paragraph (1), by striking “section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988,” and inserting “section 123 of this Act or section 2103(a) or (b) of the Bipartisan Trade Promotion Authority Act of 2002,”; and

(ii) in paragraph (2), by striking “section 1102 (b) or (c) of the Omnibus Trade and Competitiveness

Act of 1988” and inserting “section 2103(b) of the Bipartisan Trade Promotion Authority Act of 2002”;

(B) in subsection (b), by striking “section 1102(a)(3)(A)” and inserting “section 2103(a)(3)(A) of the Bipartisan Trade Promotion Authority Act of 2002”; and

(C) in subsection (c), by striking “section 1102 of the Omnibus Trade and Competitiveness Act of 1988,” and inserting “section 2103 of the Bipartisan Trade Promotion Authority Act of 2002,”.

(3) HEARINGS AND ADVICE.—Sections 132, 133(a), and 134(a) (19 U.S.C. 2152, 2153(a), and 2154(a)) are each amended by striking “section 1102 of the Omnibus Trade and Competitiveness Act of 1988,” each place it appears and inserting “section 2103 of the Bipartisan Trade Promotion Authority Act of 2002,”.

(4) PREREQUISITES FOR OFFERS.—Section 134(b) (19 U.S.C. 2154(b)) is amended by striking “section 1102 of the Omnibus Trade and Competitiveness Act of 1988” and inserting “section 2103 of the Bipartisan Trade Promotion Authority Act of 2002”.

(5) ADVICE FROM PRIVATE AND PUBLIC SECTORS.—Section 135 (19 U.S.C. 2155) is amended—

(A) in subsection (a)(1)(A), by striking “section 1102 of the Omnibus Trade and Competitiveness Act of 1988” and inserting “section 2103 of the Bipartisan Trade Promotion Authority Act of 2002”;

(B) in subsection (e)(1)—

(i) by striking “section 1102 of the Omnibus Trade and Competitiveness Act of 1988” each place it appears and inserting “section 2103 of the Bipartisan Trade Promotion Authority Act of 2002”; and

(ii) by striking “section 1103(a)(1)(A) of such Act of 1988” and inserting “section 2105(a)(1)(A) of the Bipartisan Trade Promotion Authority Act of 2002”; and

(C) in subsection (e)(2), by striking “section 1101 of the Omnibus Trade and Competitiveness Act of 1988” and inserting “section 2102 of the Bipartisan Trade Promotion Authority Act of 2002”.

(6) TRANSMISSION OF AGREEMENTS TO CONGRESS.—Section 162(a) (19 U.S.C. 2212(a)) is amended by striking “or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988” and inserting “or under section 2103 of the Bipartisan Trade Promotion Authority Act of 2002”.

19 USC 3810.

(b) APPLICATION OF CERTAIN PROVISIONS.—For purposes of applying sections 125, 126, and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 2103 shall be treated as an agreement entered into under section 101 or 102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 2103 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

SEC. 2111. REPORT ON IMPACT OF TRADE PROMOTION AUTHORITY. 19 USC 3811.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the International Trade Commission shall report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives regarding the economic impact on the United States of the trade agreements described in subsection (b).

Deadline.

(b) **AGREEMENTS.**—The trade agreements described in this subsection are the following:

- (1) The United States-Israel Free Trade Agreement.
- (2) The United States-Canada Free Trade Agreement.
- (3) The North American Free Trade Agreement.
- (4) The Uruguay Round Agreements.
- (5) The Tokyo Round of Multilateral Trade Negotiations.

SEC. 2112. INTERESTS OF SMALL BUSINESS.

19 USC 3812.

The Assistant United States Trade Representative for Industry and Telecommunications shall be responsible for ensuring that the interests of small business are considered in all trade negotiations in accordance with the objective described in section 2102(a)(8). It is the sense of the Congress that the small business functions should be reflected in the title of the Assistant United States Trade Representative assigned the responsibility for small business.

SEC. 2113. DEFINITIONS.

19 USC 3813.

In this title:

(1) **AGREEMENT ON AGRICULTURE.**—The term “Agreement on Agriculture” means the agreement referred to in section 101(d)(2) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(2)).

(2) **AGREEMENT ON SAFEGUARDS.**—The term “Agreement on Safeguards” means the agreement referred to in section 101(d)(12) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(12)).

(2) **AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES.**—The term “Agreement on Subsidies and Countervailing Measures” means the agreement referred to in section 101(d)(13) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(13)).

(4) **ANTIDUMPING AGREEMENT.**—The term “Antidumping Agreement” means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994 referred to in section 101(d)(7) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d)(7)).

(5) **APPELLATE BODY.**—The term “Appellate Body” means the Appellate Body established under Article 17.1 of the Dispute Settlement Understanding.

(6) **CORE LABOR STANDARDS.**—The term “core labor standards” means—

- (A) the right of association;
 - (B) the right to organize and bargain collectively;
 - (C) a prohibition on the use of any form of forced or compulsory labor;
 - (D) a minimum age for the employment of children;
- and

(E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(7) DISPUTE SETTLEMENT UNDERSTANDING.—The term “Dispute Settlement Understanding” means the Understanding on Rules and Procedures Governing the Settlement of Disputes referred to in section 101(d)(16) of the Uruguay Round Agreements Act.

(8) GATT 1994.—The term “GATT 1994” has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

(9) ILO.—The term “ILO” means the International Labor Organization.

(10) IMPORT SENSITIVE AGRICULTURAL PRODUCT.—The term “import sensitive agricultural product” means an agricultural product—

(A) with respect to which, as a result of the Uruguay Round Agreements the rate of duty was the subject of tariff reductions by the United States and, pursuant to such Agreements, was reduced on January 1, 1995, to a rate that was not less than 97.5 percent of the rate of duty that applied to such article on December 31, 1994; or

(B) which was subject to a tariff-rate quota on the date of the enactment of this Act.

(11) UNITED STATES PERSON.—The term “United States person” means—

(A) a United States citizen;

(B) a partnership, corporation, or other legal entity organized under the laws of the United States; and

(C) a partnership, corporation, or other legal entity that is organized under the laws of a foreign country and is controlled by entities described in subparagraph (B) or United States citizens, or both.

(12) URUGUAY ROUND AGREEMENTS.—The term “Uruguay Round Agreements” has the meaning given that term in section 2(7) of the Uruguay Round Agreements Act (19 U.S.C. 3501(7)).

(13) WORLD TRADE ORGANIZATION; WTO.—The terms “World Trade Organization” and “WTO” mean the organization established pursuant to the WTO Agreement.

(14) WTO AGREEMENT.—The term “WTO Agreement” means the Agreement Establishing the World Trade Organization entered into on April 15, 1994.

(15) WTO MEMBER.—The term “WTO member” has the meaning given that term in section 2(10) of the Uruguay Round Agreements Act (19 U.S.C. 3501(10)).

**DIVISION C—ANDEAN TRADE
PREFERENCE ACT****TITLE XXXI—ANDEAN TRADE
PREFERENCE**Andean Trade
Promotion and
Drug Eradication
Act.**SEC. 3101. SHORT TITLE.**

This title may be cited as the “Andean Trade Promotion and Drug Eradication Act”.

19 USC 3201
note.**SEC. 3102. FINDINGS.**19 USC 3201
note.

Congress makes the following findings:

(1) Since the Andean Trade Preference Act was enacted in 1991, it has had a positive impact on United States trade with Bolivia, Colombia, Ecuador, and Peru. Two-way trade has doubled, with the United States serving as the leading source of imports and leading export market for each of the Andean beneficiary countries. This has resulted in increased jobs and expanded export opportunities in both the United States and the Andean region.

(2) The Andean Trade Preference Act has been a key element in the United States counternarcotics strategy in the Andean region, promoting export diversification and broad-based economic development that provides sustainable economic alternatives to drug-crop production, strengthening the legitimate economies of Andean countries and creating viable alternatives to illicit trade in coca.

(3) Notwithstanding the success of the Andean Trade Preference Act, the Andean region remains threatened by political and economic instability and fragility, vulnerable to the consequences of the drug war and fierce global competition for its legitimate trade.

(4) The continuing instability in the Andean region poses a threat to the security interests of the United States and the world. This problem has been partially addressed through foreign aid, such as Plan Colombia, enacted by Congress in 2000. However, foreign aid alone is not sufficient. Enhancement of legitimate trade with the United States provides an alternative means for reviving and stabilizing the economies in the Andean region.

(5) The Andean Trade Preference Act constitutes a tangible commitment by the United States to the promotion of prosperity, stability, and democracy in the beneficiary countries.

(6) Renewal and enhancement of the Andean Trade Preference Act will bolster the confidence of domestic private enterprise and foreign investors in the economic prospects of the region, ensuring that legitimate private enterprise can be the engine of economic development and political stability in the region.

(7) Each of the Andean beneficiary countries is committed to conclude negotiation of a Free Trade Area of the Americas by the year 2005, as a means of enhancing the economic security of the region.

(8) Temporarily enhancing trade benefits for Andean beneficiary countries will promote the growth of free enterprise

and economic opportunity in these countries and serve the security interests of the United States, the region, and the world.

SEC. 3103. ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT.

(a) **ELIGIBILITY OF CERTAIN ARTICLES.**—Section 204 of the Andean Trade Preference Act (19 U.S.C. 3203) is amended—

- (1) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively; and
- (2) by amending subsection (b) to read as follows:

“(b) **EXCEPTIONS AND SPECIAL RULES.**—

“(1) **CERTAIN ARTICLES THAT ARE NOT IMPORT-SENSITIVE.**—The President may proclaim duty-free treatment under this title for any article described in subparagraph (A), (B), (C), or (D) that is the growth, product, or manufacture of an ATPDEA beneficiary country, that is imported directly into the customs territory of the United States from an ATPDEA beneficiary country, and that meets the requirements of this section, if the President determines that such article is not import-sensitive in the context of imports from ATPDEA beneficiary countries:

“(A) Footwear not designated at the time of the effective date of this title as eligible for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

“(B) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTS.

“(C) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTS column 2 rates of duty apply.

“(D) Handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the generalized system of preferences under title V of the Trade Act of 1974.

“(2) **EXCLUSIONS.**—Subject to paragraph (3), duty-free treatment under this title may not be extended to—

“(A) textiles and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on that date;

“(B) rum and tafia classified in subheading 2208.40 of the HTS;

“(C) sugars, syrups, and sugar-containing products subject to over-quota duty rates under applicable tariff-rate quotas; or

“(D) tuna prepared or preserved in any manner in airtight containers, except as provided in paragraph (4).

“(3) **APPAREL ARTICLES AND CERTAIN TEXTILE ARTICLES.**—

“(A) **IN GENERAL.**—Apparel articles that are imported directly into the customs territory of the United States from an ATPDEA beneficiary country shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels, but only if such articles are described in subparagraph (B).

“(B) COVERED ARTICLES.—The apparel articles referred to in subparagraph (A) are the following:

“(i) APPAREL ARTICLES ASSEMBLED FROM PRODUCTS OF THE UNITED STATES OR ATPDEA BENEFICIARY COUNTRIES OR PRODUCTS NOT AVAILABLE IN COMMERCIAL QUANTITIES.—Apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following:

“(I) Fabrics or fabric components wholly formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in the United States). Apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.

“(II) Fabrics or fabric components formed or components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns wholly formed in 1 or more ATPDEA beneficiary countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries) or components are in chief value of llama, alpaca, or vicuña.

“(III) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA.

“(ii) ADDITIONAL FABRICS.—At the request of any interested party, the President is authorized to proclaim additional fabrics and yarns as eligible for preferential treatment under clause (i)(III) if—

“(I) the President determines that such fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner;

“(II) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) and the United States International Trade Commission;

“(III) within 60 days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate

that sets forth the action proposed to be proclaimed and the reasons for such action, and the advice obtained under subclause (II);

“(IV) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclause (III), has expired; and

“(V) the President has consulted with such committees regarding the proposed action during the period referred to in subclause (III).

“(iii) APPAREL ARTICLES ASSEMBLED IN 1 OR MORE ATPDEA BENEFICIARY COUNTRIES FROM REGIONAL FABRICS OR REGIONAL COMPONENTS.—(I) Subject to the limitation set forth in subclause (II), apparel articles sewn or otherwise assembled in 1 or more ATPDEA beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape, in 1 or more ATPDEA beneficiary countries, from yarns wholly formed in the United States or 1 or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are formed in 1 or more ATPDEA beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i)).

“(II) The preferential treatment referred to in subclause (I) shall be extended in the 1-year period beginning October 1, 2002, and in each of the 4 succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

“(III) For purposes of subclause (II), the term ‘applicable percentage’ means 2 percent for the 1-year period beginning October 1, 2002, increased in each of the 4 succeeding 1-year periods by equal increments, so that for the period beginning October 1, 2006, the applicable percentage does not exceed 5 percent.

“(iv) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of an ATPDEA beneficiary country identified under subparagraph (C) that is certified as such by the competent authority of such beneficiary country.

“(v) CERTAIN OTHER APPAREL ARTICLES.—

“(I) GENERAL RULE.—Any apparel article classifiable under subheading 6212.10 of the HTS, except for articles entered under clause (i), (ii), (iii), or (iv), if the article is both cut and sewn or otherwise assembled in the United States, or one or more ATPDEA beneficiary countries, or both.

“(II) LIMITATION.—During the 1-year period beginning on October 1, 2003, and during each of the 3 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under this paragraph only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

“(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under this paragraph during any succeeding 1-year period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of such articles of that producer or entity entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

“(vi) SPECIAL RULES.—

“(I) EXCEPTION FOR FINDINGS AND TRIMMINGS.—An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, ‘bow buds’, decorative lace, trim, elastic strips, zippers, including zipper tapes and labels, and other similar products.

“(II) CERTAIN INTERLINING.—(aa) An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such

interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

“(bb) Interlinings eligible for the treatment described in division (aa) include only a chest type plate, ‘hymo’ piece, or ‘sleeve header’, of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

“(cc) The treatment described in this subclause shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

“(III) DE MINIMIS RULE.—An article that would otherwise be ineligible for preferential treatment under this subparagraph because the article contains yarns not wholly formed in the United States or in one or more ATPDEA beneficiary countries shall not be ineligible for such treatment if the total weight of all such yarns is not more than 7 percent of the total weight of the good.

“(IV) SPECIAL ORIGIN RULE.—An article otherwise eligible for preferential treatment under clause (i) or (iii) shall not be ineligible for such treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTS from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

“(vii) TEXTILE LUGGAGE.—Textile luggage—

“(I) assembled in an ATPDEA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTS; or

“(II) assembled from fabric cut in an ATPDEA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States.

“(C) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—For purposes of subparagraph (B)(iv), the President shall consult with representatives of the ATPDEA beneficiary countries concerned for the purpose of identifying particular textile and apparel goods that are mutually agreed upon as being handloomed, handmade, or folklore goods of a kind described in section 2.3(a), (b), or (c) of the Annex or Appendix 3.1.B.11 of the Annex.

“(D) PENALTIES FOR TRANSSHIPMENT.—

“(i) PENALTIES FOR EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment with respect to apparel articles from an ATPDEA beneficiary country, then the President shall deny all benefits

under this title to such exporter, and any successor of such exporter, for a period of 2 years.

“(ii) PENALTIES FOR COUNTRIES.—Whenever the President finds, based on sufficient evidence, that transshipment has occurred, the President shall request that the ATPDEA beneficiary country or countries through whose territory the transshipment has occurred take all necessary and appropriate actions to prevent such transshipment. If the President determines that a country is not taking such actions, the President shall reduce the quantities of apparel articles that may be imported into the United States from such country by the quantity of the transshipped articles multiplied by 3, to the extent consistent with the obligations of the United States under the WTO.

“(iii) TRANSSHIPMENT DESCRIBED.—Transshipment within the meaning of this subparagraph has occurred when preferential treatment under subparagraph (A) has been claimed for an apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. For purposes of this clause, false information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under subparagraph (A).

“(E) BILATERAL EMERGENCY ACTIONS.—

“(i) IN GENERAL.—The President may take bilateral emergency tariff actions of a kind described in section 4 of the Annex with respect to any apparel article imported from an ATPDEA beneficiary country if the application of tariff treatment under subparagraph (A) to such article results in conditions that would be cause for the taking of such actions under such section 4 with respect to a like article described in the same 8-digit subheading of the HTS that is imported from Mexico.

“(ii) RULES RELATING TO BILATERAL EMERGENCY ACTION.—For purposes of applying bilateral emergency action under this subparagraph—

“(I) the requirements of paragraph (5) of section 4 of the Annex (relating to providing compensation) shall not apply;

“(II) the term ‘transition period’ in section 4 of the Annex shall mean the period ending December 31, 2006; and

“(III) the requirements to consult specified in section 4 of the Annex shall be treated as satisfied if the President requests consultations with the ATPDEA beneficiary country in question and the country does not agree to consult within the time period specified under section 4 of the Annex.

“(4) TUNA.—

“(A) GENERAL RULE.—Tuna that is harvested by United States vessels or ATPDEA beneficiary country vessels, that is prepared or preserved in any manner, in an ATPDEA

beneficiary country, in foil or other flexible airtight containers weighing with their contents not more than 6.8 kilograms each, and that is imported directly into the customs territory of the United States from an ATPDEA beneficiary country, shall enter the United States free of duty and free of any quantitative restrictions.

“(B) DEFINITIONS.—In this paragraph—

“(i) UNITED STATES VESSEL.—A ‘United States vessel’ is a vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code.

“(ii) ATPDEA VESSEL.—An ‘ATPDEA vessel’ is a vessel—

“(I) which is registered or recorded in an ATPDEA beneficiary country;

“(II) which sails under the flag of an ATPDEA beneficiary country;

“(III) which is at least 75 percent owned by nationals of an ATPDEA beneficiary country or by a company having its principal place of business in an ATPDEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of an ATPDEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by an ATPDEA beneficiary country or by public bodies or nationals of an ATPDEA beneficiary country;

“(IV) of which the master and officers are nationals of an ATPDEA beneficiary country; and

“(V) of which at least 75 percent of the crew are nationals of an ATPDEA beneficiary country.

“(5) CUSTOMS PROCEDURES.—

“(A) IN GENERAL.—

“(i) REGULATIONS.—Any importer that claims preferential treatment under paragraph (1), (3), or (4) shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

“(ii) DETERMINATION.—

“(I) IN GENERAL.—In order to qualify for the preferential treatment under paragraph (1), (3), or (4) and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in subclause (II)—

“(aa) has implemented and follows, or

“(bb) is making substantial progress toward implementing and following, procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

“(II) COUNTRY DESCRIBED.—A country is described in this subclause if it is an ATPDEA beneficiary country—

“(aa) from which the article is exported;
or

“(bb) in which materials used in the production of the article originate or in which the article or such materials undergo production that contributes to a claim that the article is eligible for preferential treatment under paragraph (1), (3), or (4).

“(B) CERTIFICATE OF ORIGIN.—The Certificate of Origin that otherwise would be required pursuant to the provisions of subparagraph (A) shall not be required in the case of an article imported under paragraph (1), (3), or (4) if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

“(C) REPORT ON COOPERATION OF ATPDEA COUNTRIES CONCERNING CIRCUMVENTION.—The United States Commissioner of Customs shall conduct a study analyzing the extent to which each ATPDEA beneficiary country—

“(i) has cooperated fully with the United States, consistent with its domestic laws and procedures, in instances of circumvention or alleged circumvention of existing quotas on imports of textile and apparel goods, to establish necessary relevant facts in the places of import, export, and, where applicable, transshipment, including investigation of circumvention practices, exchanges of documents, correspondence, reports, and other relevant information, to the extent such information is available;

“(ii) has taken appropriate measures, consistent with its domestic laws and procedures, against exporters and importers involved in instances of false declaration concerning quantities, description, classification, or origin of textile and apparel goods; and

“(iii) has penalized the individuals and entities involved in any such circumvention, consistent with its domestic laws and procedures, and has worked closely to seek the cooperation of any third country to prevent such circumvention from taking place in that third country.

The Commissioner of Customs shall submit to the Congress, not later than October 1, 2003, a report on the study conducted under this subparagraph.

Deadline.
Reports.

“(6) DEFINITIONS.—In this subsection—

“(A) ANNEX.—The term ‘the Annex’ means Annex 300-B of the NAFTA.

“(B) ATPDEA BENEFICIARY COUNTRY.—The term ‘ATPDEA beneficiary country’ means any ‘beneficiary country’, as defined in section 203(a)(1) of this title, which the President designates as an ATPDEA beneficiary country, taking into account the criteria contained in subsections (c) and (d) of section 203 and other appropriate criteria, including the following:

“(i) Whether the beneficiary country has demonstrated a commitment to—

“(I) undertake its obligations under the WTO, including those agreements listed in section 101(d) of the Uruguay Round Agreements Act, on or ahead of schedule; and

“(II) participate in negotiations toward the completion of the FTAA or another free trade agreement.

“(ii) The extent to which the country provides protection of intellectual property rights consistent with or greater than the protection afforded under the Agreement on Trade-Related Aspects of Intellectual Property Rights described in section 101(d)(15) of the Uruguay Round Agreements Act.

“(iii) The extent to which the country provides internationally recognized worker rights, including—

“(I) the right of association;

“(II) the right to organize and bargain collectively;

“(III) a prohibition on the use of any form of forced or compulsory labor;

“(IV) a minimum age for the employment of children; and

“(V) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

“(iv) Whether the country has implemented its commitments to eliminate the worst forms of child labor, as defined in section 507(6) of the Trade Act of 1974.

“(v) The extent to which the country has met the counternarcotics certification criteria set forth in section 490 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j) for eligibility for United States assistance.

“(vi) The extent to which the country has taken steps to become a party to and implements the Inter-American Convention Against Corruption.

“(vii) The extent to which the country—

“(I) applies transparent, nondiscriminatory, and competitive procedures in government procurement equivalent to those contained in the Agreement on Government Procurement described in section 101(d)(17) of the Uruguay Round Agreements Act; and

“(II) contributes to efforts in international fora to develop and implement international rules in transparency in government procurement.

“(viii) The extent to which the country has taken steps to support the efforts of the United States to combat terrorism.

“(C) NAFTA.—The term ‘NAFTA’ means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

“(D) WTO.—The term ‘WTO’ has the meaning given that term in section 2 of the Uruguay Round Agreements Act (19 U.S.C. 3501).

“(E) ATPDEA.—The term ‘ATPDEA’ means the Andean Trade Promotion and Drug Eradication Act.

“(F) FTAA.—The term ‘FTAA’ means the Free Trade Area for the Americas.”.

(b) DETERMINATION REGARDING RETENTION OF DESIGNATION.—Section 203(e)(1) of the Andean Trade Preference Act (19 U.S.C. 3202(e)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses

(i) and (ii), respectively;

(2) by inserting “(A)” after “(1)”; and

(3) by adding at the end the following:

“(B) The President may, after the requirements of paragraph (2) have been met—

“(i) withdraw or suspend the designation of any country as an ATPDEA beneficiary country, or

“(ii) withdraw, suspend, or limit the application of preferential treatment under section 204(b)(1), (3), or (4) to any article of any country,

if, after such designation, the President determines that, as a result of changed circumstances, the performance of such country is not satisfactory under the criteria set forth in section 204(b)(6)(B).”.

(c) CONFORMING AMENDMENTS.—(1) Section 202 of the Andean Trade Preference Act (19 U.S.C. 3201) is amended by inserting “(or other preferential treatment)” after “treatment”.

(2) Section 204(a) of the Andean Trade Preference Act (19 U.S.C. 3203(a)) is amended—

(A) in paragraph (1)—

(i) by inserting “(or otherwise provided for)” after “eligibility”; and

(ii) by inserting “(or preferential treatment)” after “duty-free treatment”; and

(B) in paragraph (2), by striking “subsection (a)” and inserting “paragraph (1)”.

(d) PETITIONS FOR REVIEW.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall promulgate regulations regarding the review of eligibility of articles and countries under the Andean Trade Preference Act, consistent with section 203(e) of such Act, as amended by this title.

(2) CONTENT OF REGULATIONS.—The regulations shall be similar to the regulations regarding eligibility under the generalized system of preferences under title V of the Trade Act of 1974 with respect to the timetable for reviews and content, and shall include procedures for requesting withdrawal, suspension, or limitations of preferential duty treatment under the Andean Trade Preference Act, conducting reviews of such requests, and implementing the results of the reviews.

(e) REPORTING REQUIREMENTS.—Section 203(f) of the Andean Trade Preference Act (19 U.S.C. 3202(f)) is amended to read as follows:

“(f) REPORTING REQUIREMENTS.—

19 USC 3202
note.
Deadline.
Regulations.

Deadline.

“(1) IN GENERAL.—Not later than April 30, 2003, and every 2 years thereafter during the period this title is in effect, the United States Trade Representative shall submit to the Congress a report regarding the operation of this title, including—

“(A) with respect to subsections (c) and (d), the results of a general review of beneficiary countries based on the considerations described in such subsections; and

“(B) the performance of each beneficiary country or ATPEA beneficiary country, as the case may be, under the criteria set forth in section 204(b)(6)(B).

Federal Register,
publication.

“(2) PUBLIC COMMENT.—Before submitting the report described in paragraph (1), the United States Trade Representative shall publish a notice in the Federal Register requesting public comments on whether beneficiary countries are meeting the criteria listed in section 204(b)(6)(B).”.

SEC. 3104. TERMINATION.

(a) IN GENERAL.—Section 208 of the Andean Trade Preference Act (19 U.S.C. 3206) is amended to read as follows:

“SEC. 208. TERMINATION OF PREFERENTIAL TREATMENT.

“No duty-free treatment or other preferential treatment extended to beneficiary countries under this title shall remain in effect after December 31, 2006.”.

19 USC 3206
note.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (3), the entry—

(A) of any article to which duty-free treatment (or preferential treatment) under the Andean Trade Preference Act (19 U.S.C. 3201 et seq.) would have applied if the entry had been made on December 4, 2001, and

(B) that was made after December 4, 2001, and before the date of the enactment of this Act, shall be liquidated or reliquidated as if such duty-free treatment (or preferential treatment) applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) ENTRY.—As used in this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

(3) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 3105. REPORT ON FREE TRADE AGREEMENT WITH ISRAEL.

(a) REPORT TO CONGRESS.—The United States Trade Representative shall review the implementation of the United States-Israel Free Trade Agreement and shall submit to the Speaker of the House of Representatives, the President of the Senate, the Committee on Ways and Means of the House of Representatives, and the Committee on Finance of the Senate a report on the results of such review.

(b) **CONTENTS OF REPORT.**—The report under subsection (a) shall include the following:

(1) A review of the terms of the United States-Israel Free Trade Agreement, particularly the terms with respect to market access commitments.

(2) A review of subsequent agreements which may have been reached between the parties to the Agreement and of unilateral concessions of additional benefits received by each party from the other.

(3) A review of any current negotiations between the parties to the Agreement with respect to implementation of the Agreement and other pertinent matters.

(4) An assessment of the degree of fulfillment of obligations under the Agreement by the United States and Israel.

(5) An assessment of improvements in structuring future trade agreements that should be considered based on the experience of the United States under the Agreement.

(c) **TIMING OF REPORT.**—The United States Trade Representative shall submit the report under subsection (a) not later than 6 months after the date of the enactment of this Act.

(d) **DEFINITION.**—In this section, the terms “United States-Israel Free Trade Agreement” and “Agreement” means the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel entered into on April 22, 1985.

SEC. 3106. MODIFICATION OF DUTY TREATMENT FOR TUNA.

Subheading 1604.14.20 of the Harmonized Tariff Schedule of the United States is amended—

(1) in the article description, by striking “20 percent of the United States pack of canned tuna” and inserting “4.8 percent of apparent United States consumption of tuna in air-tight containers”; and

(2) by redesignating such subheading as subheading 1604.14.22.

SEC. 3107. TRADE BENEFITS UNDER THE CARIBBEAN BASIN ECONOMIC RECOVERY ACT.

(a) **IN GENERAL.**—Section 213(b)(2)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)(2)(A)) is amended as follows:

(1) Clause (i) is amended—

(A) by striking the matter preceding subclause (I) and inserting the following:

“(i) **APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.**—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed and cut in the United States) that are—”; and

(B) by adding at the end the following:

“Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics

from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles entered on or after September 1, 2002, shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.”.

- (2) Clause (ii) is amended to read as follows:

“(ii) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS and are wholly formed in the United States). Apparel articles entered on or after September 1, 2002, shall qualify under the preceding sentence only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles entered on or after September 1, 2002, shall qualify under the first sentence of this clause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States.”.

- (3) Clause (iii)(II) is amended to read as follows:

“(II) The amount referred to in subclause (I) is as follows:

“(aa) 500,000,000 square meter equivalents during the 1-year period beginning on October 1, 2002.

“(bb) 850,000,000 square meter equivalents during the 1-year period beginning on October 1, 2003.

“(cc) 970,000,000 square meter equivalents in each succeeding 1-year period through September 30, 2008.”.

- (4) Clause (iii)(IV) is amended to read as follows:

“(IV) The amount referred to in subclause (III) is as follows:

“(aa) 4,872,000 dozen during the 1-year period beginning on October 1, 2001.

“(bb) 9,000,000 dozen during the 1-year period beginning on October 1, 2002.

“(cc) 10,000,000 dozen during the 1-year period beginning on October 1, 2003.

“(dd) 12,000,000 dozen in each succeeding 1-year period through September 30, 2008.”.

- (5) Clause (iv) is amended to read as follows:

“(iv) CERTAIN OTHER APPAREL ARTICLES.—

“(I) GENERAL RULE.—Subject to subclause (II), any apparel article classifiable under subheading 6212.10 of the HTS, except for articles entered under clause (i), (ii), (iii), (v), or (vi), if the article is both cut and sewn or otherwise assembled in the United States, or one or more CBTPA beneficiary countries, or both.

“(II) LIMITATION.—During the 1-year period beginning on October 1, 2001, and during each of the 6 succeeding 1-year periods, apparel articles described in subclause (I) of a producer or an entity controlling production shall be eligible for preferential treatment under subparagraph (B) only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.

“(III) DEVELOPMENT OF PROCEDURE TO ENSURE COMPLIANCE.—The United States Customs Service shall develop and implement methods and procedures to ensure ongoing compliance with the requirement set forth in subclause (II). If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 1-year period, then apparel articles described in subclause (I) of that producer or entity shall be ineligible for preferential treatment under subparagraph (B) during any succeeding 1-year period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of such articles of that producer or entity entered during the preceding 1-year period is at least 85 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this clause during the preceding 1-year period.”.

(6) Clause (vii) is amended by adding at the end the following new subclause:

“(V) THREAD.—An article otherwise eligible for preferential treatment under this paragraph shall not be ineligible for such treatment because the thread used to assemble the article is dyed, printed, or finished in one or more CBTPA beneficiary countries.”.

(7) Section 213(b)(2)(A) of such Act is further amended by adding at the end the following new clause: 19 USC 2703.

“(ix) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE CBTPA BENEFICIARY COUNTRIES FROM UNITED STATES AND CBTPA BENEFICIARY COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more CBTPA beneficiary countries with thread formed in the United States from components cut in the United States and in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more CBTPA beneficiary countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTS). Apparel articles shall qualify under this clause only if they meet the requirements of clause (i) or (ii) (as the case may be) with respect to dyeing, printing, and finishing of knit and woven fabrics from which the articles are assembled.”.

19 USC 2703
note.

(b) EFFECTIVE DATE OF CERTAIN PROVISIONS.—The amendment made by subsection (a)(3) shall take effect on October 1, 2002.

SEC. 3108. TRADE BENEFITS UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT.

(a) IN GENERAL.—Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended as follows:

(1) Paragraph (1) is amended by amending the matter preceding subparagraph (A) to read as follows:

“(1) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—”.

(2) Paragraph (2) is amended to read as follows:

“(2) OTHER APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in the United States).”.

(3) Paragraph (3) is amended—

(A) by amending the matter preceding subparagraph (A) to read as follows:

“(3) APPAREL ARTICLES FROM REGIONAL FABRIC OR YARNS.—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in

one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, subject to the following:”; and

(B) by amending subparagraph (B) to read as follows:

“(B) SPECIAL RULE FOR LESSER DEVELOPED COUNTRIES.—

“(i) IN GENERAL.—Subject to subparagraph (A), preferential treatment under this paragraph shall be extended through September 30, 2004, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric or the yarn used to make such articles.

“(ii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of clause (i), the term ‘lesser developed beneficiary sub-Saharan African country’ means—

“(I) a beneficiary sub-Saharan African country that had a per capita gross national product of less than \$1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

“(II) Botswana; and

“(III) Namibia.”.

(4) Paragraph (4)(B) is amended by striking “18.5” and inserting “21.5”.

(5) Section 112(b) of such Act is further amended by adding at the end the following new paragraph: 19 USC 3121.

“(7) APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES FROM UNITED STATES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY COMPONENTS.—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States).”.

(b) INCREASE IN LIMITATION ON CERTAIN BENEFITS.—The applicable percentage under clause (ii) of section 112(b)(3)(A) of 19 USC 3121 note.

the African Growth and Opportunity Act (19 U.S.C. 3721(b)(3)(A)) shall be increased—

(1) by 2.17 percent for the 1-year period beginning on October 1, 2002, and

(2) by equal increments in each succeeding 1-year period provided for in such clause, so that for the 1-year period beginning October 1, 2007, the applicable percentage is increased by 3.5 percent,

except that such increase shall not apply with respect to articles eligible under subparagraph (B) of section 112(b)(3) of that Act.

DIVISION D—EXTENSION OF CERTAIN PREFERENTIAL TRADE TREATMENT

TITLE XLI—EXTENSION OF GENERAL- IZED SYSTEM OF PREFERENCES

SEC. 4101. EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES.

(a) **EXTENSION OF DUTY-FREE TREATMENT UNDER SYSTEM.**—Section 505 of the Trade Act of 1974 (19 U.S.C. 2465(a)) is amended by striking “September 30, 2001” and inserting “December 31, 2006”.

(b) **RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.**—

(1) **IN GENERAL.**—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (2), the entry—

(A) of any article to which duty-free treatment under title V of the Trade Act of 1974 would have applied if the entry had been made on September 30, 2001,

(B) that was made after September 30, 2001, and before the date of the enactment of this Act, and

(C) to which duty-free treatment under title V of that Act did not apply,
shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(2) **REQUESTS.**—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

(3) **DEFINITION.**—As used in this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

SEC. 4102. AMENDMENTS TO GENERALIZED SYSTEM OF PREFERENCES.

(a) **ELIGIBILITY FOR GENERALIZED SYSTEM OF PREFERENCES.**—Section 502(b)(2)(F) of the Trade Act of 1974 (19 U.S.C. 2462(b)(2)(F)) is amended by striking the period at the end and inserting “or such country has not taken steps to support the efforts of the United States to combat terrorism.”.

19 USC 2465
note.

(b) DEFINITION OF INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—Section 507(4) of the Trade Act of 1974 (19 U.S.C. 2467(4)) is amended by amending subparagraph (D) to read as follows:

“(D) a minimum age for the employment of children, and a prohibition on the worst forms of child labor, as defined in paragraph (6); and”.

DIVISION E—MISCELLANEOUS PROVISIONS

TITLE L—MISCELLANEOUS TRADE BENEFITS

Subtitle A—Wool Provisions

SEC. 5101. WOOL PROVISIONS.

(a) SHORT TITLE.—This section may be cited as the “Wool Manufacturer Payment Clarification and Technical Corrections Act”.

(b) CLARIFICATION OF TEMPORARY DUTY SUSPENSION.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by inserting “average” before “diameters”.

(c) PAYMENTS TO MANUFACTURERS OF CERTAIN WOOL PRODUCTS.—

(1) PAYMENTS.—Section 505 of the Trade and Development Act of 2000 (Public Law 106–200; 114 Stat. 303) is amended as follows:

(A) Subsection (a) is amended—

(i) by striking “In each of the calendar years” and inserting “For each of the calendar years”; and

(ii) by striking “for a refund of duties” and all that follows through the end of the subsection and inserting “for a payment equal to an amount determined pursuant to subsection (d)(1).”.

(B) Subsection (b) is amended to read as follows:

“(b) WOOL YARN.—

“(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of worsted wool fabrics who imports wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).

“(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of worsted wool fabrics of imported wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(2).”.

(C) Subsection (c) is amended to read as follows:

“(c) WOOL FIBER AND WOOL TOP.—

“(1) IMPORTING MANUFACTURERS.—For each of the calendar years 2000, 2001, and 2002, a manufacturer of wool yarn or wool fabric who imports wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29,

Wool
Manufacturer
Payment
Clarification and
Technical
Corrections Act.

5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).

“(2) NONIMPORTING MANUFACTURERS.—For each of the calendar years 2001 and 2002, any other manufacturer of wool yarn or wool fabric of imported wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of the Harmonized Tariff Schedule of the United States shall be eligible for a payment equal to an amount determined pursuant to subsection (d)(3).”

(D) Section 505 is further amended by striking subsection (d) and inserting the following new subsections: “(d) AMOUNT OF ANNUAL PAYMENTS TO MANUFACTURERS.—

“(1) MANUFACTURERS OF MEN’S SUITS, ETC. OF IMPORTED WORSTED WOOL FABRICS.—

“(A) ELIGIBLE TO RECEIVE MORE THAN \$5,000.—Each annual payment to manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than \$5,000 for each of the calendar years 2000, 2001, and 2002, shall be in an amount equal to one-third of the amount determined by multiplying \$30,124,000 by a fraction—

“(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the manufacturer making the claim, and

“(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the manufacturers described in subsection (a) who, according to the records of the Customs Service as of September 11, 2001, are eligible to receive more than \$5,000 for each such calendar year under this section as it was in effect on that date.

“(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term ‘eligible wool products’ refers to imported worsted wool fabrics described in subsection (a).

“(C) OTHERS.—All manufacturers described in subsection (a), other than the manufacturers to which subparagraph (A) applies, shall each receive an annual payment in an amount equal to one-third of the amount determined by dividing \$1,665,000 by the number of all such other manufacturers.

“(2) MANUFACTURERS OF WORSTED WOOL FABRICS OF IMPORTED WOOL YARN.—

“(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (b)(1) shall be in an amount equal to one-third of the amount determined by multiplying \$2,202,000 by a fraction—

“(i) the numerator of which is the amount attributable to the duties paid on eligible wool products

imported in calendar year 1999 by the importing manufacturer making the claim, and

“(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (b)(1).

“(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term ‘eligible wool products’ refers to imported wool yarn described in subsection (b)(1).

“(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (b)(2) shall be in an amount equal to one-half of the amount determined by multiplying \$141,000 by a fraction—

“(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

“(ii) the denominator of which is the total amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (b)(2).

“(3) MANUFACTURERS OF WOOL YARN OR WOOL FABRIC OF IMPORTED WOOL FIBER OR WOOL TOP.—

“(A) IMPORTING MANUFACTURERS.—Each annual payment to an importing manufacturer described in subsection (c)(1) shall be in an amount equal to one-third of the amount determined by multiplying \$1,522,000 by a fraction—

“(i) the numerator of which is the amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by the importing manufacturer making the claim, and

“(ii) the denominator of which is the total amount attributable to the duties paid on eligible wool products imported in calendar year 1999 by all the importing manufacturers described in subsection (c)(1).

“(B) ELIGIBLE WOOL PRODUCTS.—For purposes of subparagraph (A), the term ‘eligible wool products’ refers to imported wool fiber or wool top described in subsection (c)(1).

“(C) NONIMPORTING MANUFACTURERS.—Each annual payment to a nonimporting manufacturer described in subsection (c)(2) shall be in an amount equal to one-half of the amount determined by multiplying \$597,000 by a fraction—

“(i) the numerator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by the nonimporting manufacturer making the claim, and

“(ii) the denominator of which is the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by all the nonimporting manufacturers described in subsection (c)(2).

“(4) LETTERS OF INTENT.—Except for the nonimporting manufacturers described in subsections (b)(2) and (c)(2) who may make claims under this section by virtue of the enactment

of the Wool Manufacturer Payment Clarification and Technical Corrections Act, only manufacturers who, according to the records of the Customs Service, filed with the Customs Service before September 11, 2001, letters of intent to establish eligibility to be claimants are eligible to make a claim for a payment under this section.

“(5) AMOUNT ATTRIBUTABLE TO PURCHASES BY NON-IMPORTING MANUFACTURERS.—

“(A) AMOUNT ATTRIBUTABLE.—For purposes of paragraphs (2)(C) and (3)(C), the amount attributable to the purchases of imported eligible wool products in calendar year 1999 by a nonimporting manufacturer shall be the amount the nonimporting manufacturer paid for eligible wool products in calendar year 1999, as evidenced by invoices. The nonimporting manufacturer shall make such calculation and submit the resulting amount to the Customs Service, within 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, in a signed affidavit that attests that the information contained therein is true and accurate to the best of the affiant’s belief and knowledge. The nonimporting manufacturer shall retain the records upon which the calculation is based for a period of five years beginning on the date the affidavit is submitted to the Customs Service.

“(B) ELIGIBLE WOOL PRODUCT.—For purposes of subparagraph (A)—

“(i) the eligible wool product for nonimporting manufacturers of worsted wool fabrics is wool yarn of the kind described in heading 5107.10 or 9902.51.13 of the Harmonized Tariff Schedule of the United States purchased in calendar year 1999; and

“(ii) the eligible wool products for nonimporting manufacturers of wool yarn or wool fabric are wool fiber or wool top of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of such Schedule purchased in calendar year 1999.

“(6) AMOUNT ATTRIBUTABLE TO DUTIES PAID.—For purposes of paragraphs (1), (2)(A), and (3)(A), the amount attributable to the duties paid by a manufacturer shall be the amount shown on the records of the Customs Service as of September 11, 2001, under this section as then in effect.

“(7) SCHEDULE OF PAYMENTS; REALLOCATIONS.—

“(A) SCHEDULE.—Of the payments described in paragraphs (1), (2)(A), and (3)(A), the Customs Service shall make the first and second installments on or before the date that is 45 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the third installment on or before April 15, 2003. Of the payments described in paragraphs (2)(C) and (3)(C), the Customs Service shall make the first installment on or before the date that is 120 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act, and the second installment on or before April 15, 2003.

“(B) REALLOCATIONS.—In the event that a manufacturer that would have received payment under subparagraph (A) or (C) of paragraph (1), (2), or (3) ceases to be qualified for such payment as such a manufacturer, the amounts otherwise payable to the remaining manufacturers under such subparagraph shall be increased on a pro rata basis by the amount of the payment such manufacturer would have received.

“(8) REFERENCE.—For purposes of paragraphs (1)(A) and (6), the ‘records of the Customs Service as of September 11, 2001’ are the records of the Wool Duty Unit of the Customs Service on September 11, 2001, as adjusted by the Customs Service to the extent necessary to carry out this section. The amounts so adjusted are not subject to administrative or judicial review.

“(e) AFFIDAVITS BY MANUFACTURERS.—

“(1) AFFIDAVIT REQUIRED.—A manufacturer may not receive a payment under this section for calendar year 2000, 2001, or 2002, as the case may be, unless that manufacturer has submitted to the Customs Service for that calendar year a signed affidavit that attests that, during that calendar year, the affiant was a manufacturer in the United States described in subsection (a), (b), or (c).

“(2) TIMING.—An affidavit under paragraph (1) shall be valid— Deadlines.

“(A) in the case of a manufacturer described in paragraph (1), (2)(A), or (3)(A) of subsection (d) filing a claim for a payment for calendar year 2000 or 2001, or both, only if the affidavit is postmarked no later than 15 days after the date of enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act; and

“(B) in the case of a claim for a payment for calendar year 2002, only if the affidavit is postmarked no later than March 1, 2003.

“(f) OFFSETS.—Notwithstanding any other provision of this section, any amount otherwise payable under subsection (d) to a manufacturer in calendar year 2001 and, where applicable, in calendar years 2002 and 2003, shall be reduced by the amount of any payment received by that manufacturer under this section before the enactment of the Wool Manufacturer Payment Clarification and Technical Corrections Act.

“(g) DEFINITION.—For purposes of this section, the manufacturer is the party that owns—

“(1) imported worsted wool fabric, of the kind described in heading 9902.51.11 or 9902.51.12 of the Harmonized Tariff Schedule of the United States, at the time the fabric is cut and sewn in the United States into men’s or boys’ suits, suit-type jackets, or trousers;

“(2) imported wool yarn, of the kind described in heading 5107.01 or 9902.51.13 of such Schedule, at the time the yarn is processed in the United States into worsted wool fabric; or

“(3) imported wool fiber or wool top, of the kind described in heading 5101.11, 5101.19, 5101.21, 5101.29, 5101.30, 5103.10, 5103.20, 5104.00, 5105.21, 5105.29, or 9902.51.14 of such Schedule, at the time the wool fiber or wool top is processed in the United States into wool yarn.”.

(2) FUNDING.—There is authorized to be appropriated and is hereby appropriated, out of amounts in the General Fund of the Treasury not otherwise appropriated, \$36,251,000 to carry out the amendments made by paragraph (1).

SEC. 5102. DUTY SUSPENSION ON WOOL.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—

(1) HEADING 9902.51.11.—Heading 9902.51.11 of the Harmonized Tariff Schedule of the United States is amended by striking “2003” and inserting “2005”.

(2) HEADING 9902.51.12.—Heading 9902.51.12 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “2003” and inserting “2005”; and

(B) by striking “6%” and inserting “Free”.

(3) HEADING 9902.51.13.—Heading 9902.51.13 of the Harmonized Tariff Schedule of the United States is amended by striking “2003” and inserting “2005”.

(4) HEADING 9902.51.14.—Heading 9902.51.14 of the Harmonized Tariff Schedule of the United States is amended by striking “2003” and inserting “2005”.

(b) LIMITATION ON QUANTITY OF IMPORTS.—

(1) NOTE 15.—U.S. Note 15 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “from January 1 to December 31 of each year, inclusive”; and

(B) by striking “, or such other” and inserting the following: “in calendar year 2001, 3,500,000 square meter equivalents in calendar year 2002, and 4,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater”.

(2) NOTE 16.—U.S. Note 16 to subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended—

(A) by striking “from January 1 to December 31 of each year, inclusive”; and

(B) by striking “, or such other” and inserting the following: “in calendar year 2001, 2,500,000 square meter equivalents in calendar year 2002, and 3,500,000 square meter equivalents in calendar year 2003 and each calendar year thereafter, or such greater”.

(c) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—The United States Customs Service shall pay each manufacturer that receives a payment under section 505 of the Trade and Development Act of 2000 (Public Law 106-200) for calendar year 2002, and that provides an affidavit that it remains a manufacturer in the United States as of January 1 of the year of the payment, 2 additional payments, each payment equal to the payment received for calendar year 2002 as follows:

(A) The first payment to be made after January 1, 2004, but on or before April 15, 2004.

(B) The second payment to be made after January 1, 2005, but on or before April 15, 2005.

(2) CONFORMING AMENDMENT.—Section 506(f) of the Trade and Development Act of 2000 (Public Law 106–200) is amended by striking “2004” and inserting “2006”. 7 USC 7101 note.

(3) AUTHORIZATION.—There is authorized to be appropriated and is hereby appropriated out of amounts in the general fund of the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of this subsection.

(d) EFFECTIVE DATE.—The amendment made by subsection (a)(2)(B) applies to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

Subtitle B—Other Provisions

SEC. 5201. FUND FOR WTO DISPUTE SETTLEMENTS.

19 USC 3539.

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund for the payment of settlements under this section.

(b) AUTHORITY OF USTR TO PAY SETTLEMENTS.—Amounts in the fund established under subsection (a) shall be available, as provided in appropriations Acts, only for the payment by the United States Trade Representative of the amount of the total or partial settlement of any dispute pursuant to proceedings under the auspices of the World Trade Organization, if—

(1) in the case of a total or partial settlement in an amount of not more than \$10,000,000, the Trade Representative certifies to the Secretary of the Treasury that the settlement is in the best interests of the United States; and

(2) in the case of a total or partial settlement in an amount of more than \$10,000,000, the Trade Representative certifies to the Congress that the settlement is in the best interests of the United States.

(c) APPROPRIATIONS.—There are authorized to be appropriated to the fund established under subsection (a)—

(1) \$50,000,000; and

(2) amounts equivalent to amounts recovered by the United States pursuant to the settlement of disputes pursuant to proceedings under the auspices of the World Trade Organization. Amounts appropriated to the fund are authorized to remain available until expended.

(d) MANAGEMENT OF FUND.—Sections 9601 and 9602(b) of the Internal Revenue Code of 1986 shall apply to the fund established under subsection (a) to the same extent as such provisions apply to trust funds established under subchapter A of chapter 98 of such Code.

SEC. 5202. CERTAIN STEAM OR OTHER VAPOR GENERATING BOILERS USED IN NUCLEAR FACILITIES.

(a) IN GENERAL.—Subheading 9902.84.02 of the Harmonized Tariff Schedule of the United States is amended—

(1) by striking “4.9%” and inserting “Free”; and

(2) by striking “12/31/2003” and inserting “12/31/2006”.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by subsection (a) shall apply to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2002.

(2) **RETROACTIVE APPLICATION.**—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, and subject to paragraph (4), the entry of any article—

(A) that was made on or after January 1, 2002, and

(B) to which duty-free treatment would have applied if the amendment made by this section had been in effect on the date of such entry, shall be liquidated or reliquidated as if such duty-free treatment applied, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

(3) **ENTRY.**—As used in this subsection, the term “entry” includes a withdrawal from warehouse for consumption.

(4) **REQUESTS.**—Liquidation or reliquidation may be made under paragraph (2) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

(A) to locate the entry; or

(B) to reconstruct the entry if it cannot be located.

SEC. 5203. SUGAR TARIFF-RATE QUOTA CIRCUMVENTION.

(a) **IN GENERAL.**—Chapter 17 of the Harmonized Tariff Schedule of the United States is amended in the superior text to subheading 1702.90.05 by striking “Containing” and all that follows through “solids:” and inserting the following:

“Containing soluble non-sugar solids (excluding any foreign substances, including but not limited to molasses, that may have been added to or developed in the product) equal to 6 percent or less by weight of the total soluble solids:”.

(b) **MONITORING FOR CIRCUMVENTION.**—The Secretary of Agriculture and the Commissioner of Customs shall continuously monitor imports of sugar and sugar-containing products provided for in chapters 17, 18, 19, and 21 of the Harmonized Tariff Schedule of the United States, other than molasses imported for use in animal feed or the production of rum and articles prepared for marketing to the ultimate consumer in the form and package in which imported, for indications that an article is being used to circumvent a tariff-rate quota provided for in those chapters. The Secretary and Commissioner shall specifically examine imports of articles provided for in subheading 1703.10.30 of the Harmonized Tariff Schedule of the United States.

(c) **REPORTS AND RECOMMENDATIONS.**—The Secretary and the Commissioner shall report their findings to Congress and the President not later than 180 days after the date of enactment of this Act and every 6 months thereafter. The reports shall include data and a description of developments and trends in the composition of trade of articles provided for in the chapters of the Harmonized Tariff Schedule of the United States identified in subsection (b) and any indications of circumvention that may exist. The reports shall also include recommendations for ending such circumvention, including recommendations for legislation. Deadline.

Approved August 6, 2002.

LEGISLATIVE HISTORY—H.R. 3009 (S. 2485):

HOUSE REPORTS: Nos. 107–290 (Comm. on Ways and Means) and 107–624 (Comm. of Conference).

SENATE REPORTS: No. 107–126 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 16, considered and passed House.

Vol. 148 (2002): May 1, 2, 6, 8–10, 13–17, 20–23, considered and passed Senate, amended.

June 26, House concurred in Senate amendment with an amendment pursuant to H. Res. 450.

July 26, House agreed to conference report.

Aug. 1, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Aug. 6, Presidential remarks.



Public Law 107–211
107th Congress

An Act

Aug. 21, 2002
[H.R. 223]

To amend the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 to provide additional time for Clear Creek County to dispose of certain lands transferred to the county under the Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5(c)(2) of the Clear Creek County, Colorado, Public Lands Transfer Act of 1993 (Public Law 103–253; 108 Stat. 677) is amended by striking “the date 10 years after the date of enactment of this Act” and by inserting “May 19, 2015”.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 223:

SENATE REPORTS: No. 107–198 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Mar. 13, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–212
107th Congress

An Act

To provide for the determination of withholding tax rates under the Guam income tax.

Aug. 21, 2002
[H.R. 309]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Guam Foreign Investment Equity Act”.

Guam Foreign
Investment
Equity Act.
48 USC 1421
note.

SEC. 2. AMENDMENT TO THE ORGANIC ACT OF GUAM.

(a) IN GENERAL.—Subsection (d) of section 31 of the Organic Act of Guam (48 U.S.C. 1421i) is amended by adding at the end the following new paragraph:

“(3) In applying as the Guam Territorial income tax the income-tax laws in force in Guam pursuant to subsection (a) of this section, the rate of tax under sections 871, 881, 884, 1441, 1442, 1443, 1445, and 1446 of the Internal Revenue Code of 1986 on any item of income from sources within Guam shall be the same as the rate which would apply with respect to such item were Guam treated as part of the United States for purposes of the treaty obligations of the United States. The preceding sentence shall not apply to determine the rate of tax on any item of income received from a Guam payor if, for any taxable year, the taxes of the Guam payor were rebated under Guam law. For purposes of this subsection, the term ‘Guam payor’ means the person from whom the item of income would be deemed to be received for purposes of claiming treaty benefits were Guam treated as part of the United States.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to amounts paid after the date of the enactment of the Act.

Applicability.
48 USC 1421i
note.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 309:

HOUSE REPORTS: No. 107–48 (Comm. on Resources).

SENATE REPORTS: No. 107–173 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): May 1, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–213
107th Congress

An Act

Aug. 21, 2002
[H.R. 601]

To redesignate certain lands within the Craters of the Moon National Monument,
and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

16 USC 431 note,
698w.

**SECTION 1. SPECIAL MANAGEMENT REQUIREMENTS FOR FEDERAL
LANDS RECENTLY ADDED TO CRATERS OF THE MOON
NATIONAL MONUMENT, IDAHO.**

(a) REDESIGNATION.—The approximately 410,000 acres of land added to the Craters of the Moon National Monument by Presidential Proclamation 7373 of November 9, 2000, and identified on the map accompanying the Proclamation for administration by the National Park Service, shall, on and after the date of enactment of this Act, be known as the “Craters of the Moon National Preserve”.

(b) ADMINISTRATION.—

(1) IN GENERAL.—Except as provided by paragraph (2), the Craters of the Moon National Preserve shall be administered in accordance with—

(A) Presidential Proclamation 7373 of November 9, 2000;

(B) the Act of June 8, 1906, (commonly referred to as the “Antiquities Act”; 34 Stat. 225; 16 U.S.C. 431); and

(C) the laws generally applicable to units of the National Park System, including the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1 et seq.).

(2) HUNTING.—The Secretary of the Interior shall permit hunting on lands within the Craters of the Moon National Preserve in accordance with the applicable laws of the United States and the State of Idaho. The Secretary, in consultation with the State of Idaho, may designate zones where, and establish periods when, no hunting may be permitted for reasons of public safety, protection of the area’s resources, administration, or public use and enjoyment. Except in emergencies, any regulations prescribing such restrictions relating to hunting shall be put into effect only after consultation with the State of Idaho.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 601:

HOUSE REPORTS: No. 107–34 (Comm. on Resources).

SENATE REPORTS: No. 107–181 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): May 1, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–214
107th Congress

An Act

To amend the National Trails System Act to designate the route in Arizona and New Mexico which the Navajo and Mescalero Apache Indian tribes were forced to walk in 1863 and 1864, for study for potential addition to the National Trails System.

Aug. 21, 2002
[H.R. 1384]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Long Walk National Historic Trail Study Act”.

Long Walk
National Historic
Trail Study Act.
16 USC 1241
note.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Beginning in the fall of 1863 and ending in the winter of 1864, the United States Government forced thousands of Navajos and Mescalero Apaches to relocate from their ancestral lands to Fort Sumner, New Mexico, where the tribal members were held captive, virtually as prisoners of war, for over 4 years.

(2) Thousands of Native Americans died at Fort Sumner from starvation, malnutrition, disease, exposure, or conflicts between the tribes and United States military personnel.

SEC. 3. DESIGNATION FOR STUDY.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

“(____) The Long Walk Trail, a series of routes which the Navajo and Mescalero Apache Indian tribes were forced to walk beginning in the fall of 1863 as a result of their removal by the United States Government from their ancestral lands, generally located within a corridor extending through portions of Canyon de Chelly, Arizona, and Albuquerque, Canyon Blanco, Anton Chico, Canyon Piedra Pintado, and Fort Sumner, New Mexico.”.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 1384:

HOUSE REPORTS: No. 107–222 (Comm. on Resources).

SENATE REPORTS: No. 107–184 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 2, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–215
107th Congress

An Act

Aug. 21, 2002
[H.R. 1456]

To expand the boundary of the Booker T. Washington National Monument, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Booker T.
Washington
National
Monument
Boundary
Adjustment Act
of 2002.
Virginia.
16 USC 450//
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Booker T. Washington National Monument Boundary Adjustment Act of 2002”.

SEC. 2. BOUNDARY OF BOOKER T. WASHINGTON NATIONAL MONUMENT EXPANDED.

The Act entitled “An Act to provide for the establishment of the Booker T. Washington National Monument”, approved April 2, 1956 (16 U.S.C. 450ll et seq.), is amended by adding at the end the following new section:

16 USC 450ll–3.

“SEC. 5. ADDITIONAL LANDS.

“(a) **LANDS ADDED TO MONUMENT.**—The boundary of the Booker T. Washington National Monument is modified to include the approximately 15 acres, as generally depicted on the map entitled ‘Boundary Map, Booker T. Washington National Monument, Franklin County, Virginia’, numbered BOWA 404/80,024, and dated February 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

“(b) **ACQUISITION OF ADDITIONAL LANDS.**—The Secretary of the Interior is authorized to acquire from willing owners the land or interests in land described in subsection (a) by donation, purchase with donated or appropriated funds, or exchange.

“(c) **ADMINISTRATION OF ADDITIONAL LANDS.**—Lands added to the Booker T. Washington National Monument by subsection (a) shall be administered by the Secretary of the Interior as part of the monument in accordance with applicable laws and regulations.”.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 1456:

HOUSE REPORTS: No. 107–223 (Comm. on Resources).

SENATE REPORTS: No. 107–199 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 2, considered and passed House

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–216
107th Congress

An Act

To designate the James Peak Wilderness and Protection Area in the Arapaho and Roosevelt National Forests in the State of Colorado, and for other purposes.

Aug. 21, 2002
[H.R. 1576]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “James Peak Wilderness and Protection Area Act”.

James Peak
Wilderness and
Protection Act.
16 USC 539l.

SEC. 2. WILDERNESS DESIGNATION.

(a) **INCLUSION WITH OTHER COLORADO WILDERNESS AREAS.**—Section 2(a) of the Colorado Wilderness Act of 1993 (Public Law 103–77; 107 Stat. 756; 16 U.S.C. 1132 note) is amended by adding at the end the following new paragraph:

“(21) Certain lands in the Arapaho/Roosevelt National Forest which comprise approximately 14,000 acres, as generally depicted on a map entitled ‘Proposed James Peak Wilderness’, dated September 2001, and which shall be known as the James Peak Wilderness.”.

(b) **ADDITION TO THE INDIAN PEAKS WILDERNESS AREA.**—Section 3 of the Indian Peaks Wilderness Area and Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act (Public Law 95–450; 92 Stat. 1095; 16 U.S.C. 1132 note) is amended by adding at the end the following new subsections:

“(c) The approximately 2,232 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled ‘Ranch Creek Addition to Indian Peaks Wilderness’ dated September 2001, are hereby added to the Indian Peaks Wilderness Area.

“(d) The approximately 963 acres of Federal lands in the Arapaho/Roosevelt National Forest generally depicted on the map entitled ‘Fourth of July Addition to Indian Peaks Wilderness’ dated September 2001, are hereby added to the Indian Peaks Wilderness Area.”.

(c) **MAPS AND BOUNDARY DESCRIPTIONS.**—As soon as practicable after the date of the enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the “Secretary”) shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the area designated as wilderness by subsection (a) and of the area added to the Indian Peaks Wilderness Area by subsection (b). The maps and boundary descriptions shall have the same force and effect as if included in the Colorado Wilderness Act of 1993 and the Indian Peaks

Wilderness Area and Arapaho National Recreation Area and the Oregon Islands Wilderness Area Act, respectively, except that the Secretary may correct clerical and typographical errors in the maps and boundary descriptions. The maps and boundary descriptions shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

16 USC 539f.

SEC. 3. DESIGNATION OF JAMES PEAK PROTECTION AREA, COLORADO.**(a) FINDINGS AND PURPOSE.—****(1) FINDINGS.—**The Congress finds the following:

(A) The lands covered by this section include important resources and values, including wildlife habitat, clean water, open space, and opportunities for solitude.

(B) These lands also include areas that are suitable for recreational uses, including use of snowmobiles in times of adequate snow cover as well as use of other motorized and nonmotorized mechanical devices.

(C) These lands should be managed in a way that affords permanent protection to their resources and values while permitting continued recreational uses in appropriate locales and subject to appropriate regulations.

(2) PURPOSE.—The purpose of this section is to provide for management of certain lands in the Arapaho/Roosevelt National Forest in a manner consistent with the 1997 Revised Land and Resources Management Plan for this forest in order to protect the natural qualities of these areas.

(b) DESIGNATION.—The approximately 16,000 acres of land in the Arapaho/Roosevelt National Forest generally depicted on the map entitled “Proposed James Peak Protection Area”, dated September 2001, are hereby designated as the James Peak Protection Area (hereafter in this Act referred to as the “Protection Area”).

(c) MAP AND BOUNDARY DESCRIPTION.—As soon as practicable after the date of the enactment of this Act, the Secretary shall file with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a map and a boundary description of the Protection Area. The map and boundary description shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in the map and boundary description. The map and boundary description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, and in the office of the Forest Supervisor of the Arapaho/Roosevelt National Forest.

(d) MANAGEMENT.—

(1) IN GENERAL.—Except as otherwise provided in this section, the Protection Area shall be managed and administered by the Secretary in the same manner as the management area prescription designations identified for these lands in the 1997 Revision of the Land and Resource Management Plan for the Arapaho/Roosevelt National Forest and the Pawnee National Grasslands. Such management and administration shall be in accordance with the following:

(A) **GRAZING.—**Nothing in this Act, including the establishment of the Protection Area, shall affect grazing on lands within or outside of the Protection Area.

(B) MINING WITHDRAWAL.—Subject to valid existing rights, all Federal land within the Protection Area and all land and interests in land acquired for the Protection Area by the United States are withdrawn from—

- (i) all forms of entry, appropriation, or disposal under the public land laws;
- (ii) location, entry, and patent under the mining laws; and
- (iii) the operation of the mineral leasing, mineral materials, and geothermal leasing laws, and all amendments thereto.

Nothing in this subparagraph shall be construed to affect discretionary authority of the Secretary under other Federal laws to grant, issue, or renew rights-of-way or other land use authorizations consistent with the other provisions of this Act.

(C) MOTORIZED AND MECHANIZED TRAVEL.—

(i) REVIEW AND INVENTORY.—Not later than two years after the date of the enactment of this Act, the Secretary, in consultation with interested parties, shall complete a review and inventory of all roads and trails in the Protection Area on which use was allowed on September 10, 2001, except those lands managed under the management prescription referred to in subparagraph (F). During the review and inventory, the Secretary may—

Deadline.

(I) connect existing roads and trails in the inventoried area to other existing roads and trails in the inventoried area for the purpose of mechanized and other nonmotorized use on any lands within the Protection Area as long as there is no net gain in the total mileage of either roads or trails open for public use within the Protection Area; and

(II) close or remove roads or trails within the Protection Area that the Secretary determines to be undesirable, except those roads or trails managed pursuant to paragraph (2) of this subsection or subsection (e)(3).

(ii) AFTER COMPLETION OF INVENTORY.—After completion of the review and inventory required by clause (i), the Secretary shall ensure that motorized and mechanized travel within the Protection Area shall be permitted only on those roads and trails identified as open to use in the inventory or established pursuant to subparagraph (D).

(D) NEW ROADS AND TRAILS.—No new roads or trails shall be established within the Protection Area except those which the Secretary shall establish as follows:

(i) Roads and trails established to replace roads or trails of the same character and scope which have become nonserviceable through reasons other than neglect.

(ii) Nonpermanent roads as needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or other management purposes.

(iii) Roads determined to be appropriate for reasonable access under section 4(b)(2).

(iv) A loop trail established pursuant to section 6.

(v) Construction of a trail for nonmotorized use following the corridor designated as the Continental Divide Trail.

(E) **TIMBER HARVESTING.**—No timber harvesting shall be allowed within the Protection Area except to the extent needed for hazardous fuels reduction or other control of fire, insect or disease control projects, or protection of public health or safety.

Applicability.

(F) **SPECIAL INTEREST AREA.**—The management prescription applicable to the lands described in the 1997 Revision of the Land and Resource Management Plan as the James Peak Special Interest Area shall also be applicable to all the lands in the Protection Area that are bounded on the north by Rollins Pass Road, on the east by the Continental Divide, and on the west by the 11,300 foot elevation contour as shown on the map referred to in subsection (b). In addition, motorized vehicle use shall not be permitted on any part of the Rogers Pass trail.

(2) **NATURAL GAS PIPELINE.**—The Secretary shall allow for maintenance of rights-of-ways and access roads located within the Protection Area to the extent necessary to operate the natural gas pipeline permitted under the Arapaho/Roosevelt National Forest master permit numbered 4138.01 in a manner that avoids negative impacts on public safety and allows for compliance with Federal pipeline safety requirements. Such maintenance may include vegetation management, road maintenance, ground stabilization, and motorized vehicle access.

(3) **PERMANENT FEDERAL OWNERSHIP.**—All right, title, and interest of the United States, held on or acquired after the date of the enactment of this Act, to lands within the boundaries of the Protection Area shall be retained by the United States.

(e) **ISSUES RELATED TO WATER.**—

(1) **STATUTORY CONSTRUCTION.**—

(A) Nothing in this Act shall constitute or be construed to constitute either an express or implied reservation of any water or water rights with respect to the lands within the Protection Area.

(B) Nothing in this Act shall affect any conditional or absolute water rights in the State of Colorado existing on the date of the enactment of this Act.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future protection area designation.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Colorado and other States.

(2) **COLORADO WATER LAW.**—The Secretary shall follow the procedural and substantive requirements of the law of the State of Colorado in order to obtain and hold any new water rights with respect to the Protection Area.

(3) **WATER INFRASTRUCTURE.**—Nothing in this Act (including the provisions related to establishment or management of the Protection Area) shall affect, impede, interfere with, or diminish the operation, existence, access, maintenance, improvement, or construction of water facilities and infrastructure, rights-of-way, or other water-related property, interests, and uses, (including the use of motorized vehicles and equipment existing or located on lands within the Protection Area) on any lands except those lands managed under the management prescription referred to in subsection (d)(1)(F).

SEC. 4. INHOLDINGS.

16 USC 539/-1.

(a) **STATE LAND BOARD LANDS.**—If the Colorado State Land Board informs the Secretary that the Board is willing to transfer to the United States some or all of the lands owned by the Board located within the Protection Area, the Secretary shall promptly seek to reach agreement with the Board regarding terms and conditions for acquisition of such lands by the United States by purchase or exchange.

(b) **JIM CREEK INHOLDING.**—

(1) **ACQUISITION OF LANDS.**—The Secretary shall enter into negotiations with the owner of lands located within the portion of the Jim Creek drainage within the Protection Area for the purpose of acquiring the lands by purchase or exchange, but the United States shall not acquire such lands without the consent of the owner of the lands.

(2) **LANDOWNER RIGHTS.**—Nothing in this Act shall affect any rights of the owner of lands located within the Jim Creek drainage within the Protection Area, including any right to reasonable access to such lands by motorized or other means as determined by the Forest Service and the landowner consistent with applicable law and relevant and appropriate rules and regulations governing such access.

(c) **REPORT.**—

(1) **IN GENERAL.**—The Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report concerning any agreement or the status of negotiations conducted pursuant to—

(A) subsection (a), upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (a), or 1 year after the date of the enactment of this Act, whichever occurs first; and

(B) subsection (b), upon conclusion of an agreement for acquisition by the United States of lands referred to in subsection (b), or 1 year after the date of the enactment of this Act, whichever occurs first.

(2) **FUNDING INFORMATION.**—The report required by this subsection shall indicate to what extent funds are available to the Secretary as of the date of the report for the acquisition of the relevant lands and whether additional funds need to be appropriated or otherwise made available to the Secretary for such purpose.

(d) **MANAGEMENT OF ACQUISITIONS.**—Any lands within the James Peak Wilderness or the Protection Area acquired by the United States after the date of the enactment of this Act shall

be added to the James Peak Wilderness or the Protection Area, respectively, and managed accordingly.

16 USC 539/-2.

SEC. 5. JAMES PEAK FALL RIVER TRAILHEAD.

(a) **SERVICES AND FACILITIES.**—Following the consultation required by subsection (c), the Forest Supervisor of the Arapaho/Roosevelt National Forest in the State of Colorado (in this section referred to as the “Forest Supervisor”) shall establish a trailhead and corresponding facilities and services to regulate use of National Forest System lands in the vicinity of the Fall River basin south of the communities of Alice Township and St. Mary’s Glacier in the State of Colorado. The facilities and services shall include the following:

- (1) Trailhead parking.
- (2) Public restroom accommodations.
- (3) Trailhead and trail maintenance.

(b) **PERSONNEL.**—The Forest Supervisor shall assign Forest Service personnel to provide appropriate management and oversight of the area described in subsection (a).

(c) **CONSULTATION.**—The Forest Supervisor shall consult with the Clear Creek County commissioners and with residents of Alice Township and St. Mary’s Glacier regarding—

(1) the appropriate location of facilities and services in the area described in subsection (a); and

(2) appropriate measures that may be needed in this area—
(A) to provide access by emergency or law enforcement vehicles;

(B) for public health; and

(C) to address concerns regarding impeded access by local residents.

(d) **REPORT.**—After the consultation required by subsection (c), the Forest Supervisor shall submit to the Committee on Resources and the Committee on Appropriations of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate a report regarding the amount of any additional funding required to implement this section.

16 USC 539/-3.

SEC. 6. LOOP TRAIL STUDY; AUTHORIZATION.

Deadline.

(a) **STUDY.**—Not later than three years after funds are first made available for this purpose, the Secretary, in consultation with interested parties, shall complete a study of the suitability and feasibility of establishing, consistent with the purpose set forth in section 3(a)(2), a loop trail for mechanized and other non-motorized recreation connecting the trail designated as “Rogers Pass” and the trail designated as “Rollins Pass Road”.

(b) **ESTABLISHMENT.**—If the results of the study required by subsection (a) indicate that establishment of such a loop trail would be suitable and feasible, consistent with the purpose set forth in section 3(a)(2), the Secretary shall establish the loop trail in a manner consistent with that purpose.

16 USC 539/-4.

SEC. 7. OTHER ADMINISTRATIVE PROVISIONS.

(a) **BUFFER ZONES.**—The designation by this Act or by amendments made by this Act of wilderness areas and the Protection Area in the State of Colorado shall not create or imply the creation of protective perimeters or buffer zones around any wilderness area or the Protection Area. The fact that nonwilderness activities

or uses can be seen or heard from within a wilderness area or Protection Area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area or the Protection Area.

(b) **ROLLINS PASS ROAD.**—If requested by one or more of the Colorado Counties of Grand, Gilpin, and Boulder, the Secretary shall provide technical assistance and otherwise cooperate with respect to repairing the Rollins Pass road in those counties sufficiently to allow two-wheel-drive vehicles to travel between Colorado State Highway 119 and U.S. Highway 40. If this road is repaired to such extent, the Secretary shall close the motorized roads and trails on Forest Service land indicated on the map entitled “Rollins Pass Road Reopening: Attendant Road and Trail Closures”, dated September 2001.

SEC. 8. WILDERNESS POTENTIAL.

16 USC 539l–5.

(a) **IN GENERAL.**—Nothing in this Act shall preclude or restrict the authority of the Secretary to evaluate the suitability of lands in the Protection Area for inclusion in the National Wilderness Preservation System or to make recommendations to Congress for such inclusion.

(b) **EVALUATION OF CERTAIN LANDS.**—In connection with the first revision of the land and resources management plan for the Arapaho/Roosevelt National Forest after the date of the enactment of this Act, the Secretary shall evaluate the suitability of the lands managed under the management prescription referred to in section 3(d)(1)(F) for inclusion in the National Wilderness Preservation System and make recommendations to Congress regarding such inclusion.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 1576:

HOUSE REPORTS: No. 107–316 (Comm. on Resources).

SENATE REPORTS: No. 107–200 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 11, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–217
107th Congress

An Act

Aug. 21, 2002
[H.R. 2068]

To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, “Public Buildings, Property, and Works”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

40 USC note
prec. 101.

SECTION 1. TITLE 40, UNITED STATES CODE.

Certain general and permanent laws of the United States, related to public buildings, property, and works, are revised, codified, and enacted as title 40, United States Code, “Public Buildings, Property, and Works”, as follows:

**TITLE 40—PUBLIC BUILDINGS,
PROPERTY, AND WORKS**

SUBTITLE	Sec.
I. FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES	101
II. PUBLIC BUILDINGS AND WORKS	3101
III. INFORMATION TECHNOLOGY MANAGEMENT	11101
IV. APPALACHIAN REGIONAL DEVELOPMENT	14101
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**SUBTITLE I—FEDERAL PROPERTY AND
ADMINISTRATIVE SERVICES**

CHAPTER	Sec.
1. GENERAL	101
3. ORGANIZATION OF GENERAL SERVICES ADMINISTRATION	301
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CHAPTER 1—GENERAL

SUBCHAPTER I—PURPOSE AND DEFINITIONS

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SUBCHAPTER I—PURPOSE AND DEFINITIONS

§ 101. Purpose

The purpose of this subtitle is to provide the Federal Government with an economical and efficient system for the following activities:

- (1) Procuring and supplying property and nonpersonal services, and performing related functions including contracting, inspection, storage, issue, setting specifications, identification and classification, transportation and traffic management, establishment of pools or systems for transportation of Government personnel and property by motor vehicle within specific areas, management of public utility services, repairing and converting, establishment of inventory levels, establishment of forms and procedures, and representation before federal and state regulatory bodies.
- (2) Using available property.
- (3) Disposing of surplus property.
- (4) Records management.

§ 102. Definitions

The following definitions apply in chapters 1 through 7 of this title and in title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.):

- (1) CARE AND HANDLING.—The term “care and handling” includes—
 - (A) completing, repairing, converting, rehabilitating, operating, preserving, protecting, insuring, packing, storing, handling, conserving, and transporting excess and surplus property; and
 - (B) rendering innocuous, or destroying, property that is dangerous to public health or safety.
- (2) CONTRACTOR INVENTORY.—The term “contractor inventory” means—
 - (A) property, in excess of amounts needed to complete full performance, that is acquired by and in possession of a contractor or subcontractor under a contract pursuant to which title is vested in the Federal Government; and
 - (B) property that the Government is obligated or has the option to take over, under any type of contract, as a result of changes in specifications or plans under the contract, or as a result of termination of the contract (or a subcontract), prior to completion of the work, for the convenience or at the option of the Government.
- (3) EXCESS PROPERTY.—The term “excess property” means property under the control of a federal agency that the head of the agency determines is not required to meet the agency’s needs or responsibilities.
- (4) EXECUTIVE AGENCY.—The term “executive agency” means—

(A) an executive department or independent establishment in the executive branch of the Government; and

(B) a wholly owned Government corporation.

(5) FEDERAL AGENCY.—The term “federal agency” means an executive agency or an establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol, and any activities under the direction of the Architect of the Capitol).

(6) FOREIGN EXCESS PROPERTY.—The term “foreign excess property” means excess property that is not located in the States of the United States, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the Virgin Islands.

(7) MOTOR VEHICLE.—The term “motor vehicle” means any vehicle, self-propelled or drawn by mechanical power, designed and operated principally for highway transportation of property or passengers, excluding—

(A) a vehicle designed or used for military field training, combat, or tactical purposes, or used principally within the confines of a regularly established military post, camp, or depot; and

(B) a vehicle regularly used by an agency to perform investigative, law enforcement, or intelligence duties, if the head of the agency determines that exclusive control of the vehicle is essential for effective performance of duties.

(8) NONPERSONAL SERVICES.—The term “nonpersonal services” means contractual services designated by the Administrator of General Services, other than personal and professional services.

(9) PROPERTY.—The term “property” means any interest in property except—

(A)(i) the public domain;

(ii) land reserved or dedicated for national forest or national park purposes;

(iii) minerals in land or portions of land withdrawn or reserved from the public domain which the Secretary of the Interior determines are suitable for disposition under the public land mining and mineral leasing laws; and

(iv) land withdrawn or reserved from the public domain except land or portions of land so withdrawn or reserved which the Secretary, with the concurrence of the Administrator, determines are not suitable for return to the public domain for disposition under the general public land laws because the lands are substantially changed in character by improvements or otherwise;

(B) naval vessels that are battleships, cruisers, aircraft carriers, destroyers, or submarines; and

(C) records of the Government.

(10) SURPLUS PROPERTY.—The term “surplus property” means excess property that the Administrator determines is not required to meet the needs or responsibilities of all federal agencies.

SUBCHAPTER II—SCOPE

§ 111. Application to Federal Property and Administrative Services Act of 1949

In the following provisions, the words “this subtitle” are deemed to refer also to title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.):

- (1) Section 101 of this title.
- (2) Section 112(a) of this title.
- (3) Section 113 of this title.
- (4) Section 121(a) of this title.
- (5) Section 121(c)(1) of this title.
- (6) Section 121(c)(2) of this title.
- (7) Section 121(d)(1) and (2) of this title.
- (8) Section 121(e)(1) of this title.
- (9) Section 121(f) of this title.
- (10) Section 121(g) of this title.
- (11) Section 122(a) of this title.
- (12) Section 123(a) of this title.
- (13) Section 123(c) of this title.
- (14) Section 124 of this title.
- (15) Section 126 of this title.
- (16) Section 311(c) of this title.
- (17) Section 313(a) of this title.
- (18) Section 528 of this title.
- (19) Section 541 of this title.
- (20) Section 549(e)(3)(H)(i)(II) of this title.
- (21) Section 557 of this title.
- (22) Section 558(a) of this title.
- (23) Section 559(f) of this title.
- (24) Section 571(b) of this title.
- (25) Section 572(a)(2)(A) of this title.
- (26) Section 572(b)(4) of this title.

§ 112. Applicability of certain policies, procedures, and directives in effect on July 1, 1949

(a) IN GENERAL.—A policy, procedure, or directive described in subsection (b) remains in effect until superseded or amended under this subtitle or other appropriate authority.

(b) DESCRIPTION.—A policy, procedure, or directive referred to in subsection (a) is one that was in effect on July 1, 1949, and that was prescribed by—

(1) the Director of the Bureau of Federal Supply or the Secretary of the Treasury and that related to a function transferred to or vested in the Administrator of General Services on June 30, 1949, by the Federal Property and Administrative Services Act of 1949;

(2) an officer of the Federal Government under authority of the Surplus Property Act of 1944 (ch. 479, 58 Stat. 765) or other authority related to surplus property or foreign excess property;

(3) the Federal Works Administrator or the head of a constituent agency of the Federal Works Agency; or

(4) the Archivist of the United States or another officer or body whose functions were transferred on June 30, 1949, by title I of the Federal Property and Administrative Services Act of 1949.

§ 113. Limitations

(a) IN GENERAL.—Except as otherwise provided in this section, the authority conferred by this subtitle is in addition to any other authority conferred by law and is not subject to any inconsistent provision of law.

(b) LIMITATION REGARDING THE OFFICE OF FEDERAL PROCUREMENT POLICY ACT.—The authority conferred by this subtitle is subject to the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(c) LIMITATION REGARDING CERTAIN GOVERNMENT CORPORATIONS AND AGENCIES.—Sections 121(b) and 506(c) of this title do not apply to a Government corporation or agency that is subject to chapter 91 of title 31.

(d) LIMITATION REGARDING CONGRESS.—This subtitle does not apply to the Senate or the House of Representatives (including the Architect of the Capitol and any building, activity, or function under the direction of the Architect). However, services and facilities authorized by this subtitle shall, as far as practicable, be made available to the Senate, the House of Representatives, and the Architect of the Capitol on their request. If payment would be required for providing a similar service or facility to an executive agency, payment shall be made by the recipient, on presentation of proper vouchers, in advance or by reimbursement (as may be agreed upon by the Administrator of General Services and the officer or body making the request). The payment may be credited to the applicable appropriation of the executive agency receiving the payment.

(e) OTHER LIMITATIONS.—Nothing in this subtitle impairs or affects the authority of—

(1) the President under the Philippine Property Act of 1946 (22 U.S.C. 1381 et seq.);

(2) an executive agency, with respect to any program conducted for purposes of resale, price support, grants to farmers, stabilization, transfer to foreign governments, or foreign aid, relief, or rehabilitation, but the agency carrying out the program shall, to the maximum extent practicable, consistent with the purposes of the program and the effective, efficient conduct of agency business, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle;

(3) an executive agency named in chapter 137 of title 10, and the head of the agency, with respect to the administration of that chapter;

(4) the Secretary of Defense with respect to property required for or located in occupied territories;

(5) the Secretary of Defense with respect to the administration of section 2535 of title 10;

(6) the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force with respect to the administration of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.);

(7) the Secretary of State under the Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.);

(8) the Secretary of Agriculture under—

(A) the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.);

(B) the Farmers Home Administration Act of 1946 (ch. 964, 60 Stat. 1062);

(C) section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), with respect to the exportation and domestic consumption of agricultural products;

(D) section 201 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1291); or

(E) section 203(j) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1622(j));

(9) an official or entity under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.), with respect to the acquisition or disposal of property;

(10) the Secretary of Housing and Urban Development or the Federal Deposit Insurance Corporation (or an officer of the Corporation) with respect to the disposal of—

(A) residential property; or

(B) other property—

(i) acquired or held as part of, or in connection with, residential property; or

(ii) held in connection with the insurance of mortgages, loans, or savings association accounts under the National Housing Act (12 U.S.C. 1701 et seq.), the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.), or any other law;

(11) the Tennessee Valley Authority with respect to nonpersonal services, with respect to section 501(c) of this title, and with respect to property acquired in connection with a program of processing, manufacture, production, or force account construction, but the Authority shall, to the maximum extent it considers practicable, consistent with the purposes of its program and the effective, efficient conduct of its business, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle;

(12) the Secretary of Energy with respect to atomic energy;

(13) the Secretary of Transportation or the Secretary of Commerce with respect to the disposal of airport property and airway property (as those terms are defined in section 47301 of title 49) for use as such property;

(14) the United States Postal Service;

(15) the Maritime Administration with respect to the acquisition, procurement, operation, maintenance, preservation, sale, lease, charter, construction, reconstruction, or reconditioning (including outfitting and equipping incidental to construction, reconstruction, or reconditioning) of a merchant vessel or shipyard, ship site, terminal, pier, dock, warehouse, or other installation necessary or appropriate for carrying out a program of the Administration authorized by law or nonadministrative activities incidental to a program of the Administration authorized by law, but the Administration shall, to the maximum extent it considers practicable, consistent with the purposes of its programs and the effective, efficient conduct of its activities, coordinate its operations with the requirements of this subtitle and with policies and regulations prescribed under this subtitle;

(16) the Central Intelligence Agency;

(17) the Joint Committee on Printing, under title 44 or any other law;

(18) the Secretary of the Interior with respect to procurement for program operations under the Bonneville Project Act of 1937 (16 U.S.C. 832 et seq.); or

(19) the Secretary of State with respect to the furnishing of facilities in foreign countries and reception centers within the United States.

SUBCHAPTER III—ADMINISTRATIVE AND GENERAL

§ 121. Administrative

(a) **POLICIES PRESCRIBED BY THE PRESIDENT.**—The President may prescribe policies and directives that the President considers necessary to carry out this subtitle. The policies must be consistent with this subtitle.

(b) **ACCOUNTING PRINCIPLES AND STANDARDS.**—

(1) **PRESCRIPTION.**—The Comptroller General, after considering the needs and requirements of executive agencies, shall prescribe principles and standards of accounting for property.

(2) **PROPERTY ACCOUNTING SYSTEMS.**—The Comptroller General shall cooperate with the Administrator of General Services and with executive agencies in the development of property accounting systems and approve the systems when they are adequate and in conformity with prescribed principles and standards.

(3) **COMPLIANCE REVIEW.**—From time to time the Comptroller General shall examine the property accounting systems established by executive agencies to determine the extent of compliance with prescribed principles and standards and approved systems. The Comptroller General shall report to Congress any failure to comply with the principles and standards or to adequately account for property.

(c) **REGULATIONS BY ADMINISTRATOR.**—

(1) **GENERAL AUTHORITY.**—The Administrator may prescribe regulations to carry out this subtitle.

(2) **REQUIRED REGULATIONS AND ORDERS.**—The Administrator shall prescribe regulations that the Administrator considers necessary to carry out the Administrator's functions under this subtitle and the head of each executive agency shall issue orders and directives that the agency head considers necessary to carry out the regulations.

(d) **DELEGATION OF AUTHORITY BY ADMINISTRATOR.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the Administrator may delegate authority conferred on the Administrator by this subtitle to an official in the General Services Administration or to the head of another federal agency. The Administrator may authorize successive redelegation of authority conferred by this subtitle.

(2) **EXCEPTIONS.**—The Administrator may not delegate—

(A) the authority to prescribe regulations on matters of policy applying to executive agencies;

(B) the authority to transfer functions and related allocated amounts from one component of the Administration to another under paragraphs (1)(C) and (2)(A) of subsection (e); or

(C) other authority for which delegation is prohibited by this subtitle.

(3) RETENTION AND USE OF RENTAL PAYMENTS.—A department or agency to which the Administrator has delegated authority to operate, maintain or repair a building or facility under this subsection shall retain the portion of the rental payment that the Administrator determines is available to operate, maintain or repair the building or facility. The department or agency shall directly expend the retained amounts to operate, maintain, or repair the building or facility. Any amounts retained under this paragraph shall remain available until expended for these purposes.

(e) ASSIGNMENT OF FUNCTIONS BY ADMINISTRATOR.—

(1) IN GENERAL.—The Administrator may provide for the performance of a function assigned under this subtitle by any of the following methods:

(A) The Administrator may direct the Administration to perform the function.

(B) The Administrator may designate or establish a component of the Administration and direct the component to perform the function.

(C) The Administrator may transfer the function from one component of the Administration to another.

(D) The Administrator may direct an executive agency to perform the function for itself, with the consent of the agency or by direction of the President.

(E) The Administrator may direct one executive agency to perform the function for another executive agency, with the consent of the agencies concerned or by direction of the President.

(F) The Administrator may provide for performance of a function by a combination of the methods described in this paragraph.

(2) TRANSFER OF RESOURCES.—

(A) WITHIN ADMINISTRATION.—If the Administrator transfers a function from one component of the Administration to another, the Administrator may also provide for the transfer of appropriate allocated amounts from the component that previously carried out the function to the component being directed to carry out the function. A transfer under this subparagraph must be reported to the Director of the Office of Management and Budget.

(B) BETWEEN AGENCIES.—If the Administrator transfers a function from one executive agency to another (including a transfer to or from the Administration), the Administrator may also provide for the transfer of appropriate personnel, records, property, and allocated amounts from the executive agency that previously carried out the function to the executive agency being directed to carry out the function. A transfer under this subparagraph is subject to approval by the Director.

(f) ADVISORY COMMITTEES.—The Administrator may establish advisory committees to provide advice on any function of the Administrator under this subtitle. Members of the advisory committees shall serve without compensation but are entitled to transportation and not more than \$25 a day instead of expenses under section 5703 of title 5.

(g) CONSULTATION WITH FEDERAL AGENCIES.—The Administrator shall advise and consult with interested federal agencies and seek

their advice and assistance to accomplish the purposes of this subtitle.

(h) ADMINISTERING OATHS.—In carrying out investigative duties, an officer or employee of the Administration, if authorized by the Administrator, may administer an oath to an individual.

§ 122. Prohibition on sex discrimination

(a) PROHIBITION.—With respect to a program or activity carried on or receiving federal assistance under this subtitle, an individual may not be excluded from participation, denied benefits, or otherwise discriminated against based on sex.

(b) ENFORCEMENT.—Subsection (a) shall be enforced through agency provisions and rules similar to those already established with respect to racial and other discrimination under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.). However, this remedy is not exclusive and does not prejudice or remove any other legal remedies available to an individual alleging discrimination.

§ 123. Civil remedies for fraud

(a) IN GENERAL.—In connection with the procurement, transfer or disposition of property under this subtitle, a person that uses or causes to be used, or enters into an agreement, combination, or conspiracy to use or cause to be used, a fraudulent trick, scheme, or device for the purpose of obtaining or aiding to obtain, for any person, money, property, or other benefit from the Federal Government—

(1) shall pay to the Government an amount equal to the sum of—

(A) \$2,000 for each act;

(B) two times the amount of damages sustained by the Government because of each act; and

(C) the cost of suit;

(2) if the Government elects, shall pay to the Government, as liquidated damages, an amount equal to two times the consideration that the Government agreed to give to the person, or that the person agreed to give to the Government; or

(3) if the Government elects, shall restore to the Government the money or property fraudulently obtained, with the Government retaining as liquidated damages, the money, property, or other consideration given to the Government.

(b) ADDITIONAL REMEDIES AND CRIMINAL PENALTIES.—The civil remedies provided in this section are in addition to all other civil remedies and criminal penalties provided by law.

(c) IMMUNITY OF GOVERNMENT OFFICIALS.—An officer or employee of the Government is not liable (except for an individual's own fraud) or accountable for collection of a purchase price that is determined to be uncollectible by the federal agency responsible for property if the property is transferred or disposed of in accordance with this subtitle and with regulations prescribed under this subtitle.

(d) JURISDICTION AND VENUE.—

(1) DEFINITION.—In this subsection, the term “district court” means a district court of the United States or a district court of a territory or possession of the United States.

(2) IN GENERAL.—A district court has original jurisdiction of an action arising under this section, and venue is proper,

if at least one defendant resides or may be found in the court's judicial district. Jurisdiction and venue are determined without regard to the place where acts were committed.

(3) ADDITIONAL DEFENDANT OUTSIDE JUDICIAL DISTRICT.—A defendant that does not reside and may not be found in the court's judicial district may be brought in by order of the court, to be served personally, by publication, or in another reasonable manner directed by the court.

§ 124. Agency use of amounts for property management

Amounts appropriated, allocated, or available to a federal agency for purposes similar to the purposes in section 121 of this title or subchapter I (except section 506), II, or III of chapter 5 of this title may be used by the agency for the disposition of property under this subtitle, and for the care and handling of property pending the disposition, if the Director of the Office of Management and Budget authorizes the use.

§ 125. Library memberships

Amounts appropriated may be used, when authorized by the Administrator of General Services, for payment in advance for library memberships in societies whose publications are available to members only, or to members at a lower price than that charged to the general public.

§ 126. Reports to Congress

The Administrator of General Services, at times the Administrator considers desirable, shall submit a report to Congress on the administration of this subtitle. The report shall include any recommendation for amendment of this subtitle that the Administrator considers appropriate and shall identify any law that is obsolete because of the enactment or operation of this subtitle.

CHAPTER 3—ORGANIZATION OF GENERAL SERVICES ADMINISTRATION

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- 311. Personnel.
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- 321. General Supply Fund.
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SUBCHAPTER I—GENERAL

§ 301. Establishment

The General Services Administration is an agency in the executive branch of the Federal Government.

§ 302. Administrator and Deputy Administrator

(a) ADMINISTRATOR.—The Administrator of General Services is the head of the General Services Administration. The Administrator is appointed by the President with the advice and consent of the Senate. The Administrator shall perform functions subject to the direction and control of the President.

(b) DEPUTY ADMINISTRATOR.—The Administrator shall appoint a Deputy Administrator of General Services. The Deputy Administrator shall perform functions designated by the Administrator. The Deputy Administrator is Acting Administrator of General Services during the absence or disability of the Administrator and, unless the President designates another officer of the Federal Government, when the office of Administrator is vacant.

§ 303. Functions

(a) BUREAU OF FEDERAL SUPPLY.—

(1) TRANSFER OF FUNCTIONS.—Subject to paragraph (2), the functions of the Administrator of General Services include functions related to the Bureau of Federal Supply in the Department of the Treasury that, immediately before July 1, 1949, were functions of—

- (A) the Bureau;
- (B) the Director of the Bureau;
- (C) the personnel of the Bureau; or
- (D) the Secretary of the Treasury.

(2) FUNCTIONS NOT TRANSFERRED.—The functions of the Administrator of General Services do not include functions retained in the Department of the Treasury under section 102(c) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380).

(b) FEDERAL WORKS AGENCY AND COMMISSIONER OF PUBLIC BUILDINGS.—The functions of the Administrator of General Services include functions related to the Federal Works Agency and functions related to the Commissioner of Public Buildings that, immediately before July 1, 1949, were functions of—

- (1) the Federal Works Agency;
- (2) the Federal Works Administrator; or
- (3) the Commissioner of Public Buildings.

§ 304. Federal information centers

The Administrator of General Services may establish within the General Services Administration a nationwide network of federal information centers for the purpose of providing the public with information about the programs and procedures of the Federal Government and for other appropriate and related purposes.

SUBCHAPTER II—ADMINISTRATIVE**§ 311. Personnel**

(a) APPOINTMENT AND COMPENSATION.—The Administrator of General Services, subject to chapters 33 and 51 and subchapter III of chapter 53 of title 5, may appoint and fix the compensation of personnel necessary to carry out chapters 1, 3, and 5 of this title and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(b) TEMPORARY EMPLOYMENT.—The Administrator may procure the temporary or intermittent services of experts or consultants

under section 3109 of title 5 to the extent the Administrator finds necessary to carry out chapters 1, 3, and 5 of this title and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(c) **PERSONNEL FROM OTHER AGENCIES.**—Notwithstanding section 973 of title 10 or any other law, in carrying out functions under this subtitle the Administrator may use the services of personnel (including armed services personnel) from an executive agency other than the General Services Administration with the consent of the head of the agency.

(d) **DETAIL OF FIELD PERSONNEL TO DISTRICT OF COLUMBIA.**—The Administrator, in the Administrator's discretion, may detail field personnel of the Administration to the District of Columbia for temporary duty for a period of not more than 30 days in any one case. Subsistence or similar expenses may not be allowed for an employee on temporary duty in the District of Columbia under this paragraph.

§ 312. Transfer and use of amounts for major equipment acquisitions

(a) **IN GENERAL.**—Subject to subsection (b), unobligated balances of amounts appropriated or otherwise made available to the General Services Administration for operating expenses and salaries and expenses may be transferred and merged into the “Major equipment acquisitions and development activity” of the Salaries and Expenses, General Management and Administration appropriation account for—

(1) agency-wide acquisition of capital equipment, automated data processing systems; and

(2) financial management and management information systems needed to implement the Chief Financial Officers Act of 1990 (Public Law 101-576, 104 Stat. 2838) and other laws or regulations.

(b) **REQUIREMENTS AND AVAILABILITY.**—

(1) **TIME FOR TRANSFER.**—Transfer of an amount under this section must be done no later than the end of the fifth fiscal year after the fiscal year for which the amount is appropriated or otherwise made available.

(2) **APPROVAL FOR USE.**—An amount transferred under this section may be used only with the advance approval of the Committees on Appropriations of the House of Representatives and the Senate.

(3) **AVAILABILITY.**—An amount transferred under this section remains available until expended.

§ 313. Tests of materials

(a) **SCOPE.**—This section applies to any article or commodity tendered by a producer or vendor for sale or lease to the General Services Administration or to any procurement authority acting under the direction and control of the Administrator of General Services pursuant to this subtitle.

(b) **AUTHORITY TO CONDUCT TESTS.**—The Administrator, in the Administrator's discretion and with the consent of the producer or vendor, may have tests conducted, in a manner the Administrator specifies, to—

(1) determine whether an article or commodity conforms to prescribed specifications and standards; or

(2) aid in the development of specifications and standards.

(c) FEES.—

(1) IN GENERAL.—The Administrator shall charge the producer or vendor a fee for the tests.

(2) AMOUNT OF FEE IF TESTS PREDOMINANTLY SERVE INTEREST OF PRODUCER OR VENDOR.—If the Administrator determines that conducting the tests predominantly serves the interest of the producer or vendor, the Administrator shall fix the fee in an amount that will recover the costs of conducting the tests, including all components of the costs, determined in accordance with accepted accounting principles.

(3) AMOUNT OF FEE IF TESTS DO NOT PREDOMINANTLY SERVE INTEREST OF PRODUCER OR VENDOR.—If the Administrator determines that conducting the tests does not predominantly serve the interest of the producer or vendor, the Administrator shall fix the fee in an amount the Administrator determines is reasonable for furnishing the testing service.

SUBCHAPTER III—FUNDS

§ 321. General Supply Fund

(a) EXISTENCE.—The General Supply Fund is a special fund in the Treasury.

(b) COMPOSITION.—

(1) IN GENERAL.—The Fund is composed of amounts appropriated to the Fund and the value, as determined by the Administrator of General Services, of personal property transferred from executive agencies to the Administrator under section 501(d) of this title to the extent that payment is not made or credit allowed for the property.

(2) OTHER CREDITS.—

(A) IN GENERAL.—The Fund shall be credited with all reimbursements, advances, and refunds or recoveries relating to personal property or services procured through the Fund, including—

(i) the net proceeds of disposal of surplus personal property; and

(ii) receipts from carriers and others for loss of, or damage to, personal property.

(B) REAPPROPRIATION.—Amounts credited under this paragraph are reappropriated for the purposes of the Fund.

(3) DEPOSIT OF FEES.—Fees collected by the Administrator under section 313 of this title may be deposited in the Fund to be used for the purposes of the Fund.

(c) USES.—

(1) IN GENERAL.—The Fund is available for use by or under the direction and control of the Administrator for—

(A) procuring, for the use of federal agencies in the proper discharge of their responsibilities—

(i) personal property (including the purchase from or through the Public Printer, for warehouse issue, of standard forms, blankbook work, standard specifications, and other printed material in common use by federal agencies and not available through the Superintendent of Documents); and

(ii) nonpersonal services;

(B) paying the purchase price, cost of transportation of personal property and services, and cost of personal services employed directly in the repair, rehabilitation, and conversion of personal property; and

(C) paying other direct costs of, and indirect costs that are reasonably related to, contracting, procurement, inspection, storage, management, distribution, and accountability of property and nonpersonal services provided by the General Services Administration or by special order through the Administration.

(2) OTHER USES.—The Fund may be used for the procurement of personal property and nonpersonal services authorized to be acquired by—

(A) mixed-ownership Government corporations;

(B) the municipal government of the District of Columbia;

or

(C) a requisitioning non-federal agency when the function of a federal agency authorized to procure for it is transferred to the Administration.

(d) PAYMENT FOR PROPERTY AND SERVICES.—

(1) IN GENERAL.—For property or services procured through the Fund for requisitioning agencies, the agencies shall pay prices the Administrator fixes under this subsection.

(2) PRICES FIXED BY ADMINISTRATOR.—The Administrator shall fix prices at levels sufficient to recover—

(A) so far as practicable—

(i) the purchase price;

(ii) the transportation cost;

(iii) inventory losses;

(iv) the cost of personal services employed directly in the repair, rehabilitation, and conversion of personal property; and

(v) the cost of amortization and repair of equipment used for lease or rent to executive agencies; and

(B) properly allocable costs payable by the Fund under subsection (c)(1)(C).

(3) TIMING OF PAYMENTS.—

(A) PAYMENT IN ADVANCE.—A requisitioning agency shall pay in advance when the Administrator determines that there is insufficient capital otherwise available in the Fund. Payment in advance may also be made under an agreement between a requisitioning agency and the Administrator.

(B) PROMPT REIMBURSEMENT.—If payment is not made in advance, the Administration shall be reimbursed promptly out of amounts of the requisitioning agency in accordance with accounting procedures approved by the Comptroller General.

(C) FAILURE TO MAKE PROMPT REIMBURSEMENT.—The Administrator may obtain reimbursement by the issuance of transfer and counterwarrants, or other lawful transfer documents, supported by itemized invoices, if payment is not made by a requisitioning agency within 45 days after the later of—

(i) the date of billing by the Administrator; or

(ii) the date on which actual liability for personal property or services is incurred by the Administrator.

(e) REIMBURSEMENT FOR EQUIPMENT PURCHASED FOR CONGRESS.—The Administrator may accept periodic reimbursement from the Senate and from the House of Representatives for the cost of any equipment purchased for the Senate or the House of Representatives with money from the Fund. The amount of each periodic reimbursement shall be computed by amortizing the total cost of each item of equipment over the useful life of the equipment, as determined by the Administrator, in consultation with the Sergeant at Arms and Doorkeeper of the Senate or the Chief Administrative Officer of the House of Representatives, as appropriate.

(f) TREATMENT OF SURPLUS.—

(1) SURPLUS DEPOSITED IN TREASURY.—As of September 30 of each year, any surplus in the Fund above the amounts transferred or appropriated to establish and maintain the Fund (all assets, liabilities, and prior losses considered) shall be deposited in the Treasury as miscellaneous receipts.

(2) SURPLUS RETAINED.—From any surplus generated by operation of the Fund, the Administrator may retain amounts necessary to maintain a sufficient level of inventory of personal property to meet the needs of the federal agencies.

(g) AUDITS.—The Comptroller General shall audit the Fund in accordance with the provisions of chapter 35 of title 31 and report the results of the audits.

§ 322. Information Technology Fund

(a) EXISTENCE.—There is an Information Technology Fund in the Treasury.

(b) COST AND CAPITAL REQUIREMENTS.—

(1) IN GENERAL.—The Administrator of General Services shall determine the cost and capital requirements of the Fund for each fiscal year. The cost and capital requirements may include amounts—

(A) needed to purchase (if the Administrator has determined that purchase is the least costly alternative) information processing and transmission equipment, software, systems, and operating facilities necessary to provide services;

(B) resulting from operations of the Fund, including the net proceeds from the disposal of excess or surplus personal property and receipts from carriers and others for loss or damage to property; and

(C) that are appropriated, authorized to be transferred, or otherwise made available to the Fund.

(2) SUBMITTING PLANS TO OFFICE OF MANAGEMENT AND BUDGET.—The Administrator shall submit plans concerning the cost and capital requirements determined under this section, and other information as may be requested, for review and approval by the Director of the Office of Management and Budget. Plans submitted under this section fulfill the requirements of sections 1512 and 1513 of title 31.

(3) ADJUSTMENTS.—Any change to the cost and capital requirements of the Fund for a fiscal year shall be made in the same manner as the initial fiscal year determination.

(c) USE.—

(1) IN GENERAL.—The Fund is available for expenses, including personal services and other costs, and for procurement (by lease, purchase, transfer, or otherwise) to efficiently provide

information technology resources to federal agencies and to efficiently manage, coordinate, operate, and use those resources.

(2) SPECIFICALLY INCLUDED ITEMS.—Information technology resources provided under this section include information processing and transmission equipment, software, systems, operating facilities, supplies, and related services including maintenance and repair.

(3) CANCELLATION COSTS.—Any cancellation costs incurred for a contract entered into under subsection (e) shall be paid from money currently available in the Fund.

(4) NO FISCAL YEAR LIMITATION.—The Fund is available without fiscal year limitation.

(d) CHARGES TO AGENCIES.—If the Director approves plans submitted by the Administrator under subsection (b), the Administrator shall establish rates, consistent with the approval, to be charged to agencies for information technology resources provided through the Fund.

(e) CONTRACT AUTHORITY.—

(1) IN GENERAL.—In operating the Fund, the Administrator may enter into multiyear contracts, not longer than 5 years, to provide information technology hardware, software, or services if—

(A) amounts are available and adequate to pay the costs of the contract for the first fiscal year and any costs of cancellation or termination;

(B) the contract is awarded on a fully competitive basis; and

(C) the Administrator determines that—

(i) the need for the information technology hardware, software, or services being provided will continue over the period of the contract;

(ii) the use of the multiyear contract will yield substantial cost savings when compared with other methods of providing the necessary resources; and

(iii) the method of contracting will not exclude small business participation.

(2) EFFECT ON OTHER LAW.—This subsection does not limit the authority of the Administrator to procure equipment and services under sections 501–505 of this title.

(f) TRANSFER OF UNCOMMITTED BALANCE.—After the close of each fiscal year, any uncommitted balance remaining in the Fund, after making provision for anticipated operating needs as determined by the Office of Management and Budget, shall be transferred to the Treasury as miscellaneous receipts.

(g) ANNUAL REPORT.—The Administrator shall report annually to the Director on the operation of the Fund. The report must address the inventory, use, and acquisition of information processing equipment and identify any proposed increases to the capital of the Fund.

§ 323. Consumer Information Center Fund

(a) EXISTENCE.—There is in the Treasury a Consumer Information Center Fund, General Services Administration, for the purpose of disseminating Federal Government consumer information to the public and for other related purposes.

(b) DEPOSITS.—Money shall be deposited into the Fund from—

- (1) appropriations from the Treasury for Consumer Information Center activities;
- (2) user fees from the public;
- (3) reimbursements from other federal agencies for costs of distributing publications; and
- (4) any other income incident to Center activities.

(c) EXPENDITURES.—Money deposited into the Fund is available for expenditure for Center activities in amounts specified in appropriation laws. The Fund shall assume all liabilities, obligations, and commitments of the Center account.

(d) UNOBLIGATED BALANCES.—Any unobligated balances at the end of a fiscal year remain in the Fund and are available for authorization in appropriation laws for subsequent fiscal years.

(e) GIFT ACCOUNT.—The Center may accept and deposit to this account gifts for purposes of defraying the costs of printing, publishing, and distributing consumer information and educational materials and undertaking other consumer information activities. In addition to amounts appropriated or otherwise made available, the Center may expend the gifts for these purposes and any balance remains available for expenditure.

CHAPTER 5—PROPERTY MANAGEMENT

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SUBCHAPTER I—PROCUREMENT AND WAREHOUSING

§ 501. Services for executive agencies

(a) AUTHORITY OF ADMINISTRATOR OF GENERAL SERVICES.—

(1) IN GENERAL.—The Administrator of General Services shall take action under this subchapter for an executive agency—

(A) to the extent that the Administrator of General Services determines that the action is advantageous to the Federal Government in terms of economy, efficiency, or service; and

(B) with due regard to the program activities of the agency.

(2) EXEMPTION FOR DEFENSE.—The Secretary of Defense may exempt the Department of Defense from an action taken by the Administrator of General Services under this subchapter, unless the President directs otherwise, whenever the Secretary determines that an exemption is in the best interests of national security.

(b) PROCUREMENT AND SUPPLY.—

(1) FUNCTIONS.—

(A) IN GENERAL.—The Administrator of General Services shall procure and supply personal property and nonpersonal services for executive agencies to use in the proper discharge of their responsibilities, and perform functions related to procurement and supply including contracting, inspection, storage, issue, property identification and classification, transportation and traffic management, management of public utility services, and repairing and converting.

(B) PUBLIC UTILITY CONTRACTS.—A contract for public utility services may be made for a period of not more than 10 years.

(2) POLICIES AND METHODS.—

(A) IN GENERAL.—The Administrator of General Services shall prescribe policies and methods for executive agencies regarding the procurement and supply of personal property and nonpersonal services and related functions.

(B) CONTROLLING REGULATION.—Policies and methods prescribed by the Administrator of General Services under this paragraph are subject to regulations prescribed by the Administrator for Federal Procurement Policy under the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(c) REPRESENTATION.—For transportation and other public utility services used by executive agencies, the Administrator of General Services shall represent the agencies—

(1) in negotiations with carriers and other public utilities; and

(2) in proceedings involving carriers or other public utilities before federal and state regulatory bodies.

(d) FACILITIES.—The Administrator of General Services shall operate, for executive agencies, warehouses, supply centers, repair shops, fuel yards, and other similar facilities. After consultation with the executive agencies affected, the Administrator of General Services shall consolidate, take over, or arrange for executive agencies to operate the facilities.

§ 502. Services for other entities

(a) FEDERAL AGENCIES, MIXED-OWNERSHIP GOVERNMENT CORPORATIONS, AND THE DISTRICT OF COLUMBIA.—On request, the Administrator of General Services shall provide, to the extent practicable, any of the services specified in section 501 of this title to—

(1) a federal agency;

(2) a mixed-ownership Government corporation (as defined in section 9101 of title 31); or

(3) the District of Columbia.

(b) QUALIFIED NONPROFIT AGENCIES.—

(1) IN GENERAL.—On request, the Administrator may provide, to the extent practicable, any of the services specified in section 501 of this title to an agency that is—

(A)(i) a qualified nonprofit agency for the blind (as defined in section 5(3) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(3))); or

(ii) a qualified nonprofit agency for other severely handicapped (as defined in section 5(4) of the Javits-Wagner-O'Day Act (41 U.S.C. 48b(4))); and

(B) providing a commodity or service to the Federal Government under the Javits-Wagner-O'Day Act (41 U.S.C. 46 et seq.).

(2) USE OF SERVICES.—A nonprofit agency receiving services under this subsection shall use the services directly in making or providing to the Government a commodity or service that has been determined by the Committee for Purchase From People Who Are Blind or Severely Disabled under section 2

of the Javits-Wagner-O'Day Act (41 U.S.C. 47) to be suitable for procurement by the Government.

§ 503. Exchange or sale of similar items

(a) **AUTHORITY OF EXECUTIVE AGENCIES.**—In acquiring personal property, an executive agency may exchange or sell similar items and may apply the exchange allowance or proceeds of sale in whole or in part payment for the property acquired.

(b) **APPLICABLE REGULATION AND LAW.**—

(1) **REGULATIONS PRESCRIBED BY ADMINISTRATOR OF GENERAL SERVICES.**—A transaction under subsection (a) must be carried out in accordance with regulations the Administrator of General Services prescribes, subject to regulations prescribed by the Administrator for Federal Procurement Policy under the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(2) **IN WRITING.**—A transaction under subsection (a) must be evidenced in writing.

(3) **SECTION 3709 OF REVISED STATUTES.**—Section 3709 of the Revised Statutes (41 U.S.C. 5) applies to a sale of property under subsection (a), except that fixed price sales may be conducted in the same manner and subject to the same conditions as are applicable to the sale of property under section 545(d) of this title.

§ 504. Agency cooperation for inspection

(a) **RECEIVING ASSISTANCE.**—An executive agency may use the services, work, materials, and equipment of another executive agency, with the consent of the other executive agency, to inspect personal property incident to procuring the property.

(b) **PROVIDING ASSISTANCE.**—Notwithstanding section 1301(a) of title 31 or any other law, an executive agency may provide services, work, materials, and equipment for purposes of this section without reimbursement or transfer of amounts.

(c) **POLICIES AND METHODS.**—The use or provision of services, work, materials, and equipment under this section must be in conformity with policies and methods the Administrator of General Services prescribes under section 501 of this title.

§ 505. Exchange or transfer of medical supplies

(a) **EXCESS PROPERTY DETERMINATION.**—

(1) **IN GENERAL.**—Medical materials or supplies an executive agency holds for national emergency purposes are considered excess property for purposes of subchapter II when the head of the agency determines that—

(A) the remaining storage or shelf life is too short to justify continued retention for national emergency purposes; and

(B) transfer or other disposal is in the national interest.

(2) **TIMING.**—To the greatest extent practicable, the head of the agency shall make the determination in sufficient time to allow for the transfer or other disposal and use of medical materials or supplies before their shelf life expires and they are rendered unfit for human use.

(b) **TRANSFER OR EXCHANGE.**—

(1) **IN GENERAL.**—In accordance with regulations the Administrator of General Services prescribes, medical materials or supplies considered excess property may be transferred to another

federal agency or exchanged with another federal agency for other medical materials or supplies.

(2) **USE OF PROCEEDS.**—Any proceeds derived from a transfer under this section may be credited to the current applicable appropriation or fund of the transferor agency and shall be available only to purchase medical materials or supplies to be held for national emergency purposes.

(3) **DISPOSAL AS SURPLUS PROPERTY.**—If the materials or supplies are not transferred to or exchanged with another federal agency, they shall be disposed of as surplus property.

§ 506. Inventory controls and systems

(a) **ACTIVITIES OF THE ADMINISTRATOR OF GENERAL SERVICES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), and after adequate advance notice to affected executive agencies, the Administrator of General Services may undertake the following activities as necessary to carry out functions under this chapter:

(A) **SURVEYS AND REPORTS.**—Survey and obtain executive agency reports on Federal Government property and property management practices.

(B) **INVENTORY LEVELS.**—Cooperate with executive agencies to establish reasonable inventory levels for property stocked by them, and report any excessive inventory levels to Congress and to the Director of the Office of Management and Budget.

(C) **FEDERAL SUPPLY CATALOG SYSTEM.**—Establish and maintain a uniform federal supply catalog system that is appropriate to identify and classify personal property under the control of federal agencies.

(D) **STANDARD PURCHASE SPECIFICATIONS AND STANDARD FORMS AND PROCEDURES.**—Prescribe standard purchase specifications and standard forms and procedures (except forms and procedures that the Comptroller General prescribes by law) subject to regulations the Administrator for Federal Procurement Policy prescribes under the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(2) **SPECIAL CONSIDERATIONS REGARDING DEPARTMENT OF DEFENSE.**—

(A) **IN GENERAL.**—The Administrator of General Services shall carry out activities under paragraph (1) with due regard to the requirements of the Department of Defense, as determined by the Secretary of Defense.

(B) **FEDERAL SUPPLY CATALOG SYSTEM.**—In establishing and maintaining a uniform federal supply catalog system under paragraph (1)(C), the Administrator of General Services and the Secretary shall coordinate to avoid unnecessary duplication.

(b) **ACTIVITIES OF FEDERAL AGENCIES.**—Each federal agency shall use the uniformed federal supply catalog system, the standard purchase specifications, and the standard forms and procedures established under subsection (a), except as the Administrator of General Services, considering efficiency, economy, or other interests of the Government, may otherwise provide.

(c) **AUDIT OF PROPERTY ACCOUNTS.**—The Comptroller General shall audit all types of property accounts and transactions. Audits shall be conducted at the time and in the manner the Comptroller General decides and as far as practicable at the place where the

property or records of the executive agencies are kept. Audits shall include an evaluation of the effectiveness of internal controls and audits, and a general audit of the discharge of accountability for Government-owned or controlled property, based on generally accepted principles of auditing.

SUBCHAPTER II—USE OF PROPERTY

§ 521. Policies and methods

Subject to section 523 of this title, in order to minimize expenditures for property, the Administrator of General Services shall—

- (1) prescribe policies and methods to promote the maximum use of excess property by executive agencies; and
- (2) provide for the transfer of excess property—
 - (A) among federal agencies; and
 - (B) to the organizations specified in section 321(c)(2) of this title.

§ 522. Reimbursement for transfer of excess property

(a) IN GENERAL.—Subject to subsections (b) and (c) of this section, the Administrator of General Services, with the approval of the Director of the Office of Management and Budget, shall prescribe the amount of reimbursement required for a transfer of excess property.

(b) REIMBURSEMENT AT FAIR VALUE.—The amount of reimbursement required for a transfer of excess property is the fair value of the property, as determined by the Administrator, if—

- (1) net proceeds are requested under section 574(a) of this title; or
- (2) either the transferor or the transferee agency (or the organizational unit affected) is—
 - (A) subject to chapter 91 of title 31; or
 - (B) an organization specified in section 321(c)(2) of this title.

(c) DISTRIBUTION THROUGH GENERAL SERVICES ADMINISTRATION SUPPLY CENTERS.—Excess property determined by the Administrator to be suitable for distribution through the supply centers of the General Services Administration shall be retransferred at prices set by the Administrator with due regard to prices established under section 321(d) of this title.

§ 523. Excess real property located on Indian reservations

(a) PROCEDURES FOR TRANSFER.—The Administrator of General Services shall prescribe procedures necessary to transfer to the Secretary of the Interior, without compensation, excess real property located within the reservation of any group, band, or tribe of Indians that is recognized as eligible for services by the Bureau of Indian Affairs.

(b) PROPERTY HELD IN TRUST.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall hold excess real property transferred under this section in trust for the benefit and use of the group, band, or tribe of Indians, within whose reservation the excess real property is located.

(2) SPECIAL REQUIREMENT FOR OKLAHOMA.—The Secretary shall hold excess real property that is located in Oklahoma

and transferred under this section in trust for Oklahoma Indian tribes recognized by the Secretary if the real property—

(A) is located within boundaries of former reservations in Oklahoma, as defined by the Secretary, and was held in trust by the Federal Government for an Indian tribe when the Government acquired it; or

(B) is contiguous to real property presently held in trust by the Government for an Oklahoma Indian tribe and was held in trust by the Government for an Indian tribe at any time.

§ 524. Duties of executive agencies

(a) **REQUIRED.**—Each executive agency shall—

(1) maintain adequate inventory controls and accountability systems for property under its control;

(2) continuously survey property under its control to identify excess property;

(3) promptly report excess property to the Administrator of General Services;

(4) perform the care and handling of excess property; and

(5) transfer or dispose of excess property as promptly as possible in accordance with authority delegated and regulations prescribed by the Administrator.

(b) **REQUIRED AS FAR AS PRACTICABLE.**—Each executive agency, as far as practicable, shall—

(1) reassign property to another activity within the agency when the property is no longer required for the purposes of the appropriation used to make the purchase;

(2) transfer excess property under its control to other federal agencies and to organizations specified in section 321(c)(2) of this title; and

(3) obtain excess property from other federal agencies.

§ 525. Excess personal property for federal agency grantees

(a) **GENERAL PROHIBITION.**—A federal agency is prohibited from obtaining excess personal property for the purpose of furnishing the property to a grantee of the agency, except as provided in this section.

(b) **EXCEPTION FOR PUBLIC AGENCIES AND TAX-EXEMPT NONPROFIT ORGANIZATIONS.**—

(1) **IN GENERAL.**—Under regulations the Administrator of General Services may prescribe, a federal agency may obtain excess personal property for the purpose of furnishing it to a public agency or an organization that is nonprofit and exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), if—

(A) the agency or organization is conducting a federally sponsored project pursuant to a grant made for a specific purpose with a specific termination provision;

(B) the property is to be furnished for use in connection with the grant; and

(C)(i) the sponsoring federal agency pays an amount equal to 25 percent of the original acquisition cost (except for costs of care and handling) of the excess property; and

(ii) the amount is deposited in the Treasury as miscellaneous receipts.

(2) TITLE.—Title to excess property obtained under this subsection vests in the grantee. The grantee shall account for and dispose of the property in accordance with procedures governing accountability for personal property acquired under grant agreements.

(c) EXCEPTION FOR CERTAIN PROPERTY FURNISHED BY SECRETARY OF AGRICULTURE.—

(1) DEFINITION.—In this subsection, the term “State” means a State of the United States, Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, the Virgin Islands, and the District of Columbia.

(2) IN GENERAL.—Under regulations and restrictions the Administrator may prescribe, subsection (a) does not apply to property furnished by the Secretary of Agriculture to—

(A) a state or county extension service engaged in cooperative agricultural extension work under the Smith-Lever Act (7 U.S.C. 341 et seq.);

(B) a state experiment station engaged in cooperative agricultural research work under the Hatch Act of 1887 (7 U.S.C. 361a et seq.); or

(C) an institution engaged in cooperative agricultural research or extension work under section 1433, 1434, 1444, or 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3195, 3196, 3221, or 3222), or the Act of October 10, 1962 (16 U.S.C. 582a et seq.), if the Federal Government retains title.

(d) OTHER EXCEPTIONS.—Under regulations and restrictions the Administrator may prescribe, subsection (a) does not apply to—

(1) property furnished under section 608 of the Foreign Assistance Act of 1961 (22 U.S.C. 2358), to the extent that the Administrator determines that the property is not needed for donation under section 549 of this title;

(2) scientific equipment furnished under section 11(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1870(e));

(3) property furnished under section 203 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 580a), in connection with the Cooperative Forest Fire Control Program, if the Government retains title; or

(4) property furnished in connection with a grant to a tribe, as defined in section 3(c) of the Indian Financing Act of 1974 (25 U.S.C. 1452(c)).

§ 526. Temporary assignment of excess real property

(a) ASSIGNMENT OF SPACE.—The Administrator of General Services may temporarily assign or reassign space in excess real property to a federal agency, for use as office or storage space or for a related purpose, if the Administrator determines that assignment or reassignment is more advantageous than permanent transfer. The Administrator shall determine the duration of the assignment or reassignment.

(b) REIMBURSEMENT FOR MAINTENANCE.—If there is no appropriation available to the Administrator for the expense of maintaining the space, the Administrator may obtain appropriate reimbursement from the federal agency.

§ 527. Abandonment, destruction, or donation of property

The Administrator of General Services may authorize the abandonment or destruction of property, or the donation of property to a public body, if—

- (1) the property has no commercial value; or
- (2) the estimated cost of continued care and handling exceeds the estimated proceeds from sale.

§ 528. Utilization of excess furniture

A department or agency of the Federal Government may not use amounts provided by law to purchase furniture if the Administrator of General Services determines that requirements can reasonably be met by transferring excess furniture, including rehabilitated furniture, from other departments or agencies pursuant to this subtitle.

§ 529. Annual executive agency reports on excess personal property

(a) IN GENERAL.—During the calendar quarter following the close of each fiscal year, each executive agency shall submit to the Administrator of General Services a report on personal property—

- (1) obtained as—
 - (A) excess property; or
 - (B) personal property determined to be no longer required for the purpose of the appropriation used to make the purchase; and
- (2) furnished within the United States to a recipient other than a federal agency.

(b) REQUIRED INFORMATION.—The report must set out the categories of equipment and show—

- (1) the acquisition cost of the property;
- (2) the recipient of the property; and
- (3) other information the Administrator may require.

SUBCHAPTER III—DISPOSING OF PROPERTY**§ 541. Supervision and direction**

Except as otherwise provided in this subchapter, the Administrator of General Services shall supervise and direct the disposition of surplus property in accordance with this subtitle.

§ 542. Care and handling

The disposal of surplus property, and the care and handling of the property pending disposition, may be performed by the General Services Administration or, when the Administrator of General Services decides, by the executive agency in possession of the property or by any other executive agency that agrees.

§ 543. Method of disposition

An executive agency designated or authorized by the Administrator of General Services to dispose of surplus property may do so by sale, exchange, lease, permit, or transfer, for cash, credit, or other property, with or without warranty, on terms and conditions that the Administrator considers proper. The agency may execute documents to transfer title or other interest in the property and may take other action it considers necessary or proper to dispose of the property under this chapter.

§ 544. Validity of transfer instruments

A deed, bill of sale, lease, or other instrument executed by or on behalf of an executive agency purporting to transfer title or other interest in surplus property under this chapter is conclusive evidence of compliance with the provisions of this chapter concerning title or other interest of a bona fide grantee or transferee for value and without notice of lack of compliance.

§ 545. Procedure for disposal**(a) PUBLIC ADVERTISING FOR BIDS.—****(1) REQUIREMENT.—**

(A) IN GENERAL.—Except as provided in subparagraph (B), the Administrator of General Services may make or authorize a disposal or a contract for disposal of surplus property only after public advertising for bids, under regulations the Administrator prescribes.

(B) EXCEPTIONS.—This subsection does not apply to disposal or a contract for disposal of surplus property—

- (i) under subsection (b) or (d); or
- (ii) by abandonment, destruction, or donation or through a contract broker.

(2) TIME, METHOD, AND TERMS.—The time, method, and terms and conditions of advertisement must permit full and free competition consistent with the value and nature of the property involved.

(3) PUBLIC DISCLOSURE.—Bids must be publicly disclosed at the time and place stated in the advertisement.

(4) AWARDS.—An award shall be made with reasonable promptness by notice to the responsible bidder whose bid, conforming to the invitation for bids, is most advantageous to the Federal Government, price and other factors considered. However, all bids may be rejected if it is in the public interest to do so.

(b) NEGOTIATED DISPOSAL.—Under regulations the Administrator prescribes, disposals and contracts for disposal may be negotiated without regard to subsection (a), but subject to obtaining competition that is feasible under the circumstances, if—

(1) necessary in the public interest—

(A) during the period of a national emergency declared by the President or Congress, with respect to a particular lot of personal property; or

(B) for a period not exceeding three months, with respect to a specifically described category of personal property as determined by the Administrator;

(2) the public health, safety, or national security will be promoted by a particular disposal of personal property;

(3) public exigency will not allow delay incident to advertising certain personal property;

(4) the nature and quantity of personal property involved are such that disposal under subsection (a) would impact an industry to an extent that would adversely affect the national economy, and the estimated fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(5) the estimated fair market value of the property involved does not exceed \$15,000;

(6) after advertising under subsection (a), the bid prices for the property, or part of the property, are not reasonable or have not been independently arrived at in open competition;

(7) with respect to real property, the character or condition of the property or unusual circumstances make it impractical to advertise publicly for competitive bids and the fair market value of the property and other satisfactory terms of disposal can be obtained by negotiation;

(8) the disposal will be to a State, territory, or possession of the United States, or to a political subdivision of, or a tax-supported agency in, a State, territory, or possession, and the estimated fair market value of the property and other satisfactory terms of disposal are obtained by negotiation; or

(9) otherwise authorized by law.

(c) DISPOSAL THROUGH CONTRACT BROKERS.—Disposals and contracts for disposal of surplus real and related personal property through contract realty brokers employed by the Administrator shall be made in the manner followed in similar commercial transactions under regulations the Administrator prescribes. The regulations must require that brokers give wide public notice of the availability of the property for disposal.

(d) NEGOTIATED SALE AT FIXED PRICE.—

(1) AUTHORIZATION.—The Administrator may make a negotiated sale of personal property at a fixed price, either directly or through the use of a disposal contractor, without regard to subsection (a). However, the sale must be publicized to an extent consistent with the value and nature of the property involved and the price established must reflect the estimated fair market value of the property. Sales under this subsection are limited to categories of personal property for which the Administrator determines that disposal under this subsection best serves the interests of the Government.

(2) FIRST OFFER.—Under regulations and restrictions the Administrator prescribes, an opportunity to purchase property at a fixed price under this subsection may be offered first to an entity specified in subsection (b)(8) that has expressed an interest in the property.

(e) EXPLANATORY STATEMENTS FOR NEGOTIATED DISPOSALS.—

(1) REQUIREMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), an explanatory statement of the circumstances shall be prepared for each disposal by negotiation of—

(i) personal property that has an estimated fair market value in excess of \$15,000;

(ii) real property that has an estimated fair market value in excess of \$100,000, except that real property disposed of by lease or exchange is subject only to clauses (iii)–(v) of this subparagraph;

(iii) real property disposed of by lease for a term of not more than 5 years, if the estimated fair annual rent is more than \$100,000 for any year;

(iv) real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is more than \$100,000; or

(v) real property or real and related personal property disposed of by exchange, regardless of value, or

any property for which any part of the consideration is real property.

(B) EXCEPTION.—An explanatory statement is not required for a disposal of personal property under subsection (d), or for a disposal of real or personal property authorized by any other law to be made without advertising.

(2) TRANSMITTAL TO CONGRESS.—The explanatory statement shall be transmitted to the appropriate committees of Congress in advance of the disposal, and a copy of the statement shall be preserved in the files of the executive agency making the disposal.

(3) LISTING IN REPORT.—A report of the Administrator under section 126 of this title must include a listing and description of any negotiated disposals of surplus property having an estimated fair market value of more than \$15,000, in the case of real property, or \$5,000, in the case of any other property, other than disposals for which an explanatory statement has been transmitted under this subsection.

(f) APPLICABILITY OF OTHER LAW.—Section 3709 of the Revised Statutes (41 U.S.C. 5) does not apply to a disposal or contract for disposal made under this section.

§ 546. Contractor inventories

Subject to regulations of the Administrator of General Services, an executive agency may authorize a contractor or subcontractor with the agency to retain or dispose of contractor inventory.

§ 547. Agricultural commodities, foods, and cotton or woolen goods

(a) POLICIES.—The Administrator of General Services shall consult with the Secretary of Agriculture to formulate policies for the disposal of surplus agricultural commodities, surplus foods processed from agricultural commodities, and surplus cotton or woolen goods. The policies shall be formulated to prevent surplus agricultural commodities, or surplus foods processed from agricultural commodities, from being dumped on the market in a disorderly manner and disrupting the market prices for agricultural commodities.

(b) TRANSFERS TO DEPARTMENT OF AGRICULTURE.—

(1) IN GENERAL.—The Administrator shall transfer without charge to the Department of Agriculture any surplus agricultural commodities, foods, and cotton or woolen goods for disposal, when the Secretary determines that a transfer is necessary for the Secretary to carry out responsibilities for price support or stabilization.

(2) DEPOSIT OF RECEIPTS.—Receipts resulting from disposal by the Department under this subsection shall be deposited pursuant to any authority available to the Secretary. When applicable, however, net proceeds from the sale of surplus property transferred under this subsection shall be credited pursuant to section 572(a) of this title.

(3) LIMITATION OF SALES.—Surplus farm commodities transferred under this subsection may not be sold, other than for export, in quantities exceeding, or at prices less than, the applicable quantities and prices for sales of those commodities by the Commodity Credit Corporation.

§ 548. Surplus vessels

The Maritime Administration shall dispose of surplus vessels of 1,500 gross tons or more which the Administration determines to be merchant vessels or capable of conversion to merchant use. The vessels shall be disposed of in accordance with the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), and other laws authorizing the sale of such vessels.

§ 549. Donation of personal property through state agencies

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) PUBLIC AGENCY.—The term “public agency” means—

(A) a State;

(B) a political subdivision of a State (including a unit of local government or economic development district);

(C) a department, agency, or instrumentality of a State (including instrumentalities created by compact or other agreement between States or political subdivisions); or

(D) an Indian tribe, band, group, pueblo, or community located on a state reservation.

(2) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(3) STATE AGENCY.—The term “state agency” means an agency designated under state law as the agency responsible for fair and equitable distribution, through donation, of property transferred under this section.

(b) AUTHORIZATION.—

(1) IN GENERAL.—The Administrator of General Services, in the Administrator’s discretion and under regulations the Administrator may prescribe, may transfer property described in paragraph (2) to a state agency.

(2) PROPERTY.—

(A) IN GENERAL.—Property referred to in paragraph (1) is any personal property that—

(i) is under the control of an executive agency; and

(ii) has been determined to be surplus property.

(B) SPECIAL RULE.—In determining whether the property is to be transferred for donation under this section, no distinction may be made between property capitalized in a working-capital fund established under section 2208 of title 10 (or similar fund) and any other property.

(3) NO COST.—Transfer of property under this section is without cost, except for any costs of care and handling.

(c) ALLOCATION AND TRANSFER OF PROPERTY.—

(1) IN GENERAL.—The Administrator shall allocate and transfer property under this section in accordance with criteria that are based on need and use and that are established after consultation with state agencies to the extent feasible. The Administrator shall give fair consideration, consistent with the established criteria, to an expression of need and interest from a public agency or other eligible institution within a State. The Administrator shall give special consideration to an eligible recipient’s request, transmitted through the state agency, for a specific item of property.

(2) ALLOCATION AMONG STATES.—The Administrator shall allocate property among the States on a fair and equitable

basis, taking into account the condition of the property as well as the original acquisition cost of the property.

(3) RECIPIENTS AND PURPOSES.—The Administrator shall transfer to a state agency property the state agency selects for distribution through donation within the State—

(A) to a public agency for use in carrying out or promoting, for residents of a given political area, a public purpose, including conservation, economic development, education, parks and recreation, public health, and public safety; or

(B) for purposes of education or public health (including research), to a nonprofit educational or public health institution or organization that is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501), including—

(i) a medical institution, hospital, clinic, health center, or drug abuse treatment center;

(ii) a provider of assistance to homeless individuals or to families or individuals whose annual incomes are below the poverty line (as that term is defined in section 673 of the Community Services Block Grant Act (42 U.S.C. 9902));

(iii) a school, college, or university;

(iv) a school for the mentally retarded or physically handicapped;

(v) a child care center;

(vi) a radio or television station licensed by the Federal Communications Commission as an educational radio or educational television station;

(vii) a museum attended by the public; or

(viii) a library serving free all residents of a community, district, State, or region.

(4) EXCEPTION.—This subsection does not apply to property transferred under subsection (d).

(d) DEPARTMENT OF DEFENSE PROPERTY.—

(1) DETERMINATION.—The Secretary of Defense shall determine whether surplus personal property under the control of the Department of Defense is usable and necessary for educational activities which are of special interest to the armed services, including maritime academies, or military, naval, Air Force, or Coast Guard preparatory schools.

(2) PROPERTY USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is usable and necessary for educational activities which are of special interest to the armed services, the Secretary shall allocate the property for transfer by the Administrator to the appropriate state agency for distribution through donation to the educational activities.

(3) PROPERTY NOT USABLE FOR SPECIAL INTEREST ACTIVITIES.—If the Secretary of Defense determines that the property is not usable and necessary for educational activities which are of special interest to the armed services, the property may be disposed of in accordance with subsection (c).

(e) STATE PLAN OF OPERATION.—

(1) IN GENERAL.—Before property may be transferred to a state agency, the State shall develop a detailed state plan

of operation, in accordance with this subsection and with state law.

(2) PROCEDURE.—

(A) CONSIDERATION OF NEEDS AND RESOURCES.—In developing and implementing the state plan of operation, the relative needs and resources of all public agencies and other eligible institutions in the State shall be taken into consideration. The Administrator may consult with interested federal agencies to obtain their views concerning the administration and operation of this section.

(B) PUBLICATION AND PERIOD FOR COMMENT.—The state plan of operation, and any major amendment to the plan, may not be filed with the Administrator until 60 days after general notice of the proposed plan or amendment has been published and interested persons have been given at least 30 days to submit comments.

(C) CERTIFICATION.—The chief executive officer of the State shall certify and submit the state plan of operation to the Administrator.

(3) REQUIREMENTS.—

(A) STATE AGENCY.—The state plan of operation shall include adequate assurance that the state agency has—

(i) the necessary organizational and operational authority and capability including staff, facilities, and means and methods of financing; and

(ii) established procedures for accountability, internal and external audits, cooperative agreements, compliance and use reviews, equitable distribution and property disposal, determination of eligibility, and assistance through consultation with advisory bodies and public and private groups.

(B) EQUITABLE DISTRIBUTION.—The state plan of operation shall provide for fair and equitable distribution of property in the State based on the relative needs and resources of interested public agencies and other eligible institutions in the State and their abilities to use the property.

(C) MANAGEMENT CONTROL AND ACCOUNTING SYSTEMS.—The state plan of operation shall require, for donable property transferred under this section, that the state agency use management control and accounting systems of the same type as systems required by state law for state-owned property. However, with approval from the chief executive officer of the State, the state agency may elect to use other management control and accounting systems that are effective to govern the use, inventory control, accountability, and disposal of property under this section.

(D) RETURN AND REDISTRIBUTION FOR NON-USE.—The state plan of operation shall require the state agency to provide for the return and redistribution of donable property if the property, while still usable, has not been placed in use for the purpose for which it was donated within one year of donation or ceases to be used by the donee for that purpose within one year of being placed in use.

(E) REQUEST BY RECIPIENT.—The state plan of operation shall require the state agency, to the extent practicable, to select property requested by a public agency or other

eligible institution in the State and, if requested by the recipient, to arrange shipment of the property directly to the recipient.

(F) SERVICE CHARGES.—If the state agency is authorized to assess and collect service charges from participating recipients to cover direct and reasonable indirect costs of its activities, the method of establishing the charges shall be set out in the state plan of operation. The charges shall be fair and equitable and shall be based on services the state agency performs, including screening, packing, crating, removal, and transportation.

(G) TERMS, CONDITIONS, RESERVATIONS, AND RESTRICTIONS.—

(i) IN GENERAL.—The state plan of operation shall provide that the state agency—

(I) may impose reasonable terms, conditions, reservations, and restrictions on the use of property to be donated under subsection (c); and

(II) shall impose reasonable terms, conditions, reservations, and restrictions on the use of a passenger motor vehicle and any item of property having a unit acquisition cost of \$5,000 or more.

(ii) SPECIAL LIMITATIONS.—If the Administrator finds that an item has characteristics that require special handling or use limitations, the Administrator may impose appropriate conditions on the donation of the property.

(H) UNUSABLE PROPERTY.—

(i) DISPOSAL.—The state plan of operation shall provide that surplus personal property which the state agency determines cannot be used by eligible recipients shall be disposed of—

(I) subject to the disapproval of the Administrator within 30 days after notice to the Administrator, through transfer by the state agency to another state agency or through abandonment or destruction if the property has no commercial value or if the estimated cost of continued care and handling exceeds estimated proceeds from sale; or

(II) under this subtitle, on terms and conditions and in a manner the Administrator prescribes.

(ii) PROCEEDS FROM SALE.—Notwithstanding subchapter IV of this chapter and section 702 of this title, the Administrator, from the proceeds of sale of property described in subsection (b), may reimburse the state agency for expenses that the Administrator considers appropriate for care and handling of the property.

(f) COOPERATIVE AGREEMENTS WITH STATE AGENCIES.—

(1) PARTIES TO THE AGREEMENT.—For purposes of carrying out this section, a cooperative agreement may be made between a state surplus property distribution agency designated under this section and—

(A) the Administrator;

(B) the Secretary of Education, for property transferred under section 550(c) of this title;

(C) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title; or
(D) the head of a federal agency designated by the Administrator, the Secretary of Education, or the Secretary of Health and Human Services.

(2) SHARED RESOURCES.—The cooperative agreement may provide that the property, facilities, personnel, or services of—

(A) a state agency may be used by a federal agency; and

(B) a federal agency may be made available to a state agency.

(3) REIMBURSEMENT.—The cooperative agreement may require payment or reimbursement for the use or provision of property, facilities, personnel, or services. Payment or reimbursement received from a state agency shall be credited to the fund or appropriation against which charges would otherwise be made.

(4) SURPLUS PROPERTY TRANSFERRED TO STATE AGENCY.—

(A) IN GENERAL.—Under the cooperative agreement, surplus property transferred to a state agency for distribution pursuant to subsection (c) may be retained by the state agency for use in performing its functions. Unless otherwise directed by the Administrator, title to the retained property vests in the state agency.

(B) CONDITIONS.—Retention of surplus property under this paragraph is subject to conditions that may be imposed by—

- (i) the Administrator;
- (ii) the Secretary of Education, for property transferred under section 550(c) of this title; or
- (iii) the Secretary of Health and Human Services, for property transferred under section 550(d) of this title.

§ 550. Disposal of real property for certain purposes

(a) DEFINITION.—In this section, the term “State” includes the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—

(1) IN GENERAL.—Subject to disapproval by the Administrator of General Services within 30 days after notice of a proposed action to be taken under this section, except for personal property transferred pursuant to section 549 of this title, the official specified in paragraph (2) shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer under this section is made. The official shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The official shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Federal Government by the instrument, if the official determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent

accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the official considers necessary to protect or advance the interests of the Government.

(2) SPECIFIED OFFICIAL.—The official referred to in paragraph

(1) is—

(A) the Secretary of Education, for property transferred under subsection (c) for school, classroom, or other educational use;

(B) the Secretary of Health and Human Services, for property transferred under subsection (d) for use in the protection of public health, including research;

(C) the Secretary of the Interior, for property transferred under subsection (e) for public park or recreation area use;

(D) the Secretary of Housing and Urban Development, for property transferred under subsection (f) to provide housing or housing assistance for low-income individuals or families; and

(E) the Secretary of the Interior, for property transferred under subsection (h) for use as a historic monument for the benefit of the public.

(c) PROPERTY FOR SCHOOL, CLASSROOM, OR OTHER EDUCATIONAL USE.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of Education for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed for school, classroom, or other educational use.

(2) SALE OR LEASE.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of Education of a proposed transfer, the Secretary, for school, classroom, or other educational use, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, a tax-supported educational institution, or a nonprofit educational institution that has been held exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)).

(3) FIXING VALUE.—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of Education shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or institution.

(d) PROPERTY FOR USE IN THE PROTECTION OF PUBLIC HEALTH, INCLUDING RESEARCH.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of Health and Human Services for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed for use in the protection of public health, including research.

(2) SALE OR LEASE.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by

the Secretary of Health and Human Services of a proposed transfer, the Secretary, for use in the protection of public health, including research, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, a tax-supported medical institution, or a hospital or similar institution not operated for profit that has been held exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)).

(3) **FIXING VALUE.**—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of Health and Human Services shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or institution.

(e) **PROPERTY FOR USE AS A PUBLIC PARK OR RECREATION AREA.**—

(1) **ASSIGNMENT.**—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of the Interior for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed for use as a public park or recreation area.

(2) **SALE OR LEASE.**—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of the Interior of a proposed transfer, the Secretary, for public park or recreation area use, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, or a municipality.

(3) **FIXING VALUE.**—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of the Interior shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or municipality.

(4) **DEED OF CONVEYANCE.**—The deed of conveyance of any surplus real property disposed of under this subsection—

(A) shall provide that all of the property be used and maintained for the purpose for which it was conveyed in perpetuity, and that if the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(B) may contain additional terms, reservations, restrictions, and conditions the Secretary of the Interior determines are necessary to safeguard the interests of the Government.

(f) **PROPERTY FOR LOW INCOME HOUSING ASSISTANCE.**—

(1) **ASSIGNMENT.**—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Secretary of Housing and Urban Development for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary recommends as needed to provide housing or housing assistance for low-income individuals or families.

(2) SALE OR LEASE.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Secretary of Housing and Urban Development of a proposed transfer, the Secretary, to provide housing or housing assistance for low-income individuals or families, may sell or lease property assigned to the Secretary under paragraph (1) to a State, a political subdivision or instrumentality of a State, or a nonprofit organization that exists for the primary purpose of providing housing or housing assistance for low-income individuals or families.

(3) SELF-HELP HOUSING.—

(A) IN GENERAL.—The Administrator shall disapprove a proposed transfer of property under this subsection unless the Administrator determines that the property will be used for low-income housing opportunities through the construction, rehabilitation, or refurbishment of self-help housing, under terms requiring that—

(i) subject to subparagraph (B), an individual or family receiving housing or housing assistance through use of the property shall contribute a significant amount of labor toward the construction, rehabilitation, or refurbishment; and

(ii) dwellings constructed, rehabilitated, or refurbished through use of the property shall be quality dwellings that comply with local building and safety codes and standards and shall be available at prices below prevailing market prices.

(B) GUIDELINES FOR CONSIDERING DISABILITIES.—For purposes of fulfilling self-help requirements under paragraph (3)(A)(i), the Administrator shall ensure that nonprofit organizations receiving property under paragraph (2) develop and use guidelines to consider any disability (as defined in section 3(2) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2))).

(4) FIXING VALUE.—

(A) IN GENERAL.—In fixing the sale or lease value of property disposed of under paragraph (2), the Secretary of Housing and Urban Development shall take into consideration and discount the value for any benefit which has accrued or may accrue to the Government from the use of the property by the State, political subdivision or instrumentality, or nonprofit organization.

(B) AMOUNT OF DISCOUNT.—The amount of the discount under subparagraph (A) is 75 percent of the market value of the property, except that the Secretary of Housing and Urban Development may discount by a greater percentage if the Secretary, in consultation with the Administrator, determines that a higher percentage is justified.

(g) PROPERTY FOR NATIONAL SERVICE ACTIVITIES.—

(1) ASSIGNMENT.—The Administrator, in the Administrator's discretion and under regulations that the Administrator may prescribe, may assign to the Chief Executive Officer of the Corporation for National and Community Service for disposal surplus property that the Chief Executive Officer recommends as needed for national service activities.

(2) SALE, LEASE, OR DONATION.—Subject to disapproval by the Administrator within 30 days after notice to the Administrator by the Chief Executive Officer of a proposed transfer, the Chief Executive Officer, for national service activities, may sell, lease, or donate property assigned to the Chief Executive Officer under paragraph (1) to an entity that receives financial assistance under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.).

(3) FIXING VALUE.—In fixing the sale or lease value of property disposed of under paragraph (2), the Chief Executive Officer shall take into consideration any benefit which has accrued or may accrue to the Government from the use of the property by the entity receiving the property.

(h) PROPERTY FOR USE AS A HISTORIC MONUMENT.—

(1) CONVEYANCE.—

(A) IN GENERAL.—Without monetary consideration to the Government, the Administrator may convey to a State, a political subdivision or instrumentality of a State, or a municipality, the right, title, and interest of the Government in and to any surplus real and related personal property that the Secretary of the Interior determines is suitable and desirable for use as a historic monument for the benefit of the public.

(B) RECOMMENDATION BY NATIONAL PARK SYSTEM ADVISORY BOARD.—Property may be determined to be suitable and desirable for use as a historic monument only in conformity with a recommendation by the National Park System Advisory Board established under section 3 of the Act of August 21, 1935 (16 U.S.C. 463) (known as the Historic Sites, Buildings, and Antiquities Act). Only the portion of the property that is necessary for the preservation and proper observation of the property's historic features may be determined to be suitable and desirable for use as a historic monument.

(2) REVENUE-PRODUCING ACTIVITY.—

(A) IN GENERAL.—The Administrator may authorize use of any property conveyed under this subsection for revenue-producing activities if the Secretary of the Interior—

(i) determines that the activities are compatible with use of the property for historic monument purposes;

(ii) approves the grantee's plan for repair, rehabilitation, restoration, and maintenance of the property;

(iii) approves the grantee's plan for financing the repair, rehabilitation, restoration, and maintenance of the property; and

(iv) examines and approves the accounting and financial procedures used by the grantee.

(B) USE OF EXCESS INCOME.—The Secretary of the Interior may approve a grantee's financial plan only if the plan provides that the grantee shall use income exceeding the cost of repair, rehabilitation, restoration, and maintenance only for public historic preservation, park, or recreational purposes.

(C) AUDITS.—The Secretary of the Interior may periodically audit the records of the grantee that are directly related to the property conveyed.

(3) DEED OF CONVEYANCE.—The deed of conveyance of any surplus real property disposed of under this subsection—

(A) shall provide that all of the property be used and maintained for historical monument purposes in perpetuity, and that if the property ceases to be used or maintained for historical monument purposes, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(B) may contain additional terms, reservations, restrictions, and conditions the Administrator determines are necessary to safeguard the interests of the Government.

§ 551. Donations to American Red Cross

The Administrator of General Services, in the Administrator's discretion and under regulations that the Administrator may prescribe, may donate to the American National Red Cross for charitable purposes property that the American National Red Cross processed, produced, or donated and that has been determined to be surplus property.

§ 552. Abandoned or unclaimed property on Government premises

(a) AUTHORITY TO TAKE PROPERTY.—Administrator of General Services may take possession of abandoned or unclaimed property on premises owned or leased by the Federal Government and determine when title to the property vests in the Government. The Administrator may use, transfer, or otherwise dispose of the property.

(b) CLAIM FILED BY FORMER OWNER.—If a former owner files a proper claim within three years from the date that title to the property vests in the Government, the former owner shall be paid an amount—

(1) equal to the proceeds realized from the disposition of the property less costs incident to care and handling as determined by the Administrator; or

(2) if the property has been used or transferred, equal to the fair value of the property as of the time title vested in the Government less costs incident to care and handling as determined by the Administrator.

§ 553. Property for correctional facility, law enforcement, and emergency management response purposes

(a) DEFINITION.—In this section, the term “State” includes the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and, the Northern Mariana Islands.

(b) AUTHORITY TO TRANSFER PROPERTY.—The Administrator of General Services, in the Administrator's discretion and under regulations that the Administrator may prescribe, may transfer or convey to a State, or political subdivision or instrumentality of a State, surplus real and related personal property that—

(1) the Attorney General determines is required by the transferee or grantee for correctional facility use under a program approved by the Attorney General for the care or rehabilitation of criminal offenders;

(2) the Attorney General determines is required by the transferee or grantee for law enforcement purposes; or

(3) the Director of the Federal Emergency Management Agency determines is required by the transferee or grantee for emergency management response purposes including fire and rescue services.

(c) NO MONETARY CONSIDERATION.—A transfer or conveyance under this section shall be made without monetary consideration to the Federal Government.

(d) DEED OF CONVEYANCE.—The deed of conveyance of any surplus real and related personal property disposed of under this section—

(1) shall provide that all of the property be used and maintained for the purpose for which it was conveyed in perpetuity, and that if the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(2) may contain additional terms, reservations, restrictions, and conditions that the Administrator determines are necessary to safeguard the interests of the Government.

(e) ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.—The Administrator shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer or conveyance under this section is made. The Administrator shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The Administrator shall grant a release from any term, condition, reservation or restriction contained in the instrument, and shall convey, quitclaim, or release to the transferee (or other eligible user) any right or interest reserved to the Government by the instrument, if the Administrator determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the Administrator considers necessary to protect or advance the interests of the Government.

§ 554. Property for development or operation of a port facility

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) BASE CLOSURE LAW.—The term “base closure law” means the following:

(A) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note).

(B) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

(C) Section 2687 of title 10.

(2) STATE.—The term “State” includes the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and the Northern Mariana Islands.

(b) AUTHORITY FOR ASSIGNMENT TO THE SECRETARY OF TRANSPORTATION.—Under regulations that the Administrator of General Services, after consultation with the Secretary of Defense, may prescribe,

the Administrator, or the Secretary of Defense in the case of property located at a military installation closed or realigned pursuant to a base closure law, may assign to the Secretary of Transportation for disposal surplus real property, including buildings, fixtures, and equipment situated on the property, that the Secretary of Transportation recommends as needed for the development or operation of a port facility.

(c) **AUTHORITY FOR CONVEYANCE BY THE SECRETARY OF TRANSPORTATION.**

(1) **IN GENERAL.**—Subject to disapproval by the Administrator or the Secretary of Defense within 30 days after notice of a proposed conveyance by the Secretary of Transportation, the Secretary of Transportation, for the development or operation of a port facility, may convey property assigned to the Secretary of Transportation under subsection (b) to a State or political subdivision, municipality, or instrumentality of a State.

(2) **CONVEYANCE REQUIREMENTS.**—A transfer of property may be made under this section only after the Secretary of Transportation has—

(A) determined, after consultation with the Secretary of Labor, that the property to be conveyed is located in an area of serious economic disruption;

(B) received and, after consultation with the Secretary of Commerce, approved an economic development plan submitted by an eligible grantee and based on assured use of the property to be conveyed as part of a necessary economic development program; and

(C) transmitted to Congress an explanatory statement that contains information substantially similar to the information contained in statements prepared under section 545(e) of this title.

(d) **NO MONETARY CONSIDERATION.**—A conveyance under this section shall be made without monetary consideration to the Federal Government.

(e) **DEED OF CONVEYANCE.**—The deed of conveyance of any surplus real and related personal property disposed of under this section shall—

(1) provide that all of the property be used and maintained for the purpose for which it was conveyed in perpetuity, and that if the property ceases to be used or maintained for that purpose, all or any portion of the property shall, in its then existing condition, at the option of the Government, revert to the Government; and

(2) contain additional terms, reservations, restrictions, and conditions that the Secretary of Transportation shall by regulation require to ensure use of the property for the purposes for which it was conveyed and to safeguard the interests of the Government.

(f) **ENFORCEMENT AND REVISION OF INSTRUMENTS TRANSFERRING PROPERTY UNDER THIS SECTION.**—The Secretary of Transportation shall determine and enforce compliance with the terms, conditions, reservations, and restrictions contained in an instrument by which a transfer or conveyance under this section is made. The Secretary shall reform, correct, or amend the instrument if necessary to correct the instrument or to conform the transfer to the requirements of law. The Secretary shall grant a release from any term, condition, reservation or restriction contained in the instrument,

and shall convey, quitclaim, or release to the grantee any right or interest reserved to the Government by the instrument, if the Secretary determines that the property no longer serves the purpose for which it was transferred or that a release, conveyance, or quitclaim deed will not prevent accomplishment of that purpose. The release, conveyance, or quitclaim deed may be made subject to terms and conditions that the Secretary considers necessary to protect or advance the interests of the Government.

§ 555. Donation of law enforcement canines to handlers

The head of a federal agency having control of a canine that has been used by a federal agency in the performance of law enforcement duties and that has been determined by the agency to be no longer needed for official purposes may donate the canine to an individual who has experience handling canines in the performance of those duties.

§ 556. Disposal of dredge vessels

(a) **IN GENERAL.**—The Administrator of General Services, pursuant to sections 521 through 527, 529, and 549 of this title, may dispose of a United States Army Corps of Engineers vessel used for dredging, together with related equipment owned by the Federal Government and under the control of the Chief of Engineers, if the Secretary of the Army declares the vessel to be in excess of federal needs.

(b) **RECIPIENTS AND PURPOSES.**—Disposal under this section is accomplished—

(1) through sale or lease to—

(A) a foreign government as part of a Corps of Engineers technical assistance program;

(B) a federal or state maritime academy for training purposes; or

(C) a non-federal public body for scientific, educational, or cultural purposes; or

(2) through sale solely for scrap to foreign or domestic interests.

(c) **NO DREDGING ACTIVITIES.**—A vessel described in subsection (a) shall not be disposed of under any law for the purpose of engaging in dredging activities within the United States.

(d) **DEPOSIT OF AMOUNTS COLLECTED.**—Amounts collected from the sale or lease of a vessel or equipment under this section shall be deposited into the revolving fund authorized by section 101 (9th par.) of the Civil Functions Appropriation Act, 1954 (33 U.S.C. 576), to be available, as provided in appropriation laws, for the operation and maintenance of vessels under the control of the Corps of Engineers.

§ 557. Donation of books to Free Public Library

Subject to regulations under this subtitle, a book that is no longer needed by an executive department, bureau, or commission of the Federal Government, and that is not an advisable addition to the Library of Congress, shall be turned over to the Free Public Library of the District of Columbia for general use if the book is appropriate for the Free Public Library.

§ 558. Donation of forfeited vessels

(a) **IN GENERAL.**—A vessel that is forfeited to the Federal Government may be donated, in accordance with procedures under this subtitle, to an eligible institution described in subsection (b).

(b) **ELIGIBLE INSTITUTION.**—An eligible institution referred to in subsection (a) is an educational institution with a commercial fishing vessel safety program or other vessel safety, education and training program. The institution must certify to the federal officer making the donation that the program includes, at a minimum, all of the following courses in vessel safety:

- (1) Vessel stability.
- (2) Firefighting.
- (3) Shipboard first aid.
- (4) Marine safety and survival.
- (5) Seamanship rules of the road.

(c) **TERMS AND CONDITIONS.**—The donation of a vessel under this section shall be made on terms and conditions considered appropriate by the federal officer making the donation. All of the following terms and conditions are required:

(1) **NO WARRANTY.**—The institution must accept the vessel as is, where it is, and without warranty of any kind and without any representation as to its condition or suitability for use.

(2) **MAINTENANCE.**—The institution is responsible for maintaining the vessel.

(3) **INSTRUCTION ONLY.**—The vessel may be used only for instructing students in a vessel safety education and training program.

(4) **DOCUMENTATION.**—If the vessel is eligible to be documented, it must be documented by the institution as a vessel of the United States under chapter 121 of title 46. The requirements of paragraph (5) must be noted on the permanent record of the vessel.

(5) **DISPOSAL.**—The institution must obtain prior approval from the Administrator of General Services before disposing of the vessel and any proceeds from disposal shall be payable to the Government.

(6) **INSPECTION OR REGULATION.**—The vessel shall be inspected or regulated in the same manner as a nautical school vessel under chapter 33 of title 46.

(d) **GOVERNMENT LIABILITY.**—The Government is not liable in an action arising out of the transfer or use of a vessel transferred under this section.

§ 559. Advice of Attorney General with respect to antitrust law

(a) **DEFINITION.**—In this section, the term “antitrust law” includes—

- (1) the Sherman Act (15 U.S.C. 1 et seq.);
 - (2) the Clayton Act (15 U.S.C. 12 et seq., 29 U.S.C. 52, 53);
 - (3) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);
- and
- (4) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9).

(b) **ADVICE REQUIRED.**—

(1) IN GENERAL.—An executive agency shall not dispose of property to a private interest until the agency has received the advice of the Attorney General on whether the disposal to a private interest would tend to create or maintain a situation inconsistent with antitrust law.

(2) EXCEPTION.—This section does not apply to disposal of—

(A) real property, if the estimated fair market value is less than \$3,000,000; or

(B) personal property (other than a patent, process, technique, or invention), if the estimated fair market value is less than \$3,000,000.

(c) NOTICE TO ATTORNEY GENERAL.—

(1) IN GENERAL.—An executive agency that contemplates disposing of property to a private interest shall promptly transmit notice of the proposed disposal, including probable terms and conditions, to the Attorney General.

(2) COPY.—Except for the General Services Administration, an executive agency that transmits notice under paragraph (1) shall simultaneously transmit a copy of the notice to the Administrator of General Services.

(d) ADVICE FROM ATTORNEY GENERAL.—Within a reasonable time, not later than 60 days, after receipt of notice under subsection (c), the Attorney General shall advise the Administrator and any interested executive agency whether, so far as the Attorney General can determine, the proposed disposition would tend to create or maintain a situation inconsistent with antitrust law.

(e) REQUEST FOR INFORMATION.—On request from the Attorney General, the head of an executive agency shall furnish information the agency possesses that the Attorney General determines is appropriate or necessary to—

(1) give advice required by this section; or

(2) determine whether any other disposition or proposed disposition of surplus property violates antitrust law.

(f) NO EFFECT ON ANTITRUST LAW.—This subtitle does not impair, amend, or modify antitrust law or limit or prevent application of antitrust law to a person acquiring property under this subtitle.

SUBCHAPTER IV—PROCEEDS FROM SALE OR TRANSFER

§ 571. General rules for deposit and use of proceeds

(a) DEPOSIT IN TREASURY AS MISCELLANEOUS RECEIPTS.—

(1) IN GENERAL.—Except as otherwise provided in this subchapter, proceeds described in paragraph (2) shall be deposited in the Treasury as miscellaneous receipts.

(2) PROCEEDS.—The proceeds referred to in paragraph (1) are proceeds under this chapter from a—

(A) transfer of excess property to a federal agency for agency use; or

(B) sale, lease, or other disposition of surplus property.

(b) PAYMENT OF EXPENSES OF SALE BEFORE DEPOSIT.—Subject to regulations under this subtitle, the expenses of the sale of old material, condemned stores, supplies, or other public property may be paid from the proceeds of sale so that only the net proceeds are deposited in the Treasury. This subsection applies whether proceeds are deposited as miscellaneous receipts or to the credit of an appropriation as authorized by law.

§ 572. Real property**(a) IN GENERAL.—**

(1) **SEPARATE FUND.**—Except as provided in subsection (b), proceeds of the disposition of surplus real and related personal property by the Administrator of General Services shall be set aside in a separate fund in the Treasury.

(2) **PAYMENT OF EXPENSES FROM THE FUND.—**

(A) **AUTHORITY.**—From the fund described in paragraph (1), the Administrator may obligate an amount to pay the following direct expenses incurred for the use of excess property and the disposal of surplus property under this subtitle:

(i) Fees of appraisers, auctioneers, and realty brokers, in accordance with the scale customarily paid in similar commercial transactions.

(ii) Costs of environmental and historic preservation services.

(iii) Advertising and surveying.

(B) **LIMITATIONS.—**

(i) **PERCENTAGE LIMITATION.**—In each fiscal year, no more than 12 percent of the proceeds of all dispositions of surplus real and related personal property may be paid to meet direct expenses incurred in connection with the dispositions.

(ii) **DETERMINATION OF MAXIMUM AMOUNT.**—The Director of the Office of Management and Budget each quarter shall determine the maximum amount that may be obligated under this paragraph.

(C) **DIRECT PAYMENT OR REIMBURSEMENT.**—An amount obligated under this paragraph may be used to pay an expense directly or to reimburse a fund or appropriation that initially paid the expense.

(3) **TRANSFER TO MISCELLANEOUS RECEIPTS.**—At least once each year, excess amounts beyond current operating needs shall be transferred from the fund described in paragraph (1) to miscellaneous receipts.

(4) **REPORT.**—A report of receipts, disbursements, and transfers to miscellaneous receipts under this subsection shall be made annually, in connection with the budget estimate, to the Director and to Congress.

(b) REAL PROPERTY UNDER CONTROL OF A MILITARY DEPARTMENT.—

(1) **DEFINITIONS.**—In this subsection, the following definitions apply:

(A) **MILITARY INSTALLATION.**—The term “military installation” has the meaning given that term in section 2687(e)(1) of title 10.

(B) **BASE CLOSURE LAW.**—The term “base closure law” has the meaning given that term in section 2667(h)(2) of title 10.

(2) **APPLICATION.—**

(A) **IN GENERAL.**—This subsection applies to real property, including any improvement on the property, that is under the control of a military department and that the Secretary of the department determines is excess to the department’s needs.

(B) **EXCEPTIONS.**—This subsection does not apply to—

- (i) damaged or deteriorated military family housing facilities conveyed under section 2854a of title 10; or
- (ii) property at a military installation designated for closure or realignment pursuant to a base closure law.

(3) **TRANSFER BETWEEN MILITARY DEPARTMENTS.**—The Secretary of Defense shall provide that property described in paragraph (2) is available for transfer, without reimbursement, to other military departments within the Department of Defense.

(4) **ALTERNATIVE DISPOSITION BY ADMINISTRATOR OF GENERAL SERVICES.**—If property is not transferred pursuant to paragraph (3), the Secretary of the military department with the property under its control shall request the Administrator to transfer or dispose of the property in accordance with this subtitle or other applicable law.

(5) **PROCEEDS.**—

(A) **DEPOSIT IN SPECIAL ACCOUNT.**—For a transfer or disposition of property pursuant to paragraph (4), the Administrator shall deposit any proceeds (less expenses of the transfer or disposition as provided in subsection (a)) in a special account in the Treasury.

(B) **AVAILABILITY OF AMOUNT DEPOSITED.**—To the extent provided in an appropriation law, an amount deposited in a special account under subparagraph (A) is available for facility maintenance and repair or environmental restoration as follows:

(i) In the case of property located at a military installation that is closed, the amount is available for facility maintenance and repair or environmental restoration by the military department that had jurisdiction over the property before the closure of the military installation.

(ii) In the case of property located at any other military installation—

(I) 50 percent of the amount is available for facility maintenance and repair or environmental restoration at the military installation where the property was located before it was disposed of or transferred; and

(II) 50 percent of the amount is available for facility maintenance and repair and for environmental restoration by the military department that had jurisdiction over the property before it was disposed of or transferred.

(6) **REPORT.**—As part of the annual request for authorizations of appropriations to the Committees on Armed Services of the Senate and the House of Representatives, the Secretary of Defense shall include an accounting of each transfer and disposal made in accordance with this subsection during the fiscal year preceding the fiscal year in which the request is made. The accounting shall include a detailed explanation of each transfer and disposal and of the use of the proceeds received from it by the Department of Defense.

§ 573. Personal property

The Administrator of General Services may retain from the proceeds of sales of personal property the Administrator conducts amounts necessary to recover, to the extent practicable, costs the Administrator (or the Administrator's agent) incurs in conducting the sales. The Administrator shall deposit amounts retained into the General Supply Fund established under section 321(a) of this title. From the amounts deposited, the Administrator may pay direct costs and reasonably related indirect costs incurred in conducting sales of personal property. At least once each year, amounts retained that are not needed to pay the direct and indirect costs shall be transferred from the General Supply Fund to the general fund or another appropriate account in the Treasury.

§ 574. Other rules regarding proceeds**(a) CREDIT TO REIMBURSABLE FUND OR APPROPRIATION.—**

(1) APPLICATION.—This subsection applies to property acquired with amounts—

(A) not appropriated from the general fund of the Treasury; or

(B) appropriated from the general fund of the Treasury but by law reimbursable from assessment, tax, or other revenue or receipts.

(2) IN GENERAL.—The net proceeds of a disposition or transfer of property described in paragraph (1) shall be—

(A) credited to the applicable reimbursable fund or appropriation; or

(B) paid to the federal agency that determined the property to be excess.

(3) CALCULATION OF NET PROCEEDS.—For purposes of this subsection, the net proceeds of a disposition or transfer of property are the proceeds less all expenses incurred for the disposition or transfer, including care and handling.

(4) ALTERNATIVE CREDIT TO MISCELLANEOUS RECEIPTS.—If the agency that determined the property to be excess decides that it is uneconomical or impractical to ascertain the amount of net proceeds, the proceeds shall be credited to miscellaneous receipts.

(b) SPECIAL ACCOUNT FOR REFUNDS OR PAYMENTS FOR BREACH.—

(1) DEPOSITS.—A federal agency that disposes of surplus property under this chapter may deposit, in a special account in the Treasury, amounts of the proceeds of the dispositions that the agency decides are necessary to permit—

(A) appropriate refunds to purchasers for dispositions that are rescinded or that do not become final; and

(B) payments for breach of warranty.

(2) WITHDRAWALS.—A federal agency that deposits proceeds in a special account under paragraph (1) may withdraw amounts to be refunded or paid from the account without regard to the origin of the amounts withdrawn.

(c) CREDIT TO COST OF CONTRACTOR'S WORK.—If a contract made by an executive agency, or a subcontract under that contract, authorizes the proceeds of a sale of property in the custody of a contractor or subcontractor to be credited to the price or cost of work covered by the contract or subcontract, then the proceeds of the sale shall be credited in accordance with the contract or subcontract.

(d) **ACCEPTANCE OF PROPERTY INSTEAD OF CASH.**—An executive agency entitled to receive cash under a contract for the lease, sale, or other disposition of surplus property may accept property instead of cash if the President determines that the property is strategic or critical material. The property is valued at the prevailing market price when the cash payment becomes due.

(e) **MANAGEMENT OF CREDIT, LEASES, AND PERMITS.**—For a disposition of surplus property under this chapter, if credit has been extended, or if the disposition has been by lease or permit, the Administrator of General Services, in a manner and on terms the Administrator determines are in the best interest of the Federal Government—

(1) shall administer and manage the credit, lease, or permit, and any security for the credit, lease, or permit; and

(2) may enforce, adjust, and settle any right of the Government with respect to the credit, lease, or permit.

SUBCHAPTER V—OPERATION OF BUILDINGS AND RELATED ACTIVITIES

§ 581. General authority of Administrator of General Services

(a) **APPLICABILITY.**—To the extent that the Administrator of General Services by law, other than this section, may maintain, operate, and protect buildings or property, including the construction, repair, preservation, demolition, furnishing, or equipping of buildings or property, the Administrator, in the discharge of these duties, may exercise authority granted under this section.

(b) **PERSONNEL AND EQUIPMENT.**—The Administrator may—

(1) employ and pay personnel at per diem rates approved by the Administrator, not exceeding rates currently paid by private industry for similar services in the place where the services are performed;

(2) purchase, repair, and clean uniforms for civilian employees of the General Services Administration who are required by law or regulation to wear uniform clothing; and

(3) furnish arms and ammunition for the protection force the Administration maintains.

(c) **ACQUISITION AND MANAGEMENT OF PROPERTY.**—

(1) **REAL ESTATE.**—The Administrator may acquire, by purchase, condemnation, or otherwise, real estate and interests in real estate.

(2) **GROUND RENT.**—The Administrator may pay ground rent for buildings owned by the Federal Government or occupied by federal agencies, and pay the rent in advance if required by law or if the Administrator determines that advance payment is in the public interest.

(3) **RENT AND REPAIRS UNDER A LEASE.**—The Administrator may pay rent and make repairs, alterations, and improvements under the terms of a lease entered into by, or transferred to, the Administration for the housing of a federal agency.

(4) **REPAIRS THAT ARE ECONOMICALLY ADVANTAGEOUS.**—The Administrator may repair, alter, or improve rented premises if the Administrator determines that doing so is advantageous to the Government in terms of economy, efficiency, or national security. The Administrator's determination must—

(A) set forth the circumstances that make the repair, alteration, or improvement advantageous; and

(B) show that the total cost (rental, repair, alteration, and improvement) for the expected life of the lease is less than the cost of alternative space not needing repair, alteration, or improvement.

(5) INSURANCE PROCEEDS FOR DEFENSE INDUSTRIAL RESERVE.—At the direction of the Secretary of Defense, the Administrator may use insurance proceeds received for damage to property that is part of the Defense Industrial Reserve to repair or restore the property.

(6) MAINTENANCE CONTRACTS.—The Administrator may enter into a contract, for a period not exceeding five years, for the inspection, maintenance, and repair of fixed equipment in a federally owned building.

(d) LEASE OF FEDERAL BUILDING SITES.—

(1) IN GENERAL.—The Administrator may lease a federal building site or addition, including any improvements, until the site is needed for construction purposes. The lease must be for fair rental value and on other terms and conditions the Administrator considers to be in the public interest pursuant to section 545 of this title.

(2) NEGOTIATION WITHOUT ADVERTISING.—A lease under this subsection may be negotiated without public advertising for bids if—

(A) the lessee is—

(i) the former owner from whom the Government acquired the property; or

(ii) the former owner's tenant in possession; and

(B) the lease is negotiated incident to or in connection with the acquisition of the property.

(3) DEPOSIT OF RENT.—Rent received under this subsection may be deposited into the Federal Buildings Fund.

(e) ASSISTANCE TO THE INAUGURAL COMMITTEE.—The Administrator may provide direct assistance and special services for the Inaugural Committee (as defined in section 501 of title 36) during an inaugural period in connection with Presidential inaugural operations and functions. Assistance and services under this subsection may include—

(1) employment of personal services without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5;

(2) providing Government-owned and leased space for personnel and parking;

(3) paying overtime to guard and custodial forces;

(4) erecting and removing stands and platforms;

(5) providing and operating first-aid stations;

(6) providing furniture and equipment; and

(7) providing other incidental services in the discretion of the Administrator.

(f) UTILITIES FOR DEFENSE INDUSTRIAL RESERVE AND SURPLUS PROPERTY.—The Administrator may—

(1) provide utilities and services, if the utilities and services are not provided by other sources, to a person, firm, or corporation occupying or using a plant or portion of a plant that constitutes—

(A) any part of the Defense Industrial Reserve pursuant to section 2535 of title 10; or

(B) surplus real property; and

(2) credit an amount received for providing utilities and services under this subsection to an applicable appropriation of the Administration.

(g) OBTAINING PAYMENTS.—The Administrator may—

(1) obtain payments, through advances or otherwise, for services, space, quarters, maintenance, repair, or other facilities furnished, on a reimbursable basis, to a federal agency, a mixed-ownership Government corporation (as defined in chapter 91 of title 31), or the District of Columbia; and

(2) credit the payments to the applicable appropriation of the Administration.

(h) COOPERATIVE USE OF PUBLIC BUILDINGS.—

(1) LEASING SPACE FOR COMMERCIAL AND OTHER PURPOSES.—

The Administrator may lease space on a major pedestrian access level, courtyard, or rooftop of a public building to a person, firm, or organization engaged in commercial, cultural, educational, or recreational activity (as defined in section 3306(a) of this title). The Administrator shall establish a rental rate for leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the public building. The lease may be negotiated without competitive bids, but shall contain terms and conditions and be negotiated pursuant to procedures that the Administrator considers necessary to promote competition and to protect the public interest.

(2) OCCASIONAL USE OF SPACE FOR NON-COMMERCIAL PURPOSES.—The Administrator may make available, on occasion, or lease at a rate and on terms and conditions that the Administrator considers to be in the public interest, an auditorium, meeting room, courtyard, rooftop, or lobby of a public building to a person, firm, or organization engaged in cultural, educational, or recreational activity (as defined in section 3306(a) of this title) that will not disrupt the operation of the building.

(3) DEPOSIT AND CREDIT OF AMOUNTS RECEIVED.—The Administrator may deposit into the Federal Buildings Fund an amount received under a lease or rental executed pursuant to paragraph (1) or (2). The amount shall be credited to the appropriation from the Fund applicable to the operation of the building.

(4) FURNISHING UTILITIES AND MAINTENANCE.—The Administrator may furnish utilities, maintenance, repair, and other services to a person, firm, or organization leasing space pursuant to paragraph (1) or (2). The services may be provided during and outside of regular working hours of federal agencies.

§ 582. Management of buildings by Administrator of General Services

(a) REQUEST BY FEDERAL AGENCY OR INSTRUMENTALITY.—At the request of a federal agency, a mixed-ownership Government corporation (as defined in chapter 91 of title 31), or the District of Columbia, the Administrator of General Services may operate, maintain, and protect a building that is owned by the Federal Government (or, in the case of a wholly owned or mixed-ownership Government corporation, by the corporation) and occupied by the agency or instrumentality making the request.

(b) TRANSFER OF FUNCTIONS BY DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.—

(1) IN GENERAL.—When the Director of the Office of Management and Budget determines that it is in the interest of economy or efficiency, the Director shall transfer to the Administrator all functions vested in a federal agency with respect to the operation, maintenance, and custody of an office building owned by the Government or a wholly owned Government corporation, or an office building, or part of an office building, that is occupied by a federal agency under a lease.

(2) EXCEPTION FOR POST-OFFICE BUILDINGS.—A transfer of functions shall not be made under this subsection for a post-office building, unless the Director determines that the building is not used predominantly for post-office purposes. The Administrator may delegate functions with respect to a post-office building that are transferred to the Administrator under this subsection only to another officer or employee of the General Services Administration or to the Postmaster General.

(3) EXCEPTION FOR BUILDINGS IN A FOREIGN COUNTRY.—A transfer of functions shall not be made under this subsection for a building located in a foreign country.

(4) EXCEPTION FOR DEPARTMENT OF DEFENSE BUILDINGS.—A transfer of functions shall not be made under this subsection for a building located on the grounds of a facility of the Department of Defense (including a fort, camp, post, arsenal, navy yard, naval training station, airfield, proving ground, military supply depot, or school) unless and only to the extent that the Secretary of Defense has issued a permit for use by another agency.

(5) EXCEPTION FOR GROUPS OF SPECIAL PURPOSE BUILDINGS.—A transfer of functions shall not be made under this subsection for a building that the Director finds to be a part of a group of buildings that are—

(A) located in the same vicinity;

(B) used wholly or predominantly for the special purposes of the agency with custody of the buildings; and

(C) not generally suitable for use by another agency.

(6) EXCEPTION FOR CERTAIN GOVERNMENT BUILDINGS.—A transfer of functions shall not be made under this subsection for the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Institute of Standards and Technology, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.

§ 583. Construction of buildings

(a) AUTHORITY.—At the request of a federal agency, a mixed-ownership Government corporation (as defined in chapter 91 of title 31), or the District of Columbia, the Administrator of General Services may—

(1) acquire land for a building or project authorized by Congress;

(2) make or cause to be made (under contract or otherwise) surveys and test borings and prepare plans and specifications for a building or project prior to the Attorney General's approval of the title to the site; and

(3) contract for, and supervise, the construction, development, and equipping of a building or project.

(b) **TRANSFER OF AMOUNTS.**—An amount available to a federal agency or instrumentality for a building or project may be transferred, in advance, to the General Services Administration for purposes the Administrator determines are necessary, including payment of salaries and expenses for preparing plans and specifications and for field supervision.

§ 584. Assignment and reassignment of space

(a) **AUTHORITY.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Administrator of General Services may assign or reassign space for an executive agency in any Federal Government-owned or leased building.

(2) **REQUIREMENTS.**—The Administrator's authority under paragraph (1) may be exercised only—

(A) in accordance with policies and directives the President prescribes under section 121(a) of this title;

(B) after consultation with the head of the executive agency affected; and

(C) on a determination by the Administrator that the assignment or reassignment is advantageous to the Government in terms of economy, efficiency, or national security.

(b) **PRIORITY FOR PUBLIC ACCESS.**—In assigning space on a major pedestrian access level (other than space leased under section 581(h)(1) or (2) of this title), the Administrator shall, where practicable, give priority to federal activities requiring regular contact with the public. If the space is not available, the Administrator shall provide space with maximum ease of access to building entrances.

§ 585. Lease agreements

(a) **IN GENERAL.**—

(1) **AUTHORITY.**—The Administrator of General Services may enter into a lease agreement with a person, copartnership, corporation, or other public or private entity for the accommodation of a federal agency in a building (or improvement) which is in existence or being erected by the lessor to accommodate the federal agency. The Administrator may assign and reassign the leased space to a federal agency.

(2) **TERMS.**—A lease agreement under this subsection shall be on terms the Administrator considers to be in the interest of the Federal Government and necessary for the accommodation of the federal agency. However, the lease agreement may not bind the Government for more than 20 years and the obligation of amounts for a lease under this subsection is limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31.

(b) **SUBLEASE.**—

(1) **APPLICATION.**—This subsection applies to rent received if the Administrator—

(A) determines that an unexpired portion of a lease of space to the Government is surplus property; and

(B) disposes of the property by sublease.

(2) **USE OF RENT.**—Notwithstanding section 571(a) of this title, the Administrator may deposit rent received into the Federal Buildings Fund. The Administrator may defray from

the fund any costs necessary to provide services to the Government's lessee and to pay the rent (not otherwise provided for) on the lease of the space to the Government.

(c) AMOUNTS FOR RENT AVAILABLE FOR LEASE OF BUILDINGS ON GOVERNMENT LAND.—Amounts made available to the General Services Administration for the payment of rent may be used to lease space, for a period of not more than 30 years, in buildings erected on land owned by the Government.

§ 586. Charges for space and services

(a) DEFINITION.—In this section, “space and services” means space, services, quarters, maintenance, repair, and other facilities.

(b) CHARGES BY ADMINISTRATOR OF GENERAL SERVICES.—

(1) IN GENERAL.—The Administrator of General Services shall impose a charge for furnishing space and services.

(2) RATES.—The Administrator shall, from time to time, determine the rates to be charged for furnishing space and services and shall prescribe regulations providing for the rates. The rates shall approximate commercial charges for comparable space and services. However, for a building for which the Administrator is responsible for alterations only (as the term “alter” is defined in section 3301(a) of this title), the rates shall be fixed to recover only the approximate cost incurred in providing alterations.

(3) EXEMPTIONS.—The Administrator may exempt anyone from the charges required by this subsection when the Administrator determines that charges would be infeasible or impractical. To the extent an exemption is granted, appropriations to the General Services Administration are authorized to reimburse the Federal Buildings Fund for any loss of revenue.

(c) CHARGES BY EXECUTIVE AGENCIES.—

(1) IN GENERAL.—An executive agency, other than the Administration, may impose a charge for furnishing space and services at rates approved by the Administrator.

(2) CREDITING AMOUNTS RECEIVED.—An amount an executive agency receives under this subsection shall be credited to the appropriation or fund initially charged for providing the space or service. However, amounts in excess of actual operating and maintenance costs shall be credited to miscellaneous receipts unless otherwise provided by law.

(d) RENT PAYMENTS FOR LEASE SPACE.—An agency may make rent payments to the Administration for lease space relating to expansion needs of the agency. Payment rates shall approximate commercial charges for comparable space as provided in subsection (b). Payments shall be deposited into the Federal Buildings Fund. The Administration may use amounts received under this subsection, in addition to amounts received as New Obligational Authority, in the Rental of Space activity of the Fund.

§ 587. Telecommuting and other alternative workplace arrangements

(a) DEFINITION.—In this section, the term “telecommuting centers” means flexiplace work telecommuting centers.

(b) TELECOMMUTING CENTERS ESTABLISHED BY ADMINISTRATOR OF GENERAL SERVICES.—

(1) **ESTABLISHMENT.**—The Administrator of General Services may acquire space for, establish, and equip telecommuting centers for use in accordance with this subsection.

(2) **USE.**—A telecommuting center may be used by employees of federal agencies, state and local governments, and the private sector. The Administrator shall give federal employees priority in using a telecommuting center. The Administrator may make a telecommuting center available for use by others to the extent it is not fully utilized by federal employees.

(3) **USER FEES.**—The Administrator shall charge a user fee for the use of a telecommuting center. The amount of the user fee shall approximate commercial charges for comparable space and services. However, the user fee may not be less than necessary to pay the cost of establishing and operating the telecommuting center, including the reasonable cost of renovation and replacement of furniture, fixtures, and equipment.

(4) **DEPOSIT AND USE OF FEES.**—The Administrator may—

(A) deposit user fees into the Federal Buildings Fund and use the fees to pay costs incurred in establishing and operating the telecommuting center; and

(B) accept and retain income received by the General Services Administration, from federal agencies and non-federal sources, to defray costs directly associated with the functions of telecommuting centers.

(c) **DEVELOPMENT OF ALTERNATIVE WORKPLACE ARRANGEMENTS BY EXECUTIVE AGENCIES AND OTHERS.**—

(1) **DEFINITION.**—In this subsection, the term “alternative workplace arrangements” includes telecommuting, hoteling, virtual offices, and other distributive work arrangements.

(2) **CONSIDERATION BY EXECUTIVE AGENCIES.**—In considering whether to acquire space, quarters, buildings, or other facilities for use by employees, the head of an executive agency shall consider whether needs can be met using alternative workplace arrangements.

(3) **GUIDANCE FROM ADMINISTRATOR.**—The Administrator may provide guidance, assistance, and oversight to any person regarding the establishment and operation of alternative workplace arrangements.

(d) **AMOUNTS AVAILABLE FOR FLEXIPLACE WORK TELECOMMUTING PROGRAMS.**—

(1) **DEFINITION.**—In this subsection, the term “flexiplace work telecommuting program” means a program under which employees of a department or agency set out in paragraph (2) are permitted to perform all or a portion of their duties at a telecommuting center established under this section or other federal law.

(2) **MINIMUM FUNDING.**—For each of the following departments and agencies, in each fiscal year at least \$50,000 of amounts made available for salaries and expenses is available only for carrying out a flexiplace work telecommuting program:

(A) Department of Agriculture.

(B) Department of Commerce.

(C) Department of Defense.

(D) Department of Education.

(E) Department of Energy.

(F) Department of Health and Human Services.

(G) Department of Housing and Urban Development.

- (H) Department of the Interior.
- (I) Department of Justice.
- (J) Department of Labor.
- (K) Department of State.
- (L) Department of Transportation.
- (M) Department of the Treasury.
- (N) Department of Veterans Affairs.
- (O) Environmental Protection Agency.
- (P) General Services Administration.
- (Q) Office of Personnel Management.
- (R) Small Business Administration.
- (S) Social Security Administration.
- (T) United States Postal Service.

§ 588. Movement and supply of office furniture

(a) DEFINITION.—In this section, the term “controlled space” means a substantial and identifiable segment of space (such as a building, floor, or wing) in a location that the Administrator of General Services controls for purposes of assignment of space.

(b) APPLICATION.—This section applies if an agency (or unit of the agency), moves from one controlled space to another, whether in the same or a different location.

(c) MOVING EXISTING FURNITURE.—The furniture and furnishings used by an agency (or organizational unit of the agency) shall be moved only if the Administrator determines, after consultation with the head of the agency and with due regard for the program activities of the agency, that it would not be more economical and efficient to make suitable replacements available in the new controlled space.

(d) PROVIDING REPLACEMENT FURNITURE.—In the absence of a determination under subsection (c), suitable furniture and furnishings for the new controlled space shall be provided from stocks under the control of the moving agency or from stocks available to the Administrator, whichever the Administrator determines to be more economical and efficient. However, the same or similar items may not be provided from both sources.

(e) CONTROL OF REPLACEMENT FURNITURE.—If furniture and furnishings for a new controlled space are provided from stocks available to the Administrator, the items being provided remain in the control of the Administrator.

(f) CONTROL OF FURNITURE NOT MOVED.—

(1) IN GENERAL.—If furniture and furnishings for a new controlled space are provided from stocks available to the Administrator, the furniture and furnishings that were previously used by the moving agency (or unit of the agency) pass to the control of the Administrator.

(2) REIMBURSEMENT.—

(A) IN GENERAL.—Furniture and furnishings passing to the control of the Administrator under this section pass without reimbursement.

(B) EXCEPTION FOR TRUST FUND.—If furniture and furnishings that were purchased from a trust fund pass to the control of the Administrator under this section, the Administrator shall reimburse the trust fund for the fair market value of the furniture and furnishings.

(3) REVOLVING OR WORKING CAPITAL FUND.—If furniture and furnishings are carried as assets of a revolving or working

capital fund at the time they pass to the control of the Administrator under this section, the net book value of the furniture and furnishings shall be written off and the capital of the fund is diminished by the amount of the write-off.

§ 589. Installation, repair, and replacement of sidewalks

(a) IN GENERAL.—An executive agency may install, repair, and replace sidewalks around buildings, installations, property, or grounds that are—

- (1) under the agency's control;
- (2) owned by the Federal Government; and
- (3) located in a State, the District of Columbia, Puerto Rico, or a territory or possession of the United States.

(b) REIMBURSEMENT.—Subsection (a) may be carried out by—

- (1) reimbursement to a State or political subdivision of a State, the District of Columbia, Puerto Rico, or a territory or possession of the United States; or
- (2) a means other than reimbursement.

(c) REGULATIONS.—Subsection (a) shall be carried out in accordance with regulations the Administrator of General Services prescribes with the approval of the Director of the Office of Management and Budget.

(d) USE OF AMOUNTS.—Amounts appropriated to an executive agency for installation, repair, and maintenance, generally, are available to carry out this section.

(e) LIABILITY.—This section does not increase or enlarge the tort liability of the Government for injuries to individuals or damages to property.

§ 590. Child care

(a) GUIDANCE, ASSISTANCE, AND OVERSIGHT.—Through the General Services Administration's licensing agreements, the Administrator of General Services shall provide guidance, assistance, and oversight to federal agencies for the development of child care centers to provide economical and effective child care for federal workers.

(b) ALLOTMENT OF SPACE IN FEDERAL BUILDINGS.—

(1) DEFINITIONS.—In this subsection, the following definitions apply:

(A) CHILD CARE PROVIDER.—The term “child care provider” means an individual or entity that provides or proposes to provide child care services for federal employees.

(B) ALLOTMENT OFFICER.—The term “allotment officer” means an officer or agency of the Federal Government charged with the allotment of space in federal buildings.

(2) ALLOTMENT.—A child care provider may be allotted space in a federal building by an allotment officer if—

(A) the child care provider applies to the allotment officer in the community or district in which child care services are to be provided;

(B) the space is available; and

(C) the allotment officer determines that—

- (i) the space will be used to provide child care services to children of whom at least 50 percent have one parent or guardian employed by the Government; and

(ii) the child care provider will give priority to federal employees for available child care services in the space.

(c) PAYMENT FOR SPACE AND SERVICES.—

(1) DEFINITION.—For purposes of this subsection, the term “services” includes the providing of lighting, heating, cooling, electricity, office furniture, office machines and equipment, classroom furnishings and equipment, kitchen appliances, playground equipment, telephone service (including installation of lines and equipment and other expenses associated with telephone services), and security systems (including installation and other expenses associated with security systems), including replacement equipment, as needed.

(2) NO CHARGE.—Space allotted under subsection (b) may be provided without charge for rent or services.

(3) REIMBURSEMENT FOR COSTS.—For space allotted under subsection (b), if there is an agreement for the payment of costs associated with providing space or services, neither title 31, nor any other law, prohibits or restricts payment by reimbursement to the miscellaneous receipts or other appropriate account of the Treasury.

(d) PAYMENT OF OTHER COSTS.—If an agency has a child care facility in its space, or is a sponsoring agency for a child care facility in other federal or leased space, the agency or the Administration may—

(1) pay accreditation fees, including renewal fees, for the child care facility to be accredited by a nationally recognized early-childhood professional organization;

(2) pay travel and per diem expenses for representatives of the child care facility to attend the annual Administration child care conference; and

(3) enter into a consortium with one or more private entities under which the private entities assist in defraying costs associated with the salaries and benefits for personnel providing services at the facility.

(e) REIMBURSEMENT FOR EMPLOYEE TRAINING.—Notwithstanding section 1345 of title 31, an agency, department, or instrumentality of the Government that provides or proposes to provide child care services for federal employees may reimburse a federal employee or any individual employed to provide child care services for travel, transportation, and subsistence expenses incurred for training classes, conferences, or other meetings in connection with providing the services. A per diem allowance made under this subsection may not exceed the rate specified in regulations prescribed under section 5707 of title 5.

(f) CRIMINAL HISTORY BACKGROUND CHECKS.—

(1) DEFINITION.—In this subsection, the term “executive facility” means a facility owned or leased by an office or entity within the executive branch of the Government. The term includes a facility owned or leased by the General Services Administration on behalf of an office or entity within the judicial branch of the Government.

(2) IN GENERAL.—All workers in a child care center located in an executive facility shall undergo a criminal history background check as defined in section 231 of the Crime Control Act of 1990 (42 U.S.C. 13041).

(3) NONAPPLICATION TO LEGISLATIVE BRANCH FACILITIES.—This subsection does not apply to a facility owned by or leased

on behalf of an office or entity within the legislative branch of the Government.

(g) **APPROPRIATED AMOUNTS FOR AFFORDABLE CHILD CARE.**—

(1) **DEFINITION.**—For purposes of this subsection, the term “Executive agency” has the meaning given that term in section 105 of title 5, but does not include the General Accounting Office.

(2) **IN GENERAL.**—In accordance with regulations the Office of Personnel Management prescribes, an Executive agency that provides or proposes to provide child care services for federal employees may use appropriated amounts that are otherwise available for salaries and expenses to provide child care in a federal or leased facility, or through contract, for civilian employees of the agency.

(3) **AFFORDABILITY.**—Amounts used pursuant to paragraph (2) shall be applied to improve the affordability of child care for lower income federal employees using or seeking to use the child care services.

(4) **ADVANCES.**—Notwithstanding section 3324 of title 31, amounts may be paid in advance to licensed or regulated child care providers for services to be rendered during an agreed period.

(5) **NOTIFICATION.**—No amounts made available by law may be used to implement this subsection without advance notice to the Committees on Appropriations of the House of Representatives and the Senate.

§ 591. Purchase of electricity

(a) **GENERAL LIMITATION ON USE OF AMOUNTS.**—A department, agency, or instrumentality of the Federal Government may not use amounts appropriated or made available by any law to purchase electricity in a manner inconsistent with state law governing the provision of electric utility service, including—

(1) state utility commission rulings; and

(2) electric utility franchises or service territories established under state statute, state regulation, or state-approved territorial agreements.

(b) **EXCEPTIONS.**—

(1) **ENERGY SAVINGS.**—This section does not preclude the head of a federal agency from entering into a contract under section 801 of the National Energy Conservation Policy Act (42 U.S.C. 8287).

(2) **ENERGY SAVINGS FOR MILITARY INSTALLATIONS.**—This section does not preclude the Secretary of a military department from—

(A) entering into a contract under section 2394 of title 10; or

(B) purchasing electricity from any provider if the Secretary finds that the utility having the applicable state-approved franchise (or other service authorization) is unwilling or unable to meet unusual standards of service reliability that are necessary for purposes of national defense.

§ 592. Federal Buildings Fund

(a) **EXISTENCE.**—There is in the Treasury a fund known as the Federal Buildings Fund.

(b) DEPOSITS.—

(1) IN GENERAL.—The following revenues and collections shall be deposited into the Fund:

(A) User charges under section 586(b) of this title, payable in advance or otherwise.

(B) Proceeds from the lease of federal building sites or additions under section 581(d) of this title.

(C) Receipts from carriers and others for loss of, or damage to, property belonging to the Fund.

(2) REIMBURSEMENTS FOR SPECIAL SERVICES.—This subchapter does not preclude the Administrator of General Services from providing special services, not included in the standard level user charge, on a reimbursable basis. The reimbursements may be credited to the Fund.

(3) TRANSFER OF SURPLUS AMOUNTS.—To prevent the accumulation of excessive surpluses in the Fund, in any fiscal year an amount specified in an appropriation law may be transferred out of the Fund and deposited as miscellaneous receipts in the Treasury.

(c) USES.—

(1) IN GENERAL.—Deposits in the Fund are available for real property management and related activities in the amounts specified in annual appropriation laws without regard to fiscal year limitations.

(2) SALARIES AND EXPENSES RELATED TO CONSTRUCTION PROJECTS OR PLANNING PROGRAMS.—Deposits in the Fund that are available pursuant to annual appropriation laws may be transferred and consolidated on the books of the Treasury into a special account in accordance with, and for the purposes specified in, section 3176 of this title.

(3) REPAYMENT OF GENERAL SERVICES ADMINISTRATION BORROWING FROM FEDERAL FINANCING BANK.—The Administrator, in accordance with rules and procedures that the Office of Management and Budget and the Secretary of the Treasury establish, may transfer from the Fund an amount necessary to repay the principal amount of a General Services Administration borrowing from the Federal Financing Bank, if the borrowing is a legal obligation of the Fund.

(4) BUILDINGS DEEMED FEDERALLY OWNED.—For purposes of amounts authorized to be expended from the Fund, the following are deemed to be federally owned buildings:

(A) A building constructed pursuant to the purchase contract authority of section 5 of the Public Buildings Amendments of 1972 (Public Law 92-313, 86 Stat. 219).

(B) A building occupied pursuant to an installment purchase contract.

(C) A building under the control of a department or agency, if alterations of the building are required in connection with moving the department or agency from a former building that is, or will be, under the control of the Administration.

(d) ENERGY MANAGEMENT PROGRAMS.—

(1) RECEIVING CASH INCENTIVES.—The Administrator may receive amounts from rebates or other cash incentives related to energy savings and shall deposit the amounts in the Fund for use as provided in paragraph (4).

(2) RECEIVING GOODS OR SERVICES.—The Administrator may accept, from a utility, goods or services that enhance the energy efficiency of federal facilities.

(3) ASSIGNMENT OF ENERGY REBATES.—In the administration of real property that the Administrator leases and for which the Administrator pays utility costs, the Administrator may assign all or a portion of energy rebates to the lessor to underwrite the costs incurred in undertaking energy efficiency improvements in the real property if the payback period for the improvement is at least 2 years less than the remainder of the term of the lease.

(4) OBLIGATING AMOUNTS FOR ENERGY MANAGEMENT IMPROVEMENT PROGRAMS.—In addition to amounts appropriated for energy management improvement programs and without regard to subsection (c)(1), the Administrator may obligate for those programs—

(A) amounts received and deposited in the Fund under paragraph (1);

(B) goods and services received under paragraph (2); and

(C) amounts the Administrator determines are not needed for other authorized projects and that are otherwise available to implement energy efficiency programs.

(e) RECYCLING PROGRAMS.—

(1) RECEIVING AMOUNTS.—The Administrator may receive amounts from the sale of recycled materials and shall deposit the amounts in the Fund for use as provided in paragraph (2).

(2) OBLIGATING AMOUNTS FOR RECYCLING PROGRAMS.—In addition to amounts appropriated for such purposes and without regard to subsection (c)(1), the Administrator may obligate amounts received and deposited in the Fund under paragraph (1) for programs which—

(A) promote further source reduction and recycling programs; and

(B) encourage employees to participate in recycling programs by providing financing for child care.

(f) ADDITIONAL AUTHORITY RELATED TO ENERGY MANAGEMENT AND RECYCLING PROGRAMS.—The Fund may receive, in the form of rebates, cash incentives or otherwise, any revenues, collections, or other income related to energy savings or recycling efforts. Amounts received under this subsection remain in the Fund until expended and remain available for federal energy management improvement programs, recycling programs, or employee programs that are authorized by law or that the Administrator considers appropriate. The Administration may use amounts received under this subsection, in addition to amounts received as New Obligational Authority, in activities of the Fund as necessary.

§ 593. Protection for veterans preference employees

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) COVERED SERVICES.—The term “covered services” means any guard, elevator operator, messenger, or custodial services.

(2) SHELTERED WORKSHOP.—The term “sheltered workshop” means a sheltered workshop employing the severely handicapped under the Javits-Wagner-O’Day Act (41 U.S.C. 46 et seq.).

(b) **IN GENERAL.**—Except as provided in subsection (c), amounts made available to the Administration pursuant to section 592 of this title may not be obligated or expended to procure covered services by contract if an employee who was a permanent veterans preference employee of the Administration on November 19, 1995, would be terminated as a result.

(c) **EXCEPTION.**—Amounts made available to the Administration pursuant to section 592 of this title may be obligated and expended to procure covered services by contract with a sheltered workshop or, if sheltered workshops decline to contract for the provision of covered services, by competitive contract for a period of no longer than 5 years. When a competitive contract expires, or is terminated for any reason, the Administration shall again offer to procure the covered services by contract with a sheltered workshop before procuring the covered services by competitive contract.

SUBCHAPTER VI—MOTOR VEHICLE POOLS AND TRANSPORTATION SYSTEMS

§ 601. Purposes

In order to provide an economical and efficient system for transportation of Federal Government personnel and property consistent with section 101 of this title, the purposes of this subchapter are—

- (1) to establish procedures to ensure safe operation of motor vehicles on Government business;
- (2) to provide for proper identification of Government motor vehicles;
- (3) to establish an effective means to limit the use of Government motor vehicles to official purposes;
- (4) to reduce the number of Government-owned vehicles to the minimum necessary to transact public business; and
- (5) to provide wherever practicable for centrally operated interagency pools or systems for local transportation of Government personnel and property.

§ 602. Authority to establish motor vehicle pools and transportation systems

(a) **IN GENERAL.**—Subject to section 603 of this title, and regulations issued under section 603, the Administrator of General Services shall—

- (1) take over from executive agencies and consolidate, or otherwise acquire, motor vehicles and related equipment and supplies;
- (2) provide for the establishment, maintenance, and operation (including servicing and storage) of motor vehicle pools or systems; and
- (3) furnish motor vehicles and related services to executive agencies for the transportation of property and passengers.

(b) **METHODS OF PROVIDING VEHICLES AND SERVICES.**—As determined by the Administrator, motor vehicles and related services may be furnished by providing an agency with—

- (1) Federal Government-owned motor vehicles;
- (2) the use of motor vehicles, under rental or other arrangements, through private fleet operators, taxicab companies, or local or interstate common carriers; or
- (3) both.

(c) **RECIPIENTS OF VEHICLES AND SERVICES.**—The Administrator shall, so far as practicable, furnish motor vehicles and related services under this section to any federal agency, mixed-ownership Government corporation (as defined in chapter 91 of title 31), or the District of Columbia, on its request.

§ 603. Process for establishing motor vehicle pools and transportation systems

(a) **DETERMINATION REQUIREMENT.**—

(1) **IN GENERAL.**—The Administrator of General Services may carry out section 602 only if the Administrator determines, after consultation with the agencies concerned and with due regard to their program activities, that doing so is advantageous to the Federal Government in terms of economy, efficiency, or service.

(2) **ELEMENTS OF THE DETERMINATION.**—A determination under this section must be in writing. For each motor vehicle pool or system, the determination must set forth an analytical justification that includes—

(A) a detailed comparison of estimated costs for present and proposed modes of operation; and

(B) a showing that savings can be realized by the establishment, maintenance, and operation of a motor vehicle pool or system.

(b) **REGULATIONS RELATED TO ESTABLISHMENT.**—

(1) **IN GENERAL.**—The President shall prescribe regulations establishing procedures to carry out section 602 of this title.

(2) **ELEMENTS OF THE REGULATIONS.**—The regulations shall provide for—

(A) adequate notice to an executive agency of any determination that affects the agency or its functions;

(B) independent review and decision as directed by the President of any determination disputed by an agency, with the possibility that the decision may include a partial or complete exemption of the agency from the determination; and

(C) enforcement of determinations that become effective under the regulations.

(3) **EFFECT OF THE REGULATIONS.**—A determination under subsection (a) is binding on an agency only as provided in regulations issued under this subsection.

§ 604. Treatment of assets taken over to establish motor vehicle pools and transportation systems

(a) **REIMBURSEMENT.**—

(1) **REQUIREMENT.**—When the Administrator of General Services takes over motor vehicles or related equipment or supplies under section 602 of this title, reimbursement is required if the property is taken over from—

(A) a Government corporation; or

(B) an agency, if the agency acquired the property through unreimbursed expenditures made from a revolving or trust fund authorized by law.

(2) **AMOUNT.**—The Administrator shall reimburse a Government corporation, or a fund through which an agency acquired property, by an amount equal to the fair market value of

the property. If the Administrator subsequently returns property of a similar kind under section 610 of this title, the Government corporation or the fund shall reimburse the Administrator by an amount equal to the fair market value of the property returned.

(b) **ADDITION TO GENERAL SUPPLY FUND.**—If the Administrator takes over motor vehicles or related equipment or supplies under section 602 of this title but reimbursement is not required under subsection (a), the value of the property taken over, as determined by the Administrator, may be added to the capital of the General Supply Fund. If the Administrator subsequently returns property of a similar kind under section 610 of this title, the value of the property may be deducted from the Fund.

§ 605. Payment of costs

(a) **USE OF GENERAL SUPPLY FUND TO COVER COSTS.**—The General Supply Fund provided for in section 321 of this title is available for use by or under the direction and control of the Administrator of General Services to pay the costs of carrying out section 602 of this title, including the cost of purchasing or renting motor vehicles and related equipment and supplies.

(b) **SETTING PRICES TO RECOVER COSTS.**—

(1) **IN GENERAL.**—The Administrator shall set prices for furnishing motor vehicles and related services under section 602 of this title. Prices shall be set to recover, so far as practicable, all costs of carrying out section 602 of this title.

(2) **INCREMENT FOR REPLACEMENT COST.**—In the Administrator's discretion, prices may include an increment for the estimated replacement cost of motor vehicles and related equipment and supplies. Notwithstanding section 321(f)(1) of this title, the increment may be retained as a part of the capital of the General Supply Fund but is available only to replace motor vehicles and related equipment and supplies.

(c) **ACCOUNTING METHOD.**—The purchase price of motor vehicles and related equipment, and any increment for estimated replacement cost, shall be recovered only through charges for the cost of amortization. Costs shall be determined, and financial reports prepared, in accordance with the accrual accounting method.

§ 606. Regulations related to operation

(a) **IN GENERAL.**—The Director of the Office of Personnel Management shall prescribe regulations to govern executive agencies in authorizing civilian personnel to operate Federal Government-owned motor vehicles for official purposes within the States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) **ELEMENTS OF THE REGULATIONS.**—The regulations shall prescribe standards of physical fitness for authorized operators. The regulations may require operators and prospective operators to obtain state and local licenses or permits that are required to operate similar vehicles for other than official purposes.

(c) **AGENCY ORDERS.**—The head of each executive agency shall issue orders and directives necessary for compliance with the regulations. The orders and directives shall provide for—

(1) periodically testing the physical fitness of operators and prospective operators; and

(2) suspension and revocation of authority to operate.

§ 607. Records

The Administrator of General Services shall maintain an accurate record of the cost of establishing, maintaining, and operating each motor vehicle pool or system established under section 602 of this title.

§ 608. Scrip, tokens, tickets

The Administrator of General Services, in the operation of motor vehicle pools or systems under this subchapter, may provide for the sale and use of scrip, tokens, tickets, and similar devices to collect payment.

§ 609. Identification of vehicles

(a) IN GENERAL.—Under regulations prescribed by the Administrator of General Services, every motor vehicle acquired and used for official purposes within the United States, or the territories or possessions of the United States, by any federal agency or by the District of Columbia shall be conspicuously identified by showing, on the vehicle—

(1)(A) the full name of the department, establishment, corporation, or agency that uses the vehicle and the service for which the vehicle is used; or

(B) a title that readily identifies the department, establishment, corporation, or agency that uses the vehicle and that is descriptive of the service for which the vehicle is used; and

(2) the legend “For official use only”.

(b) EXCEPTIONS.—The regulations prescribed pursuant to this section may provide for exemptions when conspicuous identification would interfere with the purpose for which a vehicle is acquired and used.

§ 610. Discontinuance of motor vehicle pool or system

(a) IN GENERAL.—The Administrator of General Services shall discontinue a motor vehicle pool or system if there are no actual savings realized (based on accounting as provided in section 605 of this title) during a reasonable period of not longer than two successive fiscal years.

(b) RETURN OF COMPARABLE PROPERTY.—If a motor vehicle pool or system is discontinued, the Administrator shall return to each agency involved motor vehicles and related equipment and supplies similar in kind and reasonably comparable in value to any motor vehicles and related equipment and supplies which were previously taken over by the Administrator.

§ 611. Duty to report violations

During the regular course of the duties of the Administrator of General Services, if the Administrator becomes aware of a violation of section 1343, 1344, or 1349(b) of title 31 or of section 641 of title 18 involving the conversion by a Federal Government official or employee of a Government-owned or leased motor vehicle to the official or employee's own use or to the use of others, the Administrator shall report the violation to the head of the agency in which the official or employee is employed, for further investigation and either appropriate disciplinary action under section 1343, 1344, or 1349(b) or, if appropriate, referral to the Attorney General for prosecution under section 641.

CHAPTER 7—FOREIGN EXCESS PROPERTY

- Sec.
701. Administrative.
702. Return of foreign excess property to United States.
703. Donation of medical supplies for use in foreign country.
704. Other methods of disposal.
705. Handling of proceeds from disposal.

§ 701. Administrative

(a) **POLICIES PRESCRIBED BY THE PRESIDENT.**—The President may prescribe policies that the President considers necessary to carry out this chapter. The policies must be consistent with this chapter.

(b) **EXECUTIVE AGENCY RESPONSIBILITY.**—

(1) **IN GENERAL.**—The head of an executive agency that has foreign excess property is responsible for the disposal of the property.

(2) **CONFORMANCE TO POLICIES.**—In carrying out functions under this chapter, the head of an executive agency shall—

(A) use the policies prescribed by the President under subsection (a) for guidance; and

(B) dispose of foreign excess property in a manner that conforms to the foreign policy of the United States.

(3) **DELEGATION OF AUTHORITY.**—The head of an executive agency may—

(A) delegate authority conferred by this chapter to an official in the agency or to the head of another executive agency; and

(B) authorize successive redelegation of authority conferred by this chapter.

(4) **EMPLOYMENT OF PERSONNEL.**—As necessary to carry out this chapter, the head of an executive agency may—

(A) appoint and fix the pay of personnel in the United States, subject to chapters 33 and 51 and subchapter III of chapter 53 of title 5; and

(B) appoint personnel outside the States of the United States and the District of Columbia, without regard to chapter 33 of title 5.

(c) **SPECIAL RESPONSIBILITIES OF SECRETARY OF STATE.**—

(1) **USE OF FOREIGN CURRENCIES AND CREDITS.**—The Secretary of State may use foreign currencies and credits acquired by the United States under section 704(b)(2) of this title—

(A) to carry out the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.);

(B) to carry out the Foreign Service Buildings Act, 1926 (22 U.S.C. 292 et seq.); and

(C) to pay other governmental expenses payable in local currencies.

(2) **RENEWAL OF CERTAIN AGREEMENTS.**—Except as otherwise directed by the President, the Secretary of State shall continue to perform functions under agreements in effect on July 1, 1949, related to the disposal of foreign excess property. The Secretary of State may amend, modify, and renew the agreements. Foreign currencies or credits the Secretary of State acquires under the agreements shall be administered in accordance with procedures that the Secretary of the Treasury may establish. Foreign currencies or credits reduced to United States currency must be deposited in the Treasury as miscellaneous receipts.

§ 702. Return of foreign excess property to United States

(a) IN GENERAL.—Under regulations prescribed pursuant to subsection (b), foreign excess property may be returned to the United States for handling as excess or surplus property under subchapter II of chapter 5 of this title or section 549 or 551 of this title when the head of the executive agency concerned, or the Administrator of General Services after consultation with the agency head, determines that return of the property to the United States for such handling is in the interest of the United States.

(b) REGULATIONS.—The Administrator shall prescribe regulations to carry out this section. The regulations must require that transportation costs for returning foreign excess property to the United States are paid by the federal agency, state agency, or donee receiving the property.

§ 703. Donation of medical supplies for use in foreign country

(a) APPLICATION.—This section applies to medical materials or supplies that are in a foreign country but that would, if situated within the United States, be available for donation under subchapter III of chapter 5 of this title.

(b) IN GENERAL.—An executive agency may donate medical materials or supplies that are not disposed of under section 702 of this title.

(c) CONDITIONS.—A donation under this section is subject to the following conditions:

(1) The medical materials and supplies must be donated for use in a foreign country.

(2) The donation must be made to a nonprofit medical or health organization, which may be an organization qualified to receive assistance under section 214(b) or 607 of the Foreign Assistance Act of 1961 (22 U.S.C. 2174(b), 2357).

(3) The donation must be made without cost to the donee (except for costs of care and handling).

§ 704. Other methods of disposal

(a) IN GENERAL.—Foreign excess property not disposed of under section 702 or 703 of this title may be disposed of as provided in this section.

(b) METHODS OF DISPOSAL.—

(1) SALE, EXCHANGE, LEASE, OR TRANSFER.—The head of an executive agency may dispose of foreign excess property by sale, exchange, lease, or transfer, for cash, credit or other property, with or without warranty, under terms and conditions the head of the executive agency considers proper.

(2) EXCHANGE FOR FOREIGN CURRENCY OR CREDIT.—If the head of an executive agency determines that it is in the interest of the United States, foreign excess property may be exchanged for—

(A) foreign currencies or credits; or

(B) substantial benefits or the discharge of claims resulting from the compromise or settlement of claims in accordance with law.

(3) ABANDONMENT, DESTRUCTION, OR DONATION.—The head of an executive agency may authorize the abandonment,

destruction, or donation of foreign excess property if the property has no commercial value or if estimated costs of care and handling exceed the estimated proceeds from sale.

(c) ADVERTISING.—The head of an executive agency may dispose of foreign excess property without advertising if the head of the executive agency finds that disposal without advertising is the most practicable and advantageous means for the Federal Government to dispose of the property.

(d) TRANSFER OF TITLE.—The head of an executive agency may execute documents to transfer title or other interests in, and take other action necessary or proper to dispose of, foreign excess property.

§ 705. Handling of proceeds from disposal

(a) IN GENERAL.—This section applies to proceeds from the sale, lease, or other disposition of foreign excess property under this chapter.

(b) FOREIGN CURRENCIES OR CREDITS.—Proceeds in the form of foreign currencies or credits, must be administered in accordance with procedures that the Secretary of the Treasury may establish.

(c) UNITED STATES CURRENCY.—

(1) SEPARATE FUND IN TREASURY.—Section 572(a) of this title applies to proceeds of foreign excess property disposed of for United States currency under this chapter.

(2) DEPOSITED IN TREASURY AS MISCELLANEOUS RECEIPTS.—Except as provided in paragraph (1), proceeds in the form of United States currency, including foreign currencies or credits that are reduced to United States currency, must be deposited in the Treasury as miscellaneous receipts.

(d) SPECIAL ACCOUNT FOR REFUNDS OR PAYMENTS FOR BREACH.—

(1) DEPOSITS.—A federal agency that disposes of foreign excess property under this chapter may deposit, in a special account in the Treasury, amounts of the proceeds of the dispositions that the agency decides are necessary to permit—

(A) appropriate refunds to purchasers for dispositions that are rescinded or that do not become final; and

(B) payments for breach of warranty.

(2) WITHDRAWALS.—A federal agency that deposits proceeds in a special account under paragraph (1) may withdraw amounts to be refunded or paid from the account without regard to the origin of the amounts withdrawn.

CHAPTER 9—URBAN LAND USE

Sec.	
901.	Purpose and policy.
902.	Definitions.
903.	Acquisition and use.
904.	Disposal.
905.	Waiver.

§ 901. Purpose and policy

The purpose of this chapter is to promote harmonious intergovernmental relations and encourage sound planning, zoning, and land use practices by prescribing uniform policies and procedures for the Administrator of General Services to acquire, use, and dispose of land in urban areas. To the greatest extent practicable, urban land transactions entered into for the General Services Administration and other federal agencies shall be consistent with zoning

and land use practices and with the planning and development objectives of local governments and planning agencies.

§ 902. Definitions

In this chapter, the following definitions apply:

(1) **UNIT OF GENERAL LOCAL GOVERNMENT.**—The term “unit of general local government” means a city, county, town, parish, village, or other general-purpose political subdivision of a State.

(2) **URBAN AREA.**—The term “urban area” means—

(A) a geographical area within the jurisdiction of an incorporated city, town, borough, village, or other unit of general local government, except a county or parish, having a population of at least 10,000 inhabitants;

(B) that portion of the geographical area within the jurisdiction of a county, town, township, or similar governmental entity which contains no incorporated unit of general local government but has a population density of at least 1,500 inhabitants per square mile; and

(C) that portion of a geographical area having a population density of at least 1,500 inhabitants per square mile and situated adjacent to the boundary of an incorporated unit of general local government which has a population of at least 10,000.

§ 903. Acquisition and use

(a) **NOTICE TO LOCAL GOVERNMENT.**—To the extent practicable, before making a commitment to acquire real property situated in an urban area, the Administrator of General Services shall give notice of the intended acquisition and the proposed use of the property to the unit of general local government exercising zoning and land use jurisdiction. If the Administrator determines that providing advance notice would adversely impact the acquisition, the Administrator shall give notice of the acquisition and the proposed use of the property immediately after the property is acquired.

(b) **OBJECTIONS TO ACQUISITION OR CHANGE OF USE.**—In the acquisition or change of use of real property situated in an urban area as a site for public building, if the unit of general local government exercising zoning and land use jurisdiction objects on grounds that the proposed acquisition or change of use conflicts with zoning regulations or planning objectives, the Administrator shall, to the extent the Administrator determines is practicable, consider all the objections and comply with the zoning regulations and planning objectives.

§ 904. Disposal

(a) **NOTICE TO LOCAL GOVERNMENT.**—Before offering real property situated in an urban area for sale, the Administrator of General Services shall give reasonable notice to the unit of general local government exercising zoning and land use jurisdiction in order to provide an opportunity for zoning so that the property is used in accordance with local comprehensive planning described in subsection (c).

(b) **NOTICE TO PROSPECTIVE PURCHASERS.**—To the greatest extent practicable, the Administrator shall furnish to all prospective purchasers of real property situated in an urban area complete information concerning—

- (1) current zoning regulations, prospective zoning requirements, and objectives for property if it is unzoned; and
- (2)(A) the current availability of streets, sidewalks, sewers, water, street lights, and other service facilities; and
- (B) the prospective availability of those service facilities if the property is included in local comprehensive planning described in subsection (c).
- (c) **LOCAL COMPREHENSIVE PLANNING.**—Local comprehensive planning referred to in subsections (a) and (b) includes any of the following activities, to the extent the activity is directly related to the needs of a unit of general local government:
 - (1) As a guide for government policy and action, preparing general plans related to—
 - (A) the pattern and intensity of land use;
 - (B) the provision of public facilities (including transportation facilities) and other government services; and
 - (C) the effective development and use of human and natural resources.
 - (2) Preparing long-range physical and fiscal plans for government action.
 - (3) Programming capital improvements and other major expenditures, based on a determination of relative urgency, together with definitive financial planning for expenditures in the earlier years of a program.
 - (4) Coordinating related plans and activities of state and local governments and agencies.
 - (5) Preparing regulatory and administrative measures to support activities described in this subsection.

§ 905. Waiver

The procedures prescribed in sections 903 and 904 of this title may be waived during a period of national emergency proclaimed by the President.

CHAPTER 11—SELECTION OF ARCHITECTS AND ENGINEERS

- Sec.
- 1101. Policy.
- 1102. Definitions.
- 1103. Selection procedure.
- 1104. Negotiation of contract.

§ 1101. Policy

The policy of the Federal Government is to publicly announce all requirements for architectural and engineering services and to negotiate contracts for architectural and engineering services on the basis of demonstrated competence and qualification for the type of professional services required and at fair and reasonable prices.

§ 1102. Definitions

In this chapter, the following definitions apply:

- (1) **AGENCY HEAD.**—The term “agency head” means the head of a department, agency, or bureau of the Federal Government.
- (2) **ARCHITECTURAL AND ENGINEERING SERVICES.**—The term “architectural and engineering services” means—
 - (A) professional services of an architectural or engineering nature, as defined by state law, if applicable,

that are required to be performed or approved by a person licensed, registered, or certified to provide the services described in this paragraph;

(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

(C) other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.

(3) FIRM.—The term “firm” means an individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture or engineering.

§ 1103. Selection procedure

(a) IN GENERAL.—These procedures apply to the procurement of architectural and engineering services by an agency head.

(b) ANNUAL STATEMENTS.—The agency head shall encourage firms to submit annually a statement of qualifications and performance data.

(c) EVALUATION.—For each proposed project, the agency head shall evaluate current statements of qualifications and performance data on file with the agency, together with statements submitted by other firms regarding the proposed project. The agency head shall conduct discussions with at least 3 firms to consider anticipated concepts and compare alternative methods for furnishing services.

(d) SELECTION.—From the firms with which discussions have been conducted, the agency head shall select, in order of preference, at least 3 firms that the agency head considers most highly qualified to provide the services required. Selection shall be based on criteria established and published by the agency head.

§ 1104. Negotiation of contract

(a) IN GENERAL.—The agency head shall negotiate a contract for architectural and engineering services at compensation which the agency head determines is fair and reasonable to the Federal Government. In determining fair and reasonable compensation, the agency head shall consider the scope, complexity, professional nature, and estimated value of the services to be rendered.

(b) ORDER OF NEGOTIATION.—The agency head shall attempt to negotiate a contract, as provided in subsection (a), with the most highly qualified firm selected under section 1103 of this title. If the agency head is unable to negotiate a satisfactory contract with the firm, the agency head shall formally terminate negotiations and then undertake negotiations with the next most qualified of the selected firms, continuing the process until an agreement is reached. If the agency head is unable to negotiate a satisfactory contract with any of the selected firms, the agency head shall

select additional firms in order of their competence and qualification and continue negotiations in accordance with this section until an agreement is reached.

CHAPTER 13—PUBLIC PROPERTY

- Sec.
1301. Charge of property transferred to the Federal Government.
1302. Lease of buildings.
1303. Disposition of surplus real property.
1304. Transfer of federal property to States.
1305. Disposition of land acquired by devise.
1306. Disposition of abandoned or forfeited personal property.
1307. Disposition of securities.
1308. Disposition of unfit horses and mules.
1309. Preservation, sale, or collection of wrecked, abandoned, or derelict property.
1310. Sale of war supplies, land, and buildings.
1311. Authority of President to obtain release.
1312. Release of real estate in certain cases.
1313. Releasing property from attachment.
1314. Easements.
1315. Special police.

§ 1301. Charge of property transferred to the Federal Government

(a) IN GENERAL.—Except as provided in subsection (b), the Administrator of General Services shall have charge of—

- (1) all land and other property which has been or may be assigned, set off, or conveyed to the Federal Government in payment of debts;
- (2) all trusts created for the use of the Government in payment of debts due the Government; and
- (3) the sale and disposal of land—
 - (A) assigned or set off to the Government in payment of debt; or
 - (B) vested in the Government by mortgage or other security for the payment of debts.

(b) NONAPPLICATION.—This section does not apply to—

- (1) real estate which has been or shall be assigned, set off, or conveyed to the Government in payment of debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.); or
- (2) trusts created for the use of the Government in payment of debts arising under the Code and due the Government.

§ 1302. Lease of buildings

Except as otherwise specifically provided by law, the leasing of buildings and property of the Federal Government shall be for a money consideration only. The lease may not include any provision for the alteration, repair, or improvement of the buildings or property as a part of the consideration for the rent to be paid for the use and occupation of the buildings or property. Money derived from the rent shall be deposited in the Treasury as miscellaneous receipts.

§ 1303. Disposition of surplus real property

(a) DEFINITION.—In this section, the term “federal agency” means an executive department, independent establishment, commission, board, bureau, division, or office in the executive branch, or other agency of the Federal Government, including wholly owned Government corporations.

(b) ASSIGNMENT OF SPACE OR LEASE OR SALE OF PROPERTY.—

(1) ACTIONS OF ADMINISTRATOR.—When the President, on the recommendation of the Administrator of General Services, or the federal agency having control of any real property the agency acquires that is located outside of the District of Columbia, other than military or naval reservations, declares the property to be surplus to the needs of the agency, the Administrator—

(A) may assign space in the property to any federal agency;

(B) pending a sale, may lease the property for not more than 5 years and on terms the Administrator considers to be in the public interest; or

(C) may sell the property at public sale to the highest responsible bidder on terms and after public advertisement that the Administrator considers to be in the public interest.

(2) REVIEW OF DECISION TO ASSIGN SPACE.—If the federal agency to which space is assigned does not desire to occupy the space, the decision of the Administrator under paragraph (1)(A) is subject to review by the President.

(3) NEGOTIATED SALE.—If no bids which are satisfactory as to price and responsibility of the bidder are received as a result of public advertisement, the Administrator may sell the property by negotiation, on terms as may be considered to be to the best interest of the Government, but at a price not less than that bid by the highest responsible bidder.

(c) DEMOLITION.—The Administrator may demolish any building declared to be surplus to the needs of the Government under this section on deciding that demolition will be in the best interest of the Government. Before proceeding with the demolition, the Administrator shall inform the Secretary of the Interior in writing of the Administrator's intention to demolish the building, and shall not proceed with the demolition until receiving written notice from the Secretary that the building is not an historic building of national significance within the meaning of the Act of August 21, 1935 (16 U.S.C. 461 et seq.) (known as the Historic Sites, Buildings, and Antiquities Act). If the Secretary does not notify the Administrator of the Secretary's decision as to whether the building is an historic building of national significance within 90 days of the receipt of the notice of intention to demolish the building, the Administrator may proceed to demolish the building.

(d) REPAIRS AND ALTERATIONS TO ASSIGNED REAL PROPERTY.—When the Administrator, after investigation, decides that real property referred to in subsection (b) should be used for the accommodation of a federal agency, the Administrator may make any repairs or alterations that the Administrator considers necessary or advisable and may maintain and operate the property.

(e) PAYMENT BY FEDERAL AGENCIES.—

(1) ASSIGNED REAL PROPERTY.—To the extent that the appropriations of the General Services Administration not otherwise allocated are inadequate for repairs, alterations, maintenance, or operation, the Administrator may require each federal agency to which space has been assigned to pay promptly by check to the Administrator out of its appropriation for rent any part of the estimated or actual cost of the repairs, alterations, maintenance, and operation. Payment may be either in advance

of, or on or during, occupancy of the space. The Administrator shall determine and equitably apportion the total amount to be paid among the agencies to whom space has been assigned.

(2) LEASED SPACES.—To the extent that the appropriations of the Administration not otherwise required are inadequate, the Administrator may require each federal agency to which leased space has been assigned to pay promptly by check to the Administrator out of its available appropriations any part of the estimated cost of rent, repairs, alterations, maintenance, operation, and moving. Payment may be either in advance or during occupancy of the space. When space in a building is occupied by two or more agencies, the Administrator shall determine and equitably apportion rental, operation, and other charges on the basis of the total amount of space leased.

(f) AUTHORIZATION OF APPROPRIATIONS.—Necessary amounts may be appropriated to cover the costs incident to the sale or lease of real property, or authorized demolition of buildings on the property, declared to be surplus to the needs of any federal agency under this section, and the care, maintenance, and protection of the property, including pay of employees, travel of Government employees, brokers' fees not in excess of rates paid for similar services in the community where the property is situated, appraisals, photographs, surveys, evidence of title and perfecting of defective titles, advertising, and telephone and telegraph charges. However, the agency remains responsible for the proper care, maintenance, and protection of the property until the Administrator assumes custody or other disposition of the property is made.

(g) REGULATIONS.—The Administrator may prescribe regulations as necessary to carry out this section.

§ 1304. Transfer of federal property to States

(a) OBSOLETE BUILDINGS AND SITES.—

(1) IN GENERAL.—The Administrator of General Services, in the Administrator's discretion, on terms the Administrator considers proper, and under regulations the Administrator may prescribe, may sell property described in paragraph (2) to a State or a political subdivision of a State for public use if the Administrator considers the sale to be in the best interest of the Federal Government.

(2) APPLICABLE PROPERTY.—The property referred to in paragraph (1) is any federal building, building site, or part of a building site under the Administrator's control that has been replaced by a new structure and that the Administrator determines is no longer needed by the Government.

(3) PRICE.—The purchase price for a sale under this section must be at least 50 percent of the value of the land as appraised by the Administrator.

(4) PROCEEDS OF SALE.—The proceeds of a sale under this section shall be deposited in the Treasury as miscellaneous receipts.

(5) PAYMENT TERMS.—The Administrator may enter into a long term contract for the payment of the purchase price in installments that the Administrator considers fair and reasonable. The Administrator may waive any requirement for interest charges on deferred payment.

(6) CONVEYANCE.—The Administrator may convey property sold under this section by the usual quitclaim deed.

(b) WIDENING OF PUBLIC ROADS.—

(1) DEFINITION.—In this subsection, the term “executive agency” means an executive department or independent establishment in the executive branch of the Government, including any wholly owned Government corporation.

(2) IN GENERAL.—When a State or a political subdivision of a State applies for a conveyance or transfer of real property of the Government in connection with an authorized widening of a public highway, street, or alley, the head of the executive agency that controls the affected real property may convey or transfer to the State or political subdivision, with or without consideration, an interest in the real property that the agency head determines is not adverse to the interests of the Government. A conveyance or transfer under this subsection is subject to terms and conditions the agency head considers necessary to protect the interests of the Government.

(3) LIMITATION ON TRANSFERS FOR HIGHWAY PURPOSES.—An interest in real property which can be transferred to a State or a political subdivision of a State for highway purposes under title 23 may not be conveyed or transferred under this subsection.

(4) LIMITATION ON ISSUANCE OF RIGHTS OF WAY.—Rights of way over, under, and through public lands and lands in the National Forest System may not be granted under this subsection.

§ 1305. Disposition of land acquired by devise

The General Services Administration may take custody, for disposal as excess property under this subtitle and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), of land acquired by the Federal Government by devise.

§ 1306. Disposition of abandoned or forfeited personal property

(a) DEFINITIONS.—In this section—

(1) AGENCY.—The term “agency” includes any executive department, independent establishment, board, commission, bureau, service, or division of the Federal Government, and any corporation in which the Government owns at least a majority of the stock.

(2) PROPERTY.—The term “property” means all personal property, including vessels, vehicles, and aircraft.

(b) VOLUNTARILY ABANDONED PROPERTY.—Property voluntarily abandoned to any agency in a way that vests title to the property in the Government may be retained by the agency and devoted to official use only. If the agency does not desire to retain the property, the head of the agency immediately shall notify the Administrator of General Services to that effect, and the Administrator, within a reasonable time, shall—

(1) order the agency to deliver the property to another agency that requests the property and that the Administrator believes should be given the property; or

(2) order disposal of the property as otherwise provided by law.

(c) FORFEITED PROPERTY.—

(1) AGENCY RETAINS PROPERTY.—An agency that seizes property that has been forfeited to the Government other than

by court decree may retain the property and devote it only to official use instead of disposing of the property as otherwise provided by law if competent authority does not order the property returned to any claimant.

(2) AGENCY DOES NOT DESIRE TO RETAIN PROPERTY.—If the agency does not desire to retain the property, the head of the agency immediately shall notify the Administrator to that effect, and the property—

(A) if not ordered by competent authority to be returned to any claimant, or disposed of as otherwise provided by law, shall be delivered by the agency, on order of the Administrator given within a reasonable time, to another agency that requests the property and that the Administrator believes should be given the property; or

(B) on order of the Administrator given within a reasonable time, shall be disposed of as otherwise provided by law.

(d) PROPERTY SUBJECT TO COURT PROCEEDING FOR FORFEITURE.—

(1) NOTIFICATION OF ADMINISTRATOR.—If a proceeding has begun for the forfeiture of any property by court decree, the agency that seized the property immediately shall notify the Administrator and at the same time may file with the Administrator a request for the property for its official use.

(2) APPLICATION FOR COURT ORDER TO DELIVER PROPERTY.—

(A) IN GENERAL.—Before entry of a decree, the Administrator shall apply to the court to order delivery of the property in accordance with this paragraph.

(B) DELIVERY TO SEIZING AGENCY.—If the agency that seized the property files a request for the property under paragraph (1), the Administrator shall apply to the court to order delivery of the property to the agency that seized the property.

(C) DELIVERY TO OTHER REQUESTING AGENCY.—If the agency that seized the property does not file a request for the property under paragraph (1) but another agency requests the property, the Administrator shall apply to the court to order delivery of the property to the requesting agency if the Administrator believes that the requesting agency should be given the property.

(D) DELIVERY TO SEIZING AGENCY FOR TEMPORARY HOLDING.—If application to the court cannot be made under subparagraph (B) or (C) and the Administrator believes the property may later become necessary to any agency for official use, the Administrator shall apply to the court to order delivery of the property to the agency that seized the property, to be retained in its custody. Within a reasonable time, the Administrator shall order the agency to—

(i) deliver the property to another agency that requests the property and that the Administrator believes should be given the property; or

(ii) dispose of the property as otherwise provided by law.

(3) FORFEITURE DECREED.—If forfeiture is decreed and the property is not ordered by competent authority to be returned to any claimant, the court shall order delivery as provided in paragraph (2).

(4) WHEN NO APPLICATION MADE.—The court shall dispose of property for which no application is made in accordance with law.

(e) RETENTION OR DELIVERY OF PROPERTY DEEMED SALE.—Retention or delivery of forfeited or abandoned property under this section is deemed to be a sale of the property for the purpose of laws providing for informer's fees or remission or mitigation of a forfeiture. Property acquired under this section when no longer needed for official use shall be disposed of in the same manner as other surplus property.

(f) PAYMENT OF COSTS RELATED TO PROPERTY.—

(1) AVAILABILITY OF APPROPRIATIONS.—The appropriation available to an agency for the purchase, hire, operation, maintenance, and repair of any property is available for—

(A) the payment of expenses of operation, maintenance, and repair of property of the same kind the agency receives under this section for official use;

(B) the payment of a lien recognized and allowed under law;

(C) the payment of amounts found to be due a person on the authorized remission or mitigation of a forfeiture; and

(D) reimbursement of other agencies as provided in paragraph (2).

(2) PAYMENT AND REIMBURSEMENT OF CERTAIN COSTS.—The agency that receives property under this section shall pay the cost of hauling, transporting, towing, and storing the property. If the property is later delivered to another agency for official use under this section, the agency to which the property is delivered shall make reimbursement for all of those costs incurred prior to the date the property is delivered.

(g) REPORT.—With the approval of the Secretary of the Treasury, the Administrator may require an agency to make a report of all property abandoned to it or seized and the disposal of the property.

(h) ADMINISTRATIVE.—

(1) REGULATIONS.—With the approval of the Secretary, the Administrator may prescribe regulations necessary to carry out this section.

(2) OTHER LAWS NOT REPEALED.—This section does not repeal any other laws relating to the disposition of forfeited or abandoned property, except provisions of those laws directly in conflict with this section which were enacted prior to August 27, 1935.

(3) PROPERTY NOT SUBJECT TO ALLOCATION UNDER THIS SECTION.—The following classes of property are not subject to allocation under this section, but shall be disposed of in the manner otherwise provided by law:

(A) narcotic drugs, as defined in the Controlled Substances Act (21 U.S.C. 801 et seq.).

(B) firearms, as defined in section 5845 of the Internal Revenue Code of 1986 (26 U.S.C. 5845).

(C) other classes or kinds of property the disposal of which the Administrator, with the approval of the Secretary, may consider in the public interest, and may by regulation provide.

§ 1307. Disposition of securities

The President, or an officer, agent, or agency the President may designate, may dispose of any securities acquired on behalf of the Federal Government under the provisions of the Transportation Act of 1920 (ch. 91, 41 Stat. 456), including any securities acquired as an incident to a case under title 11, under a receivership or reorganization proceeding, by assignment, transfer, substitution, or issuance, or by acquisition of collateral given for the payment of obligations to the Government, or may make arrangements for the extension of the maturity of the securities, in the manner, in amounts, at prices, for cash, securities, or other property or any combination of cash, securities, or other property, and on terms and conditions the President or designee considers advisable and in the public interest.

§ 1308. Disposition of unfit horses and mules

Subject to applicable regulations under this subtitle and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.), horses and mules belonging to the Federal Government that have become unfit for service may be destroyed or put out to pasture, either on pastures belonging to the Government or those belonging to financially sound and reputable humane organizations whose facilities permit them to care for the horses and mules during the remainder of their natural lives, at no cost to the Government.

§ 1309. Preservation, sale, or collection of wrecked, abandoned, or derelict property

The Administrator of General Services may make contracts and provisions for the preservation, sale, or collection of property, or the proceeds of property, which may have been wrecked, been abandoned, or become derelict, if the Administrator considers the contracts and provisions to be in the interest of the Federal Government and the property is within the jurisdiction of the United States and should come to the Government. A contract may provide compensation the Administrator considers just and reasonable to any person who gives information about the property or actually preserves, collects, surrenders, or pays over the property. Under each specific agreement for obtaining, preserving, collecting, or receiving property or making property available, the costs or claim chargeable to the Government may not exceed amounts realized and received by the Government.

§ 1310. Sale of war supplies, land, and buildings

(a) IN GENERAL.—The President, through the head of any executive department and on terms the head of the department considers expedient, may sell to a person, another department of the Federal Government, or the government of a foreign country engaged in war against a country with which the United States is at war—

(1) war supplies, material, and equipment;

(2) by-products of the war supplies, material, and equipment; and

(3) any building, plant, or factory, including the land on which the plant or factory may be situated, acquired since April 6, 1917, for the production of war supplies, materials, and equipment that, during the emergency existing on July

9, 1918, may have been purchased, acquired, or manufactured by the Government.

(b) **LIMITATION ON SALE OF GUNS AND AMMUNITION.**—Sales of guns and ammunition authorized under any law shall be limited to—

- (1) other departments of the Government;
- (2) governments of foreign countries engaged in war against a country with which the United States is at war; and
- (3) members of the National Rifle Association and of other recognized associations organized in the United States for the encouragement of small-arms target practice.

§ 1311. Authority of President to obtain release

For the use or benefit of the Federal Government, the President may obtain from an individual or officer to whom land has been or will be conveyed a release of the individual's or officer's interest to the Government.

§ 1312. Release of real estate in certain cases

(a) **IN GENERAL.**—Real estate that has become the property of the Federal Government in payment of a debt which afterward is fully paid in money and received by the Government may be conveyed by the Administrator of General Services to the debtor from whom it was taken or to the heirs or devisees of the debtor or the person that they may appoint.

(b) **NONAPPLICATION.**—This section does not apply to real estate the Government acquires in payment of any debt arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

§ 1313. Releasing property from attachment

(a) **STIPULATION OF DISCHARGE.**—

(1) **PERSON ASSERTING CLAIM ENTITLED TO BENEFITS.**—In a judicial proceeding under the laws of a State, district, territory, or possession of the United States, when property owned or held by the Federal Government, or in which the Government has or claims an interest, is seized, arrested, attached, or held for the security or satisfaction of a claim made against the property, the Attorney General may direct the United States Attorney for the district in which the property is located to enter a stipulation that on discharge of the property from the seizure, arrest, attachment, or proceeding, the person asserting the claim against the property becomes entitled to all the benefits of this section.

(2) **NONAPPLICATION.**—This subsection does not—

(A) recognize or concede any right to enforce by seizure, arrest, attachment, or any judicial process a claim against property—

- (i) of the Government; or
- (ii) held, owned, or employed by the Government, or by a department of the Government, for a public use; or

(B) waive an objection to a proceeding brought to enforce the claim.

(b) **PAYMENT.**—After a discharge, a final judgment which affirms the claim for the security or satisfaction and the right of the person asserting the claim to enforce it against the property, notwithstanding the claims of the Government, is deemed to be a

full and final determination of the rights of the person and entitles the person, as against the Government, to the rights the person would have had if possession of the property had not been changed. When the claim is for the payment of money found to be due, presentation of an authenticated copy of the record of the judgment and proceedings is sufficient evidence to the proper accounting officers for the allowance of the claim, which shall be allowed and paid out of amounts in the Treasury not otherwise appropriated. The amount allowed and paid shall not exceed the value of the interest of the Government in the property.

§ 1314. Easements

(a) DEFINITIONS.—In this section—

(1) EXECUTIVE AGENCY.—The term “executive agency” means an executive department or independent establishment in the executive branch of the Federal Government, including a wholly owned Government corporation.

(2) REAL PROPERTY OF THE GOVERNMENT.—The term “real property of the Government” excludes—

(A) public land (including minerals, vegetative, and other resources) in the United States, including—

(i) land reserved or dedicated for national forest purposes;

(ii) land the Secretary of the Interior administers or supervises in accordance with the Act of August 25, 1916 (16 U.S.C. 1, 2, 3, 4) (known as the National Park Service Organic Act);

(iii) Indian-owned trust and restricted land; and

(iv) land the Government acquires primarily for fish and wildlife conservation purposes and the Secretary administers;

(B) land withdrawn from the public domain primarily under the jurisdiction of the Secretary; and

(C) land acquired for national forest purposes.

(3) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) GRANT OF EASEMENT.—When a State, a political subdivision or agency of a State, or a person applies for the grant of an easement in, over, or on real property of the Government, the executive agency having control of the real property may grant to the applicant, on behalf of the Government, an easement that the head of the agency decides will not be adverse to the interests of the Government, subject to reservations, exceptions, limitations, benefits, burdens, terms, or conditions that the head of the agency considers necessary to protect the interests of the Government. The grant may be made without consideration, or with monetary or other consideration, including an interest in real property.

(c) RELINQUISHMENT OF LEGISLATIVE JURISDICTION.—In connection with the grant of an easement, the executive agency concerned may relinquish to the State in which the real property is located legislative jurisdiction that the executive agency considers necessary or desirable. Relinquishment of legislative jurisdiction may be accomplished by filing with the chief executive officer of the State a notice of relinquishment to take effect upon acceptance or by proceeding in the manner that the laws applicable to the State may provide.

(d) **TERMINATION OF EASEMENT.**—

(1) **WHEN TERMINATION OCCURS.**—The instrument granting the easement may provide for termination of any part of the easement if there has been—

(A) a failure to comply with a term or condition of the grant;

(B) a nonuse of the easement for a consecutive 2-year period for the purpose for which granted; or

(C) an abandonment of the easement.

(2) **NOTICE REQUIRED.**—If a termination provision is included, it shall require that written notice of the termination be given to the grantee, or its successors or assigns.

(3) **EFFECTIVE DATE.**—The termination is effective as of the date of the notice.

(e) **ADDITIONAL EASEMENT AUTHORITY.**—The authority conferred by this section is in addition to, and shall not affect or be subject to, any other law under which an executive agency may grant easements.

(f) **LIMITATION ON ISSUANCE OF RIGHTS OF WAY.**—Rights of way over, under, and through public lands and lands in the National Forest System may not be granted under this section.

§ 1315. Special police

(a) **APPOINTMENT.**—The Administrator of General Services, or an official of the General Services Administration authorized by the Administrator, may appoint uniformed guards of the Administration as special police without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the Federal Government and under the charge and control of the Administrator.

(b) **POWERS.**—Special police appointed under this section have the same powers as sheriffs and constables on property referred to in subsection (a) to enforce laws enacted for the protection of individuals and property, prevent breaches of the peace, suppress affrays or unlawful assemblies, and enforce regulations prescribed by the Administrator or an official of the Administration authorized by the Administrator for property under their jurisdiction. However, the jurisdiction and policing powers of special police do not extend to the service of civil process.

(c) **DETAIL.**—On the application of the head of a department or agency of the Government having property of the Government under its administration and control, the Administrator or an official of the Administration authorized by the Administrator may detail special police for the protection of the property and, if the Administrator considers it desirable, may extend to the property the applicability of regulations and enforce them as provided in this section.

(d) **USE OF OTHER LAW ENFORCEMENT AGENCIES.**—When it is considered economical and in the public interest, the Administrator or an official of the Administration authorized by the Administrator may utilize the facilities and services of existing federal law enforcement agencies, and, with the consent of a state or local agency, the facilities and services of state or local law enforcement agencies.

(e) **NONUNIFORMED SPECIAL POLICE.**—The Administrator, or an official of the Administration authorized by the Administrator, may empower officials or employees of the Administration authorized to perform investigative functions to act as nonuniformed special

police to protect property under the charge and control of the Administration and to carry firearms, whether on federal property or in travel status. When on real property under the charge and control of the Administration, officials or employees empowered to act as nonuniformed special police have the power to enforce federal laws for the protection of individuals and property and to enforce regulations for that purpose that the Administrator or an official of the Administration authorized by the Administrator prescribes and publishes. The special police may make arrests without warrant for any offense committed on the property if the police have reasonable grounds to believe the offense constitutes a felony under the laws of the United States and that the individual to be arrested is guilty of that offense.

(f) ADMINISTRATIVE.—The Administrator or an official of the Administration authorized by the Administrator may prescribe regulations necessary for the government of the property under their charge and control, and may annex to the regulations reasonable penalties, within the limits prescribed in subsection (g), that will ensure their enforcement. The regulations shall be posted and kept posted in a conspicuous place on the property.

(g) PENALTIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), a person violating a regulation prescribed under subsection (f) shall be fined under title 18, imprisoned for not more than 30 days, or both.

(2) EXCEPTION FOR MILITARY TRAFFIC REGULATION.—

(A) DEFINITION.—For purposes of this paragraph, the term “military traffic regulation” means a regulation for the control of vehicular or pedestrian traffic on military installations that the Secretary of Defense prescribes under subsection (f).

(B) IN GENERAL.—A person violating a military traffic regulation shall be fined an amount not exceeding the amount of the maximum fine for a similar offense under the criminal or civil law of the State, district, territory, or possession of the United States where the military installation in which the violation occurred is located, imprisoned for not more than 30 days, or both.

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PART A—GENERAL

CHAPTER 31—GENERAL

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SUBCHAPTER I—OVERSIGHT AND REGULATION OF PUBLIC BUILDINGS

§ 3101. Public buildings under control of Administrator of General Services

All public buildings outside of the District of Columbia and outside of military reservations purchased or erected out of any appropriation under the control of the Administrator of General Services, and the sites of the public buildings, are under the exclusive jurisdiction and control, and in the custody of, the Administrator. The Administrator may take possession of the buildings and assign and reassign rooms in the buildings to federal officials, clerks, and employees that the Administrator believes should be furnished with offices or rooms in the buildings.

§ 3102. Naming or designating buildings

The Administrator of General Services may name or otherwise designate any building under the custody and control of the General Services Administration, regardless of whether it was previously named by statute.

§ 3103. Admission of guide dogs or other service animals accompanying individuals with disabilities

(a) **IN GENERAL.**—Guide dogs or other service animals accompanying individuals with disabilities and especially trained and educated for that purpose shall be admitted to any building or other property owned or controlled by the Federal Government on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property. The animals are not permitted to run free or roam in a building or on the property and must be in guiding harness or on leash and under the control of the individual at all times while in a building or on the property.

(b) **REGULATIONS.**—The head of each department or other agency of the Government may prescribe regulations the individual considers necessary in the public interest to carry out this section as it applies to any building or other property subject to the individual's jurisdiction.

§ 3104. Furniture for new buildings

Furniture for all new public buildings shall be acquired in accordance with plans and specifications approved by the Administrator of General Services.

§ 3105. Buildings not to be draped in mourning

No building owned, or used for public purposes, by the Federal Government shall be draped in mourning nor may public money be used for that purpose.

SUBCHAPTER II—ACQUIRING LAND

§ 3111. Approval of sufficiency of title prior to acquisition

(a) APPROVAL OF ATTORNEY GENERAL REQUIRED.—Public money may not be expended to purchase land or any interest in land unless the Attorney General gives prior written approval of the sufficiency of the title to the land for the purpose for which the Federal Government is acquiring the property.

(b) DELEGATION.—

(1) IN GENERAL.—The Attorney General may delegate the responsibility under this section to other departments and agencies of the Government, subject to general supervision by the Attorney General and in accordance with regulations the Attorney General prescribes.

(2) REQUEST FOR OPINION OF ATTORNEY GENERAL.—A department or agency of the Government that has been delegated the responsibility to approve land titles under this section may request the Attorney General to render an opinion as to the validity of the title to any real property or interest in the property, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.

(c) PAYMENT OF EXPENSES FOR PROCURING CERTIFICATES OF TITLE.—Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of titles or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency of the Government.

(d) NONAPPLICATION.—This section does not affect any provision of law in effect on September 1, 1970, that is applicable to the acquisition of land or interests in land by the Tennessee Valley Authority.

§ 3112. Federal jurisdiction

(a) EXCLUSIVE JURISDICTION NOT REQUIRED.—It is not required that the Federal Government obtain exclusive jurisdiction in the United States over land or an interest in land it acquires.

(b) ACQUISITION AND ACCEPTANCE OF JURISDICTION.—When the head of a department, agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate jurisdiction, custody, or control of the individual is situated, consent to, or cession of, any jurisdiction over the land or interest not previously obtained. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

(c) PRESUMPTION.—It is conclusively presumed that jurisdiction has not been accepted until the Government accepts jurisdiction over land as provided in this section.

§ 3113. Acquisition by condemnation

An officer of the Federal Government authorized to acquire real estate for the erection of a public building or for other public

uses may acquire the real estate for the Government by condemnation, under judicial process, when the officer believes that it is necessary or advantageous to the Government to do so. The Attorney General, on application of the officer, shall have condemnation proceedings begun within 30 days from receipt of the application at the Department of Justice.

§ 3114. Declaration of taking

(a) **FILING AND CONTENT.**—In any proceeding in any court of the United States outside of the District of Columbia brought by and in the name of the United States and under the authority of the Federal Government to acquire land, or an easement or right of way in land, for the public use, the petitioner may file, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the land described in the petition, declaring that the land is taken for the use of the Government. The declaration of taking shall contain or have annexed to it—

- (1) a statement of the authority under which, and the public use for which, the land is taken;
- (2) a description of the land taken that is sufficient to identify the land;
- (3) a statement of the estate or interest in the land taken for public use;
- (4) a plan showing the land taken; and
- (5) a statement of the amount of money estimated by the acquiring authority to be just compensation for the land taken.

(b) **VESTING OF TITLE.**—On filing the declaration of taking and depositing in the court, to the use of the persons entitled to the compensation, the amount of the estimated compensation stated in the declaration—

- (1) title to the estate or interest specified in the declaration vests in the Government;
- (2) the land is condemned and taken for the use of the Government; and
- (3) the right to just compensation for the land vests in the persons entitled to the compensation.

(c) **COMPENSATION.**—

(1) **DETERMINATION AND AWARD.**—Compensation shall be determined and awarded in the proceeding and established by judgment. The judgment shall include interest, in accordance with section 3116 of this title, on the amount finally awarded as the value of the property as of the date of taking and shall be awarded from that date to the date of payment. Interest shall not be allowed on as much of the compensation as has been paid into the court. Amounts paid into the court shall not be charged with commissions or poundage.

(2) **ORDER TO PAY.**—On application of the parties in interest, the court may order that any part of the money deposited in the court be paid immediately for or on account of the compensation to be awarded in the proceeding.

(3) **DEFICIENCY JUDGMENT.**—If the compensation finally awarded is more than the amount of money received by any person entitled to compensation, the court shall enter judgment against the Government for the amount of the deficiency.

(d) **AUTHORITY OF COURT.**—On the filing of a declaration of taking, the court—

(1) may fix the time within which, and the terms on which, the parties in possession shall be required to surrender possession to the petitioner; and

(2) may make just and equitable orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges.

(e) VESTING NOT PREVENTED OR DELAYED.—An appeal or a bond or undertaking given in a proceeding does not prevent or delay the vesting of title to land in the Government.

§ 3115. Irrevocable commitment of Federal Government to pay ultimate award when fixed

(a) REQUIREMENT FOR IRREVOCABLE COMMITMENT.—Action under section 3114 of this title irrevocably committing the Federal Government to the payment of the ultimate award shall not be taken unless the head of the executive department or agency or bureau of the Government empowered to acquire the land believes that the ultimate award probably will be within any limits Congress prescribes on the price to be paid.

(b) AUTHORIZED PURPOSES OF EXPENDITURES AFTER IRREVOCABLE COMMITMENT MADE.—When the Government has taken or may take title to real property during a condemnation proceeding and in advance of final judgment in the proceeding and has become irrevocably committed to pay the amount ultimately to be awarded as compensation, and the Attorney General believes that title to the property has been vested in the Government or that all persons having an interest in the property have been made parties to the proceeding and will be bound by the final judgment, the Government may expend amounts appropriated for that purpose to demolish existing structures on the property and to erect public buildings or public works on the property.

§ 3116. Interest as part of just compensation

(a) CALCULATION.—The district court shall calculate interest required to be paid under this subchapter as follows:

(1) PERIOD OF NOT MORE THAN ONE YEAR.—Where the period for which interest is owed is not more than one year, interest shall be calculated from the date of taking at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of taking.

(2) PERIOD OF MORE THAN ONE YEAR.—Where the period for which interest is owed is more than one year, interest for the first year shall be calculated in accordance with paragraph (1) and interest for each additional year shall be calculated on the amount by which the award of compensation is more than the deposit referred to in section 3114 of this title, plus accrued interest, at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the beginning of each additional year.

(b) DISTRIBUTION OF NOTICE OF RATES.—The Director of the Administrative Office of the United States Courts shall distribute to all federal courts notice of the rates described in paragraphs (1) and (2) of subsection (a).

§ 3117. Exclusion of certain property by stipulation of Attorney General

In any condemnation proceeding brought by or on behalf of the Federal Government, the Attorney General may stipulate or agree on behalf of the Government to exclude any part of the property, or any interest in the property, taken by or on behalf of the Government by a declaration of taking or otherwise.

§ 3118. Right of taking as addition to existing rights

The right to take possession and title in advance of final judgment in condemnation proceedings as provided by section 3114 of this title is in addition to any right, power, or authority conferred by the laws of the United States or of a State, territory, or possession of the United States under which the proceeding may be conducted, and does not abrogate, limit, or modify that right, power, or authority.

SUBCHAPTER III—BONDS**§ 3131. Bonds of contractors of public buildings or works**

(a) **DEFINITION.**—In this subchapter, the term “contractor” means a person awarded a contract described in subsection (b).

(b) **TYPE OF BONDS REQUIRED.**—Before any contract of more than \$100,000 is awarded for the construction, alteration, or repair of any public building or public work of the Federal Government, a person must furnish to the Government the following bonds, which become binding when the contract is awarded:

(1) **PERFORMANCE BOND.**—A performance bond with a surety satisfactory to the officer awarding the contract, and in an amount the officer considers adequate, for the protection of the Government.

(2) **PAYMENT BOND.**—A payment bond with a surety satisfactory to the officer for the protection of all persons supplying labor and material in carrying out the work provided for in the contract for the use of each person. The amount of the payment bond shall equal the total amount payable by the terms of the contract unless the officer awarding the contract determines, in a writing supported by specific findings, that a payment bond in that amount is impractical, in which case the contracting officer shall set the amount of the payment bond. The amount of the payment bond shall not be less than the amount of the performance bond.

(c) **COVERAGE FOR TAXES IN PERFORMANCE BOND.**—

(1) **IN GENERAL.**—Every performance bond required under this section specifically shall provide coverage for taxes the Government imposes which are collected, deducted, or withheld from wages the contractor pays in carrying out the contract with respect to which the bond is furnished.

(2) **NOTICE.**—The Government shall give the surety on the bond written notice, with respect to any unpaid taxes attributable to any period, within 90 days after the date when the contractor files a return for the period, except that notice must be given no later than 180 days from the date when a return for the period was required to be filed under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(3) **CIVIL ACTION.**—The Government may not bring a civil action on the bond for the taxes—

(A) unless notice is given as provided in this subsection; and

(B) more than one year after the day on which notice is given.

(d) **WAIVER OF BONDS FOR CONTRACTS PERFORMED IN FOREIGN COUNTRIES.**—A contracting officer may waive the requirement of a performance bond and payment bond for work under a contract that is to be performed in a foreign country if the officer finds that it is impracticable for the contractor to furnish the bonds.

(e) **AUTHORITY TO REQUIRE ADDITIONAL BONDS.**—This section does not limit the authority of a contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases, specified in subsection (b).

§ 3132. Alternatives to payment bonds provided by Federal Acquisition Regulation

(a) **IN GENERAL.**—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in section 3131(a) of this title that are more than \$25,000 and not more than \$100,000.

(b) **RESPONSIBILITIES OF CONTRACTING OFFICER.**—The contracting officer for a contract shall—

(1) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subsection (a), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for the contract; and

(2) specify in the solicitation of offers for the contract the payment protections selected.

§ 3133. Rights of persons furnishing labor or material

(a) **RIGHT OF PERSON FURNISHING LABOR OR MATERIAL TO COPY OF BOND.**—The department secretary or agency head of the contracting agency shall furnish a certified copy of a payment bond and the contract for which it was given to any person applying for a copy who submits an affidavit that the person has supplied labor or material for work described in the contract and payment for the work has not been made or that the person is being sued on the bond. The copy is prima facie evidence of the contents, execution, and delivery of the original. Applicants shall pay any fees the department secretary or agency head of the contracting agency fixes to cover the cost of preparing the certified copy.

(b) **RIGHT TO BRING A CIVIL ACTION.**—

(1) **IN GENERAL.**—Every person that has furnished labor or material in carrying out work provided for in a contract for which a payment bond is furnished under section 3131 of this title and that has not been paid in full within 90 days after the day on which the person did or performed the last of the labor or furnished or supplied the material for which the claim is made may bring a civil action on the payment bond for the amount unpaid at the time the civil action is brought and may prosecute the action to final execution and judgment for the amount due.

(2) **PERSON HAVING DIRECT CONTRACTUAL RELATIONSHIP WITH A SUBCONTRACTOR.**—A person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing the payment bond may bring a civil action on the payment bond on giving written notice to the contractor within 90 days from the date on which the person did or performed the last of the labor or furnished or supplied the last of the material for which the claim is made. The action must state with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. The notice shall be served—

(A) by any means that provides written, third-party verification of delivery to the contractor at any place the contractor maintains an office or conducts business or at the contractor's residence; or

(B) in any manner in which the United States marshal of the district in which the public improvement is situated by law may serve summons.

(3) **VENUE.**—A civil action brought under this subsection must be brought—

(A) in the name of the United States for the use of the person bringing the action; and

(B) in the United States District Court for any district in which the contract was to be performed and executed, regardless of the amount in controversy.

(4) **PERIOD IN WHICH ACTION MUST BE BROUGHT.**—An action brought under this subsection must be brought no later than one year after the day on which the last of the labor was performed or material was supplied by the person bringing the action.

(5) **LIABILITY OF FEDERAL GOVERNMENT.**—The Government is not liable for the payment of any costs or expenses of any civil action brought under this subsection.

(c) A waiver of the right to bring a civil action on a payment bond required under this subchapter is void unless the waiver is—

(1) in writing;

(2) signed by the person whose right is waived; and

(3) executed after the person whose right is waived has furnished labor or material for use in the performance of the contract.

§ 3134. Waivers for certain contracts

(a) **MILITARY.**—The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Transportation may waive this subchapter with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the Federal Government and with respect to contracts for manufacturing, producing, furnishing, constructing, altering, repairing, processing, or assembling vessels, aircraft, munitions, materiel, or supplies for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of the contracts as to payment or title.

(b) **TRANSPORTATION.**—The Secretary of Transportation may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels when the contract is made under

sections 1535 and 1536 of title 31, the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.), or the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1735 et seq.), regardless of the terms of the contracts as to payment or title.

SUBCHAPTER IV—WAGE RATE REQUIREMENTS

§ 3141. Definitions

In this subchapter, the following definitions apply:

(1) **FEDERAL GOVERNMENT.**—The term “Federal Government” has the same meaning that the term “United States” had in the Act of March 3, 1931 (ch. 411, 46 Stat. 1494 (known as the Davis-Bacon Act)).

(2) **WAGES, SCALE OF WAGES, WAGE RATES, MINIMUM WAGES, AND PREVAILING WAGES.**—The terms “wages”, “scale of wages”, “wage rates”, “minimum wages”, and “prevailing wages” include—

(A) the basic hourly rate of pay; and

(B) for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of—

(i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

§ 3142. Rate of wages for laborers and mechanics

(a) **APPLICATION.**—The advertised specifications for every contract in excess of \$2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.

(b) **BASED ON PREVAILING WAGE.**—The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.

(c) **STIPULATIONS REQUIRED IN CONTRACT.**—Every contract based upon the specifications referred to in subsection (a) must contain stipulations that—

(1) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;

(2) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and

(3) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

(d) **DISCHARGE OF OBLIGATION.**—The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section 3141(2)(B)(i) of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section 3141(2)(B)(ii) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B).

(e) **OVERTIME PAY.**—In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141(2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141(2)(B) but not actually paid.

§ 3143. Termination of work on failure to pay agreed wages

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by

written notice to the contractor may terminate the contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor's sureties shall be liable to the Government for any excess costs the Government incurs.

§ 3144. Authority of Comptroller General to pay wages and list contractors violating contracts

(a) PAYMENT OF WAGES.—

(1) **IN GENERAL.**—The Comptroller General shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.

(2) **RIGHT OF ACTION.**—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(b) LIST OF CONTRACTORS VIOLATING CONTRACTS.—

(1) **IN GENERAL.**—The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and sub-contractors.

(2) **RESTRICTION ON AWARDED CONTRACTS.**—No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

§ 3145. Regulations governing contractors and subcontractors

(a) **IN GENERAL.**—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(b) **APPLICATION.**—Section 1001 of title 18 applies to the statements.

§ 3146. Effect on other federal laws

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

§ 3147. Suspension of this subchapter during a national emergency

The President may suspend the provisions of this subchapter during a national emergency.

§ 3148. Application of this subchapter to certain contracts

This subchapter applies to a contract authorized by law that is made without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

SUBCHAPTER V—VOLUNTEER SERVICES**§ 3161. Purpose**

It is the purpose of this subchapter to promote and provide opportunities for individuals who wish to volunteer their services to state or local governments, public agencies, or nonprofit charitable organizations in the construction, repair, or alteration (including painting and decorating) of public buildings and public works that at least partly are financed with federal financial assistance authorized under certain federal programs and that otherwise might not be possible without the use of volunteers.

§ 3162. Waiver for individuals who perform volunteer services

(a) **CRITERIA FOR RECEIVING WAIVER.**—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of subchapter IV of this chapter as set forth in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) does not apply to an individual—

(1) who volunteers to perform a service directly to a state or local government, a public agency, or a public or private nonprofit recipient of federal assistance—

(A) for civic, charitable, or humanitarian reasons;

(B) only for the personal purpose or pleasure of the individual;

(C) without promise, expectation, or receipt of compensation for services rendered, except as provided in subsection (b); and

(D) freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who otherwise is not employed by the same public agency or recipient of federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

(b) PAYMENTS.—

(1) IN ACCORDANCE WITH REGULATIONS.—Volunteers described in subsection (a) who are performing services directly to a state or local government or public agency may receive payments of expenses, reasonable benefits, or a nominal fee only in accordance with regulations the Secretary of Labor prescribes. Volunteers who are performing services directly to a public or private nonprofit entity may not receive those payments.

(2) CRITERIA AND CONTENT OF REGULATIONS.—In prescribing the regulations, the Secretary shall consider criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(A) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or the cost or expense of meals and transportation;

(B) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker's compensation plan) or pension plan, or the awarding of a length of service award; and

(C) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

(3) NOMINAL FEE.—The Secretary shall decide what constitutes a nominal fee for purposes of paragraph (2)(C). The decision shall be based on the context of the economic realities of the situation involved.

(c) ECONOMIC REALITY.—In determining whether an expense, benefit, or fee described in subsection (b) may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary may not permit any expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

SUBCHAPTER VI—MISCELLANEOUS

§ 3171. Contract authority when appropriation is for less than full amount

Unless specifically directed otherwise, the Administrator of General Services may make a contract within the full limit of the cost fixed by Congress for the acquisition of land for sites, or for the enlargement of sites, for public buildings, or for the erection, remodeling, extension, alteration, and repairs of public buildings, even though an appropriation is made for only part of the amount necessary to carry out legislation authorizing that purpose.

§ 3172. Extension of state workers' compensation laws to buildings, works, and property of the Federal Government

(a) AUTHORIZATION OF EXTENSION.—The state authority charged with enforcing and requiring compliance with the state workers' compensation laws and with the orders, decisions, and awards of the authority may apply the laws to all land and premises in the State which the Federal Government owns or holds by

deed or act of cession, and to all projects, buildings, constructions, improvements, and property in the State and belonging to the Government, in the same way and to the same extent as if the premises were under the exclusive jurisdiction of the State in which the land, premises, projects, buildings, constructions, improvements, or property are located.

(b) **LIMITATION ON RELINQUISHING JURISDICTION.**—The Government under this section does not relinquish its jurisdiction for any other purpose.

(c) **NONAPPLICATION.**—This section does not modify or amend subchapter I of chapter 81 of title 5.

§ 3173. Working capital fund for blueprinting, photostating, and duplicating services in General Services Administration

(a) **ESTABLISHMENT AND PURPOSE.**—There is a working capital fund for the payment of salaries and other expenses necessary to the operation of a central blue-printing, photostating, and duplicating service.

(b) **COMPONENTS.**—The fund consists of—

(1) \$50,000 without fiscal year limitation; and

(2) reimbursements from available amounts of constituents of the Administrator of General Services, or of any other federal agency for which services are performed, at rates to be determined by the Administrator on the basis of estimated or actual charges for personal services, material, equipment (including maintenance, repair, and depreciation on existing and new equipment) and other expenses, to ensure continuous operation.

(c) **DEPOSIT OF EXCESS AMOUNTS IN THE TREASURY.**—At the close of each fiscal year any excess amount resulting from operation of the service, after adequately providing for the replacement of mechanical and other equipment and for accrued annual leave of employees engaged in this work by the establishment of reserves for those purposes, shall be deposited in the Treasury as miscellaneous receipts.

§ 3174. Operation of public utility communications services serving governmental activities

The Administrator of General Services may provide and operate public utility communications services serving any governmental activity when the services are economical and in the interest of the Federal Government. This section does not apply to communications systems for handling messages of a confidential or secret nature, the operation of cryptographic equipment or transmission of secret, security, or coded messages, or buildings operated or occupied by the United States Postal Service, except on request of the department or agency concerned.

§ 3175. Acceptance of gifts of property

The Administrator of General Services, and the United States Postal Service where that office is concerned, may accept on behalf of the Federal Government unconditional gifts of property in aid of any project or function within their respective jurisdictions.

§ 3176. Administrator of General Services to furnish services in continental United States to international bodies

Sections 1535 and 1536 of title 31 are extended so that the Administrator of General Services, at the request of the Secretary of State, may furnish services in the continental United States, on a reimbursable basis, to any international body with which the Federal Government is affiliated.

CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION

- Sec.
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§ 3301. Definitions and nonapplication

(a) DEFINITIONS.—In this chapter—

(1) ALTER.—The term “alter” includes—

(A) preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the alteration of a public building; and

(B) repairing, remodeling, improving, or extending, or other changes in, a public building.

(2) CONSTRUCT.—The term “construct” includes preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the construction of a public building.

(3) EXECUTIVE AGENCY.—The term “executive agency” means an executive department or independent establishment in the executive branch of the Federal Government, including—

(A) any wholly owned Government corporation;

(B) the Central-Bank for Cooperatives and the regional banks for cooperatives;

(C) federal land banks;

(D) federal intermediate credit banks;

(E) the Federal Deposit Insurance Corporation; and

(F) the Government National Mortgage Association.

(4) FEDERAL AGENCY.—The term “federal agency” means an executive agency or an establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the direction of the Architect).

(5) PUBLIC BUILDING.—The term “public building”—

(A) means a building, whether for single or multitenant occupancy, and its grounds, approaches, and appurtenances, which is generally suitable for use as office or storage space or both by one or more federal agencies or mixed-ownership Government corporations;

(B) includes—

- (i) federal office buildings;
- (ii) post offices;
- (iii) customhouses;
- (iv) courthouses;
- (v) appraisers stores;
- (vi) border inspection facilities;
- (vii) warehouses;
- (viii) record centers;
- (ix) relocation facilities;
- (x) telecommuting centers;
- (xi) similar federal facilities; and
- (xii) any other buildings or construction projects the inclusion of which the President considers to be justified in the public interest; but

(C) does not include a building or construction project described in subparagraphs (A) and (B)—

- (i) that is on the public domain (including that reserved for national forests and other purposes);
- (ii) that is on property of the Government in foreign countries;
- (iii) that is on Indian and native Eskimo property held in trust by the Government;
- (iv) that is on land used in connection with federal programs for agricultural, recreational, and conservation purposes, including research in connection with the programs;
- (v) that is on or used in connection with river, harbor, flood control, reclamation or power projects, for chemical manufacturing or development projects, or for nuclear production, research, or development projects;
- (vi) that is on or used in connection with housing and residential projects;
- (vii) that is on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense);
- (viii) that is on installations of the Department of Veterans Affairs used for hospital or domiciliary purposes; or
- (ix) the exclusion of which the President considers to be justified in the public interest.

(6) UNITED STATES.—The term “United States” includes the States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) NONAPPLICATION.—This chapter does not apply to the construction of any public building to which section 241(g) of the Immigration and Nationality Act (8 U.S.C. 1231(g)) or section 1 of the Act of June 26, 1930 (19 U.S.C. 68) applies.

§ 3302. Prohibition on construction of buildings except by Administrator of General Services

Only the Administrator of General Services may construct a public building. The Administrator shall construct a public building in accordance with this chapter.

§ 3303. Continuing investigation and survey of public buildings

(a) CONDUCTED BY ADMINISTRATOR.—The Administrator of General Services shall—

(1) make a continuing investigation and survey of the public buildings needs of the Federal Government so that the Administrator may carry out the duties of the Administrator under this chapter; and

(2) submit to Congress prospectuses of proposed projects in accordance with section 3307(a) and (b) of this title.

(b) COOPERATION WITH FEDERAL AGENCIES.—

(1) DUTIES OF ADMINISTRATOR.—In carrying out the duties of the Administrator under this chapter, the Administrator—

(A) shall cooperate with all federal agencies in order to keep informed of their needs;

(B) shall advise each federal agency of the program with respect to the agency; and

(C) may request the cooperation and assistance of each federal agency in carrying out duties under this chapter.

(2) DUTY OF FEDERAL AGENCIES.—Each federal agency shall cooperate with, advise, and assist the Administrator in carrying out the duties of the Administrator under this chapter as determined necessary by the Administrator to carry out the purposes of this chapter.

(c) REQUEST FOR IDENTIFICATION OF EXISTING BUILDINGS OF HISTORICAL, ARCHITECTURAL, OR CULTURAL SIGNIFICANCE.—When the Administrator undertakes a survey of the public buildings needs of the Government within a geographical area, the Administrator shall request that, within 60 days, the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.) identify any existing buildings in the geographical area that—

(1) are of historical, architectural, or cultural significance (as defined in section 3306(a) of this title); and

(2) whether or not in need of repair, alteration, or addition, would be suitable for acquisition to meet the public buildings needs of the Government.

(d) STANDARD FOR CONSTRUCTION AND ACQUISITION OF PUBLIC BUILDINGS.—In carrying out the duties of the Administrator under this chapter, the Administrator shall provide for the construction and acquisition of public buildings equitably throughout the United States with due regard to the comparative urgency of the need for each particular building. In developing plans for new buildings, the Administrator shall give due consideration to excellence of architecture and design.

§ 3304. Acquisition of buildings and sites

(a) IN GENERAL.—The Administrator of General Services may acquire, by purchase, condemnation, donation, exchange, or otherwise, any building and its site which the Administrator decides

is necessary to carry out the duties of the Administrator under this chapter.

(b) **ACQUISITION OF LAND OR INTEREST IN LAND FOR USE AS SITES.**—The Administrator may acquire land or an interest in land the Administrator considers necessary for use as sites, or additions to sites, for public buildings authorized to be constructed or altered under this chapter.

(c) **PUBLIC BUILDINGS USED FOR POST OFFICE PURPOSES.**—When any part of a public building is to be used for post office purposes, the Administrator shall act jointly with the United States Postal Service in selecting the town or city where the building is to be constructed, and in selecting the site in the town or city for the building.

(d) **SOLICITATION OF PROPOSALS FOR SALE, DONATION, OR EXCHANGE OF REAL PROPERTY.**—When the Administrator is to acquire a site under subsection (b), the Administrator, if the Administrator considers it necessary, by public advertisement may solicit proposals for the sale, donation, or exchange of real property to the Federal Government to be used as the site. In selecting a site under subsection (b) the Administrator (with the concurrence of the United States Postal Service if any part of the public building to be constructed on the site is to be used for post office purposes) may—

(1) select the site that the Administrator believes is the most advantageous to the Government, all factors considered; and

(2) acquire the site without regard to title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

§ 3305. Construction and alteration of buildings

(a) **CONSTRUCTION.**—

(1) **REPLACEMENT OF EXISTING BUILDINGS.**—When the Administrator of General Services considers it to be in the best interest of the Federal Government to construct a new public building to take the place of an existing public building, the Administrator may demolish the existing building and use the site on which it is located for the site of the proposed public building. If the Administrator believes that it is more advantageous to construct the public building on a different site in the same city, the Administrator may exchange the building and site, or the site, for another site, or may sell the building and site in accordance with subtitle I of this title and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(2) **SALE OR EXCHANGE OF SITES.**—When the Administrator decides that a site acquired for the construction of a public building is not suitable for that purpose, the Administrator may exchange the site for another site, or may sell it in accordance with subtitle I of this title and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(3) **COMMITTEE APPROVAL REQUIRED.**—This subsection does not permit the Administrator to use any land as a site for a public building if the project has not been approved in accordance with section 3307 of this title.

(b) **ALTERATION OF BUILDINGS.**—

(1) **AUTHORITY TO ALTER BUILDINGS AND ACQUIRE LAND.**—The Administrator may—

(A) alter any public building; and

(B) acquire in accordance with section 3304(b)–(d) of this title land necessary to carry out the alteration.

(2) **COMMITTEE APPROVAL NOT REQUIRED.**—

(A) **THRESHOLD AMOUNT.**—Approval under section 3307 of this title is not required for any alteration and acquisition authorized by this subsection for which the estimated maximum cost does not exceed \$1,500,000.

(B) **DOLLAR AMOUNT ADJUSTMENT.**—The Administrator annually may adjust the dollar amount referred to in subparagraph (A) to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) **CONSTRUCTION OR ALTERATION BY CONTRACT.**—The Administrator may carry out any construction or alteration authorized by this chapter by contract if the Administrator considers it to be most advantageous to the Government.

§ 3306. Accommodating federal agencies

(a) **DEFINITIONS.**—In this section—

(1) **COMMERCIAL ACTIVITIES.**—The term “commercial activities” includes the operations of restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(2) **CULTURAL ACTIVITIES.**—The term “cultural activities” includes film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not those activities are intended to make a profit.

(3) **EDUCATIONAL ACTIVITIES.**—The terms “educational activities” includes the operations of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(4) **HISTORICAL, ARCHITECTURAL, OR CULTURAL SIGNIFICANCE.**—The term “historical, architectural, or cultural significance” includes buildings listed or eligible to be listed on the National Register established under section 101 of the National Historic Preservation Act (16 U.S.C. 470a).

(5) **RECREATIONAL ACTIVITIES.**—The term “recreational activities” includes the operations of gymnasiums and related facilities.

(6) **UNIT OF GENERAL LOCAL GOVERNMENT.**—The term “unit of general local government” means a city, county, town, parish, village, or other general-purpose political subdivision of a State.

(b) **DUTIES OF ADMINISTRATOR.**—To carry out the duties of the Administrator of General Services under sections 581(h), 584(b), 3303(c), and 3307(b)(3) and (5) of this title and under any other authority with respect to constructing, operating, maintaining, altering, and otherwise managing or acquiring space necessary to accommodate federal agencies and to accomplish the purposes of sections 581(h), 584(b), 3303(c), and 3307(b)(3) and (5), the Administrator shall—

(1) acquire and utilize space in suitable buildings of historical, architectural, or cultural significance, unless use of the space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities in public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, that encourage public access to, and stimulate public pedestrian traffic around, into, and through, public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that the activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities.

(c) CONSULTATION AND SOLICITATION OF COMMENTS.—In carrying out the duties under subsection (b), the Administrator shall—

(1) consult with chief executive officers of the States, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3331 et seq.) and section 6506 of title 31, and chief executive officers of those units of general local government in each area served by an existing or proposed public building; and

(2) solicit the comments of other community leaders and members of the general public as the Administrator considers appropriate.

§ 3307. Congressional approval of proposed projects

(a) RESOLUTIONS REQUIRED BEFORE APPROPRIATIONS MAY BE MADE.—The following appropriations may be made only if the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives adopt resolutions approving the purpose for which the appropriation is made:

(1) An appropriation to construct, alter, or acquire any building to be used as a public building which involves a total expenditure in excess of \$1,500,000, so that the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for the buildings, except as provided in section 3305(b) of this title, is ensured.

(2) An appropriation to lease any space at an average annual rental in excess of \$1,500,000 for use for public purposes.

(3) An appropriation to alter any building, or part of the building, which is under lease by the Federal Government for use for a public purpose if the cost of the alteration will exceed \$750,000.

(b) TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.—To secure consideration for the approval referred to in subsection (a), the Administrator of General Services shall transmit to Congress a prospectus of the proposed facility, including—

(1) a brief description of the building to be constructed, altered, or acquired, or the space to be leased, under this chapter;

(2) the location of the building or space to be leased and an estimate of the maximum cost to the Government of the facility to be constructed, altered, or acquired, or the space to be leased;

(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings, especially those buildings that enhance the architectural, historical, social, cultural, and economic environment of the locality;

(4) with respect to any project for the construction, alteration, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with that to be afforded through the proposed action;

(5) a statement by the Administrator of the economic and other justifications for not acquiring a building identified to the Administrator under section 3303(c) of this title as suitable for the public building needs of the Government; and

(6) a statement of rents and other housing costs currently being paid by the Government for federal agencies to be housed in the building to be constructed, altered, or acquired, or the space to be leased.

(c) **INCREASE OF ESTIMATED MAXIMUM COST.**—The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to any percentage increase, as determined by the Administrator, in construction or alteration costs from the date the prospectus is transmitted to Congress. The increase authorized by this subsection may not exceed 10 percent of the estimated maximum cost.

(d) **RESCISSION OF APPROVAL.**—If an appropriation is not made within one year after the date a project for construction, alteration, or acquisition is approved under subsection (a), the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives by resolution may rescind its approval before an appropriation is made.

(e) **EMERGENCY LEASES BY THE ADMINISTRATOR.**—This section does not prevent the Administrator from entering into emergency leases during any period declared by the President to require emergency leasing authority. An emergency lease may not be for more than 180 days without approval of a prospectus for the lease in accordance with subsection (a).

(f) **LIMITATION ON LEASING CERTAIN SPACE.**—

(1) **IN GENERAL.**—The Administrator may not lease space to accommodate any of the following if the average rental cost of leasing the space will exceed \$1,500,000:

(A) Computer and telecommunications operations.

(B) Secure or sensitive activities related to the national defense or security, except when it would be inappropriate to locate those activities in a public building or other facility identified with the Government.

(C) A permanent courtroom, judicial chamber, or administrative office for any United States court.

(2) EXCEPTION.—The Administrator may lease space with respect to which paragraph (1) applies if the Administrator—

(A) decides, for reasons set forth in writing, that leasing the space is necessary to meet requirements which cannot be met in public buildings; and

(B) submits the reasons to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DOLLAR AMOUNT ADJUSTMENT.—The Administrator annually may adjust any dollar amount referred to in this section to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

§ 3308. Architectural or engineering services

(a) EMPLOYMENT BY ADMINISTRATOR.—When the Administrator of General Services decides it to be necessary, the Administrator may employ, by contract or otherwise, without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5, civil service rules and regulations, or section 3709 of the Revised Statutes (41 U.S.C. 5), the services of established architectural or engineering corporations, firms, or individuals, to the extent the Administrator may require those services for any public building authorized to be constructed or altered under this chapter.

(b) EMPLOYMENT ON PERMANENT BASIS NOT PERMITTED.—A corporation, firm, or individual shall not be employed under authority of subsection (a) on a permanent basis.

(c) RESPONSIBILITY OF ADMINISTRATOR.—Notwithstanding any other provision of this section, the Administrator is responsible for all construction authorized by this chapter, including the interpretation of construction contracts, approval of material and workmanship supplied under a construction contract, approval of changes in the construction contract, certification of vouchers for payments due the contractor, and final settlement of the contract.

§ 3309. Buildings and sites in the District of Columbia

(a) IN GENERAL.—The purposes of this chapter shall be carried out in the District of Columbia as nearly as may be practicable in harmony with the plan of Peter Charles L'Enfant. Public buildings shall be constructed or altered to combine architectural beauty with practical utility.

(b) CLOSING OF STREETS AND ALLEYS.—When the Administrator of General Services decides that constructing or altering a public building under this chapter in the District of Columbia requires using contiguous squares as a site for the building, parts of streets that lie between the squares, and alleys that intersect the squares, may be closed and vacated if agreed to by the Administrator, the Council of the District of Columbia, and the National Capital Planning Commission. Those streets and alleys become part of the site.

(c) CONSULTATIONS PRIOR TO ACQUISITIONS.—

(1) WITH HOUSE OFFICE BUILDING COMMISSION.—The Administrator must consult with the House Office Building Commission

created by the Act of March 4, 1907 (ch. 2918, 34 Stat. 1365), before the Administrator may acquire land located south of Independence Avenue, between Third Street SW and Eleventh Street SE, in the District of Columbia, for use as a site or an addition to a site.

(2) WITH ARCHITECT OF CAPITOL.—The Administrator must consult with the Architect of the Capitol before the Administrator may acquire land located in the area extending from the United States Capitol Grounds to Eleventh Street NE and SE and bounded by Independence Avenue on the south and G Street NE on the north, in the District of Columbia, for use as a site or an addition to a site.

(d) CONTRACTS FOR EVENTS IN STADIUM.—Notwithstanding the District of Columbia Stadium Act of 1957 (Public Law 85-300, 71 Stat. 619) or any other provision of law, the Armory Board may make contracts to conduct events in Robert F. Kennedy Stadium.

§ 3310. Special rules for leased buildings

For any building to be constructed for lease to, and for predominant use by, the Federal Government, the Administrator of General Services—

(1) notwithstanding section 585(a)(1) of this title, shall not make any agreement or undertake any commitment which will result in the construction of the building until the Administrator has established detailed specification requirements for the building;

(2) may acquire a leasehold interest in the building only by the use of competitive procedures required by section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253);

(3) shall inspect every building during construction to establish that the specifications established for the building are complied with;

(4) on completion of the building, shall evaluate the building to determine the extent of failure to comply with the specifications referred to in clause (1); and

(5) shall ensure that any contract entered into for the building shall contain provisions permitting a reduction of rent during any period when the building is not in compliance with the specifications.

§ 3311. State administration of criminal and health and safety laws

When the Administrator of General Services considers it desirable, the Administrator may assign to a State or a territory or possession of the United States any part of the authority of the Federal Government to administer criminal laws and health and safety laws with respect to land or an interest in land under the control of the Administrator and located in the State, territory, or possession. Assignment of authority under this section may be accomplished by filing with the chief executive officer of the State, territory, or possession a notice of assignment to take effect on acceptance, or in another manner as may be prescribed by the laws of the State, territory, or possession in which the land or interest is located.

§ 3312. Compliance with nationally recognized codes**(a) APPLICATION.—**

(1) **IN GENERAL.**—This section applies to any project for construction or alteration of a building for which amounts are first appropriated for a fiscal year beginning after September 30, 1989.

(2) **NATIONAL SECURITY WAIVER.**—This section does not apply to a building for which the Administrator of General Services or the head of the federal agency authorized to construct or alter the building decides that the application of this section to the building would adversely affect national security. A decision under this subsection is not subject to administrative or judicial review.

(b) **BUILDING CODES.**—Each building constructed or altered by the General Services Administration or any other federal agency shall be constructed or altered, to the maximum extent feasible as determined by the Administrator or the head of the federal agency, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes, including electrical codes, fire and life safety codes, and plumbing codes, as the Administrator decides is appropriate. In carrying out this subsection, the Administrator or the head of the federal agency shall use the latest edition of the nationally recognized codes.

(c) **ZONING LAWS.**—Each building constructed or altered by the Administration or any other federal agency shall be constructed or altered only after consideration of all requirements (except procedural requirements) of the following laws of a State or a political subdivision of a State, which would apply to the building if it were not a building constructed or altered by a federal agency:

(1) Zoning laws.

(2) Laws relating to landscaping, open space, minimum distance of a building from the property line, maximum height of a building, historic preservation, esthetic qualities of a building, and other similar laws.

(d) COOPERATION WITH STATE AND LOCAL OFFICIALS.—

(1) **STATE AND LOCAL GOVERNMENT CONSULTATION, REVIEW, AND INSPECTIONS.**—To meet the requirements of subsections (b) and (c), the Administrator or the head of the federal agency authorized to construct or alter the building—

(A) in preparing plans for the building, shall consult with appropriate officials of the State or political subdivision of a State, or both, in which the building will be located;

(B) on request shall submit the plans in a timely manner to the officials for review by the officials for a reasonable period of time not exceeding 30 days; and

(C) shall permit inspection by the officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if the officials provide to the Administrator or the head of the federal agency—

(i) a copy of the schedule before construction of the building is begun; and

(ii) reasonable notice of their intention to conduct any inspection before conducting the inspection.

(2) LIMITATION ON RESPONSIBILITIES.—This section does not impose an obligation on any State or political subdivision to take any action under paragraph (1).

(e) STATE AND LOCAL GOVERNMENT RECOMMENDATIONS.—Appropriate officials of a State or political subdivision of a State may make recommendations to the Administrator or the head of the federal agency authorized to construct or alter a building concerning measures necessary to meet the requirements of subsections (b) and (c). The officials also may make recommendations to the Administrator or the head of the federal agency concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Administrator or the head of the agency shall give due consideration to the recommendations.

(f) EFFECT OF NONCOMPLIANCE.—An action may not be brought against the Federal Government and a fine or penalty may not be imposed against the Government for failure to meet the requirements of subsection (b), (c), or (d) or for failure to carry out any recommendation under subsection (e).

(g) LIMITATION ON LIABILITY.—The Government and its contractors shall not be required to pay any amount for any action a State or a political subdivision of a State takes to carry out this section, including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations.

§ 3313. Delegation

(a) WHEN ALLOWED.—Except for the authority contained in section 3305(b) of this title, the carrying out of the duties and powers of the Administrator of General Services under this chapter, in accordance with standards the Administrator prescribes—

(1) shall be delegated on request to the appropriate executive agency when the estimated cost of the project does not exceed \$100,000; and

(2) may be delegated to the appropriate executive agency when the Administrator determines that delegation will promote efficiency and economy.

(b) NO EXEMPTION FROM OTHER PROVISIONS OF CHAPTER.—Delegation under subsection (a) does not exempt the person to whom the delegation is made, or the carrying out of the delegated duty or power, from any other provision of this chapter.

§ 3314. Report to Congress

(a) REQUEST BY EITHER HOUSE OF CONGRESS OR ANY COMMITTEE.—Within a reasonable time after a request of either House of Congress or any committee of Congress, the Administrator of General Services shall submit a report showing the location, space, cost, and status of each public building the construction, alteration, or acquisition of which—

(1) is to be under authority of this chapter; and

(2) was uncompleted as of the date of the request, or as of another date the request may designate.

(b) REQUEST OF COMMITTEE ON PUBLIC WORKS AND ENVIRONMENT OR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—The Administrator and the United States Postal Service shall make building project surveys requested by resolution by the Committee on Environment and Public Works of the Senate or the Committee

on Transportation and Infrastructure of the House of Representatives, and within a reasonable time shall make a report on the survey to Congress. The report shall contain all other information required to be included in a prospectus of the proposed public building project under section 3307(b) of this title.

§ 3315. Certain authority not affected

This chapter does not limit or repeal the authority conferred by law on the United States Postal Service.

CHAPTER 35—NON-FEDERAL PUBLIC WORKS

Sec.

- 3501. Definitions.
- 3502. Planned public works.
- 3503. Revolving fund.
- 3504. Surveys of public works planning.
- 3505. Forgiveness of outstanding advances.

§ 3501. Definitions

In this chapter, the following definitions apply:

- (1) PUBLIC AGENCY.—The term “public agency” means a State or a public agency or political subdivision of a State.
- (2) PUBLIC WORKS.—The term “public works” includes any public works other than housing.
- (3) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and any territory or possession of the United States.

§ 3502. Planned public works

(a) ADVANCES TO ENSURE PLANNING.—Notwithstanding section 3324(a) and (b) of title 31, the Secretary of Housing and Urban Development may make advances to public agencies and Indian tribes—

- (1) to encourage public agencies and Indian tribes to maintain at all times a current and adequate reserve of planned public works the construction of which can rapidly be commenced, particularly when the national or local economic situation makes that action desirable; and

- (2) to help attain maximum economy and efficiency in the planning and construction of public works.

(b) USES OF ADVANCES.—A public agency or Indian tribe shall use an advance under subsection (a) to aid in financing the cost of feasibility studies, engineering and architectural surveys, designs, plans, working drawings, specifications, or other action preliminary to and in preparation for the construction of public works, and for construction in connection with the development of a medical center, a general plan for the development of the center.

(c) NO FUTURE COMMITMENT.—An advance under subsection (a) does not commit the Congress to appropriate amounts to assist in financing the construction of any public works planned with the aid of that advance. Outstanding advances to public agencies and Indian tribes in a State shall not exceed 12.5 percent of the aggregate then authorized to be appropriated to the revolving fund established under section 3503 of this title.

(d) **REQUIREMENTS FOR ADVANCES.**—An advance shall not be made under subsection (a) for an individual project (including a regional, metropolitan, or other areawide project) unless—

(1) the project is planned to be constructed within or over a reasonable period of time considering the nature of the project;

(2) the project conforms to an overall state, local, or regional plan approved by a competent state, local, or regional authority; and

(3) the public agency or Indian tribe formally contracts with the Federal Government to complete the plan preparation promptly and to repay part or all of the advance when due.

(e) **REGULATIONS.**—The Secretary may prescribe regulations to carry out this chapter.

§ 3503. Revolving fund

(a) **ESTABLISHMENT.**—There is a revolving fund established by the Secretary of Housing and Urban Development to provide amounts for advances under this chapter. The fund comprises amounts appropriated under this chapter and all repayments and other receipts received in connection with advances made under this chapter.

(b) **AUTHORIZATIONS.**—Not more than \$70,000,000 may be appropriated to the revolving fund as necessary to carry out the purposes of this chapter.

§ 3504. Surveys of public works planning

The Secretary of Housing and Urban Development may use during a fiscal year not more than \$100,000 of the amount in the revolving fund established under section 3503 of this title to conduct surveys of the status and current volume of state and local public works planning and surveys of estimated requirements for state and local public works. In conducting a survey, the Secretary, may use or act through any department or agency of the Federal Government, with the consent of the department or agency.

§ 3505. Forgiveness of outstanding advances

In accordance with accounting and other procedures the Secretary of Housing and Urban Development prescribes, each advance made by the Secretary under this chapter that had any principal amount outstanding on February 5, 1988, was forgiven. The terms and conditions of any contract, or any amendment to a contract, for that advance with respect to any promise to repay the advance were canceled.

CHAPTER 37—CONTRACT WORK HOURS AND SAFETY STANDARDS

Sec.

3701. Definition and application.

3702. Work hours.

3703. Report of violations and withholding of amounts for unpaid wages and liquidated damages.

3704. Health and safety standards in building trades and construction industry.

3705. Safety programs.

3706. Limitations, variations, tolerances, and exemptions.

3707. Contractor certification or contract clause in acquisition of commercial items not required.

3708. Criminal penalties.

§ 3701. Definition and application

(a) DEFINITION.—In this chapter, the term “Federal Government” has the same meaning that the term “United States” had in the Contract Work Hours and Safety Standards Act (Public Law 87-581, 76 Stat. 357).

(b) APPLICATION.—

(1) CONTRACTS.—This chapter applies to—

(A) any contract that may require or involve the employment of laborers or mechanics on a public work of the Federal Government, a territory of the United States, or the District of Columbia; and

(B) any other contract that may require or involve the employment of laborers or mechanics if the contract is one—

(i) to which the Government, an agency or instrumentality of the Government, a territory, or the District of Columbia is a party;

(ii) which is made for or on behalf of the Government, an agency or instrumentality, a territory, or the District of Columbia; or

(iii) which is a contract for work financed at least in part by loans or grants from, or loans insured or guaranteed by, the Government or an agency or instrumentality under any federal law providing wage standards for the work.

(2) LABORERS AND MECHANICS.—This chapter applies to all laborers and mechanics employed by a contractor or subcontractor in the performance of any part of the work under the contract—

(A) including watchmen, guards, and workers performing services in connection with dredging or rock excavation in any river or harbor of the United States, a territory, or the District of Columbia; but

(B) not including an employee employed as a seaman.

(3) EXCEPTIONS.—

(A) THIS CHAPTER.—This chapter does not apply to—

(i) a contract for—

(I) transportation by land, air, or water;

(II) the transmission of intelligence; or

(III) the purchase of supplies or materials or articles ordinarily available in the open market;

(ii) any work required to be done in accordance with the provisions of the Walsh-Healey Act (41 U.S.C. 35 et seq.); and

(iii) a contract in an amount that is not greater than \$100,000.

(B) SECTION 3902.—Section 3902 of this title does not apply to work where the assistance described in subsection (a)(2)(C) from the Government or an agency or instrumentality is only a loan guarantee or insurance.

§ 3702. Work hours

(a) STANDARD WORKWEEK.—The wages of every laborer and mechanic employed by any contractor or subcontractor in the performance of work on a contract described in section 3701 of this title shall be computed on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permitted

subject to this section. For each workweek in which the laborer or mechanic is so employed, wages include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of 40 hours in the workweek.

(b) **CONTRACT REQUIREMENTS.**—A contract described in section 3701 of this title, and any obligation of the Federal Government, a territory of the United States, or the District of Columbia in connection with that contract, must provide that—

(1) a contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall not require or permit any laborer or mechanic, in any workweek in which the laborer or mechanic is employed on that work, to work more than 40 hours in that workweek, except as provided in this chapter; and

(2) when a violation of clause (1) occurs, the contractor and any subcontractor responsible for the violation are liable—

(A) to the affected employee for the employee's unpaid wages; and

(B) to the Government, the District of Columbia, or a territory for liquidated damages as provided in the contract.

(c) **LIQUIDATED DAMAGES.**—Liquidated damages under subsection (b)(2)(B) shall be computed for each individual employed as a laborer or mechanic in violation of this chapter and shall be equal to \$10 for each calendar day on which the individual was required or permitted to work in excess of the standard workweek without payment of the overtime wages required by this chapter.

(d) **AMOUNTS WITHHELD TO SATISFY LIABILITIES.**—Subject to section 3703 of this title, the governmental agency for which the contract work is done or which is providing financial assistance for the work may withhold, or have withheld, from money payable because of work performed by a contractor or subcontractor, amounts administratively determined to be necessary to satisfy the liabilities of the contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

§ 3703. Report of violations and withholding of amounts for unpaid wages and liquidated damages

(a) **REPORTS OF INSPECTORS.**—An officer or individual designated as an inspector of the work to be performed under a contract described in section 3701 of this title, or to aid in the enforcement or fulfillment of the contract, on observation or after investigation immediately shall report to the proper officer of the Federal Government, a territory of the United States, or the District of Columbia all violations of this chapter occurring in the performance of the work, together with the name of each laborer or mechanic who was required or permitted to work in violation of this chapter and the day the violation occurred.

(b) **WITHHOLDING AMOUNTS.**—

(1) **DETERMINING AMOUNT.**—The amount of unpaid wages and liquidated damages owing under this chapter shall be determined administratively.

(2) **AMOUNT DIRECTED TO BE WITHHELD.**—The officer or individual whose duty it is to approve the payment of money by the Government, territory, or District of Columbia in connection with the performance of the contract work shall direct the amount of—

(A) liquidated damages to be withheld for the use and benefit of the Government, territory, or District; and

(B) unpaid wages to be withheld for the use and benefit of the laborers and mechanics who were not compensated as required under this chapter.

(3) PAYMENT.—The Comptroller General shall pay the amount administratively determined to be due directly to the laborers and mechanics from amounts withheld on account of underpayments of wages if the amount withheld is adequate. If the amount withheld is not adequate, the Comptroller General shall pay an equitable proportion of the amount due.

(c) RIGHT OF ACTION AND INTERVENTION AGAINST CONTRACTORS AND SURETIES.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this chapter, the laborers and mechanics, in the case of a department or agency of the Government, have the same right of action and intervention against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(d) REVIEW PROCESS.—

(1) TIME LIMIT FOR APPEAL.—Within 60 days after an amount is withheld as liquidated damages, any contractor or subcontractor aggrieved by the withholding may appeal to the head of the agency of the Government or territory for which the contract work is done or which is providing financial assistance for the work, or to the Mayor of the District of Columbia in the case of liquidated damages withheld for the use and benefit of the District.

(2) REVIEW BY AGENCY HEAD OR MAYOR.—The agency head or Mayor may review the administrative determination of liquidated damages. The agency head or Mayor may issue a final order affirming the determination or may recommend to the Secretary of Labor that an appropriate adjustment in liquidated damages be made, or that the contractor or subcontractor be relieved of liability for the liquidated damages, if it is found that the amount is incorrect or that the contractor or subcontractor violated this chapter inadvertently, notwithstanding the exercise of due care by the contractor or subcontractor and the agents of the contractor or subcontractor.

(3) REVIEW BY SECRETARY.—The Secretary shall review all pertinent facts in the matter and may conduct any investigation the Secretary considers necessary in order to affirm or reject the recommendation. The decision of the Secretary is final.

(4) JUDICIAL ACTION.—A contractor or subcontractor aggrieved by a final order for the withholding of liquidated damages may file a claim in the United States Court of Federal Claims within 60 days after the final order. A final order of the agency head, Mayor, or Secretary is conclusive with respect to findings of fact if supported by substantial evidence.

(e) APPLICABILITY OF OTHER LAWS.—

(1) REORGANIZATION PLAN.—Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) applies to this chapter.

(2) SECTION 3145.—Section 3145 of this title applies to contractors and subcontractors referred to in section 3145 who are engaged in the performance of contracts subject to this chapter.

§ 3704. Health and safety standards in building trades and construction industry

(a) CONDITION OF CONTRACTS.—

(1) IN GENERAL.—Each contract in an amount greater than \$100,000 that is entered into under legislation subject to Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and is for construction, alteration, and repair, including painting and decorating, must provide that no contractor or subcontractor contracting for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety, as established under construction safety and health standards the Secretary of Labor prescribes by regulation based on proceedings pursuant to section 553 of title 5, provided that the proceedings include a hearing similar in nature to that authorized by section 553.

(2) CONSULTATION.—In formulating standards under this section, the Secretary shall consult with the Advisory Committee created by subsection (d) of this section.

(b) COMPLIANCE.—

(1) ACTIONS TO GAIN COMPLIANCE.—The Secretary may make inspections, hold hearings, issue orders, and make decisions based on findings of fact as the Secretary considers necessary to gain compliance with this section and any health and safety standard the Secretary prescribes under subsection (a). For those purposes the Secretary and the United States district courts have the authority and jurisdiction provided by sections 4 and 5 of the Walsh-Healey Act (41 U.S.C. 38, 39).

(2) REMEDY WHEN NONCOMPLIANCE FOUND.—When the Secretary, after an opportunity for an adjudicatory hearing by the Secretary, establishes noncompliance under this section of any condition of a contract described in—

(A) section 3701(b)(1)(B)(i) or (ii) of this title, the governmental agency for which the contract work is done may cancel the contract and make other contracts for the completion of the contract work, charging any additional cost to the original contractor; or

(B) section 3701(b)(1)(B)(iii) of this title, the governmental agency which is providing the financial guarantee, assistance, or insurance for the contract work may withhold the guarantee, assistance, or insurance attributable to the performance of the contract.

(3) NONAPPLICABILITY.—Section 3703 of this title does not apply to the enforcement of this section.

(c) REPEATED VIOLATIONS.—

(1) TRANSMITTAL OF NAMES OF REPEAT VIOLATORS TO COMPTROLLER GENERAL.—When the Secretary, after an opportunity for an agency hearing, decides on the record that, by repeated willful or grossly negligent violations of this chapter, a contractor or subcontractor has demonstrated that subsection (b) is not effective to protect the safety and health of the employees of the contractor or subcontractor, the Secretary shall make

a finding to that effect and, not sooner than 30 days after giving notice of the finding to all interested persons, shall transmit the name of the contractor or subcontractor to the Comptroller General.

(2) **BAN ON AWARDING CONTRACTS.**—The Comptroller General shall distribute each name transmitted under paragraph (1) to all agencies of the Federal Government. Unless the Secretary otherwise recommends, the contractor, subcontractor, or any person in which the contractor or subcontractor has a substantial interest may not be awarded a contract subject to this section until three years have elapsed from the date the name is transmitted to the Comptroller General. The Secretary shall terminate the ban if, before the end of the three-year period, the Secretary, after affording interested persons due notice and an opportunity for a hearing, is satisfied that a contractor or subcontractor whose name was transmitted to the Comptroller General will comply responsibly with the requirements of this section. The Comptroller General shall inform all Government agencies after being informed of the Secretary's action.

(3) **JUDICIAL REVIEW.**—A person aggrieved by the Secretary's action under this subsection or subsection (b) may file with the appropriate United States court of appeals a petition for review of the Secretary's action within 60 days after receiving notice of the Secretary's action. The clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary then shall file with the court the record on which the action is based. The findings of fact by the Secretary, if supported by substantial evidence, are final. The court may enter a decree enforcing, modifying, modifying and enforcing, or setting aside any part of, the order of the Secretary or the appropriate Government agency. The judgment of the court may be reviewed by the Supreme Court as provided in section 1254 of title 28.

(d) **ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH.**—

(1) **ESTABLISHMENT.**—There is an Advisory Committee on Construction Safety and Health in the Department of Labor.

(2) **COMPOSITION.**—The Committee is composed of nine members appointed by the Secretary, without regard to chapter 33 of title 5, as follows:

(A) Three members shall be individuals representative of contractors to whom this section applies.

(B) Three members shall be individuals representative of employees primarily in the building trades and construction industry engaged in carrying out contracts to which this section applies.

(C) Three members shall be public representatives who shall be selected on the basis of their professional and technical competence and experience in the construction health and safety field.

(3) **CHAIRMAN.**—The Secretary shall appoint one member as Chairman.

(4) **DUTIES.**—The Committee shall advise the Secretary—

(A) in formulating construction safety and health standards and other regulations; and

(B) on policy matters arising in carrying out this section.

(5) **EXPERTS AND CONSULTANTS.**—The Secretary may appoint special advisory and technical experts or consultants as may be necessary to carry out the functions of the Committee.

(6) **COMPENSATION AND EXPENSES.**—Committee members are entitled to receive compensation at rates the Secretary fixes, but not more than \$100 a day, including traveltime, when performing Committee business, and expenses under section 5703 of title 5.

§ 3705. Safety programs

The Secretary of Labor shall—

(1) provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe working conditions in employment covered by this chapter; and

(2) collect reports and data and consult with and advise employers as to the best means of preventing injuries.

§ 3706. Limitations, variations, tolerances, and exemptions

The Secretary of Labor may provide reasonable limitations to, and may prescribe regulations allowing reasonable variations to, tolerances from, and exemptions from, this chapter that the Secretary may find necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Federal Government business.

§ 3707. Contractor certification or contract clause in acquisition of commercial items not required

In a contract to acquire a commercial item (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)), a certification by a contractor or a contract clause may not be required to implement a prohibition or requirement in this chapter.

§ 3708. Criminal penalties

A contractor or subcontractor having a duty to employ, direct, or control a laborer or mechanic employed in the performance of work contemplated by a contract to which this chapter applies that intentionally violates this chapter shall be fined under title 18, imprisoned for not more than six months, or both.

PART B—UNITED STATES CAPITOL

CHAPTER 51—UNITED STATES CAPITOL BUILDINGS AND GROUNDS

Sec.

5101. Definition.

5102. Legal description and jurisdiction of United States Capitol Grounds.

5103. Restrictions on public use of United States Capitol Grounds.

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5105. Assistance to authorities by Capitol employees.

5106. Suspension of prohibitions.

5107. Concerts on grounds.

5108. Audit of private organizations.

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§ 5101. Definition

In this chapter, the term “Capitol Buildings” means the United States Capitol, the Senate and House Office Buildings and garages,

the Capitol Power Plant, all subways and enclosed passages connecting two or more of those structures, and the real property underlying and enclosed by any of those structures.

§ 5102. Legal description and jurisdiction of United States Capitol Grounds

(a) **LEGAL DESCRIPTION.**—The United States Capitol Grounds comprises all squares, reservations, streets, roadways, walks, and other areas as defined on a map entitled “Map showing areas comprising United States Capitol Grounds”, dated June 25, 1946, approved by the Architect of the Capitol, and recorded in the Office of the Surveyor of the District of Columbia in book 127, page 8, including all additions added by law after June 25, 1946.

(b) **JURISDICTION.**—

(1) **ARCHITECT OF THE CAPITOL.**—The jurisdiction and control over the Grounds, vested prior to July 31, 1946, by law in the Architect, is extended to the entire area of the Grounds. Except as provided in paragraph (2), the Architect is responsible for the maintenance and improvement of the Grounds, including those streets and roadways in the Grounds as shown on the map referred to in subsection (a) as being under the jurisdiction and control of the Commissioners of the District of Columbia.

(2) **MAYOR OF THE DISTRICT OF COLUMBIA.**—

(A) **IN GENERAL.**—The Mayor of the District of Columbia is responsible for the maintenance and improvement of those portions of the following streets which are situated between the curblines of those streets: Constitution Avenue from Second Street Northeast to Third Street Northwest, First Street from D Street Northeast to D Street Southeast, D Street from First Street Southeast to Washington Avenue Southwest, and First Street from the north side of Louisiana Avenue to the intersection of C Street and Washington Avenue Southwest, Pennsylvania Avenue Northwest from First Street Northwest to Third Street Northwest, Maryland Avenue Southwest from First Street Southwest to Third Street Southwest, Second Street Northeast from F Street Northeast to C Street Southeast; C Street Southeast from Second Street Southeast to First Street Southeast; that portion of Maryland Avenue Northeast from Second Street Northeast to First Street Northeast; that portion of New Jersey Avenue Northwest from D Street Northwest to Louisiana Avenue; that portion of Second Street Southwest from the north curb of D Street to the south curb of Virginia Avenue Southwest; that portion of Virginia Avenue Southwest from the east curb of Second Street Southwest to the west curb of Third Street Southwest; that portion of Third Street Southwest from the south curb of Virginia Avenue Southwest to the north curb of D Street Southwest; that portion of D Street Southwest from the west curb of Third Street Southwest to the east curb of Second Street Southwest; that portion of Washington Avenue Southwest, including sidewalks and traffic islands, from the south curb of Independence Avenue Southwest to the west curb of South Capitol Street.

(B) **REPAIR AND MAINTENANCE OF UTILITY SERVICES.**—The Mayor may enter any part of the Grounds to repair or maintain or, subject to the approval of the Architect,

construct or alter, any utility service of the District of Columbia Government.

§ 5103. Restrictions on public use of United States Capitol Grounds

Public travel in, and occupancy of, the United States Capitol Grounds is restricted to the roads, walks, and places prepared for that purpose.

§ 5104. Unlawful activities

(a) DEFINITIONS.—In this section—

(1) ACT OF PHYSICAL VIOLENCE.—The term “act of physical violence” means any act involving—

(A) an assault or other infliction or threat of infliction of death or bodily harm on an individual; or

(B) damage to, or destruction of, real or personal property.

(2) DANGEROUS WEAPON.—The term “dangerous weapon” includes—

(A) all articles enumerated in section 14(a) of the Act of July 8, 1932 (ch. 465, 47 Stat. 654); and

(B) a device designed to expel or hurl a projectile capable of causing injury to individuals or property, a dagger, a dirk, a stiletto, and a knife having a blade over three inches in length.

(3) EXPLOSIVES.—The term “explosives” has the meaning given that term in section 841(d) of title 18.

(4) FIREARM.—The term “firearm” has the meaning given that term in section 921(3) of title 18.

(b) OBSTRUCTION OF ROADS.—A person may not occupy the roads in the United States Capitol Grounds in a manner that obstructs or hinders their proper use, or use the roads in the area of the Grounds, south of Constitution Avenue and B Street and north of Independence Avenue and B Street, to convey goods or merchandise, except to or from the United States Capitol on Federal Government service.

(c) SALE OF ARTICLES, DISPLAY OF SIGNS, AND SOLICITATIONS.—A person may not carry out any of the following activities in the Grounds:

(1) offer or expose any article for sale.

(2) display a sign, placard, or other form of advertisement.

(3) solicit fares, alms, subscriptions, or contributions.

(d) INJURIES TO PROPERTY.—A person may not step or climb on, remove, or in any way injure any statue, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf, in the Grounds.

(e) CAPITOL GROUNDS AND BUILDINGS SECURITY.—

(1) FIREARMS, DANGEROUS WEAPONS, EXPLOSIVES, OR INCENDIARY DEVICES.—An individual or group of individuals—

(A) except as authorized by regulations prescribed by the Capitol Police Board—

(i) may not carry on or have readily accessible to any individual on the Grounds or in any of the Capitol Buildings a firearm, a dangerous weapon, explosives, or an incendiary device;

(ii) may not discharge a firearm or explosives, use a dangerous weapon, or ignite an incendiary device,

on the Grounds or in any of the Capitol Buildings;
or

(iii) may not transport on the Grounds or in any of the Capitol Buildings explosives or an incendiary device; or

(B) may not knowingly, with force and violence, enter or remain on the floor of either House of Congress.

(2) VIOLENT ENTRY AND DISORDERLY CONDUCT.—An individual or group of individuals may not willfully and knowingly—

(A) enter or remain on the floor of either House of Congress or in any cloakroom or lobby adjacent to that floor, in the Rayburn Room of the House of Representatives, or in the Marble Room of the Senate, unless authorized to do so pursuant to rules adopted, or an authorization given, by that House;

(B) enter or remain in the gallery of either House of Congress in violation of rules governing admission to the gallery adopted by that House or pursuant to an authorization given by that House;

(C) with the intent to disrupt the orderly conduct of official business, enter or remain in a room in any of the Capitol Buildings set aside or designated for the use of either House of Congress or a Member, committee, officer, or employee of Congress or either House of Congress;

(D) utter loud, threatening, or abusive language, or engage in disorderly or disruptive conduct, at any place in the Grounds or in any of the Capitol Buildings with the intent to impede, disrupt, or disturb the orderly conduct of a session of Congress or either House of Congress, or the orderly conduct in that building of a hearing before, or any deliberations of, a committee of Congress or either House of Congress;

(E) obstruct, or impede passage through or within, the Grounds or any of the Capitol Buildings;

(F) engage in an act of physical violence in the Grounds or any of the Capitol Buildings; or

(G) parade, demonstrate, or picket in any of the Capitol Buildings.

(3) EXEMPTION OF GOVERNMENT OFFICIALS.—This subsection does not prohibit any act performed in the lawful discharge of official duties by—

(A) a Member of Congress;

(B) an employee of a Member of Congress;

(C) an officer or employee of Congress or a committee of Congress; or

(D) an officer or employee of either House of Congress or a committee of that House.

(f) PARADES, ASSEMBLAGES, AND DISPLAY OF FLAGS.—Except as provided in section 5106 of this title, a person may not—

(1) parade, stand, or move in processions or assemblages in the Grounds; or

(2) display in the Grounds a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

§ 5105. Assistance to authorities by Capitol employees

Each individual employed in the service of the Federal Government in the United States Capitol or within the United States Capitol Grounds shall prevent, as far as may be in the individual's power, a violation of a provision of this chapter or section 9, 9A, 9B, 9C, or 14 of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), and shall aid the police in securing the arrest and conviction of the individual violating the provision.

§ 5106. Suspension of prohibitions

(a) **AUTHORITY TO SUSPEND.**—To allow the observance in the United States Capitol Grounds of occasions of national interest becoming the cognizance and entertainment of Congress, the President of the Senate and the Speaker of the House of Representatives concurrently may suspend any of the prohibitions contained in sections 5103 and 5104 of this title that would prevent the use of the roads and walks within the Grounds by processions or assemblages, and the use in the Grounds of suitable decorations, music, addresses, and ceremonies, if responsible officers have been appointed and the President and the Speaker determine that adequate arrangements have been made to maintain suitable order and decorum in the proceedings and to guard the United States Capitol and its grounds from injury.

(b) **POWER TO SUSPEND PROHIBITIONS IN ABSENCE OF PRESIDENT OR SPEAKER.**—If either the President or Speaker is absent from the District of Columbia, the authority to suspend devolves on the other officer. If both officers are absent, the authority devolves on the Capitol Police Board.

(c) **AUTHORITY OF MAYOR TO PERMIT USE OF LOUISIANA AVENUE.**—Notwithstanding subsection (a) and section 5104(f) of this title, the Capitol Police Board may grant the Mayor of the District of Columbia authority to permit the use of Louisiana Avenue for any of the purposes prohibited by section 5104(f).

§ 5107. Concerts on grounds

Sections 5102, 5103, 5104(b)–(f), 5105, 5105, and 5109 of this title and sections 9, 9A, 9B, and 9C of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), do not prohibit a band in the service of the Federal Government from giving concerts in the United States Capitol Grounds at times which will not interfere with Congress and as authorized by the Architect of the Capitol.

§ 5108. Audit of private organizations

A private organization (except a political party or committee constituted for the election of federal officials), whether or not organized for profit and whether or not any of its income inures to the benefit of any person, that performs services or conducts activities in the United States Capitol Buildings or Grounds is subject to a special audit of its accounts for each year in which it performs those services or conducts those activities. The Comptroller General shall conduct the audit and report the results of the audit to the Senate and the House of Representatives.

§ 5109. Penalties

(a) **FIREARMS, DANGEROUS WEAPONS, EXPLOSIVES, OR INCENDIARY DEVICE OFFENSES.**—An individual or group violating section 5104(e)(1) of this title, or attempting to commit a violation, shall

be fined under title 18, imprisoned for not more than five years, or both.

(b) OTHER OFFENSES.—A person violating section 5103 or 5104(b), (c), (d), (e)(2), or (f) of this title, or attempting to commit a violation, shall be fined under title 18, imprisoned for not more than six months, or both.

(c) PROCEDURE.—

(1) IN GENERAL.—An action for a violation of this chapter or section 9, 9A, 9B, 9C or 14 of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), including an attempt or a conspiracy to commit a violation, shall be brought by the Attorney General in the name of the United States. This chapter and sections 9, 9A, 9B, 9C and 14 do not supersede any provision of federal law or the laws of the District of Columbia. Where the conduct violating this chapter or section 9, 9A, 9B, 9C or 14 also violates federal law or the laws of the District of Columbia, both violations may be joined in a single action.

(2) VENUE.—An action under this section for a violation of—

(A) section 5104(e)(1) of this title or for conduct that constitutes a felony under federal law or the laws of the District of Columbia shall be brought in the United States District Court for the District of Columbia; and

(B) any other section referred to in subsection (a) may be brought in the Superior Court of the District of Columbia.

(3) AMOUNT OF PENALTY.—The penalty which may be imposed on a person convicted in an action under this subsection is the highest penalty authorized by any of the laws the defendant is convicted of violating.

PART C—FEDERAL BUILDING COMPLEXES

CHAPTER 61—UNITED STATES SUPREME COURT BUILDING AND GROUNDS

SUBCHAPTER I—GENERAL

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SUBCHAPTER II—BUILDINGS AND GROUNDS

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6112. Supreme Court Building and grounds employees.
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SUBCHAPTER III—POLICING AUTHORITY

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SUBCHAPTER IV—PROHIBITIONS AND PENALTIES

6131. Public travel in Supreme Court grounds.
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6133. Property in the Supreme Court Building and grounds.
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6135. Parades, assemblages, and display of flags in the Supreme Court Building and grounds.
6136. Suspension of prohibitions against use of Supreme Court grounds.
6137. Penalties.

SUBCHAPTER I—GENERAL

§ 6101. Definitions and application

(a) DEFINITIONS.—In this chapter, the following definitions apply:

(1) OFFICIAL GUEST OF THE SUPREME COURT.—The term “official guest of the Supreme Court” means an individual who is a guest of the Supreme Court, as determined by the Chief Justice of the United States or any Associate Justice of the Supreme Court;

(2) STATE.—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and any territory or possession of the United States; and

(b) APPLICATION.—For purposes of section 6102 of this title and subchapters III and IV, the Supreme Court grounds—

(1) extend to the line of the face of—

(A) the east curb of First Street Northeast, between Maryland Avenue Northeast and East Capitol Street;

(B) the south curb of Maryland Avenue Northeast, between First Street Northeast and Second Street Northeast;

(C) the west curb of Second Street Northeast, between Maryland Avenue Northeast and East Capitol Street; and

(D) the north curb of East Capitol Street between First Street Northeast and Second Street Northeast; and

(2) comprise any property under the custody and control of the Supreme Court as part of the Supreme Court grounds, including property acquired as provided by law on behalf of the Federal Government in lots 2, 3, 800, 801, and 802 in square 758 in the District of Columbia as an addition to the grounds of the Supreme Court Building.

§ 6102. Regulations

(a) AUTHORITY OF THE MARSHAL.—In addition to the restrictions and requirements specified in subchapter IV, the Marshal of the Supreme Court may prescribe regulations, approved by the Chief Justice of the United States, that are necessary for—

(1) the adequate protection of the Supreme Court Building and grounds and of individuals and property in the Building and grounds; and

(2) the maintenance of suitable order and decorum within the Building and grounds.

(b) POSTING REQUIREMENT.—All regulations prescribed under this section shall be posted in a public place at the Building and shall be made reasonably available to the public in writing.

SUBCHAPTER II—BUILDINGS AND GROUNDS

§ 6111. Supreme Court Building

(a) IN GENERAL.—

(1) STRUCTURAL AND MECHANICAL CARE.—The Architect of the Capitol shall have charge of the structural and mechanical care of the Supreme Court Building, including—

(A) the care and maintenance of the grounds; and

(B) the supplying of all mechanical furnishings and mechanical equipment for the Building.

(2) OPERATION AND MAINTENANCE.—The Architect shall direct the operation and maintenance of the mechanical equipment and repair of the building.

(3) CONTRACT AUTHORITY.—The Architect may enter into all necessary contracts to carry out this subsection.

(b) AVAILABILITY OF APPROPRIATIONS.—Amounts appropriated under—

(1) subsection (a) and sections 6112 and 6113 of this title are available for—

(A) expenses of heating and air-conditioning refrigeration supplied by the Capitol Power Plant, advancements for which shall be made and deposited in the Treasury to the credit of appropriations provided for the Capitol Power Plant; and

(B) the purchase of electrical energy; and

(2) the heading “SUPREME COURT OF THE UNITED STATES” and “CARE OF THE BUILDING AND GROUNDS” are available for—

(A) improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances;

(B) special clothing for workers;

(C) personal and other services (including temporary labor without regard to chapter 51, subchapter III of chapter 53, and subchapter III of chapter 83, of title 5); and

(D) without compliance with section 3709 of the Revised Statutes (41 U.S.C. 5)—

(i) for snow removal (by hire of personnel and equipment or under contract); and

(ii) for the replacement of electrical transformers containing polychlorinated biphenyls.

§ 6112. Supreme Court Building and grounds employees

Employees required to carry out section 6111(a) of this title shall be—

(1) appointed by the Architect of the Capitol with the approval of the Chief Justice of the United States;

(2) compensated in accordance with chapter 51 and subchapter III of chapter 53 of title 5; and

(3) subject to subchapter III of chapter 83 of title 5.

§ 6113. Duties of the Superintendent of the Supreme Court Building

Except as provided in section 6111(a) of this title, all duties and work required for the operation, domestic care, and custody of the Supreme Court Building shall be performed under the direction of the Marshal of the Supreme Court. The Marshal serves as the superintendent of the Building.

§ 6114. Oliver Wendell Holmes Garden

The Architect of the Capitol shall maintain and care for the Oliver Wendell Holmes Garden in accordance with the provisions of law on the maintenance and care of the grounds of the Supreme Court Building.

SUBCHAPTER III—POLICING AUTHORITY

§ 6121. General

(a) **AUTHORITY OF MARSHAL OF THE SUPREME COURT AND SUPREME COURT POLICE.**—In accordance with regulations prescribed by the Marshal of the Supreme Court and approved by the Chief Justice of the United States, the Marshal and the Supreme Court Police shall have authority—

(1) to police the Supreme Court Building and grounds and adjacent streets to protect individuals and property;

(2) in any State, to protect—

(A) the Chief Justice, any Associate Justice of the Supreme Court, and any official guest of the Supreme Court; and

(B) any officer or employee of the Supreme Court while that officer or employee is performing official duties;

(3) while performing duties necessary to carry out paragraph (1) or (2), to make arrests for any violation of federal or state law and any regulation under federal or state law; and

(4) to carry firearms as may be required while performing duties under section 6102 of this title, this subchapter, and subchapter IV.

(b) **ADDITIONAL REQUIREMENTS RELATED TO SUBSECTION (a)(2).**—

(1) **AUTHORIZATION TO CARRY FIREARMS.**—Duties under subsection (a)(2)(A) with respect to an official guest of the Supreme Court in any State (other than the District of Columbia, Maryland, and Virginia) shall be authorized in writing by the Chief Justice or an Associate Justice, if those duties require the carrying of firearms under subsection (a)(4).

(2) **TERMINATION OF AUTHORITY.**—The authority provided under subsection (a)(2) expires on December 29, 2004.

§ 6122. Designation of members of the Supreme Court Police

Under the general supervision and direction of the Chief Justice of the United States, the Marshal of the Supreme Court may designate employees of the Supreme Court as members of the Supreme Court Police, without additional compensation.

§ 6123. Authority of Metropolitan Police of the District of Columbia

The Metropolitan Police of the District of Columbia may make arrests within the Supreme Court Building and grounds for a violation of federal or state law or any regulation under federal or state law. This section does not authorize the Metropolitan Police to enter the Supreme Court Building to make an arrest in response to a complaint, serve a warrant, or patrol the Supreme Court Building or grounds, unless the Metropolitan Police have been requested to do so by, or have received the consent of, the Marshal of the Supreme Court or an assistant to the Marshal.

SUBCHAPTER IV—PROHIBITIONS AND PENALTIES

§ 6131. Public travel in Supreme Court grounds

Public travel in, and occupancy of, the Supreme Court grounds is restricted to the sidewalks and other paved surfaces.

§ 6132. Sale of articles, signs, and solicitation in Supreme Court Building and grounds

It is unlawful—

- (1) to offer or expose any article for sale in the Supreme Court Building or grounds;
- (2) to display a sign, placard, or other form of advertisement in the Building or grounds; or
- (3) to solicit fares, alms, subscriptions, or contributions in the Building or grounds.

§ 6133. Property in the Supreme Court Building and grounds

It is unlawful to step or climb on, remove, or in any way injure any statue, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf, in the Supreme Court Building or grounds.

§ 6134. Firearms, fireworks, speeches, and objectionable language in the Supreme Court Building and grounds

It is unlawful to discharge a firearm, firework or explosive, set fire to a combustible, make a harangue or oration, or utter loud, threatening, or abusive language in the Supreme Court Building or grounds.

§ 6135. Parades, assemblages, and display of flags in the Supreme Court Building and grounds

It is unlawful to parade, stand, or move in processions or assemblages in the Supreme Court Building or grounds, or to display in the Building and grounds a flag, banner, or device designed or adapted to bring into public notice a party, organization, or movement.

§ 6136. Suspension of prohibitions against use of Supreme Court grounds

To allow the observance of authorized ceremonies in the Supreme Court Building and grounds, the Marshal of the Supreme Court may suspend for those occasions any of the prohibitions contained in this subchapter as may be necessary for the occasion if—

- (1) responsible officers have been appointed; and
- (2) the Marshal determines that adequate arrangements have been made—
 - (A) to maintain suitable order and decorum in the proceedings; and
 - (B) to protect the Supreme Court Building and grounds and individuals and property in the Building and grounds.

§ 6137. Penalties

(a) **IN GENERAL.**—An individual who violates this subchapter, or a regulation prescribed under section 6102 of this title, shall be fined under title 18, imprisoned not more than 60 days, or both.

(b) **VENUE AND PROCEDURE.**—Prosecution for a violation described in subsection (a) shall be in the Superior Court of the District of Columbia, on information by the United States Attorney or an Assistant United States Attorney.

(c) **OFFENSES INVOLVING PROPERTY DAMAGE OVER \$100.**—If during the commission of a violation described in subsection (a),

public property is damaged in an amount exceeding \$100, the period of imprisonment for the offense may be not more than five years.

CHAPTER 63—SMITHSONIAN INSTITUTION, NATIONAL GALLERY OF ART, AND JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

- Sec.
6301. Definition.
6302. Public use of grounds.
6303. Unlawful activities.
6304. Additional regulations.
6305. Suspension of regulations.
6306. Policing of buildings and grounds.
6307. Penalties.

§ 6301. Definition

In this chapter, the term “specified buildings and grounds” means—

(1) **SMITHSONIAN INSTITUTION.**—The Smithsonian Institution and its grounds, which include the following:

(A) **SMITHSONIAN BUILDINGS AND GROUNDS ON THE NATIONAL MALL.**—The Smithsonian Building, the Arts and Industries Building, the Freer Gallery of Art, the National Air and Space Museum, the National Museum of Natural History, the National Museum of American History, the National Museum of the American Indian, the Hirshhorn Museum and Sculpture Garden, the Arthur M. Sackler Gallery, the National Museum of African Art, the S. Dillon Ripley Center, and all other buildings of the Smithsonian Institution within the Mall, including the entrance walks, unloading areas, and other pertinent service roads and parking areas.

(B) **NATIONAL ZOOLOGICAL PARK.**—The National Zoological Park comprising all the buildings, streets, service roads, walks, and other areas within the boundary fence of the National Zoological Park in the District of Columbia and including the public space between that fence and the face of the curb lines of the adjacent city streets.

(C) **OTHER SMITHSONIAN BUILDINGS AND GROUNDS.**—All other buildings, service roads, walks, and other areas within the exterior boundaries of any real estate or land or interest in land (including temporary use) that the Smithsonian Institution acquires and that the Secretary of the Smithsonian Institution determines to be necessary for the adequate protection of individuals or property in the Smithsonian Institution and suitable for administration as a part of the Smithsonian Institution.

(2) **NATIONAL GALLERY OF ART.**—The National Gallery of Art and its grounds, which extend—

(A) to the line of the face of the south curb of Constitution Avenue Northwest, between Seventh Street Northwest, and Fourth Street Northwest, to the line of the face of the west curb of Fourth Street Northwest, between Constitution Avenue Northwest, and Madison Drive Northwest; to the line of the face of the north curb of Madison Drive Northwest, between Fourth Street Northwest, and Seventh Street Northwest; and to the line of the face of the east

curb of Seventh Street Northwest, between Madison Drive Northwest, and Constitution Avenue Northwest;

(B) to the line of the face of the south curb of Pennsylvania Avenue Northwest, between Fourth Street and Third Street Northwest, to the line of the face of the west curb of Third Street Northwest, between Pennsylvania Avenue and Madison Drive Northwest, to the line of the face of the north curb of Madison Drive Northwest, between Third Street and Fourth Street Northwest, and to the line of the face of the east curb of Fourth Street Northwest, between Pennsylvania Avenue and Madison Drive Northwest; and

(C) to the line of the face of the south curb of Constitution Avenue Northwest, between Ninth Street Northwest and Seventh Street Northwest; to the line of the face of the west curb of Seventh Street Northwest, between Constitution Avenue Northwest and Madison Drive Northwest; to the line of the face of the north curb of Madison Drive Northwest, between Seventh Street Northwest and the line of the face of the east side of the east retaining wall of the Ninth Street Expressway Northwest; and to the line of the face of the east side of the east retaining wall of the Ninth Street Expressway Northwest, between Madison Drive Northwest and Constitution Avenue Northwest.

(3) JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.—The John F. Kennedy Center for the Performing Arts, which extends to the line of the west face of the west retaining walls and curbs of the Inner Loop Freeway on the east, the north face of the north retaining walls and curbs of the Theodore Roosevelt Bridge approaches on the south, the east face of the east retaining walls and curbs of Rock Creek Parkway on the west, and the south curbs of New Hampshire Avenue and F Street on the north, as generally depicted on the map entitled “Transfer of John F. Kennedy Center for the Performing Arts”, numbered 844/82563 and dated April 20, 1994 (as amended by the map entitled “Transfer of John F. Kennedy Center for the Performing Arts”, numbered 844/82563A and dated May 22, 1997), which shall be on file and available for public inspection in the office of the National Capital Region, National Park Service.

§ 6302. Public use of grounds

Public travel in, and occupancy of, the grounds specified under section 6301 of this title are restricted to the sidewalks and other paved surfaces, except in the National Zoological Park.

§ 6303. Unlawful activities

(a) DISPLAYS AND SOLICITATIONS.—It is unlawful for anyone other than an authorized employee or concessionaire to carry out any of the following activities within the specified buildings and grounds:

- (1) Offer or expose any article for sale.
- (2) Display any sign, placard, or other form of advertisement.
- (3) Solicit alms, subscriptions, or contributions.

(b) TOUCHING OF, OR INJURIES TO, PROPERTY.—It is unlawful for anyone—

(1) other than an authorized employee, to touch or handle objects of art or scientific or historical objects on exhibition within the specified buildings or grounds; or

(2) to step or climb on, remove, or in any way injure any object of art, exhibit (including an exhibit animal), equipment, seat, wall, fountain, or other erection or architectural feature, or any tree, shrub, plant, or turf, within the specified buildings or grounds.

§ 6304. Additional regulations

(a) **AUTHORITY TO PRESCRIBE ADDITIONAL REGULATIONS.**—In addition to the restrictions and requirements specified in sections 6302 and 6303 of this title, the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, and the Trustees of the John F. Kennedy Center for the Performing Arts may prescribe for their respective agencies regulations necessary for—

(1) the adequate protection of the specified buildings and grounds and individuals and property in those buildings and grounds; and

(2) the maintenance of suitable order and decorum within the specified buildings and grounds, including the control of traffic and parking of vehicles in the National Zoological Park and all other areas in the District of Columbia under their control.

(b) **PUBLICATION IN FEDERAL REGISTER.**—A regulation prescribed under this section shall be published in the Federal Register and is not effective until the expiration of 10 days after the date of publication.

§ 6305. Suspension of regulations

To allow authorized services, training programs, and ceremonies in the specified buildings and grounds, the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, and the Trustees of the John F. Kennedy Center for the Performing Arts (or their designees) may suspend for their respective agencies any of the prohibitions contained in sections 6302 and 6303 of this title as may be necessary for the occasion or circumstance if—

(1) responsible officers have been appointed; and

(2) the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, and the Trustees of the John F. Kennedy Center for the Performing Arts (or their designees) determine that adequate arrangements have been made—

(A) to maintain suitable order and decorum in the proceedings; and

(B) to protect the specified buildings and grounds and persons and property in those buildings and on those grounds.

§ 6306. Policing of buildings and grounds

(a) **DESIGNATION OF EMPLOYEES AS SPECIAL POLICE.**—Subject to section 5375 of title 5, the Secretary of the Smithsonian Institution, the Trustees of the National Gallery of Art, and the Trustees of the John F. Kennedy Center for the Performing Arts (or their designees) may designate employees of their respective agencies as special police, without additional compensation, for duty in

connection with the policing of their respective specified buildings and grounds.

(b) **POWERS.**—The employees designated as special police under subsection (a)—

(1) may, within the specified buildings and grounds, enforce, and make arrests for violations of, sections 6302 and 6303 of this title, any regulation prescribed under section 6304 of this title, federal or state law, or any regulation prescribed under federal or state law; and

(2) may enforce concurrently with the United States Park Police the laws and regulations applicable to the National Capital Parks, and may make arrests for violations of sections 6302 and 6303 of this title, within the several areas located within the exterior boundaries of the face of the curb lines of the squares within which the specified buildings and grounds are located.

(c) **UNIFORMS AND OTHER EQUIPMENT.**—The employees designated as special police under subsection (a) may be provided, without charge, with uniforms and other equipment as may be necessary for the proper performance of their duties, including badges, revolvers, and ammunition.

§ 6307. Penalties

(a) **IN GENERAL.**—

(1) **PENALTY.**—A person violating section 6302 or 6303 of this title, or a regulation prescribed under section 6304 of this title, shall be fined under title 18, imprisoned for not more than 60 days, or both.

(2) **PROCEDURE.**—Prosecution for an offense under this subsection shall be in the Superior Court of the District of Columbia, by information by the United States Attorney or an Assistant United States Attorney.

(b) **OFFENSES INVOLVING PROPERTY DAMAGE OVER \$100.**—

(1) **PENALTY.**—If in the commission of a violation described in subsection (a), property is damaged in an amount exceeding \$100, the period of imprisonment for the offense may be not more than five years.

(2) **VENUE AND PROCEDURE.**—Prosecution of an offense under this subsection shall be in the United States District Court for the District of Columbia by indictment. Prosecution may be on information by the United States Attorney or an Assistant United States Attorney if the defendant, after being advised of the nature of the charge and of rights of the defendant, waives in open court prosecution by indictment.

CHAPTER 65—THURGOOD MARSHALL FEDERAL JUDICIARY BUILDING

Sec.

6581. Definition.

6502. Thurgood Marshall Federal Judiciary Building.

6503. Commission for the Judiciary Office Building.

6504. Lease of building.

6505. Structural and mechanical care and security.

6506. Allocation of space.

6507. Account in Treasury.

§ 6501. Definition

In this chapter, the term “Chief Justice” means the Chief Justice of the United States or the designee of the Chief Justice, except that when there is a vacancy in the office of the Chief Justice, the most senior associate justice of the Supreme Court shall be deemed to be the Chief Justice for purposes of this chapter until the vacancy is filled.

§ 6502. Thurgood Marshall Federal Judiciary Building

(a) ESTABLISHMENT AND DESIGNATION.—There is a Federal Judiciary Building in Washington, D.C., known and designated as the “Thurgood Marshall Federal Judiciary Building”.

(b) TITLE.—

(1) SQUARES 721 AND 722.—Title to squares 721 and 722 remains in the Federal Government.

(2) BUILDING.—Title to the Building and other improvements constructed or otherwise made immediately reverts to the Government at the expiration of not more than 30 years from the effective date of the lease agreement referred to in section 6504 of this title without payment of any compensation by the Government.

(c) LIMITATIONS.—

(1) SIZE OF BUILDING.—The Building (excluding parking facilities) may not exceed 520,000 gross square feet in size above the level of Columbia Plaza in the District of Columbia.

(2) HEIGHT OF BUILDING.—The height of the Building and other improvements shall be compatible with the height of surrounding Government and historic buildings and conform to the provisions of the Act of June 1, 1910 (ch. 263, 36 Stat. 452) (known as the Building Height Act of 1910).

(3) DESIGN.—The Building and other improvements shall—

(A) be designed in harmony with historical and Government buildings in the vicinity;

(B) reflect the symbolic importance and historic character of the United States Capitol and other buildings on the United States Capitol Grounds; and

(C) represent the dignity and stability of the Government.

(d) APPROVAL OF CHIEF JUSTICE.—All final decisions regarding architectural design of the Building are subject to the approval of the Chief Justice.

(e) CHILLED WATER AND STEAM FROM CAPITOL POWER PLANT.—If the Building is connected with the Capitol Power Plant, the Architect of the Capitol shall furnish chilled water and steam from the Plant to the Building on a reimbursable basis.

(f) CONSTRUCTION STANDARDS.—The Building and other improvements constructed under this chapter shall meet all standards applicable to construction of a federal building.

(g) ACCOUNTING SYSTEM.—The Architect shall maintain an accounting system for operation and maintenance of the Building and other improvements which will allow accurate projections of the dates and cost of major repairs, improvements, reconstructions, and replacements of the Building and improvements and other capital expenditures on the Building and improvements.

(h) NONAPPLICABILITY OF CERTAIN LAWS.—

(1) BUILDING CODES, PERMITS, OR INSPECTION.—The Building is not subject to any law of the District of Columbia relating

to building codes, permits, or inspection, including any such law enacted by Congress.

(2) TAXES.—The Building and other improvements constructed under this chapter are not subject to any law of the District of Columbia relating to real estate and personal property taxes, special assessments, or other taxes, including any such law enacted by Congress.

§ 6503. Commission for the Judiciary Office Building

(a) ESTABLISHMENT AND MEMBERSHIP.—There is a Commission for the Judiciary Office Building, composed of the following 13 members or their designees:

(1) Two individuals appointed by the Chief Justice from among justices of the Supreme Court and other judges of the United States.

(2) The members of the House Office Building Commission.

(3) The majority leader and minority leader of the Senate.

(4) The Chairman and the ranking minority member of the Senate Committee on Rules and Administration.

(5) The Chairman and the ranking minority member of the Senate Committee on Environment and Public Works.

(6) The Chairman and ranking minority member of the Committee on Transportation and Infrastructure of the House of Representatives.

(b) QUORUM.—Seven members of the Commission is a quorum.

(c) DUTIES.—The Commission is responsible for the supervision of the design, construction, operation, maintenance, structural, mechanical, and domestic care, and security of the Thurgood Marshall Federal Judiciary Building. The Commission shall prescribe regulations to govern the actions of the Architect of the Capitol under this chapter and to govern the use and occupancy of all space in the Building.

§ 6504. Lease of building

(a) LEASE AGREEMENT.—Under an agreement with the person selected to construct the Thurgood Marshall Federal Judiciary Building, the Architect of the Capitol shall lease the Building to carry out the objectives of this chapter.

(b) MINIMUM REQUIREMENTS OF LEASE AGREEMENT.—The agreement includes at a minimum the following:

(1) LIMIT ON LENGTH OF LEASE.—The Architect will lease the Building and other improvements for not more than 30 years from the effective date of the agreement.

(2) RENTAL RATE.—The rental rate per square foot of occupiable space for all space in the Building and other improvements will be in the best interest of the Federal Government and will carry out the objectives of this chapter. The aggregate rental rate for all space in the Building and other improvements shall produce an amount at least equal to the amount necessary to amortize the cost of development of squares 721 and 722 in the District of Columbia over the life of the lease.

(3) AUTHORITY TO MAKE SPACE AVAILABLE AND SUBLEASE SPACE.—The Architect may make space available and sublease space in the Building and other improvements in accordance with section 6506 of this title.

(4) OTHER TERMS AND CONDITIONS.—The agreement contains terms and conditions the Architect prescribes to carry out the objectives of this chapter.

(c) OBLIGATION OF AMOUNTS.—Obligation of amounts for lease payments under this section may only be made—

- (1) on an annual basis; and
- (2) from the account described in section 6507 of this title.

§ 6505. Structural and mechanical care and security

(a) STRUCTURAL AND MECHANICAL CARE.—The Architect of the Capitol, under the direction of the Commission for the Judiciary Office Building—

(1) is responsible for the structural and mechanical care and maintenance of the Thurgood Marshall Federal Judiciary Building and improvements, including the care and maintenance of the grounds of the Building, in the same manner and to the same extent as for the structural and mechanical care and maintenance of the Supreme Court Building under section 6111 of this title; and

(2) shall perform all other duties and work required for the operation and domestic care of the Building and improvements.

(b) SECURITY.—

(1) CAPITOL POLICE.—The United States Capitol Police—

(A) are responsible for all exterior security of the Building and other improvements constructed under this chapter; and

(B) may police the Building and other improvements, including the interior and exterior, and may make arrests within the interior and exterior of the Building and other improvements for any violation of federal or state law or the laws of the District of Columbia, or any regulation prescribed under any of those laws.

(2) MARSHAL OF THE SUPREME COURT.—This chapter does not interfere with the obligation of the Marshal of the Supreme Court to protect justices, officers, employees, or other personnel of the Supreme Court who may occupy the Building and other improvements.

(3) REIMBURSEMENT.—The Architect shall transfer from the account described in section 6507 of this title amounts necessary to reimburse the United States Capitol Police for expenses incurred in providing exterior security under this subsection. The Capitol Police may accept amounts the Architect transfers under this paragraph. Those amounts shall be credited to the appropriation account charged by the Capitol Police in carrying out security duties.

§ 6506. Allocation of space

(a) PRIORITY.—

(1) JUDICIAL BRANCH.—Subject to this section, the Architect of the Capitol shall make available to the judicial branch of the Federal Government all space in the Thurgood Marshall Federal Judiciary Building and other improvements constructed under this chapter. The space shall be made available on a reimbursable basis and substantially in accordance with the report referred to in section 3(b)(1) of the Judiciary Office

Building Development Act (Public Law 100-480, 102 Stat. 2330).

(2) OTHER FEDERAL GOVERNMENTAL ENTITIES.—The Architect may make available to federal governmental entities which are not part of the judicial branch and which are not staff of Members of Congress or congressional committees any space in the Building and other improvements that the Chief Justice decides is not needed by the judicial branch. The space shall be made available on a reimbursable basis.

(3) OTHER PERSONS.—If any space remains, the Architect may sublease it pursuant to subsection (e), under the direction of the Commission for the Judiciary Office Building, to any person.

(b) SPACE FOR JUDICIAL BRANCH AND OTHER FEDERAL GOVERNMENTAL ENTITIES.—Space made available under subsection (a)(1) or (2) is subject to—

(1) terms and conditions necessary to carry out the objectives of this chapter; and

(2) reimbursement at the rate established under section 6504(b)(2) of this title plus an amount necessary to pay each year for the cost of administering the Building and other improvements (including the cost of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) that is attributable to the space, with the amount to be determined by the Architect and—

(A) in the case of the judicial branch, the Director of the Administrative Office of the United States Courts; or

(B) in the case of any federal governmental entity not a part of the judicial branch, the entity.

(c) SPACE FOR JUDICIAL BRANCH.—

(1) ASSIGNMENT OF SPACE WITHIN JUDICIAL BRANCH.—The Director may assign space made available to the judicial branch under subsection (a)(1) among offices of the judicial branch as the Director considers appropriate.

(2) VACATING OCCUPIED SPACE.—When the Chief Justice notifies the Architect that the judicial branch requires additional space in the Building and other improvements, the Architect shall accommodate those requirements within 90 days after the date of the notification, except that if the space was made available to the Administrator of General Services, it shall be vacated expeditiously by not later than a date the Chief Justice and the Administrator agree on.

(3) UNOCCUPIED SPACE.—The Chief Justice has the right of first refusal to use unoccupied space in the Building to meet the needs of the judicial branch.

(d) LEASE BY ARCHITECT.—

(1) AUTHORITY TO LEASE.—Subject to approval by the Committees on Appropriations of the House of Representatives and the Senate, the House Office Building Commission, and the Committee on Rules and Administration of the Senate, the Architect may lease and occupy not more than 75,000 square feet of space in the Building.

(2) PAYMENTS.—Payments under the lease shall be made on vouchers the Architect approves. Necessary amounts may be appropriated—

(A) to the Architect to carry out this subsection, including amounts for acquiring and installing furniture and furnishings; and

(B) to the Sergeant at Arms of the Senate to plan for, acquire, and install telecommunications equipment and services for the Architect with respect to space leased under this subsection.

(e) SUBLEASED SPACE.—

(1) RENTAL RATE.—Space subleased by the Architect under subsection (a)(3) is subject to reimbursement at a rate which is comparable to prevailing rental rates for similar facilities in the area but not less than the rate established under section 6504(b)(2) of this title plus an amount the Architect and the person subleasing the space agree is necessary to pay each year for the cost of administering the Building (including the cost of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) that is attributable to the space.

(2) LIMITATION.—A sublease under subsection (a)(3) must be compatible with the dignity and functions of the judicial branch offices housed in the Building and must not unduly interfere with the activities and operations of the judicial branch agencies housed in the Building. Sections 5104(c) and 5108 of this title do not apply to any space in the Building and other improvements subleased to a non-Government tenant under subsection (a)(3).

(3) COLLECTION OF RENT.—The Architect shall collect rent for space subleased under subsection (a)(3).

(f) DEPOSIT OF RENT AND REIMBURSEMENTS.—Amounts received under subsection (a)(3) (including lease payments and reimbursements) shall be deposited in the account described in section 6507 of this title.

§ 6507. Account in Treasury

(a) ESTABLISHMENT AND CONTENTS OF SEPARATE ACCOUNT.—There is a separate account in the Treasury. The account includes all amounts deposited in the account under section 6506(f) of this title and amounts appropriated to the account. However, the appropriated amounts may not be more than \$2,000,000.

(b) USE OF AMOUNTS.—Amounts in the account are available to the Architect of the Capitol—

(1) for paying expenses for structural, mechanical, and domestic care, maintenance, operation, and utilities of the Thurgood Marshall Federal Judiciary Building and other improvements constructed under this chapter;

(2) for reimbursing the United States Capitol Police for expenses incurred in providing exterior security for the Building and other improvements;

(3) for making lease payments under section 6504 of this title; and

(4) for necessary personnel (including consultants).

CHAPTER 67—PENNSYLVANIA AVENUE DEVELOPMENT

SUBCHAPTER I—TRANSFER AND ASSIGNMENT OF RIGHTS, AUTHORITIES, TITLE, AND INTERESTS

Sec.

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SUBCHAPTER I—TRANSFER AND ASSIGNMENT OF RIGHTS, AUTHORITIES, TITLE, AND INTERESTS

§ 6701. Transfer of rights and authorities of Pennsylvania Avenue Development Corporation

(a) IN GENERAL.—The Administrator of General Services—

(1) may make and perform transactions with an agency or instrumentality of the Federal Government, a State, the District of Columbia, or any person as necessary to carry out the trade center plan at the Federal Triangle Project; and

(2) has all the rights and authorities of the former Pennsylvania Avenue Development Corporation with regard to property transferred from the Corporation to the General Services Administration in fiscal year 1996.

(b) USE OF AMOUNTS AND INCOME.—

(1) ACTIVITIES ASSOCIATED WITH TRANSFERRED RESPONSIBILITIES.—The Administrator may use amounts transferred from the Corporation or income earned on Corporation property for activities associated with carrying out the responsibilities of the Corporation transferred to the Administrator. Any income earned after October 1, 1998, shall be deposited to the Federal Buildings Fund to be available for the purposes authorized under this subchapter, notwithstanding section 592(c)(1) of this title.

(2) EXCESS AMOUNTS OR INCOME.—Any amounts or income the Administrator considers excess to the amount needed to fulfill the responsibilities of the Corporation transferred to the Administrator shall be applied to any outstanding debt the Corporation incurred when acquiring real estate, except debt associated with the Ronald Reagan Building and International Trade Center.

(c) PAYMENT TO DISTRICT OF COLUMBIA.—With respect to real property transferred from the Corporation to the Administrator under section 6702 of this title, the Administrator shall pay to the District of Columbia government, in the same way as previously paid by the Corporation, an amount equal to the amount of real property tax which would have been payable to the government beginning on the date the Corporation acquired the real property if legal title to the property had been held by a private citizen on that date and during all periods to which that date relates.

§ 6702. Transfer and assignment of rights, title, and interests in property

(a) IN GENERAL.—

(1) LEASES, COVENANTS, AGREEMENTS, AND EASEMENTS.—As provided in this section, the General Services Administration, the National Capital Planning Commission, and the National Park Service have the rights, title, and interest of the Pennsylvania Avenue Development Corporation in and to all leases, covenants, agreements, and easements the Corporation executed before April 1, 1996, in carrying out its powers and duties under the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578, 86 Stat. 1266) and the Federal Triangle Development Act (Public Law 100-113, 101 Stat. 735).

(2) PROPERTY.—The Administration has the rights, title, and interest of the Corporation in and to all property held in the name of the Corporation, except as provided in subsection (c).

(b) GENERAL SERVICES ADMINISTRATION.—

(1) RESPONSIBILITIES.—The responsibilities of the Corporation transferred to the Administration under subsection (a) include—

(A) the collection of revenue owed the Federal Government as a result of real estate sales or lease agreements made by the Corporation and private parties, including—

(i) the Willard Hotel property on Square 225;

(ii) the Gallery Row project on Square 457;

(iii) the Lansburgh's project on Square 431; and

(iv) the Market Square North project on Square 407;

(B) the collection of sale or lease revenue owed the Government from the sale or lease before April 1, 1996, of two undeveloped sites owned by the Corporation on Squares 457 and 406;

(C) the application of collected revenue to repay Treasury debt the Corporation incurred when acquiring real estate;

(D) performing financial audits for projects in which the Corporation has actual or potential revenue expectation, as identified in subparagraphs (A) and (B), in accordance with procedures described in applicable sale or lease agreements;

(E) the disposition of real estate properties which are or become available for sale and lease or other uses;

(F) payment of benefits in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) to which persons in the project area squares are entitled as a result of the Corporation's acquisition of real estate; and

(G) carrying out the responsibilities of the Corporation under subchapter III and the Federal Triangle Development Act (Public Law 100-113, 101 Stat. 735), including responsibilities for managing assets and liabilities of the Corporation under subchapter III and the Act.

(2) POWERS.—In carrying out the responsibilities of the Corporation transferred under this section, the Administrator of General Services may—

(A) acquire land, improvements, and property by purchase, lease or exchange, and sell, lease, or otherwise dispose of any property, as necessary to complete the development plan developed under section 5 of the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578, 86 Stat. 1269) if a notice of intention to carry out the acquisition or disposal is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of the transmission;

(B) modify the plan referred to in subparagraph (A) if the modification is first transmitted to the Committee on Transportation and Infrastructure and the Committee on Appropriations of the House of Representatives and the Committee on Environment and Public Works and the Committee on Appropriations of the Senate and at least 60 days elapse after the date of the transmission;

(C) maintain any existing Corporation insurance programs;

(D) make and perform transactions with an agency or instrumentality of the Federal Government, a State, the District of Columbia, or any person as necessary to carry out the responsibilities of the Corporation under subchapter III and the Federal Triangle Development Act (Public Law 100-113, 101 Stat. 735);

(E) request the Council of the District of Columbia to close any alleys necessary for the completion of development in Square 457; and

(F) use all of the amount transferred from the Corporation or income earned on Corporation property to complete any pending development projects.

(c) NATIONAL PARK SERVICE.—

(1) PROPERTY.—The National Park Service has the right, title, and interest in and to the property located in the Pennsylvania Avenue National Historic Site, including the parks, plazas, sidewalks, special lighting, trees, sculpture, and memorials, depicted on a map entitled “Pennsylvania Avenue National Historic Park”, dated June 1, 1995, and numbered 840-82441. The map shall be on file and available for public inspection in the offices of the Service.

(2) RESPONSIBILITIES.—The Service is responsible for management, administration, maintenance, law enforcement, visitor services, resource protection, interpretation, and historic preservation at the Site.

(3) SPECIAL EVENTS, FESTIVALS, CONCERTS, OR PROGRAMS.—The Service may—

(A) make transactions with an agency or instrumentality of the Government, a State, the District of Columbia, or any person as considered necessary or appropriate for the conduct of special events, festivals, concerts, or other art and cultural programs at the Site; or

(B) establish a nonprofit foundation to solicit amounts for those activities.

(4) JURISDICTION OF DISTRICT OF COLUMBIA.—Jurisdiction of Pennsylvania Avenue and all other roadways from curb to

curb remains with the District of Columbia but vendors are not permitted to occupy street space except during temporary special events.

(d) NATIONAL CAPITAL PLANNING COMMISSION.—The National Capital Planning Commission is responsible for ensuring that development in the Pennsylvania Avenue area is carried out in accordance with the Pennsylvania Avenue Development Corporation Plan—1974.

SUBCHAPTER II—PENNSYLVANIA AVENUE DEVELOPMENT

§ 6711. Definition

In this subchapter, the term “development area” means the area to be developed, maintained, and used in accordance with this subchapter and the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578, 86 Stat. 1266) and is the area bounded as follows:

Beginning at a point on the southwest corner of the intersection of Fifteenth Street and E Street Northwest;

thence proceeding east along the southern side of E Street to the southwest corner of the intersection of Thirteenth Street and Pennsylvania Avenue Northwest;

thence southeast along the southern side of Pennsylvania Avenue to a point being the southeast corner of the intersection of Pennsylvania Avenue and Third Street Northwest;

thence north along the eastern side of Third Street to the northeast corner of the intersection of C Street and Third Street Northwest;

thence west along the northern side of C Street to the northeast corner of the intersection of C Street and Sixth Street Northwest;

thence north along the eastern side of Sixth Street to the northeast corner of the intersection of E Street and Sixth Street Northwest;

thence west along the northern side of E Street to the northeast corner of the intersection of E Street and Seventh Street Northwest;

thence north along the eastern side of Seventh Street to the northeast corner of the intersection of Seventh Street and F Street Northwest;

thence west along the northern side of F Street to the northwest corner of the intersection of F Street and Ninth Street Northwest;

thence south along the western side of Ninth Street to the northwest corner of the intersection of Ninth Street and E Street Northwest;

thence west along the northern side of E Street to the northeast corner of the intersection of E Street and Thirteenth Street Northwest;

thence north along the eastern side of Thirteenth Street to the northeast corner of the intersection of F Street and Thirteenth Street Northwest;

thence west along the northern side of F Street to the northwest corner of the intersection of F Street and Fifteenth Street Northwest;

thence north along the western side of Fifteenth Street to the northwest corner of the intersection of Pennsylvania Avenue and Fifteenth Street Northwest;

thence west along the southern side of Pennsylvania Avenue to the southeast corner of the intersection of Pennsylvania Avenue and East Executive Avenue Northwest;

thence south along the eastern side of East Executive Avenue to the intersection of South Executive Place and E Street Northwest;

thence east along the southern side of E Street to the point of beginning.

§ 6712. Powers of other agencies and instrumentalities in the development area

This subchapter and the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578, 86 Stat. 1266) do not preclude other agencies or instrumentalities of the Federal Government or of the District of Columbia from exercising any lawful powers in the development area consistent with the development plan described in section 5(a) of the Act (86 Stat. 1269) or the provisions and purposes of this subchapter and the Act. However, the agency or instrumentality shall not release, modify, or depart from any feature or detail of the development plan without the prior approval of the Administrator of General Services.

§ 6713. Certification of new construction

New construction (including substantial remodeling, conversion, rebuilding, enlargement, extension, or major structural improvement of existing building, but not including ordinary maintenance or remodeling or changes necessary to continue occupancy) shall not be authorized or conducted within the development area except on prior certification by the Administrator of General Services that the construction is, or may reasonably be expected to be, consistent with the carrying out of the development plan described in section 5(a) of the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578, 86 Stat. 1269).

§ 6714. Relocation services

(a) **USE OF DISTRICT OF COLUMBIA GOVERNMENT.**—The Administrator of General Services may use the services of the District of Columbia government in the administration of a relocation program pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.). The Administrator shall reimburse the government for the cost of the services.

(b) **COORDINATION OF RELOCATION PROGRAMS.**—All relocation services performed by or on behalf of the Administrator shall be coordinated with the District of Columbia's central relocation programs.

(c) **PREFERENTIAL RIGHTS OF DISPLACED OWNERS AND TENANTS.**—An owner or tenant of real property whose residence or business is terminated as a result of acquisitions made pursuant to this subchapter or the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578, 86 Stat. 1266) shall be granted a preferential right to lease or purchase from the Administrator similar real property as may become available for a similar use.

The preferential right is limited to the parties in interest and is not transferable or assignable.

§ 6715. Coordination with District of Columbia

(a) **LOCAL NEEDS, INITIATIVE, AND PARTICIPATION.**—In carrying out the purposes of this subchapter and the Pennsylvania Avenue Development Corporation Act of 1972 (Public Law 92-578, 86 Stat. 1266), the Administrator of General Services shall—

(1) consult and cooperate with District of Columbia officials and community leaders at the earliest practicable time;

(2) give primary consideration to local needs and desires and to local and regional goals and policies as expressed in urban renewal, community renewal, and comprehensive land use plans and regional plans; and

(3) foster local initiative and participation in connection with the planning and development of projects.

(b) **COMPLIANCE WITH LOCAL REQUIREMENTS.**—To the extent the Administrator constructs, rehabilitates, alters, or improves any project under this subchapter, the Administrator shall comply with all District of Columbia laws, ordinances, codes, and regulations. Section 8722(d) of this title applies to all construction, rehabilitation, alteration, and improvement of all buildings by the Administrator under this subchapter. Construction, rehabilitation, alteration, and improvement of any project by non-Federal Government sources is subject to the District of Columbia Official Code and zoning regulations.

§ 6716. Reports

(a) **REPORTS TO PRESIDENT AND CONGRESS.**—The Administrator of General Services shall transmit comprehensive and detailed reports of the Administrator's operations, activities, and accomplishments under this subchapter to the President and Congress. The Administrator shall transmit a report to the President each January and to the President and Congress at other times that the Administrator considers desirable.

(b) **PROTECTION AND ENHANCEMENT OF SIGNIFICANT HISTORIC AND ARCHITECTURAL VALUES.**—A report under subsection (a) shall include a detailed discussion of the actions the Administrator has taken in the reporting period to protect and enhance the significant historic and architectural values of structures within the boundaries of the Administrator's jurisdiction under this subchapter and shall indicate similar actions the Administrator plans to take and issues the Administrator anticipates dealing with during the upcoming fiscal year related to historic and architectural preservation. The report shall indicate the degree to which public concern has been considered and incorporated into decisions the Administrator made relative to historic and architectural preservation.

SUBCHAPTER III—FEDERAL TRIANGLE DEVELOPMENT

§ 6731. Definitions

In this subchapter—

(1) **FEDERAL TRIANGLE DEVELOPMENT AREA.**—The term “Federal Triangle development area” means the area bounded as follows:

Beginning at a point on the southwest corner of the intersection of Fourteenth Street and Pennsylvania Avenue (formerly E Street), Northwest;

thence south along the western side of Fourteenth Street to the northwest corner of the intersection of Fourteenth Street and Constitution Avenue, Northwest;

thence east along the northern side of Constitution Avenue to the northeast corner of the intersection of Twelfth Street and Constitution Avenue, Northwest;

thence north along the eastern side of Twelfth Street and Constitution Avenue, Northwest;

thence north along the eastern side of Twelfth Street to the southeast corner of the intersection of Twelfth Street and Pennsylvania Avenue, Northwest;

thence west along the southern side of Pennsylvania Avenue to the point of beginning.

(2) **FEDERAL TRIANGLE PROPERTY.**—The term “Federal Triangle property” means—

(A) the property owned by the Federal Government in the District of Columbia, known as the “Great Plaza” site, which consists of squares 256, 257, 258, parts of squares 259 and 260, and adjacent closed rights-of-way as shown on plate IV of the King Plats of 1803 located in the Office of the Surveyor of the District of Columbia; and

(B) except for purposes of section 6733(a) of this title, any property the Pennsylvania Avenue Development Corporation acquired under section 3(b) of the Federal Triangle Development Act (Public Law 100-113, 101 Stat. 736).

§ 6732. Federal Triangle development area

The Federal Triangle development area is deemed to be part of the development area described in section 6711 of this title. The Administrator of General Services has the same authority over the Federal Triangle development area as over the development area described in section 6711.

§ 6733. Federal Triangle property

(a) **TITLE.**—Title to the Federal Triangle property reverts to the Administrator of General Services not later than the date on which ownership of the Ronald Reagan Building and International Trade Center vests in the Federal Government.

(b) **NONAPPLICABILITY OF CERTAIN LAWS.**—

(1) **BUILDING PERMITS AND INSPECTION.**—For purposes of development of the Federal Triangle property, the person selected to develop the property is not subject to any state or local law relating to building permits and inspection.

(2) **TAXES AND ASSESSMENTS.**—The property and improvements to the property are not subject to real and personal property taxation or to special assessments.

§ 6734. Ronald Reagan Building and International Trade Center

(a) **ESTABLISHMENT AND DESIGNATION.**—The building constructed on the Federal Triangle property shall be known and designated as the Ronald Reagan Building and International Trade Center.

(b) **TITLE.**—The person selected to develop the Federal Triangle property may own the Building for not more than 35 years from

the date construction of the Building began. The title to the Building shall be in the Administrator of General Services from the date title to the Federal Triangle property reverts to the Administrator.

(c) LIMITATIONS.—

(1) SIZE OF BUILDING.—The Building (including parking facilities) may not exceed 3,100,000 gross square feet in size.

(2) HEIGHT OF BUILDING.—The height of the Building shall be compatible with the height of surrounding Federal Government buildings.

(3) DESIGN.—The Building shall—

(A) be designed in harmony with historical and Government buildings in the vicinity;

(B) reflect the symbolic importance and historic character of Pennsylvania Avenue and the Nation's Capital; and

(C) represent the dignity and stability of the Government.

(d) CONSTRUCTION STANDARDS.—The Building shall meet all standards applicable to construction of a federal building.

(e) ACCOUNTING SYSTEM.—The Administrator shall maintain an accounting system for operation and maintenance of the Building which will allow accurate projections of the dates and cost of major repairs, improvements, reconstructions, and replacements of the Building and other capital expenditures on the Building. The Administrator shall act as necessary to ensure that amounts are available to cover the projected cost and expenditures.

(f) LEASE OF BUILDING.—

(1) LEASE AGREEMENT.—Under an agreement with the person selected to construct the Ronald Reagan Building and International Trade Center, the Administrator shall lease the Building for federal office space and the international cultural and trade center space.

(2) MINIMUM REQUIREMENTS OF LEASE AGREEMENT.—The agreement includes at a minimum the following:

(A) LIMIT ON LENGTH OF LEASE.—The Administrator will lease the Building for the period of time that the person selected to construct the Building owns the Building.

(B) RENTAL RATE.—The rental rate per square foot of occupiable space for all space in the Building will be in the best interest of the Government and will carry out the objectives of this subchapter and the Federal Triangle Development Act (Public Law 100-113, 101 Stat. 735). The aggregate rental rate for all space in the Building shall produce an amount at least equal to the amount necessary to amortize the cost of development of the Federal Triangle property over the life of the lease.

(C) OBLIGATION OF AMOUNTS.—Obligation of amounts from the Federal Building Fund shall only be made on an annual basis to meet lease payments.

(3) AUTHORIZATION TO OBLIGATE AMOUNTS.—Amounts may be obligated as described in paragraph (2)(C).

CHAPTER 69—UNION STATION REDEVELOPMENT

SUBCHAPTER I—UNION STATION COMPLEX

Sec.

6901. Definition.

6902. Assignment of right, title, and interest in the Union Station complex to the Secretary of Transportation.

6903. Agreements and contracts.

- 6904. Acquisition, maintenance, and use of property.
- 6905. Service on board of directors of Union Station Redevelopment Corporation.
- 6906. Union Station Fund.
- 6907. Use of other appropriated amounts.
- 6908. Parking facility.
- 6909. Supplying steam or chilled water to Union Station complex.
- 6910. Authorization of appropriations.

SUBCHAPTER II—NATIONAL VISITOR FACILITIES ADVISORY COMMISSION

- 6921. Establishment, composition, and meetings.
- 6922. Duties.
- 6923. Compensation and expenses.
- 6924. Reports and recommendations.

SUBCHAPTER I—UNION STATION COMPLEX

§ 6901. Definition

In this subchapter, the term “Union Station complex” means real property, air rights, and improvements the Secretary of the Interior leased under sections 101–110 of the National Visitors Center Facilities Act of 1968 (Public Law 90–264, 82 Stat. 43) and property acquired and improvements made in accordance with this subchapter.

§ 6902. Assignment of right, title, and interest in the Union Station complex to the Secretary of Transportation

The Secretary of Transportation has the right, title, and interest in and to the Union Station complex, including all agreements and leases made under sections 101–110 of the National Visitors Center Facilities Act of 1968 (Public Law 90–264, 82 Stat. 43). To the extent the Secretary of Transportation and the Secretary of the Interior agree, the Secretary of the Interior may lease space for visitor services.

§ 6903. Agreements and contracts

The Secretary of Transportation may make agreements and contracts, except an agreement or contract to sell property rights at the Union Station complex, with a person, a federal, regional, or local agency, or the Architect of the Capitol that the Secretary considers necessary or desirable to carry out the purposes of this subchapter.

§ 6904. Acquisition, maintenance, and use of property

(a) **ACQUISITION.**—The Secretary of Transportation may acquire for the Federal Government an interest in real property (including easements or reservations) and any other property interest (including contract rights) in or relating or adjacent to the Union Station complex that the Secretary considers necessary to carry out the purposes of this subchapter.

(b) **MAINTENANCE AND USE.**—The Secretary may maintain, use, operate, manage, and lease, either directly, by contract, or through development agreements, any property interest the Secretary holds or acquires for the Government under this subchapter in the manner and subject to the terms, conditions, covenants, and easements that the Secretary considers necessary or desirable to carry out the purposes of this subchapter.

§ 6905. Service on board of directors of Union Station Redevelopment Corporation

To further the rehabilitation, redevelopment, and operation of the Union Station complex, the Secretary of Transportation and the Administrator of the Federal Railroad Administration may serve as ex officio members of the board of directors of the Union Station Redevelopment Corporation.

§ 6906. Union Station Fund

(a) ESTABLISHMENT.—There is a special deposit account in the Treasury known as the “Union Station Fund”, which shall be administered as a revolving fund.

(b) CONTENT.—The account shall be credited with receipts of the Secretary of Transportation from activities authorized by this subchapter.

(c) USE OF AMOUNTS.—The Secretary may use income and proceeds received from activities authorized by this subchapter, including operating and leasing income and payments made to the Federal Government under development agreements, to pay expenses the Secretary incurs in carrying out the purposes of this subchapter, including construction, acquisition, leasing, operation, and maintenance expenses and payments made to developers under development agreements.

(d) AVAILABILITY OF AMOUNTS.—The balance in the account is available in amounts specified in annual appropriation laws for making expenditures authorized by this subchapter.

§ 6907. Use of other appropriated amounts

(a) WAIVER OF COST SHARING REQUIREMENT.—The Secretary of Transportation may use amounts appropriated under section 24909(a)(2)(A) of title 49 to carry out the purposes of this subchapter.

(b) BAN ON USING AMOUNTS FOR HELIPORT.—Amounts appropriated under section 24909 of title 49 may not be used for design, construction, or operation of a heliport at or near Union Station.

§ 6908. Parking facility

(a) TITLE.—The Federal Government has the right, title, and interest in and to the parking facility at Union Station.

(b) FEES.—The rate of fees charged for use of the facility may exceed the rate required for maintenance and operation of the facility. The rate shall be established in a manner that encourages use of the facility by rail passengers and participants in activities in the Union Station complex and area.

§ 6909. Supplying steam or chilled water to Union Station complex

The Architect of the Capitol may make agreements with the Secretary of Transportation to furnish steam, chilled water, or both from the Capitol Power Plant to the Union Station complex, at no expense to the legislative branch.

§ 6910. Authorization of appropriations

Amounts necessary to meet lease and other obligations, including maintenance requirements, incurred by the Secretary of the Interior and assigned to the Secretary of Transportation under this subchapter may be appropriated to the Secretary of Transportation.

SUBCHAPTER II—NATIONAL VISITOR FACILITIES ADVISORY
COMMISSION**§ 6921. Establishment, composition, and meetings**

(a) ESTABLISHMENT.—There is a National Visitor Facilities Advisory Commission.

(b) COMPOSITION.—

(1) MEMBERSHIP.—The Commission is composed of—

(A) the Secretary of the Interior;

(B) the Administrator of General Services;

(C) the Secretary of the Smithsonian Institution;

(D) the Chairman of the National Capital Planning Commission;

(E) the Chairman of the Commission of Fine Arts;

(F) six Members of the Senate, three from each party, to be appointed by the President of the Senate;

(G) six Members of the House of Representatives, three from each party, to be appointed by the Speaker of the House of Representatives; and

(H) three individuals appointed by the President, at least two of whom shall not be officers of the Federal Government, and one member of whom shall be a representative of the District of Columbia government.

(2) CHAIRMAN.—The Secretary of the Interior serves as the Chairman of the Commission.

(3) SERVICE OF NON-FEDERAL MEMBERS.—Non-federal members serve at the pleasure of the President.

(c) MEETINGS.—The Commission shall meet at the call of the Chairman.

§ 6922. Duties

(a) IN GENERAL.—The National Visitor Facilities Advisory Commission shall—

(1) conduct continuing investigations and studies of sites and plans to provide additional facilities and services for visitors and students coming to the Nation's Capital; and

(2) advise the Secretary of the Interior and the Administrator of General Services on the planning, construction, acquisition, and operation of those visitor facilities.

(b) STAFF AND FACILITIES.—The Director of the National Park Service, in consultation with the Administrator, shall provide the necessary staff and facilities to assist the Commission in carrying out its duties under this subchapter.

§ 6923. Compensation and expenses

Members of the National Visitor Facilities Advisory Commission who are not officers or employees of the Federal Government or the government of the District of Columbia are entitled to receive compensation under section 3109 of title 5 and expenses under section 5703 of title 5.

§ 6924. Reports and recommendations

The National Visitor Facilities Advisory Commission shall report to the Secretary of the Interior and the Administrator of General Services the results of its studies and investigations. A report recommending additional facilities for visitors shall include the Commission's recommendations as to sites for the facilities to be

provided, preliminary plans, specifications, and architectural drawings for the facilities, and the estimated cost of the recommended sites and facilities.

PART D—PUBLIC BUILDINGS, GROUNDS, AND PARKS IN THE DISTRICT OF COLUMBIA

CHAPTER 81—ADMINISTRATIVE

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SUBCHAPTER I—GENERAL

§ 8101. Supervision of public buildings and grounds in District of Columbia not otherwise provided for by law

(a) **IN GENERAL.**—Under regulations the President prescribes, the Administrator of General Services shall have charge of the public buildings and grounds in the District of Columbia, except those buildings and grounds which otherwise are provided for by law.

(b) **NOTICE OF UNLAWFUL OCCUPANCY.**—If the Administrator, or the officer under the direction of the Administrator who is in immediate charge of those public buildings and grounds, decides that an individual is unlawfully occupying any part of that public land, the Administrator or officer in charge shall notify the United States marshal for the District of Columbia in writing of the unlawful occupation.

(c) **EJECTION OF TRESPASSER.**—The marshal shall have the trespasser ejected from the public land and shall restore possession of the land to the officer charged by law with the custody of the land.

§ 8102. Protection of Federal Government buildings in District of Columbia

The Attorney General and the Secretary of the Treasury may prohibit—

(1) a vehicle from parking or standing on a street or roadway adjacent to a building in the District of Columbia—

(A) at least partly owned or possessed by, or leased to, the Federal Government; and

(B) used by law enforcement authorities subject to their jurisdiction; and

(2) a person or entity from conducting business on property immediately adjacent to a building described in paragraph (1).

§ 8103. Application of District of Columbia laws to public buildings and grounds

(a) **APPLICATION OF LAWS.**—Laws and regulations of the District of Columbia for the protection of public or private property and the preservation of peace and order are extended to all public buildings and public grounds belonging to the Federal Government in the District of Columbia.

(b) **PENALTIES.**—A person shall be fined under title 18, imprisoned for not more than six months, or both if the person—

(1) is guilty of disorderly and unlawful conduct in or about those public buildings or public grounds;

(2) willfully injures the buildings or shrubs;

(3) pull downs, impairs, or otherwise injures any fence, wall, or other enclosure;

(4) injures any sink, culvert, pipe, hydrant, cistern, lamp, or bridge; or

(5) removes any stone, gravel, sand, or other property of the Government, or any other part of the public grounds or lots belonging to the Government in the District of Columbia.

§ 8104. Regulation of private and semipublic buildings adjacent to public buildings and grounds

(a) **FACTORS FOR DEVELOPMENT.**—In view of the provisions of the Constitution respecting the establishment of the seat of the National Government, the duties it imposed on Congress in connection with establishing the seat of the National Government, and the solicitude shown and the efforts exerted by President Washington in the planning and development of the Capital City, the development should proceed along the lines of good order, good taste, and with due regard to the public interests involved, and a reasonable degree of control should be exercised over the architecture of private or semipublic buildings adjacent to public buildings and grounds of major importance.

(b) **SUBMISSION OF APPLICATION TO COMMISSION OF FINE ARTS.**—The Mayor of the District of Columbia shall submit to the Commission on Fine Arts an application for a permit to erect or alter any building, a part of which fronts or abuts on the grounds of the Capitol, the grounds of the White House, the part of Pennsylvania Avenue extending from the Capitol to the White House,

Lafayette Park, Rock Creek Park, the Zoological Park, the Rock Creek and Potomac Parkway, Potomac Park, or The Mall Park System and public buildings adjacent to the System, or abuts on any street bordering any of those grounds or parks, so far as the plans relate to height and appearance, color, and texture of the materials of exterior construction.

(c) **REPORT TO MAYOR.**—The Commission shall report promptly its recommendations to the Mayor, including any changes the Commission decides are necessary to prevent reasonably avoidable impairment of the public values belonging to the public building or park. If the Commission fails to report its approval or disapproval of a plan within 30 days, the report is deemed approved and a permit may be issued.

(d) **ACTION BY THE MAYOR.**—The Mayor shall take action the Mayor decides is necessary to effect reasonable compliance with the recommendation under subsection (c).

§ 8105. Approval by Administrator of General Services

Subject to applicable provisions of existing law relating to the functions in the District of Columbia of the National Capital Planning Commission and the Commission of Fine Arts, only the Administrator of General Services is required to approve sketches, plans, and estimates for buildings to be constructed by the Administrator, except that the Administrator and the United States Postal Service must approve buildings designed for post-office purposes.

§ 8106. Buildings on reservations, parks, or public grounds

A building or structure shall not be erected on any reservation, park, or public grounds of the Federal Government in the District of Columbia without express authority of Congress.

§ 8107. Advertisements and sales in or around Washington Monument

Except on the written authority of the Director of the National Park Service, advertisements of any kind shall not be displayed, and articles of any kind shall not be sold, in or around the Washington Monument.

§ 8108. Use of public buildings for public ceremonies

Except as expressly authorized by law, public buildings in the District of Columbia (other than the Capitol Building and the White House), and the approaches to those public buildings, shall not be used or occupied in connection with ceremonies for the inauguration of the President or other public functions.

SUBCHAPTER II—JURISDICTION

§ 8121. Improper appropriation of streets

(a) **AUTHORITY.**—The Secretary of the Interior shall—

(1) prevent the improper appropriation or occupation of any public street, avenue, square, or reservation in the District of Columbia that belongs to the Federal Government;

(2) reclaim the street, avenue, square, or reservation if unlawfully appropriated;

(3) prevent the erection of any permanent building on property reserved to or for the use of the Government, unless plainly authorized by law; and

(4) report to Congress at the beginning of each session on the Secretary's proceedings in the premises, together with a full statement of all property described in this subsection, and how, and by what authority, the property is occupied or claimed.

(b) APPLICATION.—This section does not interfere with the temporary and proper occupation of any part of the property described in subsection (a), by lawful authority, for the legitimate purposes of the Government.

§ 8122. Jurisdiction over portion of Constitution Avenue

The Director of the National Park Service has jurisdiction over that part of Constitution Avenue west of Virginia Avenue that was under the control of the Commissioners of the District of Columbia prior to May 27, 1908.

§ 8123. Record of transfer of jurisdiction between Director of National Park Service and Mayor of District of Columbia

When in accordance with law or mutual legal agreement, spaces or portions of public land are transferred between the jurisdiction of the Director of the National Park Service, as established by the Act of July 1, 1898 (ch. 543, 30 Stat. 570), and the Mayor of the District of Columbia, the letters of transfer and acceptance exchanged between them are sufficient authority for the necessary change in the official maps and for record when necessary.

§ 8124. Transfer of jurisdiction between Federal and District of Columbia authorities

(a) TRANSFER OF JURISDICTION.—Federal and District of Columbia authorities administering properties in the District that are owned by the Federal Government or by the District may transfer jurisdiction over any part of the property among or between themselves for purposes of administration and maintenance under conditions the parties agree on. The National Capital Planning Commission shall recommend the transfer before it is completed.

(b) REPORT TO CONGRESS.—The District authorities shall report all transfers and agreements to Congress.

(c) CERTAIN LAWS NOT REPEALED.—Subsection (a) does not repeal any law in effect on May 20, 1932, which authorized the transfer of jurisdiction of certain land among and between federal and District authorities.

§ 8125. Public spaces resulting from filling of canals

The Director of the National Park Service has jurisdiction over all public spaces resulting from the filling of canals in the original city of Washington that were not under the jurisdiction of the Chief of Engineers of the United States Army as of August 1, 1914, except spaces included in the navy yard or in actual use as roadways and sidewalks and spaces assigned by law to the District of Columbia for use as a property yard and the location of a sewage pumping station. The spaces shall be laid out as reservations as a part of the park system of the District of Columbia.

§ 8126. Temporary occupancy of Potomac Park by Secretary of Agriculture

(a) NOT MORE THAN 75 ACRES.—The Director of the National Park Service may allow the Secretary of Agriculture to temporarily

occupy as a testing ground not more than 75 acres of Potomac Park not needed in any one season for reclamation or park improvement. The Secretary shall vacate the area at the close of any season on the request of the Director.

(b) CONTINUE AS PUBLIC PARK UNDER DIRECTOR.—This section does not change the essential character of the land used, which shall continue to be a public park under the charge of the Director.

§ 8127. Part of Washington Aqueduct for playground purposes

(a) JURISDICTION OF MAYOR.—The Mayor of the District of Columbia has possession, control, and jurisdiction of the land of the Washington Aqueduct adjacent to the Champlain Avenue pumping station and lying outside of the fence around the pumping station as it—

(1) existed on August 31, 1918; and

(2) was transferred by the Chief of Engineers for playground purposes.

(b) JURISDICTION OF SECRETARY OF THE ARMY NOT AFFECTED.—This section does not affect the superintendence and control of the Secretary of the Army over the Washington Aqueduct and the rights, appurtenances, and fixtures connected with the Aqueduct.

SUBCHAPTER III—SERVICES FOR FACILITIES

§ 8141. Contract to rent buildings in the District of Columbia not to be made until appropriation enacted

A contract shall not be made for the rent of a building, or part of a building, to be used for the purposes of the Federal Government in the District of Columbia until Congress enacts an appropriation for the rent. This section is deemed to be notice to all contractors or lessors of the building or a part of the building.

§ 8142. Rent of other buildings

An executive department of the Federal Government renting a building for public use in the District of Columbia may rent a different building instead if it is in the public interest to do so. This section does not authorize an increase in the number of buildings in use or in the amount paid for rent.

§ 8143. Heat

(a) CORCORAN GALLERY OF ART.—The Administrator of General Services may furnish heat from the central heating plant to the Corcoran Gallery of Art, if the Corcoran Gallery of Art agrees to—

(1) pay for heat furnished at rates the Administrator determines; and

(2) connect the building with the Federal Government mains in a manner satisfactory to the Administrator.

(b) BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.—The Administrator may furnish steam from the central heating plant for the use of the Board of Governors of the Federal Reserve System on the property which the Board acquired in squares east of 87 and east of 88 in the District of Columbia if the Board agrees to—

(1) pay for the steam furnished at reasonable rates the Administrator determines but that are at least equal to cost; and

(2) provide the necessary connections with the Government mains at its own expense and in a manner satisfactory to the Administrator.

(c) NON-FEDERAL PUBLIC BUILDINGS.—The Administrator shall determine the rates to be paid for steam furnished to the Corcoran Gallery of Art, the Pan American Union Buildings, the American Red Cross Buildings, and other non-federal public buildings authorized to receive steam from the central heating plant.

§ 8144. Delivery of fuel for use during ensuing fiscal year

During April, May, and June of each year, the Administrator of General Services may deliver to all branches of the Federal Government and the government of the District of Columbia as much fuel for their use during the following fiscal year as may be practicable to store at the points of consumption. The branches of the Federal Government and the government of the District of Columbia shall pay for the fuel from their applicable appropriations for that fiscal year.

SUBCHAPTER IV—MISCELLANEOUS

§ 8161. Reservation of parking spaces for Members of Congress

The Council of the District of Columbia shall designate, reserve, and properly mark appropriate and sufficient parking spaces on the streets adjacent to all public buildings in the District for the use of Members of Congress engaged in public business.

§ 8162. Ailanthus trees prohibited

Ailanthus trees shall not be purchased for, or planted in, the public grounds.

§ 8163. Use of greenhouses and nursery for trees, shrubs, and plants

The greenhouses and nursery shall be used only for the propagation of trees, shrubs, and plants suitable for planting in the public reservations. Only those trees, shrubs, and plants shall be planted in the public reservations.

§ 8164. E. Barrett Prettyman United States Courthouse

(a) OPERATION, MAINTENANCE, AND REPAIR.—The operation, maintenance, and repair of the E. Barrett Prettyman United States Courthouse, used by the United States Court of Appeals for the District of Columbia and the United States District Court for the District of Columbia, is under the control of the Administrator of General Services.

(b) ALLOCATION OF SPACE.—The allocation of space in the Courthouse is vested in the chief judge of the United States Court of Appeals for the District of Columbia and the chief judge of the United States District Court for the District of Columbia.

§ 8165. Services for Office of Personnel Management

For carrying out the work of the Director of the Office of Personnel Management and the examinations provided for in sections 3304 and 3305 of title 5, the Administrator of General Services shall—

- (1) assign or provide suitable and convenient rooms and accommodations, which are furnished, heated, and lighted, in Washington, D.C.;
- (2) supply necessary stationery and other articles; and
- (3) arrange for or provide necessary printing.

CHAPTER 83—WASHINGTON METROPOLITAN REGION DEVELOPMENT

Sec.

8301. Definition.

8302. Necessity for coordination in the development of the Washington metropolitan region.

8303. Declaration of policy of coordinated development and management.

8304. Priority projects.

§ 8301. Definition

In this chapter, the term “Washington metropolitan region” includes the District of Columbia, the counties of Montgomery and Prince Georges in Maryland, and the counties of Arlington and Fairfax and the cities of Alexandria and Falls Church in Virginia.

§ 8302. Necessity for coordination in the development of the Washington metropolitan region

Because the District of Columbia is the seat of the Federal Government and has become the urban center of a rapidly expanding Washington metropolitan region, the necessity for the continued and effective performance of the functions of the Government in the District of Columbia, the general welfare of the District of Columbia, the health and living standards of the people residing or working in the District of Columbia, and the conduct of industry, trade, and commerce in the District of Columbia require that to the fullest extent possible the development of the District of Columbia and the management of its public affairs, and the activities of the departments, agencies, and instrumentalities of the Government which may be carried out in, or in relation to, the other areas of the Washington metropolitan region, shall be coordinated with the development of those other areas and with the management of their public affairs so that, with the cooperation and assistance of those other areas, all of the areas in the Washington metropolitan area shall be developed and their public affairs shall be managed so as to contribute effectively toward the solution of the community development problems of the Washington metropolitan region on a unified metropolitan basis.

§ 8303. Declaration of policy of coordinated development and management

The policy to be followed for the attainment of the objective established by section 8302 of this title, and for the more effective exercise by Congress, the executive branch of the Federal Government, the Mayor of the District of Columbia, and all other officers, agencies, and instrumentalities of the District of Columbia of their respective functions, powers, and duties in respect of the Washington metropolitan region, shall be that the functions, powers,

and duties shall be exercised and carried out in a manner that (with proper recognition of the sovereignty of Maryland and Virginia in respect of those areas of the Washington metropolitan region that are located within their respective jurisdictions) will best facilitate the attainment of the coordinated development of the areas of the Washington metropolitan area and the coordinated management of their public affairs so as to contribute effectively to the solution of the community development problems of the Washington metropolitan region on a unified metropolitan basis.

§ 8304. Priority projects

In carrying out the policy pursuant to section 8303 of this title for the attainment of the objective established by section 8302 of this title, priority should be given to the solution, on a unified metropolitan basis, of the problems of water supply, sewage disposal, and water pollution and transportation.

CHAPTER 85—NATIONAL CAPITAL SERVICE AREA AND DIRECTOR

Sec.

8501. National Capital Service Area.

8502. National Capital Service Director.

§ 8501. National Capital Service Area

(a) ESTABLISHMENT.—

(1) BOUNDARIES.—The National Capital Service Area is in the District of Columbia and includes the principal federal monuments, the White House, the Capitol Building, the United States Supreme Court Building, and the federal executive, legislative, and judicial office buildings located adjacent to the Mall and the Capitol Building, and is more particularly described as the area bounded as follows:

Beginning at that point on the present Virginia-District of Columbia boundary due west of the northernmost point of Theodore Roosevelt Island and running due east to the eastern shore of the Potomac River;

thence generally south along the shore at the mean high water mark to the northwest corner of the Kennedy Center;

thence east along the northern side of the Kennedy Center to a point where it reaches the E Street Expressway;

thence east on the expressway to E Street Northwest and thence east on E Street Northwest to Eighteenth Street Northwest;

thence south on Eighteenth Street Northwest to Constitution Avenue Northwest;

thence east on Constitution Avenue to Seventeenth Street Northwest;

thence north on Seventeenth Street Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue to Jackson Place Northwest;

thence north on Jackson Place to H Street Northwest;

thence east on H Street Northwest to Madison Place Northwest;

thence south on Madison Place Northwest to Pennsylvania Avenue Northwest;

thence east on Pennsylvania Avenue Northwest to Fifteenth Street Northwest;
thence south on Fifteenth Street Northwest to Pennsylvania Avenue Northwest;
thence southeast on Pennsylvania Avenue Northwest to John Marshall Place Northwest;
thence north on John Marshall Place Northwest to C Street Northwest;
thence east on C Street Northwest to Third Street Northwest;
thence north on Third Street Northwest to D Street Northwest;
thence east on D Street Northwest to Second Street Northwest;
thence south on Second Street Northwest to the intersection of Constitution Avenue Northwest and Louisiana Avenue Northwest;
thence northeast on Louisiana Avenue Northwest to North Capitol Street;
thence north on North Capitol Street to Massachusetts Avenue Northwest;
thence southeast on Massachusetts Avenue Northwest so as to encompass Union Square;
thence following Union Square to F Street Northeast;
thence east on F Street Northeast to Second Street Northeast;
thence south on Second Street Northeast to D Street Northeast;
thence west on D Street Northeast to First Street Northeast;
thence south on First Street Northeast to Maryland Avenue Northeast;
thence generally north and east on Maryland Avenue to Second Street Northeast;
thence south on Second Street Northeast to C Street Southeast;
thence west on C Street Southeast to New Jersey Avenue Southeast;
thence south on New Jersey Avenue Southeast to D Street Southeast;
thence west on D Street Southeast to Canal Street Parkway;
thence southeast on Canal Street Parkway to E Street Southeast;
thence west on E Street Southeast to the intersection of Washington Avenue Southwest and South Capitol Street;
thence northwest on Washington Avenue Southwest to Second Street Southwest;
thence south on Second Street Southwest to Virginia Avenue Southwest;
thence generally west on Virginia Avenue to Third Street Southwest;
thence north on Third Street Southwest to C Street Southwest;
thence west on C Street Southwest to Sixth Street Southwest;

thence north on Sixth Street Southwest to Independence Avenue;
thence west on Independence Avenue to Twelfth Street Southwest;
thence south on Twelfth Street Southwest to D Street Southwest;
thence west on D Street Southwest to Fourteenth Street Southwest;
thence south on Fourteenth Street Southwest to the middle of the Washington Channel;
thence generally south and east along the mid-channel of the Washington Channel to a point due west of the northern boundary line of Fort Lesley McNair;
thence due east to the side of the Washington Channel;
thence following generally south and east along the side of the Washington Channel at the mean high water mark, to the point of confluence with the Anacostia River, and along the northern shore at the mean high water mark to the northern most point of the Eleventh Street Bridge;
thence generally south and east along the northern side of the Eleventh Street Bridge to the eastern shore of the Anacostia River;
thence generally south and west along such shore at the mean high water mark to the point of confluence of the Anacostia and Potomac Rivers;
thence generally south along the eastern shore at the mean high water mark of the Potomac River to the point where it meets the present southeastern boundary line of the District of Columbia;
thence south and west along such southeastern boundary line to the point where it meets the present Virginia-District of Columbia boundary;
thence generally north and west up the Potomac River along the Virginia-District of Columbia boundary to the point of beginning.

(2) **STREETS AND SIDEWALKS INCLUDED.**—Where the area in paragraph (1) is bounded by a street, the street, and any sidewalk of the street, are included in the area.

(3) **FEDERAL PROPERTY THAT AFFRONTED OR ABUTTED THE AREA DEEMED TO BE IN THE AREA.**—Federal real property that on December 24, 1973, affronted or abutted the area described in paragraph (1) is deemed to be in the area. For the purposes of this paragraph, federal real property affronting or abutting the area described in paragraph (1)—

(A) is deemed to include Fort Lesley McNair, the Washington Navy Yard, the Anacostia Naval Annex, the United States Naval Station, Bolling Air Force Base, and the Naval Research Laboratory; and

(B) does not include any area situated outside of the District of Columbia boundary as it existed immediately prior to December 24, 1973, any part of the Anacostia Park situated east of the northern side of the Eleventh Street Bridge, or any part of the Rock Creek Park.

(b) **APPLICABILITY OF OTHER PROVISIONS.**—

(1) **PROVISIONS COVERING BUILDINGS AND GROUNDS IN AREA NOT AFFECTED.**—Except to the extent specifically provided by this section, this section does not—

(A) apply to the United States Capitol Buildings and Grounds as defined and described in sections 5101 and 5102, any other buildings and grounds under the care of the Architect of the Capitol, the Supreme Court Building and grounds as described in section 6101 of this title, and the Library of Congress buildings and grounds as defined in section 11 of the Act of August 4, 1950 (2 U.S.C. 167j); and

(B) repeal, amend, alter, modify, or supersede—

(i) chapter 51 of this title, section 9, 9A, 9B, 9C or 14 of the Act of July 31, 1946 (ch. 707, 60 Stat. 719, 720), any other general law of the United States, any law enacted by Congress and applicable exclusively to the District of Columbia, or any rule or regulation prescribed pursuant to any of those provisions, that was in effect on January 1, 1975, and that pertained to those buildings and grounds; or

(ii) any authority which existed on December 24, 1973, with respect to those buildings and grounds and was vested on January 1, 1975, in the Senate, the House of Representatives, Congress, any committee, commission, or board of the Senate, the House of Representatives, or Congress, the Architect of the Capitol or any other officer of the legislative branch, the Chief Justice of the United States, the Marshal of the Supreme Court, or the Librarian of Congress.

(2) CONTINUED APPLICATION OF LAWS, REGULATIONS, AND RULES.—Except to the extent otherwise specifically provided in this section, all general laws of the United States and all laws enacted by the Congress and applicable exclusively to the District of Columbia, including regulations and rules prescribed pursuant to any of those laws, that were in effect on January 1, 1975, and which applied to and in the areas included in the National Capital Service Area pursuant to this section continue to be applicable to and in the National Capital Service Area in the same manner and to the same extent as if this section had not been enacted and remain applicable until repealed, amended, altered, modified, or superseded.

(c) AVAILABILITY OF SERVICES AND FACILITIES.—As far as practicable, any service or facility authorized by the District of Columbia Home Rule Act (Public Law 93-198, 87 Stat. 774) to be rendered or furnished (including maintenance of streets and highways, and services under section 1537 of title 31) shall be made available to the Senate, the House of Representatives, Congress, any committee, commission, or board of the Senate, the House of Representatives, or Congress, the Architect of the Capitol, any other officer of the legislative branch who on January 1, 1975, was vested with authority over those buildings and grounds, the Chief Justice of the United States, the Marshal of the Supreme Court, and the Librarian of Congress on their request. If payment would be required for the rendition or furnishing of a similar service or facility to any other federal agency, the recipient, on presentation of proper vouchers and as agreed on by the parties, shall pay for the service or facility in advance or by reimbursement.

(d) RIGHT TO PARTICIPATE IN ELECTION NOT AFFECTED BY RESIDENCY.—An individual may not be denied the right to vote or

otherwise participate in any manner in any election in the District of Columbia solely because the individual resides in the National Capital Service Area.

§ 8502. National Capital Service Director

(a) ESTABLISHMENT AND COMPENSATION.—There is in the Executive Office of the President the National Capital Service Director who shall be appointed by the President. The Director shall receive compensation at the maximum rate established for level IV of the Executive Schedule under section 5314 of title 5.

(b) PERSONNEL.—The Director may appoint and fix the rate of compensation of necessary personnel, subject to chapters 33 and 51 and subchapter III of chapter 53 of title 5.

(c) DUTIES.—

(1) PRESIDENT.—The President, through the Director and using District of Columbia governmental services to the extent practicable, shall ensure that there is provided in the area described in section 8501(a) of this title adequate fire protection and sanitation services.

(2) DIRECTOR.—Except with respect to that part of the National Capital Service Area comprising the United States Capitol Buildings and Grounds as defined and described in sections 5101 and 5102, the Supreme Court Building and grounds as described in section 6101 of this title, and the Library of Congress buildings and grounds as defined in section 11 of the Act of August 4, 1950 (2 U.S.C. 167j), the Director shall ensure that there is provided in the remainder of the area described in section 8501(a) of this title adequate police protection and maintenance of streets and highways.

CHAPTER 87—PHYSICAL DEVELOPMENT OF NATIONAL CAPITAL REGION

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SUBCHAPTER I—GENERAL

§ 8701. Findings and purposes

(a) FINDINGS.—Congress finds that—

(1) the location of the seat of government in the District of Columbia has brought about the development of a metropolitan region extending well into adjoining territory in Maryland and Virginia;

(2) effective comprehensive planning is necessary on a regional basis and of continuing importance to the federal establishment;

(3) the distribution of federal installations throughout the region has been and will continue to be a major influence in determining the extent and character of development;

(4) there is needed a central planning agency for the National Capital region to coordinate certain developmental activities of the many different agencies of the Federal and District of Columbia Governments so that those activities may conform with general objectives;

(5) there is an increasing mutuality of interest and responsibility between the various levels of government that calls for coordinate and unified policies in planning both federal and local development in the interest of order and economy;

(6) there are developmental problems of an interstate character, the planning of which requires collaboration between federal, state, and local governments in the interest of equity and constructive action; and

(7) the instrumentalities and procedures provided in this chapter will aid in providing Congress with information and advice requisite to legislation.

(b) PURPOSES.—

(1) IN GENERAL.—The purposes of this chapter (except sections 8733–8736) are—

(A) to secure comprehensive planning for the physical development of the National Capital and its environs;

(B) to provide for the participation of the appropriate planning agencies of the environs in the planning; and

(C) to establish the agency and procedures requisite to the administration of the functions of the Federal and District Governments related to the planning.

(2) OBJECTIVE.—The general objective of this chapter (except sections 8733–8736) is to enable appropriate agencies to plan for the development of the federal establishment at the seat of government in a manner—

(A) consistent with the nature and function of the National Capital and with due regard for the rights and prerogatives of the adjoining States and local governments to exercise control appropriate to their functions; and

(B) which will, in accordance with present and future needs, best promote public health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development.

§ 8702. Definitions

In this chapter—

(1) ENVIRONS.—The term “environs” means the territory surrounding the District of Columbia included in the National Capital region.

(2) NATIONAL CAPITAL.—The term “National Capital” means the District of Columbia and territory the Federal Government owns in the environs.

(3) NATIONAL CAPITAL REGION.—The term “National Capital region” means—

(A) the District of Columbia;

(B) Montgomery and Prince Georges Counties in Maryland;

(C) Arlington, Fairfax, Loudoun, and Prince William Counties in Virginia; and

(D) all cities in Maryland or Virginia in the geographic area bounded by the outer boundaries of the combined area of the counties listed in subparagraphs (B) and (C).

(4) PLANNING AGENCY.—The term “planning agency” means any city, county, bi-county, part-county, or regional planning agency authorized under state and local laws to make and adopt comprehensive plans.

SUBCHAPTER II—PLANNING AGENCIES

§ 8711. National Capital Planning Commission

(a) ESTABLISHMENT AND PURPOSE.—The National Capital Planning Commission is the central federal planning agency for the Federal Government in the National Capital, created to preserve the important historical and natural features of the National Capital, except for the United States Capitol Buildings and Grounds (as defined and described in sections 5101 and 5102), any extension of, or additions to, those Buildings and Grounds, and buildings and grounds under the care of the Architect of the Capitol.

(b) COMPOSITION.—

(1) MEMBERSHIP.—The National Capital Planning Commission is composed of—

(A) ex officio, the Secretary of the Interior, the Secretary of Defense, the Administrator of General Services, the Mayor of the District of Columbia, the Chairman of the Council of the District of Columbia, the chairman of the Committee on Governmental Affairs of the Senate, and the chairman of the Committee on Government Reform of the House of Representatives, or an alternate any of those individuals designates; and

(B) five citizens with experience in city or regional planning, three of whom shall be appointed by the President and two of whom shall be appointed by the Mayor.

(2) RESIDENCY REQUIREMENT.—The citizen members appointed by the Mayor shall be residents of the District of Columbia. Of the three appointed by the President, at least one shall be a resident of Virginia and at least one shall be a resident of Maryland.

(3) TERMS.—An individual appointed by the President serves for six years. An individual appointed by the Mayor serves for four years. An individual appointed to fill a vacancy shall be appointed only for the unexpired term of the individual being replaced.

(4) PAY AND EXPENSES.—Citizen members are entitled to \$100 a day when performing duties vested in the Commission and to reimbursement for necessary expenses incurred in performing those duties.

(c) CHAIRMAN AND OFFICERS.—The President shall designate the Chairman of the National Capital Planning Commission. The Commission may elect from among its members other officers as it considers desirable.

(d) PERSONNEL.—The National Capital Planning Commission may employ a Director, an executive officer, and other technical and administrative personnel as it considers necessary. Without regard to section 3709 of the Revised Statutes (41 U.S.C. 5) and section 3109, chapters 33 and 51, and subchapter III of chapter 53, of title 5, the Commission may employ, by contract or otherwise, the temporary or intermittent (not more than one year) services of city planners, architects, engineers, appraisers, and other experts or organizations of experts, as may be necessary to carry out its functions. The Commission shall fix the rate of compensation so as not to exceed the rate usual for similar services.

(e) PRINCIPAL DUTIES.—The principal duties of the National Capital Planning Commission include—

(1) preparing, adopting, and amending a comprehensive plan for the federal activities in the National Capital and making related recommendations to the appropriate developmental agencies; and

(2) serving as the central planning agency for the Government within the National Capital region and reviewing the development programs of the developmental agencies to advise as to consistency with the comprehensive plan.

(f) TRANSFER OF OTHER FUNCTIONS, POWERS, AND DUTIES.—The National Capital Planning Commission shall carry out all other functions, powers, and duties of the National Capital Park and Planning Commission, including those formerly vested in the Highway Commission established by the Act of March 2, 1893 (ch. 197, 27 Stat. 532), and those formerly vested in the National Capital Park Commission by the Act of June 6, 1924 (ch. 270, 43 Stat. 463).

(g) ESTIMATE.—The National Capital Planning Commission shall submit to the Office of Management and Budget before December 16 of each year its estimate of the total amount to be appropriated for expenditure under this chapter (except sections 8732–8736) during the next fiscal year.

(h) FEES.—The National Capital Planning Commission may charge fees to cover the full cost of Geographic Information System products and services the Commission supplies. The fees shall be credited to the applicable appropriation account as an offsetting collection and remain available until expended.

§ 8712. Mayor of the District of Columbia

(a) PLANNING RESPONSIBILITIES.—The Mayor of the District of Columbia is the central planning agency for the government of the District of Columbia in the National Capital and is responsible for coordinating the planning activities of the District government and for preparing and implementing the District elements of the comprehensive plan for the National Capital, which may include land use elements, urban renewal and redevelopment elements, a multiyear program of public works for the District, and physical,

social, economic, transportation, and population elements. The Mayor's planning responsibility shall not extend to—

(1) federal or international projects and developments in the District, as determined by the National Capital Planning Commission; or

(2) the United States Capitol Buildings and Grounds as defined and described in sections 5101 and 5102, any extension of, or additions to, those Buildings and Grounds, and buildings and grounds under the care of the Architect of the Capitol.

(b) PARTICIPATION AND CONSULTATION.—In carrying out the responsibilities under this section and section 8721 of this title, the Mayor shall establish procedures for citizen participation in the planning process and for appropriate meaningful consultation with any state or local government or planning agency in the National Capital region affected by any aspect of a comprehensive plan, including amendments, affecting or relating to the District.

SUBCHAPTER III—PLANNING PROCESS

§ 8721. Comprehensive plan for the National Capital

(a) PREPARATION AND ADOPTION BY COMMISSION.—The National Capital Planning Commission shall prepare and adopt a comprehensive, consistent, and coordinated plan for the National Capital. The plan shall include the Commission's recommendations or proposals for federal developments or projects in the environs and District elements of the comprehensive plan, or amendments to the elements, adopted by the Council of the District of Columbia and with respect to which the Commission has not determined a negative impact exists. Those elements or amendments shall be incorporated into the comprehensive plan without change. The Commission may include in its plan any part of a plan adopted by any planning agency in the environs and may make recommendations of collateral interest to the agencies. The Commission may adopt any part of an element. The Commission shall review and may amend or extend the plan so that its recommendations may be kept up to date.

(b) REVIEW BY DISTRICT OF COLUMBIA.—The Mayor of the District of Columbia shall submit each District element of the comprehensive plan, and any amendment, to the Council for revision or modification, and adoption, by act, following public hearings. Following adoption and prior to implementation, the Council shall submit each element or amendment to the Commission for review and comment with regard to the impact of the element or amendment on the interests or functions of the federal establishment in the National Capital.

(c) COMMISSION RESPONSE TO COUNCIL ACTION.—

(1) PERIOD OF REVIEW.—Within 60 days after receiving an element or amendment from the Council, the Commission shall certify to the Council whether the element or amendment has a negative impact on the interests or functions of the federal establishment in the National Capital.

(2) NO NEGATIVE IMPACT.—If the Commission takes no action in the 60-day period, the element or amendment is deemed to have no negative impact and shall be incorporated into the comprehensive plan for the National Capital and implemented.

(3) NEGATIVE IMPACT.—

(A) CERTIFICATION TO COUNCIL.—If the Commission finds a negative impact, it shall certify its findings and recommendations to the Council.

(B) RESPONSE OF COUNCIL.—On receipt of the Commission's findings and recommendations, the Council may—

(i) accept the findings and recommendations and modify the element or amendment accordingly; or

(ii) reject the findings and recommendations and resubmit a modified form of the element or amendment to the Commission for reconsideration.

(C) FINDINGS AND RECOMMENDATIONS ACCEPTED.—If the Council accepts the findings and recommendations and modifies the element or amendment, the Council shall submit the element or amendment to the Commission for the Commission to determine whether the modification has been made in accordance with the Commission's findings and recommendations. If the Commission does not act on the modified element or amendment within 30 days after receiving it, the element or amendment is deemed to have been modified in accordance with the findings and recommendations and shall be incorporated into the comprehensive plan for the National Capital and implemented. If within the 30-day period the Commission again determines the element or amendment has a negative impact on the functions or interests of the federal establishment in the National Capital, the element or amendment shall not be implemented.

(D) FINDINGS AND RECOMMENDATIONS REJECTED.—If the Council rejects the findings and recommendations and resubmits a modified element or amendment, the Commission, within 60 days after receiving it, shall decide whether the modified element or amendment has a negative impact on the interests or functions of the federal establishment within the National Capital. If the Commission does not act within the 60-day period, the modified element or amendment is deemed to have no negative impact and shall be incorporated into the comprehensive plan and implemented. If the Commission finds a negative impact, it shall certify its findings (in sufficient detail that the Council can understand the basis of the objection of the Commission) and recommendations to the Council and the element or amendment shall not be implemented.

(d) RESUBMISSION DEEMED NEW ELEMENT OR AMENDMENT.—Any element or amendment which the Commission has determined has a negative impact on the federal establishment in the National Capital which is submitted again in a modified form not less than one year from the day it was last rejected by the Commission is deemed to be a new element or amendment for purposes of the review procedure specified in this section.

(e) REVIEW, HEARINGS, AND CITIZEN ADVISORY COUNCILS.—

(1) REVIEW.—Before the comprehensive plan, any element of the plan, or any revision is adopted, the Commission shall present the plan, element, or revision to the appropriate federal or District of Columbia authorities for comment and recommendations. The Commission may present the proposed revisions annually in a consolidated form. Recommendations by federal and District of Columbia authorities are not binding

on the Commission, but the Commission shall give careful consideration to any views and recommendations submitted prior to final adoption.

(2) HEARINGS AND CITIZEN ADVISORY COUNCILS.—The Commission—

(A) may provide periodic opportunity for review and comments by nongovernmental agencies or groups through public hearings, meetings, or conferences, exhibitions, and publication of its plans; and

(B) in consultation with the Council, may encourage the formation of citizen advisory councils.

(f) EXTENSION OF TIME LIMITATIONS.—On request of the Commission, the Council may grant an extension of any time limitation contained in this section.

(g) PUBLISHING COMPREHENSIVE PLAN.—As appropriate, the Commission and the Mayor jointly shall publish a comprehensive plan for the National Capital, consisting of the elements of the comprehensive plan for the federal activities in the National Capital developed by the Commission and the District elements developed by the Mayor and the Council in accordance with this section.

(h) PROCEDURES FOR CONSULTATION.—

(1) COMMISSION AND MAYOR.—The Commission and the Mayor jointly shall establish procedures for appropriate meaningful continuing consultation throughout the planning process for the National Capital.

(2) GOVERNMENT AGENCIES.—In order that the National Capital may be developed in accordance with the comprehensive plan, the Commission, with the consent of each agency concerned as to its representation, may establish advisory and coordinating committees composed of representatives of agencies of the Federal and District of Columbia Governments as may be necessary or helpful to obtain the maximum amount of cooperation and correlation of effort among the various agencies. As it considers appropriate, the Commission may invite representatives of the planning and developmental agencies of the environs to participate in the work of the committees.

§ 8722. Proposed federal and district developments and projects

(a) AGENCIES TO USE COMMISSION AS CENTRAL PLANNING AGENCY.—Agencies of the Federal Government responsible for public developments and projects shall cooperate and correlate their efforts by using the National Capital Planning Commission as the central planning agency for federal activities in the National Capital region. To aid the Commission in carrying out this function, federal and District of Columbia governmental agencies on request of the Commission shall furnish plans, data, and records the Commission requires. The Commission on request shall furnish related plans, data, and records to federal and District of Columbia governmental agencies.

(b) CONSULTATION BETWEEN AGENCIES AND COMMISSION.—

(1) BEFORE CONSTRUCTION PLANS PREPARED.—To ensure the comprehensive planning and orderly development of the National Capital, a federal or District of Columbia agency, before preparing construction plans the agency originates for proposed developments and projects or before making a commitment to acquire land, to be paid for at least in part from

federal or District amounts, shall advise and consult with the Commission as the agency prepares plans and programs in preliminary and successive stages that affect the plan and development of the National Capital. After receiving the plans, maps, and data, the Commission promptly shall make a preliminary report and recommendations to the agency. If the agency, after considering the report and recommendations of the Commission, does not agree, it shall advise the Commission and provide the reasons why it does not agree. The Commission then shall submit a final report. After consultation and suitable consideration of the views of the Commission, the agency may proceed to take action in accordance with its legal responsibilities and authority.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) does not apply to projects within the Capitol grounds or to structures erected by the Department of Defense during wartime or national emergency within existing military, naval, or Air Force reservations, except that the appropriate defense agency shall consult with the Commission as to any developments which materially affect traffic or require coordinated planning of the surrounding area.

(B) ADVANCE DECISIONS OF COMMISSION.—The Commission shall determine in advance the type or kinds of plans, developments, projects, improvements, or acquisitions which do not need to be submitted for review by the Commission as to conformity with its plans.

(c) ADDITIONAL PROCEDURE FOR DEVELOPMENTS AND PROJECTS WITHIN ENVIRONS.—

(1) SUBMISSION TO COMMISSION.—Within the environs, general plans showing the location, character, and extent of, and intensity of use for, proposed federal and District developments and projects involving the acquisition of land shall be submitted to the Commission for report and recommendations before a final commitment to the acquisition is made, unless the matter specifically has been approved by law.

(2) COMMISSION ACTION.—Before acting on any general plan, the Commission shall advise and consult with the appropriate planning agency having jurisdiction over the affected part of the environs. When the Commission decides that proposed developments or projects submitted to the Commission under subsection (b) involve a major change in the character or intensity of an existing use in the environs, the Commission shall advise and consult with the planning agency. The report and recommendations shall be submitted within 60 days and shall be accompanied by any reports or recommendations of the planning agency.

(3) WORKING WITH STATE OR LOCAL AUTHORITY OR AGENCY.—In carrying out its planning functions with respect to federal developments or projects in the environs, the Commission may work with, and make agreements with, any state or local authority or planning agency as the Commission considers necessary to have a plan or proposal adopted and carried out.

(d) APPROVAL OF FEDERAL PUBLIC BUILDINGS.—The provisions of the Act of June 20, 1938 (ch. 534, 52 Stat. 802) shall not apply to federal public buildings. In order to ensure the orderly development of the National Capital, the location, height, bulk,

number of stories, and size of federal public buildings in the District of Columbia and the provision for open space in and around federal public buildings in the District of Columbia is subject to the approval of the Commission.

(e) APPROVAL OF DISTRICT GOVERNMENT BUILDINGS IN CENTRAL AREA.—Subsection (d) is extended to include public buildings erected by any agency of the Government of the District of Columbia in the central area of the District (as defined by concurrent action of the Commission and the Council of the District of Columbia), except that the Commission shall transmit its approval or disapproval within 30 days after the day the proposal was submitted to the Commission.

§ 8723. Capital improvements

(a) SIX-YEAR PROGRAM OF PUBLIC WORKS PROJECTS.—The National Capital Planning Commission shall recommend a six-year program of public works projects for the Federal Government which the Commission shall review annually with the agencies concerned. Each federal agency shall submit to the Commission in the first quarter of each fiscal year a copy of its advance program of capital improvements within the National Capital and its environs.

(b) SUBMISSION OF MULTIYEAR CAPITAL IMPROVEMENT PLAN.—By February 1 of each year, the Mayor of the District of Columbia shall submit to the Commission a copy of the multiyear capital improvements plan for the District of Columbia that the Mayor develops under section 444 of the District of Columbia Home Rule Act (Public Law 93-198, 87 Stat. 800). The Commission has 30 days in which to comment on the plan but may not change or disapprove of the plan.

§ 8724. Zoning regulations and maps

(a) AMENDMENTS OF ZONING REGULATIONS AND MAPS.—The National Capital Planning Commission may make a report and recommendation to the Zoning Commission of the District of Columbia, as provided in section 5 of the Act of June 20, 1938 (ch. 534, 52 Stat. 798), on the relation, conformity, or consistency of proposed amendments of the zoning regulations and maps with the comprehensive plan for the National Capital. The Planning Commission may also submit to the Zoning Commission proposed amendments or general revisions to the zoning regulations or the zoning map for the District of Columbia.

(b) ADDITIONAL REPORT BY PLANNING COMMISSION.—When requested by an authorized representative of the Planning Commission, the Zoning Commission may recess for a reasonable period of time any public hearing it is holding to consider a proposed amendment to the zoning regulations or map so that the Planning Commission may have an opportunity to present to the Zoning Commission an additional report on the proposed amendment.

(c) ZONING COMMITTEE OF NATIONAL CAPITAL PLANNING COMMISSION.—

(1) ESTABLISHMENT AND COMPOSITION.—There is a Zoning Committee of the National Capital Planning Commission. The Committee consists of at least three members of the Planning Commission the Planning Commission designates for that purpose. The number of members serving on the Committee may vary.

(2) DUTIES.—The Committee shall carry out the functions vested in the Planning Commission under this section and section 8725 of this title—

(A) to the extent the Planning Commission decides; and

(B) when requested by the Zoning Commission and approved by the Planning Commission.

§ 8725. Recommendations on platting and subdividing land

(a) BY COUNCIL OF THE DISTRICT OF COLUMBIA.—The Council of the District of Columbia shall submit any proposed change in, or addition to, the regulations or general orders regulating the platting and subdividing of lands and grounds in the District of Columbia to the National Capital Planning Commission for report and recommendation before the Council adopts the change or addition. The Council shall advise the Commission when it does not agree with the recommendations of the Commission and shall give the reasons why it disagrees. The Commission then shall submit a final report within 30 days. After considering the final report, the Council may act in accordance with its legal responsibilities and authority.

(b) BY PLANNING COMMISSION.—The Commission shall submit to the Council any proposed change in, or amendment to, the general orders that the Commission considers appropriate. The Council shall treat the amendments proposed in the same manner as other proposed amendments.

§ 8726. Authorization of appropriations

Amounts necessary to carry out this subchapter may be appropriated from money in the Treasury not otherwise appropriated and from any appropriate appropriation law, except the annual District of Columbia Appropriation Act.

SUBCHAPTER IV—ACQUIRING AND DISPOSING OF LAND

§ 8731. Acquiring land for park, parkway, or playground purposes

(a) AUTHORITY TO ACQUIRE LAND.—The National Capitol Planning Commission shall acquire land the Planning Commission believes is necessary and desirable in the District of Columbia and adjacent areas in Maryland and Virginia for suitable development of the National Capital park, parkway, and playground system. The acquisition must be within the limits of the appropriations made for those purposes. The Planning Commission shall request the advice of the Commission of Fine Arts in selecting land to be acquired.

(b) HOW LAND MAY BE ACQUIRED.—

(1) PURCHASE OR CONDEMNATION PROCEEDING.—The National Capital Planning Commission may buy land when the land can be acquired at a price the Planning Commission considers reasonable or by a condemnation proceeding when the land cannot be bought at a reasonable price.

(2) LAND IN THE DISTRICT OF COLUMBIA.—A condemnation proceeding to acquire land in the District of Columbia shall be conducted in accordance with section 1 of the Act of December 23, 1963 (Public Law 88-241, 77 Stat. 571).

(3) LAND IN MARYLAND OR VIRGINIA.—The Planning Commission may acquire land in Maryland or Virginia under arrangements agreed to by the Commission and the proper officials of Maryland or Virginia.

(c) CONTROL OF LAND.—

(1) LAND IN THE DISTRICT OF COLUMBIA.—Land acquired in the District of Columbia shall be a part of the park system of the District of Columbia and be under the control of the Director of the National Park Service. The National Capital Planning Commission may assign areas suitable for playground purposes to the control of the Mayor of the District of Columbia for playground purposes.

(2) LAND IN MARYLAND OR VIRGINIA.—Land acquired in Maryland or Virginia shall be controlled as determined by agreement between the Planning Commission and the proper officials of Maryland or Virginia.

(d) PRESIDENTIAL APPROVAL REQUIRED.—The designation of all land to be acquired by condemnation, all contracts to purchase land, and all agreements between the National Capital Planning Commission and the officials of Maryland and Virginia are subject to the approval of the President.

§ 8732. Acquiring land subject to limited rights reserved to grantor and limited permanent rights in land adjoining park property

(a) IN GENERAL.—The National Capital Planning Commission in accordance with this chapter may acquire, for and on behalf of the Federal Government, by gift, devise, purchase, or condemnation—

(1) fee title to land subject to limited rights, but not for business purposes, reserved to the grantor; and

(2) permanent rights in land adjoining park property sufficient to prevent the use of the land in certain specified ways which would essentially impair the value of the park property for its purposes.

(b) PREREQUISITES TO ACQUISITION.—

(1) FEE TITLE TO LAND SUBJECT TO LIMITED RIGHTS.—The reservation of rights to the grantor shall not continue beyond the life of the grantor of the fee. The Commission must decide that the permanent public park purposes for which control over the land is needed are not essentially impaired by the reserved rights and that there is a substantial saving in cost by acquiring the land subject to the limited rights as compared with the cost of acquiring unencumbered title to the land.

(2) PERMANENT RIGHTS IN LAND ADJOINING PARK PROPERTY.—The Commission must decide that the protection and maintenance of the essential public values of the park can be secured more economically by acquiring the permanent rights than by acquiring the land.

(c) PRESIDENTIAL APPROVAL REQUIRED.—All contracts to acquire land or rights under this section are subject to the approval of the President.

§ 8733. Lease of land acquired for park, parkway, or playground purposes

The Secretary of the Interior may lease, for not more than five years, land or an existing building or structure on land acquired

for park, parkway, or playground purposes, and may renew the lease for an additional five years. A lease or renewal under this section is—

- (1) subject to the approval of the National Capital Planning Commission;
- (2) subject to the need for the immediate use of the land, building, or structure in other ways by the public; and
- (3) on terms the Administrator decides.

§ 8734. Sale of land by Mayor

(a) **AUTHORITY TO SELL.**—With the approval of the National Capital Planning Commission, the Mayor of the District of Columbia, for the best interests of the District of Columbia, may sell to the highest bidder at public or private sale real estate in the District of Columbia owned in fee simple by the District of Columbia for municipal use that the Council of the District of Columbia and the Commission find to be no longer required for public purposes.

(b) **PAYING EXPENSES AND DEPOSITING PROCEEDS.**—The Mayor—

- (1) may pay the reasonable and necessary expenses of the sale of each parcel of land sold; and
- (2) shall deposit the net proceeds of each sale in the Treasury to the credit of the District of Columbia.

§ 8735. Sale of land by Secretary of the Interior

(a) **AUTHORITY TO SELL.**—With the approval of the National Capital Planning Commission, the Secretary of the Interior, for the best interests of the Federal Government, may sell, by deed or instrument, real estate held by the Government in the District of Columbia and under the jurisdiction of the National Park Service which may be no longer needed for public purposes. The land may be sold for cash or on a deferred-payment plan the Secretary approves, at a price not less than the Government paid for it and not less than its present appraised value as determined by the Secretary.

(b) **SALE TO HIGHEST BIDDER.**—In selling any parcel of land under this section, the Secretary shall have public or private solicitation for bids or offers be made as the Secretary considers appropriate. The Secretary shall sell the parcel to the party agreeing to pay the highest price if the price is otherwise satisfactory. If the price offered or bid by the owner of land abutting the land to be sold equals the highest price offered or bid by any other party, the parcel may be sold to the owner of the abutting land.

(c) **PAYING EXPENSES AND DEPOSITING PROCEEDS.**—The Secretary—

- (1) may pay the reasonable and necessary expenses of the sale of each parcel of land sold; and
- (2) shall deposit the net proceeds of each sale in the Treasury to the credit of the Government and the District of Columbia in the proportion that each—
 - (A) paid the appropriations used to acquire the parcels;
 - or
 - (B) was obligated to pay the appropriations, at the time of acquisition, by reimbursement.

§ 8736. Execution of deeds

The Mayor of the District of Columbia may execute deeds of conveyance for real estate sold under this subchapter. The deeds shall contain a full description of the land sold as required by law.

§ 8737. Authorization of appropriations

An amount equal to not more than one cent for each inhabitant of the continental United States as determined by the last preceding decennial census may be appropriated each year in the District of Columbia Appropriation Act for the National Capital Planning Commission to use for the payment of its expenses and for the acquisition of land the Commission may acquire under section 8731 of this title for the purposes named, including compensation for the land, surveys, ascertainment of title, condemnation proceedings, and necessary conveyancing. The appropriated amounts shall be paid from the revenues of the District of Columbia and the general amounts of the Treasury in the same proportion as other expenses of the District of Columbia.

CHAPTER 89—NATIONAL CAPITAL MEMORIALS AND COMMEMORATIVE WORKS

Sec.	Purposes.
8901.	Definitions and nonapplication.
8902.	Congressional authorization of commemorative works.
8903.	National Capital Memorial Commission.
8904.	Site and design approval.
8905.	Criteria for issuance of construction permit.
8906.	Temporary site designation.
8907.	Areas I and II.
8908.	Administrative.
8909.	

§ 8901. Purposes

The purposes of this chapter are—

- (1) to preserve the integrity of the comprehensive design of the L'Enfant and McMillan plans for the Nation's Capital;
- (2) to ensure the continued public use and enjoyment of open space in the District of Columbia;
- (3) to preserve, protect and maintain the limited amount of open space available to residents of, and visitors to, the Nation's Capital; and
- (4) to ensure that future commemorative works in areas administered by the National Park Service and the Administrator of General Services in the District of Columbia and its environs—
 - (A) are appropriately designed, constructed, and located; and
 - (B) reflect a consensus of the lasting national significance of the subjects involved.

§ 8902. Definitions and nonapplication

(a) DEFINITIONS.—In this chapter, the following definitions apply:

- (1) COMMEMORATIVE WORK.—The term “commemorative work”—

(A) means any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual,

group, event or other significant element of American history; but

(B) does not include an item described in subclause (A) that is located within the interior of a structure or a structure which is primarily used for other purposes.

(2) PERSON.—The term “person” means—

(A) a public agency; and

(B) an individual, group or organization—

(i) described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of the Code (26 U.S.C. 501(a)); and

(ii) authorized by Congress to establish a commemorative work in the District of Columbia and its environs.

(3) THE DISTRICT OF COLUMBIA AND ITS ENVIRONS.—The term “the District of Columbia and its environs” means land and property located in Areas I and II as depicted on the map numbered 869/86581, and dated May 1, 1986, that the National Park Service and the Administrator of General Services administer.

(b) NONAPPLICATION.—This chapter does not apply to commemorative works authorized by a law enacted before January 3, 1985.

§ 8903. Congressional authorization of commemorative works

(a) IN GENERAL.—Commemorative works—

(1) may be established on federal lands referred to in section 8901(4) of this title only as specifically authorized by law; and

(2) are subject to applicable provisions of this chapter.

(b) MILITARY COMMEMORATIVE WORKS.—A military commemorative work may be authorized only to commemorate a war or similar major military conflict or a branch of the armed forces. A commemorative work commemorating a lesser conflict or a unit of an armed force may not be authorized. Commemorative works to a war or similar major military conflict may not be authorized until at least 10 years after the officially designated end of the event.

(c) WORKS COMMEMORATING EVENTS, INDIVIDUALS, OR GROUPS.—A commemorative work commemorating an event, individual, or group of individuals, except a military commemorative work as described in subsection (b), may not be authorized until after the 25th anniversary of the event, death of the individual, or death of the last surviving member of the group.

(d) CONSULTATION WITH NATIONAL CAPITAL MEMORIAL COMMISSION.—In considering legislation authorizing commemorative works in the District of Columbia and its environs, the Committee on House Administration of the House of Representatives and the Committee on Energy and Natural Resources of the Senate shall solicit the views of the National Capital Memorial Commission.

(e) EXPIRATION OF LEGISLATIVE AUTHORITY.—Legislative authority for a commemorative work expires at the end of the seven-year period beginning on the date the authority is enacted unless the Secretary of the Interior or Administrator of General Services, as appropriate, has issued a construction permit for the commemorative work during that period.

§ 8904. National Capital Memorial Commission

(a) ESTABLISHMENT AND COMPOSITION.—There is a National Capital Memorial Commission. The membership of the Commission consists of—

- (1) the Director of the National Park Service;
- (2) the Architect of the Capitol;
- (3) the Chairman of the American Battle Monuments Commission;
- (4) the Chairman of the Commission of Fine Arts;
- (5) the Chairman of the National Capital Planning Commission;
- (6) the Mayor of the District of Columbia;
- (7) the Commissioner of the Public Buildings Service of the General Services Administration; and
- (8) the Secretary of Defense.

(b) CHAIRMAN.—The Director is the Chairman of the National Capital Memorial Commission.

(c) ADVISORY ROLE.—The National Capital Memorial Commission shall advise the Secretary of the Interior and the Administrator of General Services on policy and procedures for establishment of, and proposals to establish, commemorative works in the District of Columbia and its environs and on other matters concerning commemorative works in the Nation's Capital as the Commission considers appropriate.

(d) MEETINGS.—The National Capital Memorial Commission shall meet at least twice annually.

§ 8905. Site and design approval

(a) CONSULTATION ON, AND SUBMISSION OF, PROPOSALS.—A person authorized by law to establish a commemorative work in the District of Columbia and its environs may request a permit for construction of the commemorative work only after the following requirements are met:

(1) CONSULTATION.—The person must consult with the National Capital Memorial Commission regarding the selection of alternative sites and designs for the commemorative work.

(2) SUBMITTAL.—Following consultation in accordance with clause (1), the Secretary of the Interior or the Administrator of General Services, as appropriate, must submit, on behalf of the person, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval.

(b) DECISION CRITERIA.—In considering site and design proposals, the Commission of Fine Arts, National Capital Planning Commission, Secretary, and Administrator shall be guided by, but not limited by, the following criteria:

(1) SURROUNDINGS.—To the maximum extent possible, a commemorative work shall be located in surroundings that are relevant to the subject of the work.

(2) LOCATION.—A commemorative work shall be located so that—

(A) it does not interfere with, or encroach on, an existing commemorative work; and

(B) to the maximum extent practicable, it protects open space and existing public use.

(3) MATERIAL.—A commemorative work shall be constructed of durable material suitable to the outdoor environment.

(4) LANDSCAPE FEATURES.—Landscape features of commemorative works shall be compatible with the climate.

§ 8906. Criteria for issuance of construction permit

(a) CRITERIA FOR ISSUING PERMIT.—Before issuing a permit for the construction of a commemorative work in the District of Columbia and its environs, the Secretary of the Interior or Administrator of General Services, as appropriate, shall determine that—

(1) the site and design have been approved by the Secretary or Administrator, the National Capital Planning Commission and the Commission of Fine Arts;

(2) knowledgeable individuals qualified in the field of preservation and maintenance have been consulted to determine structural soundness and durability of the commemorative work and to ensure that the commemorative work meets high professional standards;

(3) the person authorized to construct the commemorative work has submitted contract documents for construction of the commemorative work to the Secretary or Administrator; and

(4) the person authorized to construct the commemorative work has available sufficient amounts to complete construction of the project.

(b) DONATION FOR PERPETUAL MAINTENANCE AND PRESERVATION.—

(1) AMOUNT.—In addition to the criteria described in subsection (a), a construction permit may not be issued unless the person authorized to construct the commemorative work has donated an amount equal to 10 percent of the total estimated cost of construction to offset the costs of perpetual maintenance and preservation of the commemorative work. The amounts shall be credited to a separate account in the Treasury.

(2) AVAILABILITY.—The Secretary of the Treasury shall make any part of the donated amount available to the Secretary of the Interior or Administrator for maintenance at the request of the Secretary of the Interior or Administrator. The Secretary of the Interior or Administrator shall not request more from the separate account than the total amount deposited by persons establishing commemorative works in areas the Secretary of the Interior or Administrator administers.

(3) INVENTORY OF AVAILABLE AMOUNTS.—The Secretary of the Interior and Administrator shall maintain an inventory of amounts available under this subsection. The amounts are not subject to annual appropriations.

(4) NONAPPLICABILITY.—This subsection does not apply when a department or agency of the Federal Government constructs the work and less than 50 percent of the funding for the work is provided by private sources.

(c) SUSPENSION FOR MISREPRESENTATION IN FUNDRAISING.—The Secretary of the Interior or Administrator may suspend any activity under this chapter that relates to the establishment of a commemorative work if the Secretary or Administrator determines that fundraising efforts relating to the work have misrepresented an affiliation with the work or the Federal Government.

(d) **ANNUAL REPORT.**—The person authorized to construct a commemorative work under this chapter must submit to the Secretary of the Interior or Administrator an annual report of operations, including financial statements audited by an independent certified public accountant. The person shall pay for the report.

§ 8907. Temporary site designation

(a) **CRITERION FOR DESIGNATION.**—If the Secretary of the Interior, in consultation with the National Capital Memorial Commission, determines that a site where commemorative works may be displayed on a temporary basis is necessary to aid in the preservation of the limited amount of open space available to residents of, and visitors to, the Nation's Capital, a site may be designated on land the Secretary administers in the District of Columbia.

(b) **PLAN.**—A designation may be made under subsection (a) only if, at least 120 days before the designation, the Secretary, in consultation with the Commission, prepares and submits to Congress a plan for the site. The plan shall include specifications for the location, construction, and administration of the site and criteria for displaying commemorative works at the site.

(c) **RISK AND AGREEMENT TO INDEMNIFY.**—A commemorative work displayed at the site shall be installed, maintained, and removed at the sole expense and risk of the person authorized to display the work. The person shall agree to indemnify the United States for any liability arising from the display of the commemorative work under this section.

§ 8908. Areas I and II

(a) **AVAILABILITY OF MAP.**—The Secretary of the Interior and Administrator of General Services shall make available, for public inspection at appropriate offices of the National Park Service and the General Services Administration, the map numbered 869/86581, and dated May 1, 1986.

(b) **SPECIFIC CONDITIONS APPLICABLE TO AREA I AND AREA II.**—

(1) **AREA I.**—After seeking the advice of the National Capital Memorial Commission, the Secretary or Administrator, as appropriate, may recommend the location of a commemorative work in Area I only if the Secretary or Administrator decides that the subject of the commemorative work is of preeminent historical and lasting significance to the United States. The Secretary or Administrator shall notify the Commission, the Committee on House Administration of the House of Representatives, and the Committee on Energy and Natural Resources of the Senate of the recommendation that a commemorative work should be located in Area I. The location of a commemorative work in Area I is deemed to be authorized only if the recommendation is approved by law not later than 150 calendar days after the notification.

(2) **AREA II.**—Commemorative works of subjects of lasting historical significance to the American people may be located in Area II.

§ 8909. Administrative

(a) **MAINTENANCE OF DOCUMENTATION OF DESIGN AND CONSTRUCTION.**—Complete documentation of design and construction of each commemorative work located in the District of Columbia and its environs shall be provided to the Secretary of the Interior or

Administrator of General Services, as appropriate, and shall be permanently maintained in the manner provided by law.

(b) **RESPONSIBILITY FOR MAINTENANCE OF COMPLETED WORK.**—On completion of any commemorative work in the District of Columbia and its environs, the Secretary or Administrator, as appropriate, shall assume responsibility for maintaining the work.

(c) **REGULATIONS OR STANDARDS.**—The Secretary and Administrator shall prescribe appropriate regulations or standards to carry out this chapter.

CHAPTER 91—COMMISSION OF FINE ARTS

Sec.

9101. Establishment, composition, and vacancies.

9102. Duties.

9103. Personnel.

9104. Authorization of appropriations.

§ 9101. Establishment, composition, and vacancies

(a) **ESTABLISHMENT.**—There is a Commission of Fine Arts.

(b) **COMPOSITION.**—The Commission is composed of seven well-qualified judges of the fine arts, appointed by the President, who serve for four years each or until their successors are appointed and qualified.

(c) **VACANCIES.**—The President shall fill vacancies on the Commission.

(d) **EXPENSES.**—Members of the Commission shall be paid actual expenses in traveling to and from the District of Columbia to attend Commission meetings and while attending those meetings.

§ 9102. Duties

(a) **IN GENERAL.**—The Commission of Fine Arts shall advise on—

(1) the location of statues, fountains, and monuments in the public squares, streets, and parks in the District of Columbia;

(2) the selection of models for statues, fountains, and monuments erected under the authority of the Federal Government;

(3) the selection of artists to carry out clause (2); and

(4) questions of art generally when required to do so by the President or a committee of Congress.

(b) **DUTY TO REQUEST ADVICE.**—The officers required to decide the questions described in subsection (a)(1)–(3) shall request the Commission to provide the advice.

(c) **NONAPPLICATION.**—This section does not apply to the Capitol Building and the Library of Congress buildings.

§ 9103. Personnel

The Commission of Fine Arts has a secretary and other assistance the Commission authorizes. The secretary is the executive officer of the Commission.

§ 9104. Authorization of appropriations

Necessary amounts may be appropriated to carry out this chapter.

CHAPTER 93—THEODORE ROOSEVELT ISLAND

Sec.

9301. Maintenance and administration.

9302. Consent of Theodore Roosevelt Association required for development.

9303. Access to Theodore Roosevelt Island.
9304. Source of appropriations.

§ 9301. Maintenance and administration

The Director of the National Park Service shall maintain and administer Theodore Roosevelt Island as a natural park for the recreation and enjoyment of the public.

§ 9302. Consent of Theodore Roosevelt Association required for development

(a) GENERAL PLAN FOR DEVELOPMENT.—The Theodore Roosevelt Association must approve every general plan for the development of Theodore Roosevelt Island.

(b) DEVELOPMENT INCONSISTENT WITH PLAN.—As long as the Association remains in existence, development inconsistent with the general plan may not be carried out without the Association's consent.

§ 9303. Access to Theodore Roosevelt Island

Subject to the approval of the National Capital Planning Commission and the availability of appropriations, the Director of the National Park Service may provide suitable means of access to and on Theodore Roosevelt Island.

§ 9304. Source of appropriations

The appropriations needed for construction of suitable means of access to and on Theodore Roosevelt Island and annually for the care, maintenance, and improvement of the land and improvements may be made from amounts not otherwise appropriated from the Treasury.

CHAPTER 95—WASHINGTON AQUEDUCT AND OTHER PUBLIC WORKS IN THE DISTRICT OF COLUMBIA

- Sec.
9501. Chief of Engineers.
9502. Authority of Chief of Engineers.
9503. Record of property.
9504. Reports.
9505. Paying for main pipes.
9506. Civil penalty.
9507. Control of expenditures.

§ 9501. Chief of Engineers

(a) SUPERINTENDENCE DUTIES.—

(1) WASHINGTON AQUEDUCT AND OTHER PUBLIC WORKS AND IMPROVEMENTS IN THE DISTRICT OF COLUMBIA.—The Chief of Engineers has the immediate superintendence of—

(A) the Washington Aqueduct, together with all rights, appurtenances, and fixtures connected with the Aqueduct and belonging to the Federal Government; and

(B) all other public works and improvements in the District of Columbia in which the Government has an interest and which are not otherwise specially provided for by law.

(2) OBEYING REGULATIONS.—In carrying out paragraph (1), the Chief of Engineers shall obey regulations the President prescribes, through the Secretary of the Army.

(b) NO INCREASE IN COMPENSATION.—The Chief of Engineers shall not receive additional compensation for the services required under this chapter.

(c) OFFICE.—The Chief of Engineers shall be furnished an office in one of the public buildings in the District of Columbia, as the Administrator of General Services directs, and shall be supplied by the Federal Government with stationery, instruments, books, and furniture which may be required for the performance of the duties of the Chief of Engineers.

§ 9502. Authority of Chief of Engineers

(a) IN GENERAL.—The Chief of Engineers and necessary assistants may use all lawful means to carry out their duties.

(b) SUPPLY OF WATER IN DISTRICT OF COLUMBIA.—

(1) PROVIDING WATER.—The Chief of Engineers has complete control over the Washington Aqueduct to regulate the manner in which the authorities of the District of Columbia may tap the supply of water to the inhabitants of the District of Columbia.

(2) STOPPAGE OF WATER FLOW.—The Chief of Engineers shall stop the authorities of the District of Columbia from tapping the supply of water when the supply is no more than adequate to the wants of the public buildings and grounds.

(3) APPEAL OF DECISION.—The decision of the Chief of Engineers on all questions concerning the supply of water under this subsection may be appealed only to the Secretary of the Army.

§ 9503. Record of property

The Chief of Engineers shall keep in the office a complete record of all land and other property connected with or belonging to the Washington Aqueduct and other public works under the charge of the Chief of Engineers, together with accurate plans and surveys of the public grounds and reservations in the District of Columbia.

§ 9504. Reports

As superintendent of the Washington Aqueduct, the Chief of Engineers annually shall submit to the Secretary of the Army, within nine months after the end of the fiscal year, a report of the Chief of Engineers' operations for that year and a report of the condition, progress, repairs, casualties, and expenditures of the Washington Aqueduct and other public works under the charge of the Chief of Engineers.

§ 9505. Paying for main pipes

(a) FEDERAL GOVERNMENT.—The Federal Government shall only pay for the number of main pipes of the Washington Aqueduct needed to furnish public buildings, offices, and grounds with the necessary supply of water.

(b) DISTRICT OF COLUMBIA.—The District of Columbia shall pay the cost of any main pipe of the Washington Aqueduct which supplies water to the inhabitants of the District of Columbia, in the manner provided by law.

§ 9506. Civil penalty

A person that, without the consent of the Chief of Engineers, taps or opens the mains or pipes laid by the Federal Government is liable to the Government for a civil penalty of at least \$50 and not more than \$500.

§ 9507. Control of expenditures

Unless expressly provided for by law, the Secretary of the Army shall direct the expenditure of amounts appropriated for the Washington Aqueduct and for other public works in the District of Columbia.

SUBTITLE III—INFORMATION TECHNOLOGY MANAGEMENT

CHAPTER	Sec.
111. GENERAL	11101
113. RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY.	11301
115. INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS	11501
117. ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS.	11701

CHAPTER 111—GENERAL

Sec.
11101. Definitions.
11102. Sense of Congress.
11103. Applicability to national security systems.

§ 11101. Definitions

In this subtitle, the following definitions apply:

(1) **COMMERCIAL ITEM.**—The term “commercial item” has the meaning given that term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

(2) **EXECUTIVE AGENCY.**—The term “executive agency” has the meaning given that term in section 4 of the Act (41 U.S.C. 403).

(3) **INFORMATION RESOURCES.**—The term “information resources” has the meaning given that term in section 3502 of title 44.

(4) **INFORMATION RESOURCES MANAGEMENT.**—The term “information resources management” has the meaning given that term in section 3502 of title 44.

(5) **INFORMATION SYSTEM.**—The term “information system” has the meaning given that term in section 3502 of title 44.

(6) **INFORMATION TECHNOLOGY.**—The term “information technology”—

(A) with respect to an executive agency means any equipment or interconnected system or subsystem of equipment, used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency, if the equipment is used by the executive agency directly or is used by a contractor under a contract with the executive agency that requires the use—

(i) of that equipment; or

(ii) of that equipment to a significant extent in the performance of a service or the furnishing of a product;

(B) includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources; but

(C) does not include any equipment acquired by a federal contractor incidental to a federal contract.

§ 11102. Sense of Congress

It is the sense of Congress that, during the five-year period beginning with 1996, executive agencies should achieve each year through improvements in information resources management by the agency—

(1) at least a five percent decrease in the cost (in constant fiscal year 1996 dollars) incurred by the agency in operating and maintaining information technology; and

(2) a five percent increase in the efficiency of the agency operations.

§ 11103. Applicability to national security systems

(a) DEFINITION.—

(1) NATIONAL SECURITY SYSTEM.—In this section, the term “national security system” means a telecommunications or information system operated by the Federal Government, the function, operation, or use of which—

(A) involves intelligence activities;

(B) involves cryptologic activities related to national security;

(C) involves command and control of military forces;

(D) involves equipment that is an integral part of a weapon or weapons system; or

(E) subject to paragraph (2), is critical to the direct fulfillment of military or intelligence missions.

(2) LIMITATION.—Paragraph (1)(E) does not include a system to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

(b) IN GENERAL.—Except as provided in subsection (c), chapter 113 of this title does not apply to national security systems.

(c) EXCEPTIONS.—

(1) IN GENERAL.—Sections 11313, 11315, and 11316 of this title apply to national security systems.

(2) CAPITAL PLANNING AND INVESTMENT CONTROL.—The heads of executive agencies shall apply sections 11302 and 11312 of this title to national security systems to the extent practicable.

(3) APPLICABILITY OF PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT TO NATIONAL SECURITY SYSTEMS.—

(A) IN GENERAL.—Subject to subparagraph (B), the heads of executive agencies shall apply section 11303 of this title to national security systems to the extent practicable.

(B) EXCEPTION.—National security systems are subject to section 11303(b)(5) of this title, except for subparagraph (B)(iv).

CHAPTER 113—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY**SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET**

Sec.

11301. Responsibility of Director.

11302. Capital planning and investment control.

11303. Performance-based and results-based management.

SUBCHAPTER II—EXECUTIVE AGENCIES

11311. Responsibilities.

- 11312. Capital planning and investment control.
- 11313. Performance and results-based management.
- 11314. Authority to acquire and manage information technology.
- 11315. Agency Chief Information Officer.
- 11316. Accountability.
- 11317. Significant deviations.
- 11318. Interagency support.

SUBCHAPTER III—OTHER RESPONSIBILITIES

- 11331. Responsibilities regarding efficiency, security, and privacy of federal computer systems.
- 11332. Federal computer system security training and plan.

SUBCHAPTER I—DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET

§ 11301. Responsibility of Director

In fulfilling the responsibility to administer the functions assigned under chapter 35 of title 44, the Director of the Office of Management and Budget shall comply with this chapter with respect to the specific matters covered by this chapter.

§ 11302. Capital planning and investment control

(a) **FEDERAL INFORMATION TECHNOLOGY.**—The Director of the Office of Management and Budget shall perform the responsibilities set forth in this section in fulfilling the responsibilities under section 3504(h) of title 44.

(b) **USE OF INFORMATION TECHNOLOGY IN FEDERAL PROGRAMS.**—The Director shall promote and improve the acquisition, use, and disposal of information technology by the Federal Government to improve the productivity, efficiency, and effectiveness of federal programs, including through dissemination of public information and the reduction of information collection burdens on the public.

(c) **USE OF BUDGET PROCESS.**—

(1) **ANALYZING, TRACKING, AND EVALUATING CAPITAL INVESTMENTS.**—As part of the budget process, the Director shall develop a process for analyzing, tracking, and evaluating the risks and results of all major capital investments made by an executive agency for information systems. The process shall cover the life of each system and shall include explicit criteria for analyzing the projected and actual costs, benefits, and risks associated with the investments.

(2) **REPORT TO CONGRESS.**—At the same time that the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, the Director shall submit to Congress a report on the net program performance benefits achieved as a result of major capital investments made by executive agencies for information systems and how the benefits relate to the accomplishment of the goals of the executive agencies.

(d) **INFORMATION TECHNOLOGY STANDARDS.**—The Director shall oversee the development and implementation of standards and guidelines pertaining to federal computer systems by the Secretary of Commerce through the National Institute of Standards and Technology under section 11331 of this title and section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

(e) **DESIGNATION OF EXECUTIVE AGENTS FOR ACQUISITIONS.**—The Director shall designate the head of one or more executive agencies, as the Director considers appropriate, as executive agent for Government-wide acquisitions of information technology.

(f) **USE OF BEST PRACTICES IN ACQUISITIONS.**—The Director shall encourage the heads of the executive agencies to develop and use the best practices in the acquisition of information technology.

(g) **ASSESSMENT OF OTHER MODELS FOR MANAGING INFORMATION TECHNOLOGY.**—On a continuing basis, the Director shall assess the experiences of executive agencies, state and local governments, international organizations, and the private sector in managing information technology.

(h) **COMPARISON OF AGENCY USES OF INFORMATION TECHNOLOGY.**—The Director shall compare the performances of the executive agencies in using information technology and shall disseminate the comparisons to the heads of the executive agencies.

(i) **MONITORING TRAINING.**—The Director shall monitor the development and implementation of training in information resources management for executive agency personnel.

(j) **INFORMING CONGRESS.**—The Director shall keep Congress fully informed on the extent to which the executive agencies are improving the performance of agency programs and the accomplishment of the agency missions through the use of the best practices in information resources management.

(k) **COORDINATION OF POLICY DEVELOPMENT AND REVIEW.**—The Director shall coordinate with the Office of Federal Procurement Policy the development and review by the Administrator of the Office of Information and Regulatory Affairs of policy associated with federal acquisition of information technology.

§ 11303. Performance-based and results-based management

(a) **IN GENERAL.**—The Director of the Office of Management and Budget shall encourage the use of performance-based and results-based management in fulfilling the responsibilities assigned under section 3504(h) of title 44.

(b) **EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.**—

(1) **REQUIREMENT.**—The Director shall evaluate the information resources management practices of the executive agencies with respect to the performance and results of the investments made by the executive agencies in information technology.

(2) **DIRECTION FOR EXECUTIVE AGENCY ACTION.**—The Director shall issue to the head of each executive agency clear and concise direction that the head of each agency shall—

(A) establish effective and efficient capital planning processes for selecting, managing, and evaluating the results of all of its major investments in information systems;

(B) determine, before making an investment in a new information system—

(i) whether the function to be supported by the system should be performed by the private sector and, if so, whether any component of the executive agency performing that function should be converted from a governmental organization to a private sector organization; or

(ii) whether the function should be performed by the executive agency and, if so, whether the function should be performed by a private sector source under contract or by executive agency personnel;

(C) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes, as

appropriate, before making significant investments in information technology to be used in support of those missions; and

(D) ensure that the information security policies, procedures, and practices are adequate.

(3) **GUIDANCE FOR MULTIAGENCY INVESTMENTS.**—The direction issued under paragraph (2) shall include guidance for undertaking efficiently and effectively interagency and Federal Government-wide investments in information technology to improve the accomplishment of missions that are common to the executive agencies.

(4) **PERIODIC REVIEWS.**—The Director shall implement through the budget process periodic reviews of selected information resources management activities of the executive agencies to ascertain the efficiency and effectiveness of information technology in improving the performance of the executive agency and the accomplishment of the missions of the executive agency.

(5) **ENFORCEMENT OF ACCOUNTABILITY.**—

(A) **IN GENERAL.**—The Director may take any action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability of the head of an executive agency for information resources management and for the investments made by the executive agency in information technology.

(B) **SPECIFIC ACTIONS.**—Actions taken by the Director may include—

(i) recommending a reduction or an increase in the amount for information resources that the head of the executive agency proposes for the budget submitted to Congress under section 1105(a) of title 31;

(ii) reducing or otherwise adjusting apportionments and reappportionments of appropriations for information resources;

(iii) using other administrative controls over appropriations to restrict the availability of amounts for information resources; and

(iv) designating for the executive agency an executive agent to contract with private sector sources for the performance of information resources management or the acquisition of information technology.

SUBCHAPTER II—EXECUTIVE AGENCIES

§ 11311. Responsibilities

In fulfilling the responsibilities assigned under chapter 35 of title 44, the head of each executive agency shall comply with this subchapter with respect to the specific matters covered by this subchapter.

§ 11312. Capital planning and investment control

(a) **DESIGN OF PROCESS.**—In fulfilling the responsibilities assigned under section 3506(h) of title 44, the head of each executive agency shall design and implement in the executive agency a process for maximizing the value, and assessing and managing the risks, of the information technology acquisitions of the executive agency.

(b) **CONTENT OF PROCESS.**—The process of an executive agency shall—

(1) provide for the selection of information technology investments to be made by the executive agency, the management of those investments, and the evaluation of the results of those investments;

(2) be integrated with the processes for making budget, financial, and program management decisions in the executive agency;

(3) include minimum criteria to be applied in considering whether to undertake a particular investment in information systems, including criteria related to the quantitatively expressed projected net, risk-adjusted return on investment and specific quantitative and qualitative criteria for comparing and prioritizing alternative information systems investment projects;

(4) identify information systems investments that would result in shared benefits or costs for other federal agencies or state or local governments;

(5) identify quantifiable measurements for determining the net benefits and risks of a proposed investment; and

(6) provide the means for senior management personnel of the executive agency to obtain timely information regarding the progress of an investment in an information system, including a system of milestones for measuring progress, on an independently verifiable basis, in terms of cost, capability of the system to meet specified requirements, timeliness, and quality.

§ 11313. Performance and results-based management

In fulfilling the responsibilities under section 3506(h) of title 44, the head of an executive agency shall—

(1) establish goals for improving the efficiency and effectiveness of agency operations and, as appropriate, the delivery of services to the public through the effective use of information technology;

(2) prepare an annual report, to be included in the executive agency's budget submission to Congress, on the progress in achieving the goals;

(3) ensure that performance measurements—

(A) are prescribed for information technology used by, or to be acquired for, the executive agency; and

(B) measure how well the information technology supports programs of the executive agency;

(4) where comparable processes and organizations in the public or private sectors exist, quantitatively benchmark agency process performance against those processes in terms of cost, speed, productivity, and quality of outputs and outcomes;

(5) analyze the missions of the executive agency and, based on the analysis, revise the executive agency's mission-related processes and administrative processes as appropriate before making significant investments in information technology to be used in support of the performance of those missions; and

(6) ensure that the information security policies, procedures, and practices of the executive agency are adequate.

§ 11314. Authority to acquire and manage information technology

(a) IN GENERAL.—The authority of the head of an executive agency to acquire information technology includes—

- (1) acquiring information technology as authorized by law;
- (2) making a contract that provides for multiagency acquisitions of information technology in accordance with guidance issued by the Director of the Office of Management and Budget; and
- (3) if the Director finds that it would be advantageous for the Federal Government to do so, making a multiagency contract for procurement of commercial items of information technology that requires each executive agency covered by the contract, when procuring those items, to procure the items under that contract or to justify an alternative procurement of the items.

(b) FTS 2000 PROGRAM.—The Administrator of General Services shall continue to manage the FTS 2000 program, and to coordinate the follow-on to that program, for and with the advice of the heads of executive agencies.

§ 11315. Agency Chief Information Officer

(a) DEFINITION.—In this section, the term “information technology architecture”, with respect to an executive agency, means an integrated framework for evolving or maintaining existing information technology and acquiring new information technology to achieve the agency’s strategic goals and information resources management goals.

(b) GENERAL RESPONSIBILITIES.—The Chief Information Officer of an executive agency is responsible for—

- (1) providing advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the executive agency in a manner that implements the policies and procedures of this subtitle, consistent with chapter 35 of title 44 and the priorities established by the head of the executive agency;
- (2) developing, maintaining, and facilitating the implementation of a sound and integrated information technology architecture for the executive agency; and
- (3) promoting the effective and efficient design and operation of all major information resources management processes for the executive agency, including improvements to work processes of the executive agency.

(c) DUTIES AND QUALIFICATIONS.—The Chief Information Officer of an agency listed in section 901(b) of title 31—

- (1) has information resources management duties as that official’s primary duty;
- (2) monitors the performance of information technology programs of the agency, evaluates the performance of those programs on the basis of the applicable performance measurements, and advises the head of the agency regarding whether to continue, modify, or terminate a program or project; and
- (3) annually, as part of the strategic planning and performance evaluation process required (subject to section 1117 of title 31) under section 306 of title 5 and sections 1105(a)(28),

1115–1117, and 9703 (as added by section 5(a) of the Government Performance and Results Act of 1993 (Public Law 103–62, 107 Stat. 289)) of title 31—

(A) assesses the requirements established for agency personnel regarding knowledge and skill in information resources management and the adequacy of those requirements for facilitating the achievement of the performance goals established for information resources management;

(B) assesses the extent to which the positions and personnel at the executive level of the agency and the positions and personnel at management level of the agency below the executive level meet those requirements;

(C) develops strategies and specific plans for hiring, training, and professional development to rectify any deficiency in meeting those requirements; and

(D) reports to the head of the agency on the progress made in improving information resources management capability.

§ 11316. Accountability

The head of each executive agency, in consultation with the Chief Information Officer and the Chief Financial Officer of that executive agency (or, in the case of an executive agency without a chief financial officer, any comparable official), shall establish policies and procedures to ensure that—

(1) the accounting, financial, asset management, and other information systems of the executive agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the executive agency;

(2) financial and related program performance data are provided on a reliable, consistent, and timely basis to executive agency financial management systems; and

(3) financial statements support—

(A) assessments and revisions of mission-related processes and administrative processes of the executive agency; and

(B) measurement of the performance of investments made by the agency in information systems.

§ 11317. Significant deviations

The head of each executive agency shall identify in the strategic information resources management plan required under section 3506(b)(2) of title 44 any major information technology acquisition program, or any phase or increment of that program, that has significantly deviated from the cost, performance, or schedule goals established for the program.

§ 11318. Interagency support

The head of an executive agency may use amounts available to the agency for oversight, acquisition, and procurement of information technology to support jointly with other executive agencies the activities of interagency groups that are established to advise the Director of the Office of Management and Budget in carrying out the Director's responsibilities under this chapter. The use of those amounts for that purpose is subject to requirements and limitations on uses and amounts that the Director may prescribe.

The Director shall prescribe the requirements and limitations during the Director's review of the executive agency's proposed budget submitted to the Director by the head of the executive agency for purposes of section 1105 of title 31.

SUBCHAPTER III—OTHER RESPONSIBILITIES

§ 11331. Responsibilities regarding efficiency, security, and privacy of federal computer systems

(a) **DEFINITIONS.**—In this section, the terms “federal computer system” and “operator of a federal computer system” have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(d)).

(b) **STANDARDS AND GUIDELINES.**—

(1) **AUTHORITY TO PRESCRIBE AND DISAPPROVE OR MODIFY.**—

(A) **AUTHORITY TO PRESCRIBE.**—On the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the Act (15 U.S.C. 278g-3(a)(2), (3)), the Secretary of Commerce shall prescribe standards and guidelines pertaining to federal computer systems. The Secretary shall make those standards compulsory and binding to the extent the Secretary determines necessary to improve the efficiency of operation or security and privacy of federal computer systems.

(B) **AUTHORITY TO DISAPPROVE OR MODIFY.**—The President may disapprove or modify those standards and guidelines if the President determines that action to be in the public interest. The President's authority to disapprove or modify those standards and guidelines may not be delegated. Notice of disapproval or modification shall be published promptly in the Federal Register. On receiving notice of disapproval or modification, the Secretary shall immediately rescind or modify those standards or guidelines as directed by the President.

(2) **EXERCISE OF AUTHORITY.**—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

(c) **APPLICATION OF MORE STRINGENT STANDARDS.**—The head of a federal agency may employ standards for the cost-effective security and privacy of sensitive information in a federal computer system in or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards contain at least the applicable standards the Secretary makes compulsory and binding.

(d) **WAIVER OF STANDARDS.**—

(1) **AUTHORITY OF THE SECRETARY.**—The Secretary may waive in writing compulsory and binding standards under subsection

(b) if the Secretary determines that compliance would—

(A) adversely affect the accomplishment of the mission of an operator of a federal computer system; or

(B) cause a major adverse financial impact on the operator that is not offset by Federal Government-wide savings.

(2) **DELEGATION OF WAIVER AUTHORITY.**—The Secretary may delegate to the head of one or more federal agencies authority

to waive those standards to the extent the Secretary determines that action to be necessary and desirable to allow for timely and effective implementation of federal computer system standards. The head of the agency may redelegate that authority only to a chief information officer designated pursuant to section 3506 of title 44.

(3) NOTICE.—Notice of each waiver and delegation shall be transmitted promptly to Congress and published promptly in the Federal Register.

§ 11332. Federal computer system security training and plan

(a) DEFINITIONS.—In this section, the terms “computer system”, “federal agency”, “federal computer system”, “operator of a federal computer system”, and “sensitive information” have the meanings given those terms in section 20(d) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(d)).

(b) TRAINING—

(1) IN GENERAL.—Each federal agency shall provide for mandatory periodic training in computer security awareness and accepted computer security practice of all employees who are involved with the management, use, or operation of each federal computer system within or under the supervision of the agency. The training shall be—

(A) provided in accordance with the guidelines developed pursuant to section 20(a)(5) of the Act (15 U.S.C. 278g-3(a)(5)) and the regulations prescribed under paragraph (3) for federal civilian employees; or

(B) provided by an alternative training program that the head of the agency approves after determining that the alternative training program is at least as effective in accomplishing the objectives of the guidelines and regulations.

(2) TRAINING OBJECTIVES.—Training under this subsection shall be designed—

(A) to enhance employees’ awareness of the threats to, and vulnerability of, computer systems; and

(B) to encourage the use of improved computer security practices.

(3) REGULATIONS.—The Director of the Office of Personnel Management shall maintain regulations that establish the procedures and scope of the training to be provided federal civilian employees under this subsection and the manner in which the training is to be carried out.

(c) PLAN.—

(1) IN GENERAL.—Consistent with standards, guidelines, policies, and regulations prescribed pursuant to section 11331 of this title, each federal agency shall maintain a plan for the security and privacy of each federal computer system the agency identifies as being within or under its supervision and as containing sensitive information. The plan must be commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to, or modification of, the information contained in the system.

(2) REVISION AND REVIEW.—The plan shall be revised annually as necessary and is subject to disapproval by the Director of the Office of Management and Budget.

(d) HANDLING OF INFORMATION NOT AFFECTED.—This section does not—

(1) constitute authority to withhold information sought pursuant to section 552 of title 5; or

(2) authorize a federal agency to limit, restrict, regulate, or control the collection, maintenance, disclosure, use, transfer, or sale of any information (regardless of the medium in which the information may be maintained) that is—

(A) privately owned information;

(B) disclosable under section 552 of title 5 or another law requiring or authorizing the public disclosure of information; or

(C) public domain information.

CHAPTER 115—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

SUBCHAPTER I—CONDUCT OF PILOT PROGRAMS

Sec.

11501. Authority to conduct pilot programs.

11502. Evaluation criteria and plans.

11503. Report.

11504. Recommended legislation.

11505. Rule of construction.

SUBCHAPTER II—SPECIFIC PILOT PROGRAMS

11521. Share-in-savings pilot program.

11522. Solutions-based contracting pilot program.

SUBCHAPTER I—CONDUCT OF PILOT PROGRAMS

§ 11501. Authority to conduct pilot programs

(a) IN GENERAL.—

(1) PURPOSE.—In consultation with the Administrator for the Office of Information and Regulatory Affairs, the Administrator for Federal Procurement Policy may conduct pilot programs to test alternative approaches for the acquisition of information technology by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this chapter, each pilot program conducted under this chapter shall be carried out in not more than two procuring activities in each of the executive agencies that are designated by the Administrator for Federal Procurement Policy in accordance with this chapter to carry out the pilot program. With the approval of the Administrator for Federal Procurement Policy, the head of each designated executive agency shall select the procuring activities of the executive agency that are to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the executive agency.

(b) LIMITATIONS.—

(1) NUMBER.—Not more than two pilot programs may be conducted under this chapter, including one pilot program each pursuant to the requirements of sections 11521 and 11522 of this title.

(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted under this chapter may not exceed \$750,000,000. The Administrator for

Federal Procurement Policy shall monitor those contracts and ensure that contracts are not entered into in violation of this paragraph.

(c) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), a pilot program may be carried out under this chapter for the period, not in excess of five years, the Administrator for Federal Procurement Policy determines is sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program before the expiration of that program remains in effect according to the terms of the contract after the expiration of the program.

§ 11502. Evaluation criteria and plans

(a) MEASURABLE TEST CRITERIA.—To the maximum extent practicable, the head of each executive agency conducting a pilot program under section 11501 of this title shall establish measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) TEST PLAN.—Before a pilot program may be conducted under section 11501 of this title, the Administrator for Federal Procurement Policy shall submit to Congress a detailed test plan for the program, including a detailed description of the procedures to be used and a list of regulations that are to be waived.

§ 11503. Report

(a) REQUIREMENT.—Not later than 180 days after the completion of a pilot program under this chapter, the Administrator for Federal Procurement Policy shall—

(1) submit to the Director of the Office of Management and Budget a report on the results and findings under the program; and

(2) provide a copy of the report to Congress.

(b) CONTENT.—The report shall include—

(1) a detailed description of the results of the program, as measured by the criteria established for the program; and

(2) a discussion of legislation that the Administrator recommends, or changes in regulations that the Administrator considers necessary, to improve overall information resources management in the Federal Government.

§ 11504. Recommended legislation

If the Director of the Office of Management and Budget determines that the results and findings under a pilot program under this chapter indicate that legislation is necessary or desirable to improve the process for acquisition of information technology, the Director shall transmit the Director's recommendations for that legislation to Congress.

§ 11505. Rule of construction

This chapter does not authorize the appropriation or obligation of amounts for the pilot programs authorized under this chapter.

SUBCHAPTER II—SPECIFIC PILOT PROGRAMS

§ 11521. Share-in-savings pilot program

(a) REQUIREMENT.—The Administrator for Federal Procurement Policy may authorize the heads of two executive agencies to carry out a pilot program to test the feasibility of—

(1) contracting on a competitive basis with a private sector source to provide the Federal Government with an information technology solution for improving mission-related or administrative processes of the Federal Government; and

(2) paying the private sector source an amount equal to a portion of the savings derived by the Federal Government from any improvements in mission-related processes and administrative processes that result from implementation of the solution.

(b) LIMITATIONS.—The head of an executive agency authorized to carry out the pilot program may carry out one project and enter into not more than five contracts for the project under the pilot program.

(c) SELECTION OF PROJECTS.—In consultation with the Administrator for the Office of Information and Regulatory Affairs, the Administrator for Federal Procurement Policy shall select the projects.

§ 11522. Solutions-based contracting pilot program

(a) DEFINITION.—For purposes of this section, “solutions-based contracting” is an acquisition method under which the acquisition objectives are defined by the Federal Government user of the technology to be acquired, a streamlined contractor selection process is used, and industry sources are allowed to provide solutions that attain the objectives effectively.

(b) IN GENERAL.—The Administrator for Federal Procurement Policy may authorize the head of an executive agency, in accordance with subsection (d), to carry out a pilot program to test the feasibility of using solutions-based contracting for the acquisition of information technology.

(c) PROCESS REQUIREMENTS.—The Administrator shall require use of a process with the following aspects for acquisitions under the pilot program:

(1) ACQUISITION PLAN EMPHASIZING DESIRED RESULT.—Preparation of an acquisition plan that defines the functional requirements of the intended users of the information technology to be acquired, identifies the operational improvements to be achieved, and defines the performance measurements to be applied in determining whether the information technology acquired satisfies the defined requirements and attains the identified results.

(2) RESULTS-ORIENTED STATEMENT OF WORK.—Use of a statement of work that is limited to an expression of the end results or performance capabilities desired under the acquisition plan.

(3) SMALL ACQUISITION ORGANIZATION.—Assembly of a small acquisition organization consisting of the following:

(A) An acquisition management team, the members of which are to be evaluated and rewarded under the pilot program for contributions toward attainment of the desired results identified in the acquisition plan.

(B) A small source selection team composed of representatives of the specific mission or administrative area to be supported by the information technology to be acquired, a contracting officer, and individuals with relevant expertise.

(4) USE OF SOURCE SELECTION FACTORS EMPHASIZING SOURCE QUALIFICATIONS AND COSTS.—Use of source selection factors that emphasize—

(A) the qualifications of the offeror, including personnel skills, previous experience in providing other private or public sector organizations with solutions for attaining objectives similar to the objectives of the acquisition, past contract performance, qualifications of the proposed program manager, and the proposed management plan; and

(B) the costs likely to be associated with the conceptual approach proposed by the offeror.

(5) OPEN COMMUNICATIONS WITH CONTRACTOR COMMUNITY.—Open availability of the following information to potential offerors:

(A) The agency mission to be served by the acquisition.

(B) The functional process to be performed by use of information technology.

(C) The process improvements to be attained.

(6) SIMPLE SOLICITATION.—Use of a simple solicitation that sets forth only the functional work description, the source selection factors to be used in accordance with paragraph (4), the required terms and conditions, instructions regarding submission of offers, and the estimate of the Government's budget for the desired work.

(7) SIMPLE PROPOSALS.—Submission of oral presentations and written proposals that are limited in size and scope and contain information on—

(A) the offeror's qualifications to perform the desired work;

(B) past contract performance;

(C) the proposed conceptual approach; and

(D) the costs likely to be associated with the proposed conceptual approach.

(8) SIMPLE EVALUATION.—Use of a simplified evaluation process, to be completed within 45 days after receipt of proposals, that consists of the following:

(A) Identification of the most qualified offerors that are within the competitive range.

(B) Issuance of invitations for at least three and not more than five of the identified offerors to make oral presentations to, and engage in discussions with, the evaluating personnel regarding, for each offeror—

(i) the qualifications of the offeror, including how the qualifications of the offeror relate to the approach proposed to be taken by the offeror in the acquisition; and

(ii) the costs likely to be associated with the approach.

(C) Evaluation of the qualifications of the identified offerors and the costs likely to be associated with the offerors' proposals on the basis of submissions required

under the process and any oral presentations made by, and any discussions with, the offerors.

(9) **SELECTION OF MOST QUALIFIED OFFEROR.**—A selection process consisting of the following:

(A) Identification of the most qualified sources, primarily on the basis of the oral proposals, presentations, and discussions, and written proposals, submitted in accordance with paragraph (7).

(B) A program definition phase of 30–60 days (or a longer period the Administrator approves)—

(i) during which the sources identified under subparagraph (A), in consultation with one or more intended users, develop a conceptual system design and technical approach, define logical phases for the project, and estimate the total cost and the cost for each phase; and

(ii) after which a contract for performance of the work may be awarded to the source whose offer is determined to be most advantageous to the Government on the basis of cost, the responsiveness, reasonableness, and quality of the proposed performance, and a sharing of risk and benefits between the source and the Government.

(C) As many successive program definition phases as necessary to award a contract in accordance with subparagraph (B).

(10) **SYSTEM IMPLEMENTATION PHASING.**—System implementation to be executed in phases that are tailored to the solution, with appropriate contract arrangements being used for various phases and activities.

(11) **MUTUAL AUTHORITY TO TERMINATE.**—Authority for the Government or the contractor to terminate the contract without penalty at the end of any phase defined for the project.

(12) **TIME MANAGEMENT DISCIPLINE.**—Application of a standard for awarding a contract within 105 to 120 days after issuance of the solicitation, except that the Administrator may approve the application of a longer standard period.

(d) **PILOT PROGRAM PROJECTS.**—The Administrator shall authorize to be carried out under the pilot program—

(1) not more than 10 projects, each of which has an estimated cost of at least \$25,000,000 and not more than \$100,000,000; and

(2) not more than 10 projects for small business concerns, each of which has an estimated cost of at least \$1,000,000 and not more than \$5,000,000.

(e) **MONITORING BY COMPTROLLER GENERAL.**—The Comptroller General shall—

(1) monitor the conduct, and review the results, of acquisitions under the pilot program; and

(2) submit to Congress periodic reports containing the views of the Comptroller General on the activities, results, and findings under the pilot program.

CHAPTER 117—ADDITIONAL INFORMATION RESOURCES MANAGEMENT MATTERS

Sec.
11701. On-line multiple award schedule contracting.

- 11702. Identification of excess and surplus computer equipment.
- 11703. Index of certain information in information systems included in directory established under section 4101 of title 44.
- 11704. Procurement procedures.

§ 11701. On-line multiple award schedule contracting

(a) AUTOMATION OF MULTIPLE AWARD SCHEDULE CONTRACTING.—To provide for the economic and efficient procurement of information technology and other commercial items, the Administrator of General Services shall provide Federal Government-wide on-line computer access to information on products and services that are available for ordering through the multiple award schedules.

(b) REQUIREMENTS.—The system for providing on-line computer access shall—

(1) have the capability to—

(A) provide basic information on prices, features, and performance of all products and services available for ordering through the multiple award schedules;

(B) provide for updating that information to reflect changes in prices, features, and performance as soon as information on the changes becomes available; and

(C) enable users to make on-line computer comparisons of the prices, features, and performance of similar products and services offered by various vendors; and

(2) be used to place orders under the multiple award schedules in a fiscal year for an amount equal to at least 60 percent of the total amount spent for all orders under the multiple award schedules in that fiscal year.

(c) STREAMLINED PROCEDURES.—

(1) PILOT PROGRAM.—On certification by the Administrator of General Services that the system for providing on-line computer access meets the requirements of subsection (b)(1) and was used as required by subsection (b)(2) in the fiscal year preceding the fiscal year in which the certification is made, the Administrator for Federal Procurement Policy may establish a pilot program to test streamlined procedures for the procurement of information technology products and services available for ordering through the multiple award schedules.

(2) APPLICABILITY TO MULTIPLE AWARD SCHEDULE CONTRACTS.—Except as provided in paragraph (4), the pilot program shall be applicable to all multiple award schedule contracts for the purchase of information technology and shall test the following procedures:

(A) A procedure under which negotiation of the terms and conditions for a covered multiple award schedule contract is limited to terms and conditions other than price.

(B) A procedure under which the vendor establishes the prices under a covered multiple award schedule contract and may adjust those prices at any time in the discretion of the vendor.

(C) A procedure under which a covered multiple award schedule contract is awarded to any responsible offeror that—

(i) has a suitable record of past performance, which may include past performance on multiple award schedule contracts;

(ii) agrees to terms and conditions that the Administrator for Federal Procurement Policy determines are

required by law or are appropriate for the purchase of commercial items; and

(iii) agrees to establish and update prices, features, and performance and to accept orders electronically through the automated system established pursuant to subsection (a).

(3) COMPTROLLER GENERAL REVIEW AND REPORT.—

(A) AUTHORITY TO CONDUCT REVIEW AND MAKE REPORT.—

Not later than three years after the date on which the pilot program is established, the Comptroller General shall review the pilot program and report to Congress on the results of the pilot program.

(B) CONTENT OF REPORT.—The report shall include the following:

(i) An evaluation of the extent to which there is competition for the orders placed under the pilot program.

(ii) The effect that the streamlined procedures under the pilot program have on prices charged under multiple award schedule contracts.

(iii) The effect that those procedures have on paper-work requirements for multiple award schedule contracts and orders.

(iv) The impact of the pilot program on small businesses and socially and economically disadvantaged small businesses.

(4) WITHDRAWAL OF SCHEDULE OR PORTION OF SCHEDULE FROM PILOT PROGRAM.—

(A) WHEN ALLOWED.—The Administrator for Federal Procurement Policy may withdraw a multiple award schedule or portion of a schedule from the pilot program if the Administrator determines that—

(i) price competition is not available under that schedule or portion of that schedule; or

(ii) the cost to the Government for that schedule or portion for the previous year was higher than it would have been if the contract for that schedule or portion had been awarded using procedures that would apply if the pilot program were not in effect.

(B) NOTICE.—The Administrator for Federal Procurement Policy shall notify Congress at least 30 days before the date on which the Administrator withdraws a schedule or portion under this paragraph.

(C) AUTHORITY NOT DELEGABLE.—The authority under this paragraph may not be delegated.

(5) TERMINATION OF PILOT PROGRAM.—Unless reauthorized by law, the authority of the Administrator for Federal Procurement Policy to award contracts under the pilot program shall expire four years after the date on which the pilot program is established. A contract entered into before the authority expires remains in effect according to the terms of the contract after the expiration of the authority to award new contracts under the pilot program.

§ 11702. Identification of excess and surplus computer equipment

In accordance with chapter 5 of this title, the head of an executive agency shall maintain an inventory of all computer equipment under the control of that official that is excess or surplus property.

§ 11703. Index of certain information in information systems included in directory established under section 4101 of title 44

If in designing an information technology system pursuant to this subtitle, the head of an executive agency determines that a purpose of the system is to disseminate information to the public, then the head of that executive agency shall reasonably ensure that an index of information disseminated by the system is included in the directory created pursuant to section 4101 of title 44. This section does not authorize the dissemination of information to the public unless otherwise authorized.

§ 11704. Procurement procedures

To the maximum extent practicable, the Federal Acquisition Regulatory Council shall ensure that the process for acquisition of information technology is a simplified, clear, and understandable process that specifically addresses the management of risk, incremental acquisitions, and the need to incorporate commercial information technology in a timely manner.

SUBTITLE IV—APPALACHIAN REGIONAL DEVELOPMENT

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CHAPTER 141—GENERAL PROVISIONS

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§ 14101. Findings and purposes

(a) 1965 FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress finds and declares that the Appalachian region of the United States, while abundant in natural resources and rich in potential, lags behind the rest of the Nation in its economic growth and that its people have not shared properly in the Nation's prosperity. The region's uneven past development, with its historical reliance on a few basic industries and a marginal agriculture, has failed to provide the economic base that is a vital prerequisite for vigorous, self-sustaining growth. State and local governments and the people of the region understand their problems and have been working, and will continue to work, purposefully toward their solution. Congress recognizes the comprehensive report of the President's Appalachian Regional Commission documenting these findings and concludes that regionwide development is feasible, desirable, and urgently needed.

(2) PURPOSE.—It is the purpose of this subtitle to assist the region in meeting its special problems, to promote its economic development, and to establish a framework for joint federal and state efforts toward providing the basic facilities essential to its growth and attacking its common problems and meeting its common needs on a coordinated and concerted regional basis. The public investments made in the region under this subtitle shall be concentrated in areas where there is a significant potential for future growth and where the expected return on public dollars invested will be the greatest. States will be responsible for recommending local and state projects within their borders that will receive assistance under this subtitle. As the region obtains the needed physical and transportation facilities and develops its human resources, Congress expects that the region will generate a diversified industry and that the region will then be able to support itself through the workings of a strengthened free enterprise economy.

(b) 1975 FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress further finds and declares that while substantial progress has been made toward achieving the purposes set out in subsection (a), especially with respect to the provision of essential public facilities, much remains to be accomplished, especially with respect to the provision of essential health, education, and other public services. Congress recognizes that changes and evolving national purposes in the decade since 1965 affect not only the Appalachian region but also its relationship to a nation that on December 31, 1975, is assigning higher priority to conservation and the quality of life, values long cherished within the region. Appalachia as of December 31, 1975, has the opportunity, in accommodating future growth and development, to demonstrate local leadership and coordinated planning so that housing, public services, transportation and other community facilities will be provided in a way congenial to the traditions and beauty of the region and compatible with conservation values and an enhanced quality of life for the people of the region, and consistent with that goal, the Appalachian region should be able to take advantage of eco-industrial development, which promotes both employment and economic growth and the preservation of natural resources. Congress recognizes also that fundamental changes are occurring in national energy requirements and production, which not only risk short-term dislocations but will undoubtedly result in major long-term effects in the region. It is essential that the opportunities for expanded energy production be used so as to maximize the social and economic benefits and minimize the social and environmental costs to the region and its people.

(2) PURPOSE.—It is also the purpose of this subtitle to provide a framework for coordinating federal, state and local efforts toward—

(A) anticipating the effects of alternative energy policies and practices;

(B) planning for accompanying growth and change so as to maximize the social and economic benefits and minimize the social and environmental costs; and

(C) implementing programs and projects carried out in the region by federal, state, and local governmental agencies so as to better meet the special problems generated in the region by the Nation's energy needs and policies, including problems of transportation, housing, community facilities, and human services.

(c) 1998 FINDINGS AND PURPOSE.—

(1) FINDINGS.—Congress further finds and declares that while substantial progress has been made in fulfilling many of the objectives of this subtitle, rapidly changing national and global economies over the decade ending November 13, 1998, have created new problems and challenges for rural areas throughout the United States and especially for the Appalachian region.

(2) PURPOSE.—In addition to the purposes stated in subsections (a) and (b), it is the purpose of this subtitle—

(A) to assist the Appalachian region in—

- (i) providing the infrastructure necessary for economic and human resource development;
- (ii) developing the region's industry;
- (iii) building entrepreneurial communities;
- (iv) generating a diversified regional economy; and
- (v) making the region's industrial and commercial resources more competitive in national and world markets;

(B) to provide a framework for coordinating federal, state, and local initiatives to respond to the economic competitiveness challenges in the Appalachian region through—

- (i) improving the skills of the region's workforce;
- (ii) adapting and applying new technologies for the region's businesses, including eco-industrial development technologies; and
- (iii) improving the access of the region's businesses to the technical and financial resources necessary to development of the businesses; and

(C) to address the needs of severely and persistently distressed areas of the Appalachian region and focus special attention on the areas of greatest need so as to provide a fairer opportunity for the people of the region to share the quality of life generally enjoyed by citizens across the United States.

§ 14102. Definitions

(a) DEFINITIONS.—In this subtitle—

(1) APPALACHIAN REGION.—The term “Appalachian region” means that area of the eastern United States consisting of the following counties (including any political subdivision located within the area):

(A) In Alabama, the counties of Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Colbert, Coosa, Cullman, De Kalb, Elmore, Etowah, Fayette, Franklin, Hale, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Limestone, Macon, Madison, Marion, Marshall, Morgan, Pickens, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston.

(B) In Georgia, the counties of Banks, Barrow, Bartow, Carroll, Catoosa, Chattooga, Cherokee, Dade, Dawson, Douglas, Elbert, Fannin, Floyd, Forsyth, Franklin, Gilmer,

Gordon, Gwinnett, Habersham, Hall, Haralson, Hart, Heard, Jackson, Lumpkin, Madison, Murray, Paulding, Pickens, Polk, Rabun, Stephens, Towns, Union, Walker, White, and Whitfield.

(C) In Kentucky, the counties of Adair, Bath, Bell, Boyd, Breathitt, Carter, Casey, Clark, Clay, Clinton, Cumberland, Edmonson, Elliott, Estill, Fleming, Floyd, Garrard, Green, Greenup, Harlan, Hart, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Lee, Leslie, Letcher, Lewis, Lincoln, McCreary, Madison, Magoffin, Martin, Menifee, Monroe, Montgomery, Morgan, Owsley, Perry, Pike, Powell, Pulaski, Rockcastle, Rowan, Russell, Wayne, Whitley, and Wolfe.

(D) In Maryland, the counties of Allegany, Garrett, and Washington.

(E) In Mississippi, the counties of Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Itawamba, Kemper, Lee, Lowndes, Marshall, Monroe, Montgomery, Noxubee, Oktibbeha, Panola, Pontotoc, Prentiss, Tippah, Tishomingo, Union, Webster, Winston, and Yalobusha.

(F) In New York, the counties of Allegany, Broome, Cattaraugus, Chautauqua, Chemung, Chenango, Cortland, Delaware, Otsego, Schoharie, Schuyler, Steuben, Tioga, and Tompkins.

(G) In North Carolina, the counties of Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Davie, Forsyth, Graham, Haywood, Henderson, Jackson, McDowell, Macon, Madison, Mitchell, Polk, Rutherford, Stokes, Surry, Swain, Transylvania, Watauga, Wilkes, Yadkin, and Yancey.

(H) In Ohio, the counties of Adams, Athens, Belmont, Brown, Carroll, Clermont, Columbiana, Coshocton, Gallia, Guernsey, Harrison, Highland, Hocking, Holmes, Jackson, Jefferson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Tuscarawas, Vinton, and Washington.

(I) In Pennsylvania, the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Columbia, Crawford, Elk, Erie, Fayette, Forest, Fulton, Greene, Huntingdon, Indiana, Jefferson, Juniata, Lackawanna, Lawrence, Luzerne, Lycoming, McKean, Mercer, Mifflin, Monroe, Montour, Northumberland, Perry, Pike, Potter, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Tioga, Union, Venango, Warren, Washington, Wayne, Westmoreland, and Wyoming.

(J) In South Carolina, the counties of Anderson, Cherokee, Greenville, Oconee, Pickens, and Spartanburg.

(K) In Tennessee, the counties of Anderson, Bledsoe, Blount, Bradley, Campbell, Cannon, Carter, Claiborne, Clay, Cocke, Coffee, Cumberland, De Kalb, Fentress, Franklin, Grainger, Greene, Grundy, Hamblen, Hamilton, Hancock, Hawkins, Jackson, Jefferson, Johnson, Knox, Loudon, McMinn, Macon, Marion, Meigs, Monroe, Morgan, Overton, Pickett, Polk, Putnam, Rhea, Roane, Scott, Sequatchie, Sevier, Smith, Sullivan, Unicoi, Union, Van Buren, Warren, Washington, and White.

(L) In Virginia, the counties of Alleghany, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Highland, Lee, Montgomery, Pulaski, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe.

(M) All the counties of West Virginia.

(2) LOCAL DEVELOPMENT DISTRICT.—The term “local development district” means any of the following entities for which the Governor of the State in which the entity is located, or the appropriate state officer, certifies to the Appalachian Regional Commission that the entity has a charter or authority that includes the economic development of counties or parts of counties or other political subdivisions within the region:

(A) a nonprofit incorporated body organized or chartered under the law of the State in which it is located.

(B) a nonprofit agency or instrumentality of a state or local government.

(C) a nonprofit agency or instrumentality created through an interstate compact.

(D) a nonprofit association or combination of bodies, agencies, and instrumentalities described in this paragraph.

(b) CHANGE IN DEFINITION.—The Commission may not propose or consider a recommendation for any change in the definition of the Appalachian region as set forth in this section without a prior resolution by the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives that directs a study of the change.

CHAPTER 143—APPALACHIAN REGIONAL COMMISSION

SUBCHAPTER I—ORGANIZATION AND ADMINISTRATION

Sec.

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- 14302. Decisions.
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SUBCHAPTER I—ORGANIZATION AND ADMINISTRATION

§ 14301. Establishment, membership, and employees

(a) ESTABLISHMENT.—There is an Appalachian Regional Commission.

(b) MEMBERSHIP.—

(1) FEDERAL AND STATE MEMBERS.—The Commission is composed of the Federal Cochairman, appointed by the President by and with the advice and consent of the Senate, and the Governor of each participating State in the Appalachian region.

(2) ALTERNATE MEMBERS.—Each state member may have a single alternate, appointed by the Governor from among the

members of the Governor's cabinet or the Governor's personal staff. The President, by and with the advice and consent of the Senate, shall appoint an alternate for the Federal Cochairman. An alternate shall vote in the event of the absence, death, disability, removal, or resignation of the member for whom the individual is an alternate. A state alternate shall not be counted toward the establishment of a quorum of the Commission when a quorum of the state members is required.

(3) COCHAIRMEN.—The Federal Cochairman is one of the two Cochairmen of the Commission. The state members shall elect a Cochairman of the Commission from among themselves for a term of not less than one year.

(c) COMPENSATION.—The Federal Cochairman shall be compensated by the Federal Government at level III of the Executive Schedule as set out in section 5314 of title 5. The Federal Cochairman's alternate shall be compensated by the Government at level V of the Executive Schedule as set out in section 5316 of title 5. Each state member and alternate shall be compensated by the State which they represent at the rate established by law of that State.

(d) DELEGATION.—

(1) POWERS AND RESPONSIBILITIES.—Commission powers and responsibilities specified in section 14302(c) and (d) of this title, and the vote of any Commission member, may not be delegated to an individual who is not a Commission member or who is not entitled to vote in Commission meetings.

(2) ALTERNATE FEDERAL COCHAIRMAN.—The alternate to the Federal Cochairman shall perform the functions and duties the Federal Cochairman delegates when not actively serving as the alternate.

(e) EXECUTIVE DIRECTOR.—The Commission has an executive director. The executive director is responsible for carrying out the administrative functions of the Commission, for directing the Commission staff, and for other duties the Commission may assign.

(f) STATUS OF PERSONNEL.—Members, alternates, officers, and employees of the Commission are not federal employees for any purpose, except the Federal Cochairman, the alternate to the Federal Cochairman, the staff of the Federal Cochairman, and federal employees detailed to the Commission under section 14306(a)(3) of this title.

§ 14302. Decisions

(a) REQUIREMENTS FOR APPROVAL.—Except as provided in section 14306(d) of this title, decisions by the Appalachian Regional Commission require the affirmative vote of the Federal Cochairman and of a majority of the state members, exclusive of members representing States delinquent under section 14306(d).

(b) CONSULTATION.—In matters coming before the Commission, the Federal Cochairman, to the extent practicable, shall consult with the federal departments and agencies having an interest in the subject matter.

(c) DECISIONS REQUIRING QUORUM OF STATE MEMBERS.—A decision involving Commission policy, approval of state, regional or subregional development plans or strategy statements, modification or revision of the Appalachian Regional Commission Code, allocation of amounts among the States, or designation of a distressed county

or an economically strong county shall not be made without a quorum of state members.

(d) PROJECT AND GRANT PROPOSALS.—The approval of project and grant proposals is a responsibility of the Commission and shall be carried out in accordance with section 14322 of this title.

§ 14303. Functions

(a) IN GENERAL.—In carrying out the purposes of this subtitle, the Appalachian Regional Commission shall—

(1) develop, on a continuing basis, comprehensive and coordinated plans and programs and establish priorities under those plans and programs, giving due consideration to other federal, state, and local planning in the Appalachian region;

(2) conduct and sponsor investigations, research, and studies, including an inventory and analysis of the resources of the region, and, in cooperation with federal, state, and local agencies, sponsor demonstration projects designed to foster regional productivity and growth;

(3) review and study, in cooperation with the agency involved, federal, state, and local public and private programs and, where appropriate, recommend modifications or additions which will increase their effectiveness in the region;

(4) formulate and recommend, where appropriate, interstate compacts and other forms of interstate cooperation and work with state and local agencies in developing appropriate model legislation;

(5) encourage the formation of, and support, local development districts;

(6) encourage private investment in industrial, commercial, and recreational projects;

(7) serve as a focal point and coordinating unit for Appalachian programs;

(8) provide a forum for consideration of problems of the region and proposed solutions and establish and utilize, as appropriate, citizens and special advisory councils and public conferences;

(9) encourage the use of eco-industrial development technologies and approaches; and

(10) seek to coordinate the economic development activities of, and the use of economic development resources by, federal agencies in the region.

(b) IDENTIFY NEEDS AND GOALS OF SUBREGIONAL AREAS.—In carrying out its functions under this section, the Commission shall identify the characteristics of, and may distinguish between the needs and goals of, appropriate subregional areas, including central, northern, and southern Appalachia.

§ 14304. Recommendations

The Appalachian Regional Commission may make recommendations to the President and to the Governors and appropriate local officials with respect to—

(1) the expenditure of amounts by federal, state, and local departments and agencies in the Appalachian region in the fields of natural resources, agriculture, education, training, and health and welfare and in other fields related to the purposes of this subtitle; and

(2) additional federal, state, and local legislation or administrative actions as the Commission considers necessary to further the purposes of this subtitle.

§ 14305. Liaison between Federal Government and Commission

(a) **PRESIDENT.**—The President shall provide effective and continuing liaison between the Federal Government and the Appalachian Regional Commission and a coordinated review within the Government of the plans and recommendations submitted by the Commission pursuant to sections 14303 and 14304 of this title.

(b) **INTERAGENCY COORDINATING COUNCIL ON APPALACHIA.**—In carrying out subsection (a), the President shall establish the Interagency Coordinating Council on Appalachia, to be composed of the Federal Cochairman and representatives of federal agencies that carry out economic development programs in the Appalachian region. The Federal Cochairman is the Chairperson of the Council.

§ 14306. Administrative powers and expenses

(a) **POWERS.**—To carry out its duties under this subtitle, the Appalachian Regional Commission may—

(1) adopt, amend, and repeal bylaws and regulations governing the conduct of its business and the performance of its functions;

(2) appoint and fix the compensation of an executive director and other personnel as necessary to enable the Commission to carry out its functions, except that the compensation shall not exceed the maximum rate of basic pay for the Senior Executive Service under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5;

(3) request the head of any federal department or agency to detail to temporary duty with the Commission personnel within the administrative jurisdiction of the head of the department or agency that the Commission may need for carrying out its functions, each detail to be without loss of seniority, pay, or other employee status;

(4) arrange for the services of personnel from any state or local government, subdivision or agency of a state or local government, or intergovernmental agency;

(5)(A) make arrangements, including contracts, with any participating state government for inclusion in a suitable retirement and employee benefit system of Commission personnel who may not be eligible for, or continue in, another governmental retirement or employee benefit system; or

(B) otherwise provide for coverage of its personnel;

(6) accept, use, and dispose of gifts or donations of services or any property;

(7) enter into and perform contracts, leases (including the lease of office space for any term), cooperative agreements, or other transactions, necessary in carrying out its functions, on terms as it may consider appropriate, with any—

(A) department, agency, or instrumentality of the Federal Government;

(B) State or political subdivision, agency, or instrumentality of a State; or

(C) person;

(8) maintain a temporary office in the District of Columbia and establish a permanent office at a central and appropriate location it may select and field offices at other places it may consider appropriate; and

(9) take other actions and incur other expenses as may be necessary or appropriate.

(b) AUTHORIZATIONS.—

(1) DETAIL EMPLOYEES.—The head of a federal department or agency may detail personnel under subsection (a)(3).

(2) ENTER INTO AND PERFORM TRANSACTIONS.—A department, agency, or instrumentality of the Government, to the extent not otherwise prohibited by law, may enter into and perform a contract, lease, cooperative agreement, or other transaction under subsection (a)(7).

(c) RETIREMENT AND OTHER EMPLOYEE BENEFIT PROGRAMS.—The Director of the Office of Personnel Management may contract with the Commission for continued coverage of Commission employees, if the employees are federal employees when they begin Commission employment, in the retirement program and other employee benefit programs of the Government.

(d) EXPENSES.—Administrative expenses of the Commission shall be paid equally by the Government and the States in the Appalachian region, except that the expenses of the Federal Cochairman, the alternate to the Federal Cochairman, and the staff of the Federal Cochairman shall be paid only by the Government. The Commission shall determine the amount to be paid by each State. The Federal Cochairman shall not participate or vote in that determination. Assistance authorized by this subtitle shall not be furnished to any State or to any political subdivision or any resident of any State, and a state member of the Commission shall not participate or vote in any decision by the Commission, while the State is delinquent in payment of its share of administrative expenses.

§ 14307. Meetings

(a) IN GENERAL.—The Appalachian Regional Commission shall conduct at least one meeting each year with the Federal Cochairman and at least a majority of the state members present.

(b) ADDITIONAL MEETINGS BY ELECTRONIC MEANS.—The Commission may conduct additional meetings by electronic means as the Commission considers advisable, including meetings to decide matters requiring an affirmative vote.

§ 14308. Information

(a) ACTIONS OF COMMISSION.—To obtain information needed to carry out its duties, the Appalachian Regional Commission shall—

(1) hold hearings, sit and act at times and places, take testimony, receive evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports on the proceedings as the Commission may deem advisable;

(2) arrange for the head of any federal, state, or local department or agency to furnish to the Commission information as may be available to or procurable by the department or agency; and

(3) keep accurate and complete records of its doings and transactions which shall be made available for—

(A) public inspection; and

(B) audit and examination by the Comptroller General or an authorized representative of the Comptroller General.

(b) AUTHORIZATIONS.—

(1) ADMINISTER OATHS.—A Cochairman of the Commission, or any member of the Commission designated by the Commission, may administer oaths when the Commission decides that testimony shall be taken or evidence received under oath.

(2) FURNISH INFORMATION.—The head of any federal, state, or local department or agency, to the extent not otherwise prohibited by law, may carry out section (a)(2).

(c) PUBLIC PARTICIPATION.—Public participation in the development, revision, and implementation of all plans and programs under this subtitle by the Commission, any State, or any local development district shall be provided for, encouraged, and assisted. The Commission shall develop and publish regulations specifying minimum guidelines for public participation, including public hearings.

§ 14309. Personal financial interests

(a) CONFLICT OF INTEREST.—

(1) NO ROLE ALLOWED.—Except as permitted by paragraph (2), an individual who is a state member or alternate, or an officer or employee of the Appalachian Regional Commission, shall not participate personally and substantially as a member, alternate, officer, or employee in any way in any particular matter in which, to the individual's knowledge, any of the following has a financial interest:

(A) the individual.

(B) the individual's spouse, minor child, or partner.

(C) an organization (except a State or political subdivision of a State) in which the individual is serving as an officer, director, trustee, partner, or employee.

(D) any person or organization with whom the individual—

(i) is serving as an officer, director, trustee, partner, or employee; or

(ii) is negotiating or has any arrangement concerning prospective employment.

(2) EXCEPTION.—Paragraph (1) does not apply if the individual first advises the Commission of the nature and circumstances of the particular matter and makes full disclosure of the financial interest and receives in advance a written decision of the Commission that the interest is not so substantial as to be considered likely to affect the integrity of the services which the Commission may expect from the individual.

(3) CRIMINAL PENALTY.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than two years, or both.

(b) ADDITIONAL SOURCES OF SALARY DISALLOWED.—

(1) STATE MEMBER OR ALTERNATE.—A state member or alternate may not receive any salary, or any contribution to, or supplementation of, salary, for services on the Commission from a source other than the State of the member or alternate.

(2) INDIVIDUALS DETAILED TO COMMISSION.—An individual detailed to serve the Commission under section 14306(a)(4) of this title may not receive any salary, or any contribution

to, or supplementation of, salary, for services on the Commission from a source other than the state, local, or intergovernmental department or agency from which the individual was detailed or from the Commission.

(3) CRIMINAL PENALTY.—An individual violating this subsection shall be fined under title 18, imprisoned for not more than one year, or both.

(c) FEDERAL COCHAIRMAN, ALTERNATE TO FEDERAL COCHAIRMAN, AND FEDERAL OFFICERS AND EMPLOYEES.—The Federal Cochairman, the alternate to the Federal Cochairman, and any federal officer or employee detailed to duty with the Commission under section 14306(a)(3) of this title are not subject to this section but remain subject to sections 202–209 of title 18.

(d) RESCISSION.—The Commission may declare void and rescind any contract, loan, or grant of or by the Commission in relation to which it finds that there has been a violation of subsection (a)(1) or (b) of this section or any of the provisions of sections 202–209 of title 18.

§ 14310. Annual report

Not later than six months after the close of each fiscal year, the Appalachian Regional Commission shall prepare and submit to the Governor of each State in the Appalachian region and to the President, for transmittal to Congress, a report on the activities carried out under this subtitle during the fiscal year.

SUBCHAPTER II—FINANCIAL ASSISTANCE

§ 14321. Grants and other assistance

(a) AUTHORIZATION TO MAKE GRANTS.—

(1) IN GENERAL.—The Appalachian Regional Commission may make grants—

(A) for administrative expenses, including the development of areawide plans or action programs and technical assistance activities, of local development districts, but—

(i) the amount of a grant shall not exceed 50 percent of administrative expenses or, at the discretion of the Commission, 75 percent of administrative expenses if the grant is to a local development district that has a charter or authority that includes the economic development of a county or part of a county for which a distressed county designation is in effect under section 14526 of this title;

(ii) grants for administrative expenses shall not be made for a state agency certified as a local development district for a period of more than three years beginning on the date the initial grant is made for the development district; and

(iii) the local development district contributions for administrative expenses may be in cash or in kind, fairly evaluated, including space, equipment, and services;

(B) for assistance to States for a period of not more than two years to strengthen the state development planning process for the Appalachian region and the coordination of state planning under this subtitle, the Public Works

and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), and other federal and state programs; and

(C) for investigation, research, studies, evaluations, and assessments of needs, potentials, or attainments of the people of the region, technical assistance, training programs, demonstrations, and the construction of necessary facilities incident to those activities, which will further the purposes of this subtitle.

(2) LIMITATION ON AVAILABLE AMOUNTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for financial assistance under this section may be provided from amounts appropriated to carry out this subtitle.

(B) DISCRETIONARY GRANTS.—

(i) GRANTS TO WHICH PERCENTAGE LIMITATION DOESN'T APPLY.—Discretionary grants made by the Commission to implement significant regional initiatives, to take advantage of special development opportunities, or to respond to emergency economic distress in the region may be made without regard to the percentage limitations specified in subparagraph (A).

(ii) LIMITATION ON AGGREGATE AMOUNT.—For each fiscal year, the aggregate amount of discretionary grants referred to in clause (i) shall not be more than 10 percent of the amount appropriated under section 14703 of this title for the fiscal year.

(3) SOURCES OF GRANTS.—Grant amounts may be provided entirely from appropriations to carry out this section, in combination with amounts available under other federal or federal grant programs, or from any other source.

(4) FEDERAL SHARE.—Notwithstanding any law limiting the federal share in any other federal or federal grant program, amounts appropriated to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.

(b) ASSISTANCE FOR DEMONSTRATIONS OF ENTERPRISE DEVELOPMENT.—

(1) IN GENERAL.—The Commission may provide assistance under this section for demonstrations of enterprise development, including site acquisition or development where necessary for the feasibility of the project, in connection with the development of the region's energy resources and the development and stimulation of indigenous arts and crafts of the region.

(2) COOPERATION BY FEDERAL AGENCIES.—In carrying out the purposes of this subtitle and in implementing this section, the Secretary of Energy, the Environmental Protection Agency, and other federal agencies shall cooperate with the Commission and shall provide assistance that the Federal Cochairman may request.

(3) AVAILABLE AMOUNTS.—In any fiscal year, not more than—

(A) \$3,000,000 shall be obligated for energy resource related demonstrations; and

(B) \$2,500,000 shall be obligated for indigenous arts and crafts demonstrations.

(c) RECORDS.—

(1) COMMISSION.—The Commission, as required by the President, shall maintain accurate and complete records of transactions and activities financed with federal amounts and report to the President on the transactions and activities. The records of the Commission with respect to grants are available for audit by the President and the Comptroller General.

(2) RECIPIENTS OF FEDERAL ASSISTANCE.—Recipients of federal assistance under this section, as required by the Commission, shall maintain accurate and complete records of transactions and activities financed with federal amounts and report to the Commission on the transactions and activities. The records are be available for audit by the President, the Comptroller General, and the Commission.

§ 14322. Approval of development plans, strategy statements, and projects

(a) ANNUAL REVIEW AND APPROVAL REQUIRED.—The Appalachian Regional Commission annually shall review and approve, in accordance with section 14302 of this title, state and regional development plans and strategy statements, and any multistate subregional plans which may be developed.

(b) APPLICATION PROCESS.—An application for a grant or for other assistance for a specific project under this subtitle shall be made through the state member of the Commission representing the applicant. The state member shall evaluate the application for approval. To be approved, the state member must certify, and the Federal Cochairman must determine, that the application—

(1) implements the Commission-approved state development plan;

(2) is included in the Commission-approved strategy statement;

(3) adequately ensures that the project will be properly administered, operated, and maintained; and

(4) otherwise meets the requirements for assistance under this subtitle.

(c) AFFIRMATIVE VOTE REQUIREMENT DEEMED MET.—After the appropriate state development plan and strategy statement are approved, certification by a state member, when joined by an affirmative vote of the Federal Cochairman, is deemed to satisfy the requirements for affirmative votes for decisions under section 14302(a) of this title.

CHAPTER 145—SPECIAL APPALACHIAN PROGRAMS

SUBCHAPTER I—PROGRAMS

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SUBCHAPTER I—PROGRAMS

§ 14501. Appalachian development highway system

(a) **PURPOSE.**—To provide a highway system which, in conjunction with the Interstate System and other Federal-aid highways in the Appalachian region, will open up an area with a developmental potential where commerce and communication have been inhibited by lack of adequate access, the Secretary of Transportation may assist in the construction of an Appalachian development highway system and local access roads serving the Appalachian region. Construction on the development highway system shall not be more than 3,025 miles. There shall not be more than 1,400 miles of local access roads that serve specific recreational, residential, educational, commercial, industrial, or similar facilities or facilitate a school consolidation program.

(b) **COMMISSION DESIGNATIONS.**—

(1) **WHAT IS TO BE DESIGNATED.**—The Appalachian Regional Commission shall transmit to the Secretary its designations of—

- (A) the general corridor location and termini of the development highways;
- (B) local access roads to be constructed;
- (C) priorities for the construction of segments of the development highways; and
- (D) other criteria for the program authorized by this section.

(2) **STATE TRANSPORTATION DEPARTMENT RECOMMENDATION REQUIRED.**—Before a state member participates in or votes on designations, the member must obtain the recommendations of the state transportation department of the State which the member represents.

(c) **ADDITION TO FEDERAL-AID PRIMARY SYSTEM.**—When completed, each development highway not already on the Federal-aid primary system shall be added to the system.

(d) **USE OF SPECIFIC MATERIALS AND PRODUCTS.**—

(1) **INDIGENOUS MATERIALS AND PRODUCTS.**—In the construction of highways and roads authorized under this section, a State may give special preference to the use of materials and products indigenous to the Appalachian region.

(2) **COAL DERIVATIVES.**—For research and development in the use of coal and coal products in highway construction and maintenance, the Secretary may require each participating State, to the maximum extent possible, to use coal derivatives in the construction of not more than 10 percent of the roads authorized under this subtitle.

(e) **FEDERAL SHARE.**—Federal assistance to any construction project under this section shall not be more than 80 percent of the cost of the project.

(f) **CONSTRUCTION WITHOUT FEDERAL AMOUNTS.**—

(1) **PAYMENT OF FEDERAL SHARE.**—When a participating State constructs a segment of a development highway without the aid of federal amounts and the construction is in accordance

with all procedures and requirements applicable to the construction of segments of Appalachian development highways with those amounts, except for procedures and requirements that limit a State to the construction of projects for which federal amounts have previously been appropriated, the Secretary, on application by the State and with the approval of the Commission, may pay to the State the federal share, which shall not be more than 80 percent of the cost of the construction of the segment, from any amounts appropriated and allocated to the State to carry out this section.

(2) NO COMMITMENT OR OBLIGATION.—This subsection does not commit or obligate the Federal Government to provide amounts for segments of development highways constructed under this subsection.

(g) APPLICATION OF TITLE 23.—

(1) SECTIONS 106(a) AND 118.—Sections 106(a) and 118 of title 23 apply to the development highway system and the local access roads.

(2) CONSTRUCTION AND MAINTENANCE.—States are required to maintain each development highway and local access road as provided for Federal-aid highways in title 23. All other provisions of title 23 that are applicable to the construction and maintenance of Federal-aid primary and secondary highways and which the Secretary decides are not inconsistent with this subtitle shall apply to the system and roads, respectively.

§ 14502. Demonstration health projects

(a) PURPOSE.—To demonstrate the value of adequate health facilities and services to the economic development of the Appalachian region, the Secretary of Health and Human Services may make grants for the planning, construction, equipment, and operation of multi-county demonstration health, nutrition, and child care projects, including hospitals, regional health diagnostic and treatment centers, and other facilities and services necessary for the purposes of this section.

(b) PLANNING GRANTS.—

(1) AUTHORITY TO PROVIDE AMOUNTS AND MAKE GRANTS.—The Secretary may provide amounts to the Appalachian Regional Commission for the support of its Health Advisory Committee and may make grants for expenses of planning necessary for the development and operation of demonstration health projects for the region.

(2) LIMITATION ON AVAILABLE AMOUNTS.—The amount of a grant under this section for planning shall not be more than 75 percent of expenses.

(3) SOURCES OF ASSISTANCE.—The federal contribution may be provided entirely from amounts authorized under this section or in combination with amounts provided under other federal or federal grant programs.

(4) FEDERAL SHARE.—Notwithstanding any provision of law limiting the federal share in those other programs, amounts appropriated to carry out this section may be used to increase the federal share to the maximum percentage cost of a grant authorized by this subsection.

(c) CONSTRUCTION AND EQUIPMENT GRANTS.—

(1) **ADDITIONAL USES FOR CONSTRUCTION GRANTS.**—Grants under this section for construction may also be used for—

(A) the acquisition of privately owned facilities—

- (i) not operated for profit; or
- (ii) previously operated for profit if the Commission finds that health services would not otherwise be provided in the area served by the facility if the acquisition is not made; and

(B) initial equipment.

(2) **STANDARDS FOR MAKING GRANTS.**—Grants under this section for construction shall be made in accordance with section 14523 of this title and shall not be incompatible with the applicable provisions of title VI of the Public Health Service Act (42 U.S.C. 291 et seq.), the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.), and other laws authorizing grants for the construction of health-related facilities, without regard to any provisions in those laws relating to appropriation authorization ceilings or to allotments among the States.

(3) **LIMITATION ON AVAILABLE AMOUNTS.**—A grant for the construction or equipment of any component of a demonstration health project shall not be more than 80 percent of the cost.

(4) **SOURCES OF ASSISTANCE.**—The federal contribution may be provided entirely from amounts authorized under this section or in combination with amounts provided under other federal grant programs for the construction or equipment of health-related facilities.

(5) **FEDERAL SHARE.**—Notwithstanding any provision of law limiting the federal share in those other programs, amounts authorized under this section may be used to increase federal grants for component facilities of a demonstration health project to a maximum of 80 percent of the cost of the facilities.

(d) **OPERATION GRANTS.**—

(1) **STANDARDS FOR MAKING GRANTS.**—A grant for the operation of a demonstration health project shall not be made—

(A) unless the facility is publicly owned, or owned by a public or private nonprofit organization, and is not operated for profit;

(B) after five years following the commencement of the initial grant for operation of the project, except that child development demonstrations assisted under this section during fiscal year 1979 may be approved under section 14322 of this title for continued support beyond that period, on request of the State, if the Commission finds that no federal, state, or local amounts are available to continue the project; and

(C) unless the Secretary of Health and Human Services is satisfied that the operation of the project will be conducted under efficient management practices designed to obviate operating deficits.

(2) **LIMITATION ON AVAILABLE AMOUNTS.**—Grants under this section for the operation (including initial operating amounts and operating deficits, which include the cost of attracting, training, and retaining qualified personnel) of a demonstration health project, whether or not constructed with amounts authorized by this section, may be made for up to 50 percent of the cost of that operation (or 80 percent of the cost of that

operation for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title).

(3) SOURCES OF ASSISTANCE.—The federal contribution may be provided entirely from amounts appropriated to carry out this section or in combination with amounts provided under other federal grant programs for the operation of health related facilities and the provision of health and child development services, including parts A and B of title IV and title XX of the Social Security Act (42 U.S.C. 601 et seq., 620 et seq., 1397 et seq.).

(4) FEDERAL SHARE.—Notwithstanding any provision of law limiting the federal share in those other programs, amounts appropriated to carry out this section may be used to increase federal grants for operating components of a demonstration health project to the maximum percentage cost of a grant authorized by this subsection.

(5) STATE DEEMED TO MEET REQUIREMENT OF PROVIDING ASSISTANCE OR SERVICES ON STATEWIDE BASIS.—Notwithstanding any provision of the Social Security Act (42 U.S.C. 301 et seq.) requiring assistance or services on a statewide basis, a State providing assistance or services under a federal grant program described in paragraph (2) in any area of the region approved by the Commission is deemed to be meeting that requirement.

(e) GRANT SOURCES AND USE OF GRANTS IN COMPUTING ALLOTMENTS.—Grants under this section—

(1) shall be made only out of amounts specifically appropriated for the purpose of carrying out this subtitle; and

(2) shall not be taken into account in computing allotments among the States under any other law.

(f) MAXIMUM COMMISSION CONTRIBUTION.—

(1) IN GENERAL.—Subject to paragraph (2), the Commission may contribute not more than 50 percent of any project cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

(2) DISTRESSED COUNTIES.—The maximum Commission contribution for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title may be increased to the lesser of—

(A) 80 percent; or

(B) the maximum federal contribution percentage authorized by this section.

(g) EMPHASIS ON OCCUPATIONAL DISEASES FROM COAL MINING.—To provide for the further development of the Appalachian region's human resources, grants under this section shall give special emphasis to programs and research for the early detection, diagnosis, and treatment of occupational diseases arising from coal mining, such as black lung.

§ 14503. Assistance for proposed low- and middle-income housing projects

(a) APPALACHIAN HOUSING FUND.—

(1) ESTABLISHMENT.—There is an Appalachian Housing Fund.

(2) SOURCE AND USE OF AMOUNTS IN FUND.—Amounts allocated to the Secretary of Housing and Urban Development for the purposes of this section shall be deposited in the Fund.

The Secretary shall use the Fund as a revolving fund to carry out those purposes. Amounts in the Fund not needed for current operation may be invested in bonds or other obligations the Federal Government guarantees as to principal and interest. General expenses of administration of this section may be charged to the Fund.

(b) PURPOSE.—To encourage and facilitate the construction or rehabilitation of housing to meet the needs of low- and moderate-income families and individuals, the Secretary may make grants and loans from the Fund, under terms and conditions the Secretary may prescribe. The grants and loans may be made to nonprofit, limited dividend, or cooperative organizations and public bodies and are for planning and obtaining federally insured mortgage financing or other financial assistance for housing construction or rehabilitation projects for low- and moderate-income families and individuals, in any area of the Appalachian region the Appalachian Regional Commission establishes, under—

(1) section 221 of the National Housing Act (12 U.S.C. 1715l);

(2) section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(3) section 515 of the Housing Act of 1949 (42 U.S.C. 1485);

or

(4) any other law of similar purpose administered by the Secretary or any other department, agency, or instrumentality of the Federal Government or a state government.

(c) PROVIDING AMOUNTS TO STATES FOR GRANTS AND LOANS.—The Secretary or the Commission may provide amounts to the States for making grants and loans to nonprofit, limited dividend, or cooperative organizations and public bodies for the purposes for which the Secretary may provide amounts under this section.

(d) LOANS.—

(1) LIMITATION ON AVAILABLE AMOUNTS.—A loan under subsection (b) shall not be more than 50 percent (or 80 percent for a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of planning and obtaining financing for a project, including preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site options, application and mortgage commitment fees, legal fees, and construction loan fees and discounts.

(2) INTEREST.—A loan shall be made without interest, except that a loan made to an organization established for profit shall bear interest at the prevailing market rate authorized for an insured or guaranteed loan for that type of project.

(3) PAYMENT.—The Secretary shall require payment of a loan made under this section, under terms and conditions the Secretary may require, no later than on completion of the project. Except for a loan to an organization established for profit, the Secretary may cancel any part of a loan made under this section on determining that a permanent loan to finance the project cannot be obtained in an amount adequate for repayment of a loan made under this section.

(e) GRANTS.—

(1) IN GENERAL.—A grant under this section shall not be made to an organization established for profit and, except as provided in paragraph (2), shall not exceed 50 percent (or 80 percent for a project to be carried out in a county for

which a distressed county designation is in effect under section 14526 of this title) of expenses, incident to planning and obtaining financing for a project, which the Secretary considers not to be recoverable from the proceeds of a permanent loan made to finance the project.

(2) **SITE DEVELOPMENT COSTS AND OFFSITE IMPROVEMENTS.**—The Secretary may make grants and commitments for grants, and may advance amounts under terms and conditions the Secretary may require, to nonprofit, limited dividend, or cooperative organizations and public bodies for reasonable site development costs and necessary offsite improvements, such as sewer and water line extensions, when the grant, commitment, or advance is essential to the economic feasibility of a housing construction or rehabilitation project for low- and moderate-income families and individuals which otherwise meets the requirements for assistance under this section. A grant under this paragraph for—

(A) the construction of housing shall not be more than 10 percent of the cost of the project; and

(B) the rehabilitation of housing shall not be more than 10 percent of the reasonable value of the rehabilitation housing, as determined by the Secretary.

(f) **INFORMATION, ADVICE, AND TECHNICAL ASSISTANCE.**—The Secretary or the Commission may provide, or contract with public or private organizations to provide, information, advice, and technical assistance with respect to the construction, rehabilitation, and operation by nonprofit organizations of housing for low- or moderate-income families in areas of the region the Commission establishes.

(g) **APPLICATION OF CERTAIN PROVISIONS.**—Programs and projects assisted under this section are subject to the provisions cited in section 14701 of this title to the extent provided in the laws authorizing assistance for low- and moderate-income housing.

§ 14504. Telecommunications and technology initiative

(a) **PROJECTS TO BE ASSISTED.**—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the region for projects—

(1) to increase affordable access to advanced telecommunications, entrepreneurship, and management technologies or applications in the region;

(2) to provide education and training in the use of telecommunications and technology;

(3) to develop programs to increase the readiness of industry groups and businesses in the region to engage in electronic commerce; or

(4) to support entrepreneurial opportunities for businesses in the information technology sector.

(b) **LIMITATION ON AVAILABLE AMOUNTS.**—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.

(c) **SOURCES OF ASSISTANCE.**—Assistance under this section may be provided entirely from amounts made available to carry out

this section, in combination with amounts made available under other federal programs, or from any other source.

(d) **FEDERAL SHARE.**—Notwithstanding any provision of law limiting the federal share under any other federal program, amounts made available to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.

§ 14505. Entrepreneurship initiative

(a) **BUSINESS INCUBATOR SERVICE.**—In this section, the term “business incubator service” means a professional or technical service necessary for the initiation and initial sustainment of the operations of a newly established business, including a service such as—

- (1) a legal service, including aid in preparing a corporate charter, partnership agreement, or basic contract;
- (2) a service in support of the protection of intellectual property through a patent, a trademark, or any other means;
- (3) a service in support of the acquisition and use of advanced technology, including the use of Internet services and Web-based services; and
- (4) consultation on strategic planning, marketing, or advertising.

(b) **PROJECTS TO BE ASSISTED.**—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to persons or entities in the region for projects—

- (1) to support the advancement of, and provide, entrepreneurial training and education for youths, students, and businesspersons;
- (2) to improve access to debt and equity capital by such means as facilitating the establishment of development venture capital funds;
- (3) to aid communities in identifying, developing, and implementing development strategies for various sectors of the economy;
- (4) to develop a working network of business incubators; and
- (5) to support entities that provide business incubator services.

(c) **LIMITATION ON AVAILABLE AMOUNTS.**—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.

(d) **SOURCES OF ASSISTANCE.**—Assistance under this section may be provided entirely from amounts made available to carry out this section, in combination with amounts made available under other federal programs, or from any other source.

(e) **FEDERAL SHARE.**—Notwithstanding any provision of law limiting the federal share under any other federal program, amounts made available to carry out this section may be used to increase that federal share, as the Commission decides is appropriate.

§ 14506. Regional skills partnerships

(a) **ELIGIBLE ENTITY.**—In this section, the term “eligible entity” means a consortium that—

(1) is established to serve one or more industries in a specified geographic area; and

(2) consists of representatives of—

(A) businesses (or a nonprofit organization that represents businesses);

(B) labor organizations;

(C) State and local governments; or

(D) educational institutions.

(b) **PROJECTS TO BE ASSISTED.**—The Appalachian Regional Commission may provide technical assistance, make grants, enter into contracts, or otherwise provide amounts to eligible entities in the region for projects to improve the job skills of workers for a specified industry, including projects for—

(1) the assessment of training and job skill needs for the industry;

(2) the development of curricula and training methods, including, in appropriate cases, electronic learning or technology-based training;

(3) the identification of training providers;

(4) the development of partnerships between the industry and educational institutions, including community colleges;

(5) the development of apprenticeship programs;

(6) the development of training programs for workers, including dislocated workers; and

(7) the development of training plans for businesses.

(c) **ADMINISTRATIVE COSTS.**—An eligible entity may use not more than 10 percent of amounts made available to the eligible entity under subsection (b) to pay administrative costs associated with the projects described in subsection (b).

(d) **LIMITATION ON AVAILABLE AMOUNTS.**—Not more than 50 percent (or 80 percent in the case of a project to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title) of the cost of any activity eligible for a grant under this section may be provided from amounts appropriated to carry out this section.

(e) **SOURCES OF ASSISTANCE.**—Assistance under this section may be provided entirely from amounts made available to carry out this section, in combination with amounts made available under other federal programs, or from any other source.

(f) **FEDERAL SHARE.**—Notwithstanding any provision of law limiting the federal share under any other federal program, amounts made available to carry out this section may be used to increase that Federal share, as the Commission decides is appropriate.

§ 14507. Supplements to federal grant programs

(a) **DEFINITION.**—

(1) **FEDERAL GRANT PROGRAMS.**—In this section, the term “federal grant programs”—

(A) means any federal grant program that provides assistance for the acquisition or development of land, the construction or equipment of facilities, or other community or economic development or economic adjustment activities, including a federal grant program authorized by—

(i) the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.);

(ii) the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–4 et seq.);

(iii) the Watershed Protection and Flood Prevention Act (16 U.S.C. 1001 et seq.);

(iv) the Carl D. Perkins Vocational and Technical Education Act of 1998 (20 U.S.C. 2301 et seq.);

(v) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) (known as the Clean Water Act);

(vi) title VI of the Public Health Services Act (42 U.S.C. 291 et seq.);

(vii) sections 201 and 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141, 3149);

(viii) title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.); and

(ix) part IV of title III of the Communications Act of 1934 (47 U.S.C. 390 et seq.); but

(B) does not include—

(i) the program for the construction of the development highway system authorized by section 14501 of this title or any other program relating to highway or road construction authorized by title 23; or

(ii) any other program to the extent that financial assistance other than a grant is authorized.

(2) CERTAIN SEWAGE TREATMENT WORKS DEEMED CONSTRUCTED WITH FEDERAL GRANT ASSISTANCE.—For the purpose of this section, any sewage treatment works constructed pursuant to title II of the Federal Water Pollution Control Act (33 U.S.C. 1281 et seq.) (known as the Clean Water Act) without federal grant assistance under that title is deemed to be constructed with that assistance.

(b) PURPOSE.—To enable the people, States, and local communities of the Appalachian region, including local development districts, to take maximum advantage of federal grant programs for which they are eligible but for which, because of their economic situation, they cannot supply the required matching share, or for which there are insufficient amounts available under the federal law authorizing the programs to meet pressing needs of the region, the Federal Cochairman may use amounts made available to carry out this section—

(1) for any part of the basic federal contribution to projects or activities under the federal grant programs authorized by federal laws; and

(2) to increase the federal contribution to projects and activities under the programs above the fixed maximum part of the cost of the projects or activities otherwise authorized by the applicable law.

(c) CERTIFICATION REQUIRED.—For a program, project, or activity for which any part of the basic federal contribution to the project or activity under a federal grant program is proposed to be made under subsection (b), the contribution shall not be made until the responsible federal official administering the federal law authorizing the contribution certifies that the program, project, or activity meets the applicable requirements of the federal law and could be approved for federal contribution under that law if amounts were available under the law for the program, project, or activity.

(d) LIMITATIONS IN OTHER LAWS INAPPLICABLE.—Amounts provided pursuant to this subtitle are available without regard to

any limitations on areas eligible for assistance or authorizations for appropriation in any other law.

(e) **ACCEPTANCE OF CERTAIN MATERIAL.**—For a supplemental grant for a project or activity under a federal grant program, the Federal Cochairman shall accept any finding, report, certification, or documentation required to be submitted to the head of the department, agency, or instrumentality of the Federal Government responsible for the administration of the program.

(f) **FEDERAL SHARE.**—The federal portion of the cost of a project or activity shall not—

(1) be increased to more than the percentages the Commission establishes; nor

(2) be more than 80 percent of the cost.

(g) **MAXIMUM COMMISSION CONTRIBUTION.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the Commission may contribute not more than 50 percent of a project or activity cost eligible for financial assistance under this section from amounts appropriated to carry out this subtitle.

(2) **DISTRESSED COUNTIES.**—The maximum Commission contribution for a project or activity to be carried out in a county for which a distressed county designation is in effect under section 14526 of this title may be increased to 80 percent.

SUBCHAPTER II—ADMINISTRATIVE

§ 14521. Required level of expenditure

A State or political subdivision of a State is not eligible to receive benefits under this subtitle unless the aggregate expenditure of state amounts, except expenditures for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and local and federal amounts, for the benefit of the area within the State located in the Appalachian region is maintained at a level which does not fall below the average level of those expenditures for the State's last two full fiscal years prior to March 9, 1965. In computing the level, a State's past expenditure for participation in the Dwight D. Eisenhower System of Interstate and Defense Highways and expenditures of local and federal amounts shall not be included. The Commission shall recommend to the President a lesser requirement when it finds that a substantial population decrease in that part of a State which lies within the region would not justify a state expenditure equal to the average level of the last two years or when it finds that a State's average level of expenditure in an individual program has been disproportionate to the present need for that part of the State.

§ 14522. Consent of States

This subtitle does not require a State to engage in or accept a program under this subtitle without its consent.

§ 14523. Program implementation

(a) **REQUIREMENTS.**—A program or project authorized under this chapter shall not be implemented until—

(1) the responsible federal official has decided that applications and plans relating to the program or project are not incompatible with the provisions and objectives of federal laws that the official administers that are not inconsistent with this subtitle; and

(2) the Appalachian Regional Commission has approved the program or project and has determined that it—

(A) meets the applicable criteria under section 14524 of this title and the requirements of the development planning process under section 14525 of this title; and

(B) will contribute to the development of the Appalachian region.

(b) DECISION IS CONTROLLING.—A decision under subsection (a)(2) is controlling and shall be accepted by the federal agencies.

§ 14524. Program development criteria

(a) FACTORS TO BE CONSIDERED.—In considering programs and projects to be given assistance under this subtitle, and in establishing a priority ranking of the requests for assistance presented to the Appalachian Regional Commission, the Commission shall follow procedures that will ensure consideration of—

(1) the relationship of the project or class of projects to overall regional development, including its location in a severely and persistently distressed county or area;

(2) the population and area to be served by the project or class of projects, including the per capita market income and the unemployment rates in the area;

(3) the relative financial resources available to the State or political subdivisions or instrumentalities of the State that seek to undertake the project;

(4) the importance of the project or class of projects in relation to other projects or classes of projects that may be in competition for the same amounts;

(5) the prospects that the project for which assistance is sought will improve, on a continuing rather than a temporary basis, the opportunities for employment, the average level of income, or the economic and social development of the area served by the project; and

(6) the extent to which the project design provides for detailed outcome measurements by which grant expenditures may be evaluated.

(b) LIMITATION ON USE.—Financial assistance made available under this subtitle shall not be used to assist establishments relocating from one area to another.

(c) DETERMINATION REQUIRED BEFORE AMOUNTS MAY BE PROVIDED.—Amounts may be provided for programs and projects in a State under this subtitle only if the Commission determines that the level of federal and state financial assistance under other laws for the same type of programs or projects in that part of the State within the Appalachian region will not be diminished in order to substitute amounts authorized by this subtitle.

(d) MINIMUM AMOUNT OF ASSISTANCE TO DISTRESSED COUNTIES AND AREAS.—For each fiscal year, not less than 50 percent of the amount of grant expenditures the Commission approves shall support activities or projects that benefit severely and persistently distressed counties and areas.

§ 14525. State development planning process

(a) STATE DEVELOPMENT PLAN.—Pursuant to policies the Appalachian Regional Commission establishes, each state member shall submit a development plan for the area of the State within the Appalachian region. The plan shall—

(1) be submitted according to a schedule the Commission prescribes;

(2) reflect the goals, objectives, and priorities identified in the regional development plan and in any subregional development plan that may be approved for the subregion of which the State is a part;

(3) describe the state organization and continuous process for Appalachian development planning, including—

(A) the procedures established by the State for the participation of local development districts in the process;

(B) how the process is related to overall statewide planning and budgeting processes; and

(C) the method of coordinating planning and projects in the region under this subtitle, the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et seq.), and other federal, state, and local programs;

(4) set forth the goals, objectives, and priorities of the State for the region, as established by the Governor, and identify the needs on which the goals, objectives, and priorities are based; and

(5) describe the development strategies for achieving the goals, objectives, and priorities, including funding sources, and recommendations for specific projects to receive assistance under this subtitle.

(b) **AREAWIDE ACTION PROGRAMS.**—The Commission shall encourage the preparation and execution of areawide action programs that specify interrelated projects and schedules of actions, the necessary agency funding, and other commitments to implement the programs. The programs shall make appropriate use of existing plans affecting the area.

(c) **LOCAL DEVELOPMENT DISTRICTS.**—Local development districts certified by the State as described in section 14102(a)(2) of this title provide the linkage between state and substate planning and development. The districts shall assist the States in the coordination of areawide programs and projects and may prepare and adopt areawide plans or action programs. In carrying out the development planning process, including the selection of programs and projects for assistance, States shall consult with local development districts, local units of government, and citizen groups and shall consider the goals, objectives, priorities, and recommendations of those bodies.

(d) **FEDERAL RESPONSIBILITIES.**—To the maximum extent practicable, federal departments, agencies, and instrumentalities undertaking or providing financial assistance for programs or projects in the region shall—

(1) take into account the policies, goals, and objectives the Commission and its member States establish pursuant to this subtitle;

(2) recognize Appalachian state development strategies approved by the Commission as satisfying requirements for overall economic development planning under the programs or projects; and

(3) accept the boundaries and organization of any local development district certified under this subtitle that the Governor may designate as the areawide agency required under any of those programs undertaken or assisted by those federal departments, agencies, and instrumentalities.

§ 14526. Distressed and economically strong counties**(a) DESIGNATIONS.—**

(1) **IN GENERAL.**—The Appalachian Regional Commission, in accordance with criteria the Commission may establish, each year shall—

(A) designate as “distressed counties” those counties in the Appalachian region that are the most severely and persistently distressed; and

(B) designate two categories of economically strong counties, consisting of—

(i) “competitive counties”, which shall be those counties in the region that are approaching economic parity with the rest of the United States; and

(ii) “attainment counties”, which shall be those counties in the region that have attained or exceeded economic parity with the rest of the United States.

(2) **ANNUAL REVIEW OF DESIGNATIONS.**—The Commission shall—

(A) conduct an annual review of each designation of a county under paragraph (1) to determine if the county still meets the criteria for the designation; and

(B) renew the designation for another one-year period only if the county still meets the criteria.

(b) **DISTRESSED COUNTIES.**—In program and project development and implementation and in the allocation of appropriations made available to carry out this subtitle, the Commission shall give special consideration to the needs of counties for which a distressed county designation is in effect under this section.

(c) ECONOMICALLY STRONG COUNTIES.—

(1) **COMPETITIVE COUNTIES.**—Except as provided in paragraphs (3) and (4), assistance under this subtitle for a project that is carried out in a county for which a competitive county designation is in effect under this section shall not be more than 30 percent of the project cost.

(2) **ATTAINMENT COUNTIES.**—Except as provided in paragraphs (3) and (4), amounts may not be provided under this subtitle for a project that is carried out in a county for which an attainment county designation is in effect under this section.

(3) **EXCEPTIONS.**—Paragraphs (1) and (2) do not apply to—

(A) a project on the Appalachian development highway system authorized by section 14501 of this title;

(B) a local development district administrative project assisted under section 14321(a)(1)(A) of this title; or

(C) a multicounty project that is carried out in at least two counties designated under this section if—

(i) at least one of the participating counties is designated as a distressed county under this section; and

(ii) the project will be of substantial direct benefit to at least one distressed county.

(4) WAIVER.—

(A) **IN GENERAL.**—The Commission may waive the requirements of paragraphs (1) and (2) for a project when the recipient of assistance for the project shows the existence of any of the following:

(i) a significant pocket of distress in the part of the county in which the project is carried out.

(ii) a significant potential benefit from the project in at least one area of the region outside the designated county.

(B) REPORTS TO CONGRESS.—The Commission shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an annual report describing each waiver granted under subparagraph (A) during the period covered by the report.

CHAPTER 147—MISCELLANEOUS

Sec.

14701. Applicable labor standards.

14702. Nondiscrimination.

14703. Authorization of appropriations.

14704. Termination.

§ 14701. Applicable labor standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration, or repair, including painting and decorating, of projects, buildings, and works which are financially assisted through federal amounts authorized under this subtitle shall be paid wages at rates not less than those prevailing on similar construction in the locality as the Secretary of Labor determines in accordance with sections 3141–3144, 3146, and 3147 of this title. With respect to those labor standards, the Secretary has the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and section 3145 of this title.

§ 14702. Nondiscrimination

An individual in the United States shall not, because of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, a program or activity receiving federal financial assistance under this subtitle.

§ 14703. Authorization of appropriations

(a) IN GENERAL.—In addition to amounts authorized by section 14501 of this title and other amounts made available for the Appalachian development highway system program, the following amounts may be appropriated to the Appalachian Regional Commission to carry out this subtitle:

(1) \$88,000,000 for each of the fiscal years 2002–2004.

(2) \$90,000,000 for fiscal year 2005.

(3) \$92,000,000 for fiscal year 2006.

(b) TELECOMMUNICATIONS AND TECHNOLOGY INITIATIVE.—Of the amounts made available under subsection (a), the following amounts are available to carry out section 14504 of this title:

(1) \$10,000,000 for fiscal year 2002.

(2) \$8,000,000 for fiscal year 2003.

(3) \$5,000,000 for each of the fiscal years 2004–2006.

(c) AVAILABILITY.—Amounts made available under subsection (a) remain available until expended.

§ 14704. Termination

This subtitle, except sections 14102(a)(1) and (b) and 14501, ceases to be in effect on October 1, 2006.

SUBTITLE V—MISCELLANEOUS

CHAPTER	Sec.
171. SAFETY STANDARDS FOR MOTOR VEHICLES	17101
173. GOVERNMENT LOSSES IN SHIPMENT	17301
175. FEDERAL MOTOR VEHICLE EXPENDITURE CONTROL	17501
177. ALASKA COMMUNICATIONS DISPOSAL	17701
179. ALASKA FEDERAL-CIVILIAN ENERGY EFFICIENCY SWAP	17901
181. TELECOMMUNICATIONS ACCESSIBILITY FOR HEARING-IM- PAIRED AND SPEECH-IMPAIRED INDIVIDUALS.	18101
183. NATIONAL CAPITAL AREA INTEREST ARBITRATION STAND- ARDS.	18301

CHAPTER 171—SAFETY STANDARDS FOR MOTOR VEHICLES

Sec.
17101. Definitions.
17102. Prohibition on acquisition or purchase of motor vehicles by Federal Govern- ment.
17103. Commercial standards for passenger safety devices.

§ 17101. Definitions

In this chapter, the following definitions apply:

(1) **FEDERAL GOVERNMENT.**—The term “Federal Government” includes the government of the District of Columbia.

(2) **MOTOR VEHICLE.**—The term “motor vehicle” means a vehicle, self-propelled or drawn by mechanical power, designed for use on the highways principally for the transportation of passengers, except a vehicle designed or used for military field training, combat, or tactical purposes.

§ 17102. Prohibition on acquisition or purchase of motor vehicles by Federal Government

The Federal Government shall not purchase a motor vehicle for use by the Government unless that motor vehicle is equipped with reasonable passenger safety devices that the Administrator of General Services requires. Those devices shall conform with standards the Administrator prescribes under section 17103 of this title.

§ 17103. Commercial standards for passenger safety devices

The Administrator of General Services shall prescribe and publish in the Federal Register commercial standards for passenger safety devices the Administrator requires under section 17102 of this title. Changes in the standards take effect one year and 90 days after the publication of the standards in the Federal Register.

CHAPTER 173—GOVERNMENT LOSSES IN SHIPMENT

Sec.
17301. Definitions.
17302. Compliance.
17303. Fund for the payment of Government losses in shipment.
17304. Claim for replacement.
17305. Replacing lost, destroyed, or damaged stamps, securities, obligations, or money.
17306. Agreements of indemnity.
17307. Purchase of insurance.
17308. Presumption of lawful conduct.
17309. Rules and regulations.

§ 17301. Definitions

In this chapter, the following definitions apply:

(1) **REPLACEMENT.**—The term “replacement” means payment, reimbursement, replacement, or duplication or the expenses incident to payment, reimbursement, replacement, or duplication.

(2) **SHIPMENT.**—The term “shipment”—

(A) means the transportation, or the effecting of transportation, of valuables, without limitation as to the means or facilities used or by which the transportation is effected or the person to whom it is made; and

(B) includes shipments made to any executive department, independent establishment, agency, wholly owned or mixed-ownership Government corporation, officer, or employee of the Federal Government, or any person acting on behalf of, or at the direction of, the executive department, independent establishment, agency, wholly or partly owned Government corporation, officer, or employee.

(3) **VALUABLES.**—

(A) **DEFINITION.**—The term “valuables” means any articles or things or representatives of value—

(i) in which the Government, its executive departments, independent establishments, and agencies, including wholly owned Government corporations, and officers and employees of the Government or its executive departments, independent establishments, and agencies while acting in their official capacity, have any interest, or in connection with which they have any obligation or responsibility; and

(ii) which the Secretary of the Treasury declares to be valuables within the meaning of this chapter.

(B) **REQUIREMENT FOR DECLARING ARTICLES OR THINGS VALUABLE.**—The Secretary shall not declare articles or things that are lost, destroyed, or damaged in the course of shipment to be valuables unless the Secretary determines that replacement of the articles or things in accordance with the procedure established in this chapter would be in the public interest.

(4) **WHOLLY OWNED GOVERNMENT CORPORATION.**—The term “wholly owned Government corporation”—

(A) means any corporation, regardless of the law under which it is incorporated, the capital of which is entirely owned by the Government; and

(B) includes the authorized officers, employees, and agents of the corporation.

§ 17302. Compliance

(a) **PRESCRIBING REGULATIONS.**—With the approval of the President, the Secretary of the Treasury and the United States Postal Service jointly shall prescribe regulations governing the shipment of valuables by an executive department, independent establishment, agency, wholly owned Government corporation, officer, or employee of the Federal Government, with a view to minimizing the risk of loss and destruction of, and damage to, valuables in shipment.

(b) **COMPLIANCE.**—Each executive department, independent establishment, agency, wholly owned Government corporation,

officer, and employee of the Government, and each person acting for, or at the direction of, the executive department, independent establishment, agency, wholly owned Government corporation, officer, or employee, must comply with the regulations when making any shipment of valuables.

§ 17303. Fund for the payment of Government losses in shipment

(a) **ESTABLISHMENT.**—There is a revolving fund in the Treasury known as “the fund for the payment of Government losses in shipment”.

(b) **USE.**—The fund shall be used for the replacement of valuables, or the value of valuables, lost, destroyed, or damaged while being shipped in accordance with regulations prescribed under section 17302 of this title.

(c) **UNAVAILABILITY.**—The fund is not available with respect to any loss, destruction, or damage affecting valuables—

(1) that relates to property of the United States Postal Service that is chargeable to its officers or employees; or

(2) of which shipment shall have been made at the risk of persons other than the Federal Government and the executive departments, independent establishments, agencies, wholly owned Government corporations, officers and employees of the Government.

(d) **CREDITING OF RECOVERIES AND REPAYMENTS.**—All recoveries and repayments on account of loss, destruction, or damage to valuables for which replacement is made out of the fund shall be credited to it and are available for the purposes of the fund.

(e) **APPROPRIATIONS.**—Necessary amounts are appropriated for the fund.

§ 17304. Claim for replacement

(a) **PRESENTATION OF CLAIM.**—When valuables that have been shipped in accordance with regulations prescribed under section 17302 of this title are lost, destroyed, or damaged, a claim in writing for replacement shall be made on the Secretary of the Treasury.

(b) **DECISION OF THE SECRETARY OF THE TREASURY.**—

(1) **REPLACEMENT MADE FROM FUND.**—If the Secretary is satisfied that the loss, destruction, or damage has occurred and that shipment was made substantially in accordance with the regulations, the Secretary shall have replacement be made out of the fund described in section 17303 of this title through an officer the Secretary designates.

(2) **REPLACEMENT MADE BY CREDIT.**—When the Secretary decides that any part of the replacement can be made, without actual or ultimate injury to the Federal Government, by a credit in the accounts of the executive department, independent establishment, agency, officer, employee, or other accountable person making the claim, the Secretary shall—

(A) certify the decision to the Comptroller General who, on receiving the certification, shall make the credit in the settlement of accounts in the General Accounting Office; and

(B) use the fund only to the extent that the replacement cannot be made by the credit.

(c) **DECISION OF SECRETARY NOT REVIEWABLE.**—The decision of the Secretary that a loss, destruction, or damage has occurred or that a shipment was made substantially in accordance with regulations is final and conclusive and is not subject to review by any other officer of the Government.

§ 17305. Replacing lost, destroyed, or damaged stamps, securities, obligations, or money

Stamps, securities, or other obligations of the Federal Government, or money lost, destroyed, or damaged while in the custody or possession of, or charged to, the United States Postal Service while it is acting as agent for, or on behalf of, the Secretary of the Treasury for the sale of the stamps, securities, or obligations and for the collection of the money, shall be replaced out of the fund described in section 17303 of this title under regulations the Secretary may prescribe, regardless of how the loss, destruction, or damage occurs.

§ 17306. Agreements of indemnity

(a) **DEFINITION.**—In this section, the term “Federal Government” includes wholly owned Government corporations, and officers and employees of the Government or its executive departments, independent establishments, and agencies while acting in their official capacity.

(b) **AUTHORITY TO MAKE AGREEMENT.**—The Secretary of the Treasury may make and deliver, on behalf of the Federal Government, a binding agreement of indemnity the Secretary considers necessary and proper to enable the Government to obtain the replacement of any instrument or document—

(1) received by the Government or an agent of the Government in the agent’s official capacity; and

(2) which, after having been received, is lost, destroyed, or so mutilated as to impair its value.

(c) **WHEN FEDERAL GOVERNMENT NOT OBLIGATED.**—The Government is not obligated under an agreement of indemnity if the obligee named in the agreement makes a payment or delivery not required by law on the original of the instrument or document covered by the agreement.

(d) **USE OF FUND FOR THE PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT.**—The fund described in section 17303 of this title is available to pay any obligation arising out of an agreement the Secretary makes under this section.

§ 17307. Purchase of insurance

An executive department, independent establishment, agency, wholly owned Government corporation, officer, or employee may expend money, or incur an obligation, for insurance, or for the payment of premiums on insurance, against loss, destruction, or damage in the shipment of valuables only as specifically authorized by the Secretary of the Treasury. The Secretary may give the authorization if the Secretary finds that the risk of loss, destruction, or damage in the shipment cannot be guarded against adequately by the facilities of the Federal Government or that adequate replacement cannot be provided under this chapter.

§ 17308. Presumption of lawful conduct

For purposes of the propriety of an act or omission related to a shipment to which the regulations prescribed under section 17302 of this title apply, every officer and employee of the Federal Government and every individual acting on behalf of a wholly owned Government corporation who makes a shipment of valuables in good faith under, and substantially in accordance with, the regulations is deemed to be acting in the faithful execution of the officer's, employee's, or individual's duties of office and in full performance of any conditions of the officer's, employee's, or individual's bond and oath of office.

§ 17309. Rules and regulations

(a) GENERAL AUTHORITY.—With the approval of the President, the Secretary of the Treasury may prescribe regulations necessary to carry out the duties and powers vested in the Secretary under this chapter.

(b) PROVIDING INFORMATION.—To carry out subsection (a), the Secretary may require a person making a shipment of valuables or a claim for replacement to make a declaration or to provide other information the Secretary considers necessary.

**CHAPTER 175—FEDERAL MOTOR VEHICLE
EXPENDITURE CONTROL**

Sec.	
17501.	Definitions.
17502.	Monitoring system.
17503.	Data collection.
17504.	Agency statements with respect to motor vehicle use.
17505.	Presidential report.
17506.	Reduction of storage and disposal costs.
17507.	Savings.
17508.	Compliance.
17509.	Applicability.
17510.	Cooperation.

§ 17501. Definitions

In this chapter, the following definitions apply:

- (1) EXECUTIVE AGENCY.—The term “executive agency”—
 - (A) means an executive agency (as that term is defined in section 105 of title 5) that operates at least 300 motor vehicles; but
 - (B) does not include the Tennessee Valley Authority.
- (2) MOTOR VEHICLE.—The term “motor vehicle” means—
 - (A) a vehicle self-propelled or drawn by mechanical power; but not
 - (B) a vehicle designed or used for military field training, combat, or tactical purposes, or any other special purpose vehicle exempted from the requirements of this chapter by the Administrator of General Services.

§ 17502. Monitoring system

The head of each executive agency shall designate one office, officer, or employee of the agency—

- (1) to establish and operate a central monitoring system for the motor vehicle operations of the agency, related activities, and related reporting requirements; and
- (2) provide oversight of those operations, activities, and requirements.

§ 17503. Data collection

(a) **COST IDENTIFICATION AND ANALYSIS.**—The head of each executive agency shall develop a system to identify, collect, and analyze data with respect to all costs (including obligations and outlays) the agency incurs in the operation, maintenance, acquisition, and disposition of motor vehicles, including vehicles owned or leased by the Federal Government and privately owned vehicles used for official purposes.

(b) **REQUIREMENTS FOR DATA SYSTEMS.**—

(1) **SCOPE OF REQUIREMENTS.**—In cooperation with the Comptroller General of the United States and the Director of the Office of Management and Budget, the Administrator of General Services shall prescribe requirements governing the establishment and operation by executive agencies of the systems required by subsection (a), including requirements with respect to data on the costs and uses of motor vehicles and with respect to the uniform collection and submission of the data.

(2) **CONFORMITY WITH PRINCIPLES AND STANDARDS.**—Requirements prescribed under this section shall conform to accounting principles and standards issued by the Comptroller General. Each executive agency shall comply with those requirements.

§ 17504. Agency statements with respect to motor vehicle use

(a) **CONTENTS OF STATEMENT.**—The head of each executive agency shall include with the appropriation request the agency submits under section 1108 of title 31 for each fiscal year, a statement—

(1) specifying—

(A) the total motor vehicle acquisition, maintenance, leasing, operation, and disposal costs (including obligations and outlays) the agency incurred in the most recently completed fiscal year; and

(B) an estimate of those costs for the fiscal year in which the request is submitted and for the succeeding fiscal year; and

(2) justifying why the existing and any new motor vehicle acquisition, maintenance, leasing, operation, and disposal requirements of the agency cannot be met through the Interagency Fleet Management System the Administrator of General Services operates, a qualified private fleet management firm, or any other method which is less costly to the Federal Government.

(b) **COMPLIANCE WITH REQUIREMENTS.**—The head of each executive agency shall comply with the requirements prescribed under section 17503(b) of this title in preparing each statement required under subsection (a).

§ 17505. Presidential report

(a) **SUMMARY AND ANALYSIS OF AGENCY STATEMENTS.**—The President shall include with the budget transmitted under section 1105 of title 31 for each fiscal year, or in a separate written report to Congress for that fiscal year, a summary and analysis of the statements most recently submitted by the heads of executive agencies pursuant to section 17504(a) of this title.

(b) **CONTENTS OF SUMMARY AND ANALYSIS.**—Each summary and analysis shall include a review, for the fiscal year preceding the

fiscal year in which the budget is submitted, the current fiscal year, and the fiscal year for which the budget is submitted, of the cost savings that have been achieved, that are estimated will be achieved, and that could be achieved, in the acquisition, maintenance, leasing, operation, and disposal of motor vehicles by executive agencies through—

(1) the use of a qualified private fleet management firm or another private contractor;

(2) increased reliance by executive agencies on the Interagency Fleet Management System the Administrator of General Services operates; or

(3) other existing motor vehicle management systems.

§ 17506. Reduction of storage and disposal costs

The Administrator of General Services shall take such actions as may be necessary to reduce motor vehicle storage and disposal costs and to improve the rate of return on motor vehicle sales through a program of vehicle reconditioning prior to sale.

§ 17507. Savings

(a) ACTIONS BY PRESIDENT REQUIRED.—The President shall establish, for each executive agency, goals to reduce outlays for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles in order to reduce, by fiscal year 1988, the total amount of outlays by all executive agencies for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles to an amount which is \$150,000,000 less than the amount for the operation, maintenance, leasing, acquisition, and disposal of motor vehicles requested by the President in the budget submitted under section 1105 of title 31 for fiscal year 1986.

(b) MONITORING OF COMPLIANCE.—The Director of the Office of Management and Budget shall monitor compliance by executive agencies with the goals established by the President under subsection (a) and shall include, in each summary and analysis required under section 17505 of this title, a statement specifying the reductions in expenditures by executive agencies, including the Department of Defense, achieved under those goals.

§ 17508. Compliance

(a) ADMINISTRATOR OF GENERAL SERVICES.—The Administrator of General Services shall comply with and be subject to this chapter with regard to all motor vehicles that are used within the General Services Administration for official purposes.

(b) MANAGERS OF OTHER MOTOR POOLS.—This chapter with respect to motor vehicles from the Interagency Fleet Management System shall be complied with by the executive agencies to which such motor vehicles are assigned.

§ 17509. Applicability

(a) PRIORITY IN REDUCING HEADQUARTERS USE.—The heads of executive agencies shall give first priority to meeting the goals established by the President under section 17507(a) of this title by reducing the costs of administrative motor vehicles used at the headquarters and regional headquarters of executive agencies, rather than by reducing the costs of motor vehicles used by line agency personnel working in agency field operations or activities.

(b) REGULATIONS, STANDARDS, AND DEFINITIONS.—The President shall require the Administrator of General Services, in cooperation with the Director of the Office of Management and Budget, to prescribe appropriate regulations, standards, and definitions to ensure that executive agencies meet the goals established under section 17507(a) of this title in the manner prescribed by subsection (a).

§ 17510. Cooperation

The Director of the Office of Management and Budget and the Administrator of General Services shall cooperate closely in the implementation of this chapter.

CHAPTER 177—ALASKA COMMUNICATIONS DISPOSAL

Sec.	
17701.	Definitions.
17702.	Transfer of Government-owned long-lines communication facilities in and to Alaska.
17703.	National defense considerations and qualification of transferee.
17704.	Contents of agreements for transfer.
17705.	Approval of Federal Communications Commission.
17706.	Gross proceeds as miscellaneous receipts in the Treasury.
17707.	Reports.
17708.	Nonapplication.

§ 17701. Definitions

In this chapter, the following definitions apply:

(1) AGENCY CONCERNED.—The term “agency concerned” means a department, agency, wholly owned corporation, or instrumentality of the Federal Government.

(2) LONG-LINES COMMUNICATION FACILITIES.—The term “long-lines communication facilities” means the transmission systems connecting points inside the State with each other and with points outside the State by radio or wire, and includes all kinds of property and rights of way necessary to accomplish this interconnection.

(3) TRANSFER.—The term “transfer” means the conveyance by the Government of any element of ownership, including any estate or interest in property, and franchise rights, by sale, exchange, lease, easement, or permit, for cash, credit, or other property with or without warranty.

§ 17702. Transfer of Government-owned long-lines communication facilities in and to Alaska

(a) IN GENERAL.—

(1) AUTHORITY OF THE SECRETARY OF DEFENSE.—

(A) REQUIREMENTS PRIOR TO TRANSFER.—Subject to section 17703 of this title and with the advice, assistance, and, in the case of an agency not under the jurisdiction of the Secretary of Defense, the consent of the agency concerned, and after approval of the President, the Secretary of Defense shall transfer for adequate consideration any or all long-lines communication facilities in or to Alaska under the jurisdiction of the Federal Government to any person qualifying under section 17703.

(B) AUTHORITY TO CARRY OUT CHAPTER.—The Secretary of Defense may take action and exercise powers as may be necessary or appropriate to carry out the purposes of this chapter.

(2) CONSENT OF SECRETARY CONCERNED.—An interest in public lands, withdrawn or otherwise appropriated, shall not be transferred under this chapter without the prior consent of the Secretary of the Interior, or, with respect to lands in a national forest, of the Secretary of Agriculture.

(3) PROCEDURES AND METHODS.—The Secretary of Defense shall carry out a transfer under this chapter in accordance with the procedures and methods required of the Administrator of General Services by section 545(a) and (b) of this title.

(b) DOCUMENTS OF TITLE OR OTHER PROPERTY INTERESTS.—The head of the agency concerned (or a designee of the head) shall execute documents for the transfer of title or other interest in property, except any mineral rights in the property, and take other action that the Secretary of Defense decides is necessary or proper to transfer the property under this chapter. A copy of a deed, lease, or other instrument executed by or on behalf of the head of the agency concerned purporting to transfer title or another interest in public land shall be provided to the Secretary of the Interior.

(c) SOLICITATION OF OFFERS TO PURCHASE CERTAIN FACILITIES.—In connection with soliciting offers to purchase long-lines facilities of the Alaska Communication System, the Secretary of Defense shall—

(1) provide any prospective purchaser who requests it data on—

(A) the facilities available for purchase;

(B) the amounts considered to be the current fair and reasonable value of those facilities; and

(C) the initial rates that will be charged to the purchaser for capacity in facilities retained by the Government and available for commercial use;

(2) provide in the request for offers to purchase that offerors must specify the rates the offerors propose to charge for service and the improvements in service the offerors propose to initiate;

(3) provide an opportunity for prospective purchasers to meet as a group with Department of Defense representatives to ensure that the data and public interest requirements described in clauses (1) and (2) are fully understood; and

(4) seek the advice and assistance of the Federal Communications Commission and the Governor of Alaska (or a designee of the Governor) to ensure consideration of all public interest factors associated with the transfer.

(d) APPLICABILITY OF ANTITRUST PROVISIONS.—The requirements of section 559 of this title apply to transfers under this chapter.

§ 17703. National defense considerations and qualification of transferee

A transfer under this chapter shall not be made unless the Secretary of Defense determines that—

(1) the Federal Government does not need to retain the property involved in the transfer for national defense purposes;

(2) the transfer is in the public interest;

(3) the person to whom the transfer is made is prepared and qualified to provide the communication service involved in the transfer without interruption; and

(4) the long-lines communication facilities will not directly or indirectly be owned, operated, or controlled by a person

that would legally be disqualified from holding a radio station license by section 310(a) of the Communications Act of 1934 (47 U.S.C. 310(a)).

§ 17704. Contents of agreements for transfer

An agreement by which a transfer is made under this chapter shall provide that—

(1) subject to regulations of the Federal Communications Commission and of any body or commission established by Alaska to govern and regulate communications services to the public and all applicable statutes, treaties, and conventions, the person to whom the transfer is made shall provide the communication services involved in the transfer without interruption, except those services reserved by the Federal Government in the transfer;

(2) the rates and charges for those services applicable at the time of transfer shall not be changed for a period of one year from the date of the transfer unless approved by a governmental body or commission having jurisdiction; and

(3) the transfer will not be final until the transferee receives the requisite license and certificate of convenience and necessity to operate interstate and intrastate commercial communications in Alaska from the appropriate governmental regulatory bodies.

§ 17705. Approval of Federal Communications Commission

A transfer under this chapter does not require the approval of the Federal Communications Commission except to the extent that the approval of the Commission is necessary under section 17704(3) of this title.

§ 17706. Gross proceeds as miscellaneous receipts in the Treasury

The gross proceeds of each transfer shall be deposited in the Treasury as miscellaneous receipts.

§ 17707. Reports

The Secretary of Defense shall report to the Congress and the President—

(1) in January of each year, the actions taken under this chapter during the preceding 12 months; and

(2) not later than 90 days after completion of each transfer under this chapter, a full account of that transfer.

§ 17708. Nonapplication

This chapter does not modify in any manner the Communications Act of 1934 (47 U.S.C. 151 et seq.).

CHAPTER 179—ALASKA FEDERAL-CIVILIAN ENERGY EFFICIENCY SWAP

Sec.

17901. Definitions.

17902. Sale of electric energy.

17903. Purchase of electric power.

17904. Implementation powers and limitations.

§ 17901. Definitions

In this chapter, the following definitions apply:

(1) **FEDERAL AGENCY.**—The term “federal agency” means a department, agency, or instrumentality of the Federal Government.

(2) **FEDERALLY GENERATED ELECTRIC ENERGY.**—The term “federally generated electric energy” means any electric power generated by an electric generating facility owned and operated by a federal agency.

(3) **NON-FEDERAL PERSON.**—The term “non-federal person” means a corporation, cooperative, municipality, or other non-federal entity that generates electric energy through a facility other than a federally owned electric generating facility.

§ 17902. Sale of electric energy

(a) **IN GENERAL.**—To conserve oil and natural gas and better utilize coal, the head of a federal agency may sell, or enter into a contract to sell, to any non-federal person electric energy generated by coal-fired electric generating facilities of that agency in Alaska without regard to any provision of law that precludes the sale when the electric energy to be sold is available from other local sources, if the head of the federal agency determines that—

(1) the electric energy to be sold is generated by an existing coal-fired generating facility;

(2) the electric energy to be sold is surplus to the federal agency’s needs and is in excess of the electric energy specifically generated for consumption by, or necessary to serve the requirements of, another federal agency;

(3) the cost to the ultimate consumers of the electric energy to be sold is less than the cost that, in the absence of the sale, would be incurred by those consumers for the purchase of an equivalent amount of energy; and

(4) the sale will reduce the total consumption of oil or natural gas by the non-federal person purchasing the electric energy below the level of consumption that would occur in the absence of the sale.

(b) **PRICING POLICIES.**—Federally generated electric energy sold by the head of a federal agency under subsection (a) shall be priced to recover the fuel and variable operation and maintenance costs of the facility generating the energy that are attributable to that sale, plus an amount equal to one-half the difference between—

(1) the costs of producing the electric energy by coal generation; and

(2) the costs of producing electric energy by the oil or gas generation being displaced.

§ 17903. Purchase of electric power

For purposes of economy, efficiency, and conserving oil and natural gas, the head of a federal agency, when practicable and consistent with other laws and requirements applicable to that agency, shall endeavor to purchase electric energy from a non-federal person for consumption in Alaska by a facility of that agency when (taking into account the remaining useful life of any facility available to that agency to generate electric energy for that agency and the cost of maintaining the facility on a standby basis) the purchase will result in—

(1) a savings to other consumers of electric energy sold by that non-federal person without increasing the cost incurred by any federal agency for electric energy; or

(2) a cost savings to the federal agency purchasing the electric energy without increasing costs to other consumers of electric energy.

§ 17904. Implementation powers and limitations

(a) ACCOMMODATION OF NEEDS FOR ELECTRIC ENERGY.—This chapter does not require or authorize a federal agency to construct a new electric generating facility or related facility, to modify an existing facility, or to employ reserve or standby equipment to accommodate the needs of a non-federal person for electric energy.

(b) AVAILABILITY OF REVENUE FROM SALES.—Revenue received by a federal agency pursuant to section 17902 of this title from the sale of electric energy generated from a facility of that agency is available to the agency without fiscal year limitation to purchase fuel and for operation, maintenance, and other costs associated with that facility.

(c) EXERCISE OF AUTHORITIES.—The authority under this chapter shall be exercised for those periods and pursuant to terms and conditions that the head of the federal agency concerned decides are necessary consistent with—

(1) this chapter; and

(2) responsibilities of the head of the federal agency under other law.

(d) NEGOTIATION AND EXECUTION OF CONTRACTS AND OTHER AGREEMENTS.—A contract or other agreement executed under this chapter shall be negotiated and executed by the head of the federal agency selling or purchasing electric energy under this chapter.

CHAPTER 181—TELECOMMUNICATIONS ACCESSIBILITY FOR HEARING-IMPAIRED AND SPEECH-IMPAIRED INDIVIDUALS

Sec.

18101. Definitions.

18102. Federal telecommunications system.

18103. Research and development.

18104. TTY installation by Congress.

§ 18101. Definitions

In this chapter—

(1) FEDERAL AGENCY.—The term “federal agency” has the same meaning given that term in section 102 of this title.

(2) TTY.—The term “TTY” means a text-telephone used in the transmission of coded signals through the nationwide telecommunications system.

§ 18102. Federal telecommunications system

(a) REGULATIONS TO ENSURE ACCESSIBILITY.—The Administrator of General Services, after consultation with the Architectural and Transportation Barriers Compliance Board, the Interagency Committee on Computer Support of Handicapped Employees, the Federal Communications Commission, and affected federal agencies, shall prescribe regulations to ensure that the federal telecommunications system is fully accessible to hearing-impaired and speech-impaired individuals, including federal employees, for communications with and within federal agencies.

(b) **FEDERAL RELAY SYSTEM.**—The Administrator shall provide for the continuation of the existing federal relay system for users of TTY's.

(c) **DIRECTORY.**—The Administrator shall assemble, publish, and maintain a directory of TTY's and other devices used by federal agencies to comply with regulations prescribed under subsection (a).

(d) **PUBLICATION OF ACCESS NUMBERS.**—The Administrator shall publish access numbers of TTY's and such other devices in federal agency directories.

(e) **LOGO.**—After consultation with the Board, the Administrator shall adopt the design of a standard logo to signify the presence of a TTY or other device used by a federal agency to comply with regulations prescribed under subsection (a).

§ 18103. Research and development

(a) **SUPPORT FOR RESEARCH.**—The Administrator of General Services, in consultation with the Federal Communications Commission, shall seek to promote research by federal agencies, state agencies, and private entities to reduce the cost and improve the capabilities of telecommunications devices and systems that provide accessibility to hearing-impaired and speech-impaired individuals.

(b) **PLANNING TO ASSIMILATE TECHNOLOGICAL DEVELOPMENTS.**—In planning future alterations to and modifications of the federal telecommunications system, the Administrator shall take into account—

(1) modifications that the Administrator determines are necessary to achieve the objectives of section 18102(a) of this title; and

(2) technological improvements in telecommunications devices and systems that provide accessibility to hearing-impaired and speech-impaired individuals.

§ 18104. TTY installation by Congress

Each House of Congress shall establish a policy under which Members of the House of Representatives and the Senate may obtain TTY's for use in communicating with hearing-impaired and speech-impaired individuals, and for the use of hearing-impaired and speech-impaired employees.

CHAPTER 183—NATIONAL CAPITAL AREA INTEREST ARBITRATION STANDARDS

Sec.

18301. Findings and purposes.

18302. Definitions.

18303. Standards for arbitrators.

18304. Procedures for enforcement of awards.

§ 18301. Findings and purposes

(a) **FINDINGS.**—Congress finds that—

(1) affordable public transportation is essential to the economic vitality of the national capital area and is an essential component of regional efforts to improve air quality to meet environmental requirements and to improve the health of both residents of and visitors to the national capital area as well as to preserve the beauty and dignity of the Nation's capital;

(2) use of mass transit by both residents of and visitors to the national capital area is substantially affected by the

prices charged for mass transit services, prices that are substantially affected by labor costs, since more than two-thirds of operating costs are attributable to labor costs;

(3) labor costs incurred in providing mass transit in the national capital area have increased at an alarming rate and wages and benefits of operators and mechanics currently are among the highest in the Nation;

(4) higher operating costs incurred for public transit in the national capital area cannot be offset by increasing costs to patrons, since this often discourages ridership and thus undermines the public interest in promoting the use of public transit;

(5) spiraling labor costs cannot be offset by the governmental entities that are responsible for subsidy payments for public transit services since local governments generally, and the District of Columbia government in particular, are operating under severe fiscal constraints;

(6) imposition of mandatory standards applicable to arbitrators resolving arbitration disputes involving interstate compact agencies operating in the national capital area will ensure that wage increases are justified and do not exceed the ability of transit patrons and taxpayers to fund the increase; and

(7) federal legislation is necessary under section 8 of Article I of the United States Constitution to balance the need to moderate and lower labor costs while maintaining industrial peace.

(b) **PURPOSE.**—The purpose of this chapter is to adopt standards governing arbitration that must be applied by arbitrators resolving disputes involving interstate compact agencies operating in the national capital area in order to lower operating costs for public transportation in the Washington metropolitan area.

§ 18302. Definitions

In this chapter, the following definitions apply:

(1) **ARBITRATION.**—The term “arbitration”—

(A) means the arbitration of disputes, regarding the terms and conditions of employment, that is required under an interstate compact governing an interstate compact agency operating in the national capital area; but

(B) does not include the interpretation and application of rights arising from an existing collective bargaining agreement.

(2) **ARBITRATOR.**—The term “arbitrator” refers to either a single arbitrator, or a board of arbitrators, chosen under applicable procedures.

(3) **INTERSTATE COMPACT AGENCY OPERATING IN THE NATIONAL CAPITAL AREA.**—The term “interstate compact agency operating in the national capital area” means any interstate compact agency that provides public transit services and that was established by an interstate compact to which the District of Columbia is a signatory.

§ 18303. Standards for arbitrators

(a) **DEFINITION.**—In this section, the term “public welfare” includes, with respect to arbitration under an interstate compact—

(1) the financial ability of the individual jurisdictions participating in the compact to pay for the costs of providing public transit services; and

(2) the average per capita tax burden, during the term of the collective bargaining agreement to which the arbitration relates, of the residents of the Washington metropolitan area, and the effect of an arbitration award rendered under that arbitration on the respective income or property tax rates of the jurisdictions that provide subsidy payments to the interstate compact agency established under the compact.

(b) **FACTORS IN MAKING ARBITRATION AWARD.**—An arbitrator rendering an arbitration award involving the employees of an interstate compact agency operating in the national capital area may not make a finding or a decision for inclusion in a collective bargaining agreement governing conditions of employment without considering the following factors:

(1) The existing terms and conditions of employment of the employees in the bargaining unit.

(2) All available financial resources of the interstate compact agency.

(3) The annual increase or decrease in consumer prices for goods and services as reflected in the most recent consumer price index for the Washington metropolitan area, published by the Bureau of Labor Statistics.

(4) The wages, benefits, and terms and conditions of the employment of other employees who perform, in other jurisdictions in the Washington standard metropolitan statistical area, services similar to those in the bargaining unit.

(5) The special nature of the work performed by the employees in the bargaining unit, including any hazards or the relative ease of employment, physical requirements, educational qualifications, job training and skills, shift assignments, and the demands placed upon the employees as compared to other employees of the interstate compact agency.

(6) The interests and welfare of the employees in the bargaining unit, including—

(A) the overall compensation presently received by the employees, having regard not only for wage rates but also for wages for time not worked, including vacations, holidays, and other excused absences;

(B) all benefits received by the employees, including previous bonuses, insurance, and pensions; and

(C) the continuity and stability of employment.

(7) The public welfare.

(c) **ABILITY TO FINANCE SALARIES AND BENEFITS PROVIDED IN AWARD.**—An arbitrator rendering an arbitration award involving the employees of an interstate compact agency operating in the national capital area may not, with respect to a collective bargaining agreement governing conditions of employment, provide for salaries and other benefits that exceed the ability of the interstate compact agency, or of any governmental jurisdiction that provides subsidy payments or budgetary assistance to the interstate compact agency, to obtain the necessary financial resources to pay for wage and benefit increases for employees of the interstate compact agency.

(d) **REQUIREMENTS FOR FINAL AWARD.**—

(1) **WRITTEN AWARD.**—In resolving a dispute submitted to arbitration involving the employees of an interstate compact agency operating in the national capital area, the arbitrator shall issue a written award that demonstrates that all the

factors set forth in subsections (b) and (c) have been considered and applied.

(2) **PREREQUISITES.**—An award may grant an increase in pay rates or benefits (including insurance and pension benefits), or reduce hours of work, only if the arbitrator concludes that any costs to the agency do not adversely affect the public welfare.

(3) **SUBSTANTIAL EVIDENCE.**—The arbitrator's conclusion regarding the public welfare must be supported by substantial evidence.

§ 18304. Procedures for enforcement of awards

(a) **MODIFICATIONS AND FINALITY OF AWARD.**—Within 10 days after the parties receive an arbitration award to which section 18303 of this title applies, the interstate compact agency and the employees, through their representative, may agree in writing on any modifications to the award. After the end of that 10-day period, the award, and any modifications, become binding on the interstate compact agency, the employees in the bargaining unit, and the employees' representative.

(b) **IMPLEMENTATION.**—Each party to an award that becomes binding under subsection (a) shall take all actions necessary to implement the award.

(c) **JUDICIAL REVIEW.**—Within 60 days after an award becomes binding under subsection (a), the interstate compact agency or the exclusive representative of the employees concerned may bring a civil action in a court that has jurisdiction over the interstate compact agency for review of the award. The court shall review the award on the record, and shall vacate the award or any part of the award, after notice and a hearing, if—

- (1) the award is in violation of applicable law;
- (2) the arbitrator exceeded the arbitrator's powers;
- (3) the decision by the arbitrator is arbitrary or capricious;
- (4) the arbitrator conducted the hearing contrary to the provisions of this chapter or other laws or rules that apply to the arbitration so as to substantially prejudice the rights of a party;
- (5) there was partiality or misconduct by the arbitrator prejudicing the rights of a party;
- (6) the award was procured by corruption, fraud, or bias on the part of the arbitrator; or
- (7) the arbitrator did not comply with the provisions of section 18303 of this title.

SEC. 2. TRANSFER OF MATERIAL AND EQUIPMENT TO THE ARCHITECT OF THE CAPITOL.

Chapter 443 of title 10, United States Code, is amended as follows:

- (1) Insert immediately after section 4688 the following new section:

“§ 4689. Transfer of material and equipment to the Architect of the Capitol

“The Secretary of the Army is authorized to transfer, without payment, to the Architect of the Capitol, such material and equipment, not required by the Department of the Army, as the Architect

may request for use at the Capitol power plant, the Capitol Building, and the Senate and House Office Buildings.”.

(2) Insert immediately below item 4688 in the analysis of the chapter the following new item:

“4689. Transfer of material and equipment to the Architect of the Capitol.”.

SEC. 3. CONFORMING CROSS-REFERENCES.

(a) TITLE 5.—Title 5, United States Code, is amended as follows:

(1) In section 7342(e)(1)—

(A) insert “subtitle I of title 40 and title III of” before “the Federal”; and

(B) insert “(41 U.S.C. 251 et seq.)” after “of 1949”.

(2) In section 9505(b), strike “division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679)” and substitute “subtitle III of title 40”.

(3) In section 9508(a)(2)(A), strike “division E of the Clinger-Cohen Act of 1996 (Public Law 104–106; 110 Stat. 679)” and substitute “subtitle III of title 40”.

(b) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 2223—

(A) in subsection (a), strike “section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425)” and substitute “section 11315 of title 40”; and

(B) in subsection (b), strike “section 5125 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1425)” and substitute “section 11315 of title 40”; and

(C) in subsection (c)(2), strike “section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401)” and substitute “section 11101 of title 40”; and

(D) in subsection (c)(3), strike “section 5142 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1452)” and substitute “section 11103 of title 40”.

(2) In section 2302(2)(A), strike “title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)” and substitute “chapter 11 of title 40”.

(3) In section 2304(h)—

(A) before clause (1), strike “laws”; and

(B) strike clause (2) and substitute “(2) Sections 3141–3144, 3146, and 3147 of title 40.”.

(4) In section 2305a(a), strike “the Brooks Architect-Engineers Act (40 U.S.C. 541 et seq.)” and substitute “chapter 11 of title 40”.

(5) In section 2315(a), strike “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” and substitute “subtitle III of title 40”.

(6) In section 2381(c)—

(A) strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”; and

(B) strike “section 201(a) of that Act (40 U.S.C. 481(a))” and substitute “section 501(a)(2) of title 40”.

(7) In section 2535(b)(1)(G), strike “title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)” and substitute “chapter 5 of title 40”.

(8) In subsection 2562(a)(1)—

(A) insert “subtitle I of title 40 and title III of” before “the Federal”; and

- (B) strike “(40 U.S.C. 472 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”.
- (9) In section 2572(d)(1), strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.
- (10) In section 2576(a)—
- (A) insert “subtitle I of title 40 and title III of” before “the Federal”; and
 - (B) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”.
- (11) In section 2577(a)(2), strike “section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)” and substitute “sections 541–555 of title 40”.
- (12) In section 2667—
- (A) in subsection (a)(2), strike “section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)” and substitute “section 102 of title 40”;
 - (B) in subsection (b)(5), strike “section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)” and substitute “section 1302 of title 40”; and
 - (C) in subsection (f)(1)—
 - (i) insert “subtitle I of title 40 and title III of” before “the Federal”; and
 - (ii) strike “such Act is” and substitute “subtitle I and title III are”.
- (13) In section 2667a(a)(3), strike “section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)” and substitute “section 102 of title 40”.
- (14) In section 2676(a)—
- (A) insert “subtitle I of title 40 and title III of” before “the Federal”; and
 - (B) strike “(40 U.S.C. 471 et seq.)” and substitute “41 U.S.C. 251 et seq.”.
- (15) In section 2691(b)—
- (A) insert “subtitle I of title 40 and title III of” before “the Federal”; and
 - (B) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”.
- (16) In section 2696—
- (A) in subsection (a)—
 - (i) insert “subtitle I of title 40 and title III of” before “the Federal”; and
 - (ii) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”; and
 - (B) strike subsection (e)(5) and substitute—
- “(5) Chapter 5 of title 40.”.
- (17) In section 2701(i)(1)—
- (A) strike “the Miller Act (40 U.S.C. 270a et seq.)” and substitute “sections 3131 and 3133 of title 40”;
 - (B) strike “the Act of April 29, 1941 (40 U.S.C. 270e–270f)” and substitute “section 3134 of title 40”; and
 - (C) strike “the Miller Act” and substitute “sections 3131 and 3133”.
- (18) In section 2814(j)(3), strike “Sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)” and substitute “Subchapter II of chapter 5 and sections 541–555 of title 40”.

(19) In section 2831(b)(3), strike “section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b))” and substitute “section 572(a) of title 40”.

(20) In section 2852(b)(1), strike “section 355 of the Revised Statutes (40 U.S.C. 255)” and substitute “section 3111 of title 40”.

(21) In section 2854a(d)(1)—

(A) strike “The” and substitute “Subtitle I of title 40 and title III of the”; and

(B) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”.

(22) In subsection 2855(a), strike “title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)” and substitute “chapter 11 of title 40”.

(23) In section 2878(d)—

(A) in clause (2)—

(i) strike “The” and substitute “Subtitle I of title 40 and title III of the”; and

(ii) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”; and

(B) strike clause (3) and substitute—

“(3) Section 1302 of title 40.”.

(24) In section 4681, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(25) In section 4682, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(26) In section 4684, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(27) In section 4686, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(28) In section 7305(d)—

(A) insert “subtitle I of title 40 and title III of” before “the Federal”;

(B) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”; and

(C) strike “that Act” and substitute “subtitle I of title 40 and title III”.

(29) In section 7306(a), strike “subsections (c) and (d) of section 602 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 474)” and substitute “section 113 of title 40”.

(30) In section 7422(c)(1), strike “the Act of February 26, 1931 (40 U.S.C. 258a–258e)” and substitute “sections 3114–3116 and 3118 of title 40”.

(31) In section 7541, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(32) In section 7541a, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(33) In section 7542(a), strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(34) In section 7545(a), strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(35) In section 9444(b)(1)—

(A) insert “subtitle I of title 40 and title III of” before “the Federal”; and

(B) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”.

(36) In section 9681, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(37) In section 9682, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(38) In section 9684, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(39) In section 9686, strike “section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486)” and substitute “section 121 of title 40”.

(40) In section 9781—

(A) in subsection (b)(2)(D), strike “title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)” and substitute “chapter 5 of title 40”;

(B) in subsection (d), strike “title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)” and substitute “chapter 5 of title 40”; and

(C) in subsection (g)—

(i) insert “subtitle I of title 40 and subtitle III of” before “the Federal”; and

(ii) add at the end of the subsection “(41 U.S.C. 251 et seq.)”.

(41) In section 12603(d), strike “section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a))” and substitute “section 501 of title 40”.

(42) In section 18239(b)(1), strike “section 355 of the Revised Statutes (40 U.S.C. 255)” and substitute “section 3111 of title 40”.

(c) TITLE 14.—Title 14, United States Code, is amended as follows:

(1) In section 92—

(A) insert “subtitle I of title 40 and title III of” before “the Federal”; and

(B) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”.

(2) In section 93(h)—

(A) insert “subtitle I of title 40 and title III of” before “the Federal”; and

(B) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”.

(3) In section 641—

(A) in subsection (a)—

(i) insert “subtitle I of title 40 and title III of” before “the Federal”; and

(ii) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”; and

- (B) in subsection (c)(2), strike “section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)” and substitute “sections 541–555 of title 40”.
- (4) In section 685(c)—
- (A) in clause (1), strike—
- (i) “The” and substitute “Subtitle I of title 40 and title III of the”; and
- (ii) “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”; and
- (B) strike clause (2) and substitute—
- “(2) Section 1302 of title 40.”
- (d) TITLE 18.—Section 3668(c) of title 18, United States Code, is amended by striking “sections 304f–304m of Title 40” and substituting “section 1306 of title 40”.
- (e) TITLE 23.—Title 23, United States Code, is amended as follows:
- (1) In section 112(b)(2)(A), strike “title IX of the Federal Property and Administrative Services Act of 1949” and substitute “chapter 11 of title 40”.
- (2) In section 113(a), strike “the Act of March 3, 1931, known as the Davis-Bacon Act (40 U.S.C. 276a)” and substitute “sections 3141–3144, 3146, and 3147 of title 40”.
- (f) THE INTERNAL REVENUE CODE OF 1986.—Section 7608(c)(1)(A)(i)(IV) of the Internal Revenue Code of 1986 (26 U.S.C. 7608(c)(1)(A)(i)(IV)) is amended by striking “section 34 of title 40, United States Code” and substituting “section 8141 of title 40”.
- (g) TITLE 28.—Title 28, United States Code, is amended as follows:
- (1) In section 604(g)(3)(B), strike “section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484)” and substitute “sections 541–555 of title 40”.
- (2) In section 612(f), strike “section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)” and substitute “sections 501–505 of title 40”.
- (3) In section 1499, strike “section 104 of the Contract Work Hours and Safety Standards Act” and substitute “section 3703 of title 40”.
- (h) TITLE 31.—Title 31, United States Code, is amended as follows:
- (1) In section 781(a), strike “section 7 of the Public Buildings Act of 1959, as amended (40 U.S.C. 606)” and substitute “section 3307 of title 40”.
- (2) In section 782, strike “(as defined in section 105 of the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 612a))” and substitute “(as defined in section 3306(a) of title 40)”.
- (3) In section 1105(g)(2)(B)(ii), strike “section 901 of the Brooks Architect-Engineers Act (40 U.S.C. 541)” and substitute section “1102 of title 40”.
- (4) In section 3126—
- (A) in subsection (a), strike “section 2 of the Government Losses in Shipment Act (40 U.S.C. 722)” and substitute “section 17303(a) of title 40”; and
- (B) in subsection (b), strike “Section 3 of the Government Losses in Shipment Act (40 U.S.C. 723) (related to finality of decisions of the Secretary)” and substitute “Section 17304(c) of title 40”.
- (5) In section 3511(c)(1), strike “section 205(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(b))” and substitute “section 121(b) of title 40”.

(6) In section 3551(3), strike “section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472)” and substitute “section 102 of title 40”.

(7) In section 3905(f)(1), strike “section 2 of the Act of August 24, 1935 (40 U.S.C. 270b)” and substitute “section 3133(b) of title 40”.

(8) In section 6703(d)(5)—

(A) strike “the Act of March 3, 1931 (commonly known as the Davis-Bacon Act); as amended (40 U.S.C. 276a–276a–5)” and substitute “sections 3141–3144, 3146, and 3147 of title 40”; and

(B) strike “section 2 of the Act of June 1, 1934 (commonly known as the Copeland Anti-Kickback Act), as amended (40 U.S.C. 276c, 48 Stat. 948)” and substitute “section 3145 of title 40”.

(9) In section 9303—

(A) in subsection (d), before clause (1)—

(i) strike “the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d)” and substitute “sections 3131 and 3133 of title 40”; and

(ii) strike “section 3 of the Act (40 U.S.C. 270c)” and substitute “section 3133(a) of title 40”;

(B) in subsection (d)(1)—

(i) strike “the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d)” and substitute “sections 3131 and 3133 of title 40”; and

(ii) strike “section 2 of the Act (40 U.S.C. 270b)” and substitute “section 3133(b) of title 40”; and

(C) in subsection (e)(2)(A), strike “the Act of August 24, 1935 (known as the Miller Act) (40 U.S.C. 270a–270d)” and substitute “sections 3131 and 3133 of title 40”.

(i) TITLE 36.—Title 36, United States Code, is amended as follows:

(1) In section 2103(a)(1), strike “section 355 of the Revised Statutes (40 U.S.C. 255)” and substitute “section 3111 of title 40”.

(2) In section 220314(b), strike “section 451 of the Legislative Reorganization Act of 1970 (40 U.S.C. 193m–1)” and substitute “section 5108 of title 40”.

(j) TITLE 38.—Title 38, United States Code, is amended as follows:

(1) In section 115(1), strike “section 355 of the Revised Statutes (40 U.S.C. 255)” and substitute “section 3111 of title 40”.

(2) In section 310(b), strike “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” and substitute “subtitle III of title 40”.

(3) In section 8122(a)(1), strike “section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)” and substitute “section 1302 of title 40”.

(4) In section 8135(a)(8), strike “the Act of March 3, 1931 (40 U.S.C. 276a–276a–5) (known as the Davis-Bacon Act)” and substitute “sections 3141–3144, 3146, and 3147 of title 40”.

(5) In section 8162(a)—

(A) in paragraph (1), strike “section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)” and substitute “subchapter

II of chapter 5 of title 40, sections 541–555 and 1302 of title 40”; and

(B) in paragraph (3), strike “the Act of March 3, 1931 (40 U.S.C. 276a et seq.)” and substitute “sections 3141–3144, 3146, and 3147 of title 40”.

(6) In section 8165(c), strike “section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485) or the Act of June 8, 1896 (40 U.S.C. 485a)” and substitute “subchapter IV of chapter 5 of title 40”.

(7) In section 8201(e), strike “section 321 of the Act of June 30, 1932 (40 U.S.C. 303b)” and substitute “section 1302 of title 40”.

(k) TITLE 39.—Section 410(b)(4) of title 39, United States Code, is amended to read as follows:

“(4) the following provisions of title 40:

“(A) sections 3114–3116, 3118, 3131, 3133, and 3141–3147; and

“(B) chapters 37 and 173;”.

(l) TITLE 44.—Title 44, United States Code, is amended as follows:

(1) In section 311(a), strike “the Federal Property and Administrative Services Act, approved June 30, 1949, as amended,” and substitute “subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

(2) In section 2901(13), strike “section 3(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(a))” and substitute “section 102 of title 40”.

(3) In section 3501(8)(B), strike “the Computer Security Act of 1987 (Public Law 100–235)” and substitute “section 11332 of title 40”.

(4) In section 3502(9)—

(A) strike “section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401)” and substitute “section 11101 of title 40”; and

(B) strike “section 5142 of that Act (40 U.S.C. 1452)” and substitute “section 11103 of title 40”.

(5) In section 3504—

(A) in subsection (g)(2), strike “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441), and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)” and substitute “sections 11331 and 11332(b) and (c) of title 40”; and

(B) in subsection (g)(3), strike “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and sections 5 and 6 of the Computer Security Act of 1987 (40 U.S.C. 759 note)” and substitute “sections 11331 and 11332(b) and (c) of title 40”; and

(C) in subsection (h)(1)(B), strike “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441)” and substitute “section 11331 of title 40”; and

(D) in subsection (h)(2)—

(i) strike “division E of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.)” and substitute “subtitle III of title 40”; and

(ii) strike “section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)” and substitute “section 322 of title 40”.

(6) In section 3506—

(A) in subsection (g)(2), strike “the Computer Security Act of 1987 (40 U.S.C. 759 note)” and substitute “section 11332 of title 40”; and

(B) in subsection (g)(3), strike “the Computer Security Act of 1987 (40 U.S.C. 759 note)” and substitute “section 11332 of title 40”.

(7) In section 3518(d), strike “section 5131 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1441) and the Computer Security Act of 1987 (40 U.S.C. 759 note)” and substitute “sections 11331 and 11332 of title 40”.

(m) TITLE 46.—Title 46, United States Code, is amended as follows:

(1) In section 2101(17), strike “section 13 of the Coast Guard Authorization Act of 1986” and substitute “section 558 of title 40”.

(2) In section 3305(c), strike “section 13 of the Coast Guard Authorization Act of 1986” and substitute “section 558 of title 40”.

(n) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) In section 103(e)—

(A) insert “subtitle I of title 40 and title III of” before “the Federal Property”; and

(B) strike “(40 U.S.C. 471 et seq.)” and substitute “(41 U.S.C. 251 et seq.)”.

(2) In section 5325(b), strike “title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)” and substitute “chapter 11 of title 40”.

(3) In section 5333(a)—

(A) strike “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5)” and substitute “sections 3141–3144, 3146, and 3147 of title 40”; and

(B) strike “section 2 of the Act of June 13, 1934 (40 U.S.C. 276c)” and substitute “section 3145 of title 40”.

(4) In section 24312—

(A) in subsection (a)—

(i) strike “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5)” and substitute “sections 3141–3144, 3146, and 3147 of title 40”; and

(ii) strike “section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333)” and substitute “section 3704 of title 40”; and

(B) in subsection (b), strike “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5)” and substitute “sections 3141–3144, 3146, and 3147 of title 40”

(5) In section 40110(c)(2)—

(A) in subclause (C), strike “(as defined in section 13 of the Public Buildings Act of 1959 (40 U.S.C. 612))” and substitute “(as defined in section 3301(a) of title 40)”; and

(B) in subclause (F), strike “title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.)” and substitute “sections 121, 123, and 126 and chapter 5 of title 40”.

(6) In section 44305(a)(1), strike “sections 1 and 2 of the Government Losses in Shipment Act (40 U.S.C. 721, 722)” and substitute “sections 17302 and 17303 of title 40”.

(7) In section 47107(a)(17), strike “title IX of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541 et seq.)” and substitute “chapter 11 of title 40”.

(8) In section 47112(b), strike “the Act of March 3, 1931 (known as the Davis-Bacon Act) (40 U.S.C. 276a—276a-5)” and substitute “sections 3141–3144, 3146, and 3147 of title 40”.

(9) In section 49111(d)(1), strike “section 5 of the Act of June 6, 1924 (40 U.S.C. 71d),” and substitute “section 8722 of title 40”.

(o) VETERANS’ BENEFITS PROGRAMS IMPROVEMENT ACT OF 1991.—Section 403(e) of the Veterans’ Benefits Programs Improvement Act of 1991 (Pub. L. 102-86, 105 Stat. 424) is amended by striking “section 303b of title 40, sections 483 and 484 of title 40” and substituting “subchapter II of chapter 5 of title 40, sections 541–555 and 1302 of title 40”.

38 USC 2400
note.

SEC. 4. REPEAL OF TITLE V OF THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.

Title V of the Federal Property and Administrative Services Act of 1949 (ch. 288), as added by section 6(d) of the Act of September 5, 1950 (ch. 849, 64 Stat. 583), is repealed.

44 USC note
prec. 101.
40 USC note
prec. 101.

SEC. 5. LEGISLATIVE PURPOSE AND CONSTRUCTION.

(a) PURPOSE.—The purpose of this Act is to revise, codify, and enact without substantive change the general and permanent laws of the United States related to public buildings, property, and works, in order to remove ambiguities, contradictions, and other imperfections and to repeal obsolete, superfluous, and superseded provisions.

(b) NO SUBSTANTIVE CHANGE.—

(1) IN GENERAL.—This Act makes no substantive change in existing law and may not be construed as making a substantive change in existing law.

(2) DEEMED DATE OF ENACTMENT FOR CERTAIN PURPOSES.—For purposes of determining whether one provision of law supersedes another based on enactment later in time, and otherwise to ensure that this Act makes no substantive change in existing law, the date of enactment of a provision restated in section 1 or 2 of this Act is deemed to remain unchanged, continuing to be the date of enactment of the underlying provision of public law that is being restated.

(3) INCONSISTENT LAWS ENACTED AFTER MARCH 31, 2002.—This Act restates certain laws enacted before April 1, 2002. Any law enacted after March 31, 2002, that is inconsistent with this Act, including any law purporting to amend or repeal a provision that is repealed by this Act, supersedes this Act to the extent of the inconsistency.

(c) REFERENCES.—A reference to a law replaced by section 1 or 2 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

(d) CONTINUING EFFECT.—An order, rule, or regulation in effect under a law replaced by section 1 or 2 of this Act continues in

effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(e) ACTIONS AND OFFENSES UNDER PRIOR LAW.—An action taken or an offense committed under a law replaced by section 1 or 2 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

(f) INFERENCES.—An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of a caption or catch line of the provision.

(g) SEVERABILITY.—If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision enacted by this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

SEC. 6. REPEALS.

(a) INFERENCES OF REPEAL.—The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal.

(b) REPEALER SCHEDULE.—The laws specified in the following schedule are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act:

Schedule of Laws Repealed Statutes at Large

Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 unless otherwise specified)
			Volume	Page	
1822 May 7	96	3	3	692	307
1874 Feb. 4	22 .....	.....	18	14	28
Mar. 7	50	(proviso)	18	20	29
1876 July 31	246	(proviso (related to report) in 1st par. on p. 115).	19	115	27
1877 Mar. 3	105	(proviso (related to report) in 16th par. on p. 359).	19	359	27
	106	(words after 2d semicolon in 3d par. under heading "Miscellaneous").	19	370	34
1878 June 20	359	(proviso in 2d par. under heading "Building and Grounds in and Around Washington and the Executive Mansion").	20	220	103
1879 Mar. 3	182	1 (words after semicolon in 5th par. on p. 388).	20	388	30
July 1	62 .....	.....	21	47	307
1882 Aug. 5	389	1 (2d sentence in 8th par. on p. 241).	22	241	35

40 USC note
prec. 101.

40 USC note
prec. 101.

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			Vol- ume	Page	
1883 Jan. 16	27	4	22	405	42
1888 Aug. 1	728	25	357	257, 258
1890 Aug. 30	837	3	26	412	120
1892 July 29	320	15	27	325	101
Aug. 1	352	3	27	340	323
1893 Mar. 3	211	3	27	715	286
1895 Mar. 2	189	(words after last comma in 1st par. on p. 959).	28	959	190a
1896 June 8	373 .....	.....	29	268	485a
1898 July 1	543	5	30	570	79
July 7	546	1 (6th complete par. on p. 614)	30	614	285
	571	(last par. under catchline “Capitol and Grounds”).	30	672	164
1899 Mar. 3	458	2 (2d par.)	30	1378	89
1900 Apr. 17	192	(words between 1st and 2d semi- colons (related to absence, dis- ability, or vacancy) under catch- line “Office of the Architect of the Capitol”).	31	125	164
1901 Mar. 3	830	1 (words between 1st and 2d semi- colons (related to absence, dis- ability, or vacancy) under catch- line “Office of the Architect of the Capitol”).	31	1000	164
1902 Apr. 28	594	1 (6th, last pars. on p. 152)	32	152	19, 31
1903 Feb. 25	755	1 (7th par. on p. 865)	32	865	484–1
Mar. 3	1007	1 (4th complete par. on p. 1112)	32	1112	304
1905 Mar. 3	1483	1 (words before “namely” in last sentence of 9th par. on p. 1161).	33	1161	279
1908 May 27	200	1 (7th complete par. on p. 327, 1st complete par. on p. 356, proviso on p. 358).	35	327, 356, 358.	43 note, 64, 283
May 30	228	34	35	545	261
1909 Feb. 9	101	(3d par. under heading “War De- partment”).	35	615	43 note
Mar. 4	299	1 (proviso in 2d par. on p. 997)	35	997	43
1910 May 17	243	36	371	104, 106

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Date	Chapter or Public Law	Section	Statutes at Large		U.S. Code (title 40 un- less other- wise speci- fied)
			Vol- ume	Page	
June 25	384	1 (8th complete par. on p. 728 (less appropriations)).	36	728	105
1912					
Aug. 23	350	1 (2d complete par. on p. 375)	37	375	251
Aug. 24	355	1 (last proviso in last par. on p. 432, 10th par. on p. 444).	37	432, 444	68, 280
Aug. 26	408	1 (last par. on p. 605)	37	605	174
1913					
Mar. 3	106	1 “Sec. 3”, 4	37	727	323
Mar. 4	142	1 (words after 4th comma in last par. on p. 771).	37	771	38.
June 23	3	1 (proviso on p. 17, last proviso in 2d complete par. on p. 22, 1st, 3d pars. under heading “Central Heating and Power Plant”).	38	17, 22, 25 ...	22, 253, 281
1914					
Aug. 1	223	1 (last par. on p. 633)	38	633	82
1916					
May 10	117	1 (last par. under catchline “Contingent Expenses”, last par. less proviso under catchline “Rent”).	39	109, 118	39, 40
1917					
June 12	27	1 (words before 10th comma in 4th par. on p. 112, last par. on p. 133).	40	112, 133	22, 91
1918					
July 9	143	(last par. on p. 850)	40	850	314
Aug. 31	164	1 (6th par., words before “and over” in last par. under heading “Washington Aqueduct.”).	40	951	100
1919					
Feb. 25	39	3	40	1173	314
Aug. 25	52 .....	.....	41	281	271
1920					
Feb. 28	91	213 .....	.....	.....	316
Mar. 6	94	(proviso in last par. under heading “Public Buildings”).	41	507	272
May 29	214	1 (1st complete par. on p. 642, words in par. under heading “Independent Treasury”).	41	642, 654	42, 285
June 5	235	(2d complete par. on p. 913)	41	913	113
	253	1 (1st par. under heading “Legislative”).	41	1035	186
1921					
Mar. 3	123 .....	.....	41	1251	307
1922					
Feb. 17	55	(last proviso in 2d par. and 3d par. under heading “General Supply Committee”, last proviso in 1st complete par. on p. 387, 1st proviso on p. 388).	42	369, 387, 388.	25, 284, 312, 313
Mar. 20	103	(last par. (related to inspection) on p. 430).	42	430	26
1923					
Jan. 3	22	(last proviso in 2d par. and 3d par. under heading “General Supply Committee”, last proviso in 2d par. on p. 1108, 1st proviso on p. 1109).	42	1090, 1108, 1109.	25, 284, 312, 313

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Jan. 24	42	(proviso in 1st complete par. on p. 1211).	42	1211	115
Feb. 20	98	(par. (related to inspection) under catchline “Capitol Power Plant”).	42	1273	26
1924 Apr. 4	84	(proviso in 1st par. and 1st complete par. on p. 67, last proviso in 2d par. under heading “Public Buildings, Operating Expenses”, 1st proviso on p. 83).	43	67, 82, 83 ...	25, 284, 312, 313
June 5	264	(proviso in 2d complete par. on p. 422).	43	422	115
June 6	270	1-4(a), (d), (e), 5, 7-13	43	463	71-71d, 71f-72, 73, 74
June 7	303	1(words between 1st and 2d semicolons (related to inspection) in 9th par. under heading “Capitol Buildings and Grounds”).	43	587	26
1925 Jan. 22	87	(last proviso in 2d par. and 3d par. under heading “General Supply Committee”, last proviso in complete par. and 1st proviso in last par. on p. 781)).	43	766, 781	25, 284, 312, 313
Feb. 26	339 .....	.....	43	983	2-6
Mar. 3	462	(proviso in 1st par. on p. 1176)	43	1176	115
Mar. 4	549	1 (words between 1st and 2d semicolons (related to inspection) in 1st par. on p. 1296).	43	1296	26
	556	1 (1st par. under heading “Public Buildings and Grounds”).	43	1323	91
1926 Mar. 2	43	1 (proviso in 1st par. and 1st complete par. on p. 139, last proviso in 2d par. under heading “Public Buildings, Operating Expenses”, 1st proviso on p. 154).	44	139, 153, 154.	25, 284, 312, 313
Mar. 3	44	1 (last par. under heading “Department of the Interior, Contingent Expenses”).	44	173	117
Apr. 29	195	(proviso in 3d complete par. on p. 368).	44	368	115
Apr. 30	198 .....	.....	44	374	71
May 13	294	1 (words between 1st and 2d semicolons (related to inspection) in 1st par. and 4th complete par. on p. 547).	44	547	26, 222
May 25	380	3, 5 (related to “amendment” by Act of Feb. 16, 1931 (ch. 203, 46 Stat. 1164)), 8.	44	632, 633, 635.	343, 345a
1927 Jan. 26	58	1 (last proviso in 1st par. and 1st complete par. on p. 1030, last proviso in 2d par. under heading “Public Buildings, Operating Expenses”, 1st proviso on p. 1045).	44	1030, 1044, 1045.	25, 284, 312, 313
Feb. 23	168	1 (words between 1st and 2d semicolons (related to inspection) in 5th par. on p. 1156).	44	1156	26
Feb. 24	189	(provisos in 3d par. on p. 1219)	44	1219	115, 115a
1928 Feb. 15	57	(provisos in 3d complete par. on p. 103).	45	103	115, 115a

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Mar. 5	126	1 (last proviso in 1st par. and 1st complete par. on p. 165, last proviso in 2d par. under heading “Public Buildings, Operating Expenses”, provisos and last sentence in 1st par. on p. 186).	45	165, 185, 186.	25, 112a, 284, 312, 313
May 14	551	1 (words between 1st and 2d semicolons (related to inspection) in last par. on p. 526).	45	526	26
May 24	726 .....	.....	45	726	71
May 29	901	1(8), (85)	45	986, 992	174, 314
Dec. 20	39	1 (1st par. on p. 1031, 2d proviso and provisos in 1st complete par. on p. 1048).	45	1031, 1048	25, 30a, 284, 313
Dec. 22	48 .....	.....	45	1070	72a, 72b
1929					
Jan. 25	102	(provisos in 4th par. on p. 1133) ...	45	1133	115, 155a
Feb. 28	367	1 (words between 1st and 2d semicolons (related to inspection) in 8th par. on p. 1396).	45	1396	26
Mar. 1	423 .....	.....	45	1425	271
June 20	33	6 (words after 1st comma)	46	39	161a
1930					
Apr. 18	184	(provisos in 2d complete par. on p. 212).	46	212	115, 115a
May 15	289	1 (5th par. under heading “Division of Supply”, 1st proviso and provisos in 1st complete par. on p. 358).	46	337, 358	25, 30a, 284, 313
May 16	291 .....	.....	46	366	121, 121 note
June 6	407	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. under heading “Capitol Buildings and Grounds”, 1st complete par. on p. 514 (related to care and operation of Senate Office Building)).	46	513, 514	26, 174a
June 28	710 .....	.....	46	828	255
1931					
Feb. 16	203	1	46	1164	345a
Feb. 20	234	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. under heading “Capitol Buildings and Grounds”, 1st complete par. on p. 1184 (related to care and operation of Senate Office Building)).	46	1183, 1184	26, 174a
Feb. 23	277	1 (3d par. on p. 1219, last proviso in complete par. and proviso in last par. on p. 1234, proviso in 1st par. on p. 1235).	46	1219, 1234, 1235.	25, 30a, 284, 313
Feb. 26	280	1 (provisos in 3d par. on p. 1349) ..	46	1349	115, 115a
	307 .....	.....	46	1421	258a— 258e-1
Mar. 3	411	46	1494	276a— 276a-6
1932					
May 20	197	47	161	122, 123
May 21	200	47	163	124-126

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June 30	314	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. under heading “Capitol Buildings and Grounds”, 1st par. on p. 392 (related to care and operation of Senate Office Building)), 320, 321.	47	391, 392, 412.	26, 174a, 267a, 303b
July 1	361	1 (2d, last provisos in 1st par. on p. 517).	47	517	115, 115a
July 5	430	1 (1st complete par. on p. 582, last proviso in 1st complete par. and provisos in last par. on p. 596).	47	582, 596	25, 30a, 284, 313
1933 Feb. 11	48	1	47	799	124, 125
Feb. 28	134	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. under heading “Capitol Buildings and Grounds”, last par. on p. 1360 (related to care and operation of Senate Office Building)).	47	1360	26, 174a
Mar. 1	144	1 (provisos in 4th par. on p. 1406)	47	1406	115, 115a
Mar. 3	212	(2d par. under heading “General Supply Committee”, last proviso in complete par. and last proviso on p. 1505, proviso in 1st par. on p. 1506).	47	1491, 1505, 1506.	25, 30a, 284, 313
June 16	90	202–210, 220, 303, 304	48	201, 210, 211.	402–411, 413, 414
	101	7	48	305	315
1934 Jan. 24	4	34	48	336	191
Feb. 15	13	1 (words before 1st proviso (related to continuation of Civil-Works program)).	48	351	411a
Mar. 15	70	1 (1st complete par. on p. 438, last proviso in 2d par. under heading “Public Buildings, Operating Expenses”, provisos in 1st par. on p. 442, last proviso in 4th par. under heading “Public Buildings, Maintenance and Operation”).	48	438, 441, 442, 449.	25, 30a, 284, 313
May 7	222	1–3	48	668	13a–13c
May 30	372	1 (words between 5th and 6th semicolons (related to inspection) in 1st par. and 5th complete par. on p. 827 (related to care and operation of Senate Office Building)).	48	827	26, 174a
June 13	482	2	48	948	276c
June 19	648	(last par. on p. 1044)	48	1044	22a
1935 May 14	110	1 (last proviso in 3d par. on p. 233, last proviso and last par. on p. 234).	49	233, 234	284, 313, 313a
June 27	320 .....	.....	49	425	22b, 22b note, 22c
July 8	374	(3d complete par. on p. 470 (related to care and operation of Senate Office Building)).	49	470	174a
Aug. 24	642	49	793	270, 270a, 270a notes, 270b—270d–1

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Aug. 26	684	49	800	345b, 345c
Aug. 27	740	301-308	49	879	304f-304m
	744	49	885	304a-304e
Aug. 30	825 .....	.....	49	1011	276a— 276a-6
1936					
June 23	725	1 (last proviso in 2d complete par. on p. 1843, last proviso and last par. on p. 1844).	49	1843, 1844	284, 313, 313a
June 25	822 .....	.....	49	1938	290
June 29	860 .....	.....	49	2025	421-425
1937					
May 14	180	1 (last proviso in 2d complete par. on p. 153, last proviso and last par. on p. 154, last proviso in 1st par. on p. 163).	50	153, 154, 163.	284, 313, 313a
May 18	223	(last par. on p. 179 (related to care and operation of Senate Office Building)).	50	179	174a
July 8	444	1-7, 10, 11	50	479, 484	721, 721 notes, 722-729
1938					
Mar. 28	55	1 (last proviso on p. 137, last pro- viso and 1st complete par. on p. 139, last proviso in 1st complete par. on p. 147).	52	137, 139, 147.	284, 313, 313a
May 17	236	(1st par. under catchline “Senate Office Building” (related to care and operation of Senate Office Building)).	52	391	174a
June 15	400 .....	.....	52	693	311b
June 20	534	16	52	802	None
1939					
May 6	115	1 (last proviso in 2d complete par. on p. 672, 4th and last provisos and 1st complete par. on p. 674, last proviso in 1st complete par. on p. 682).	53	672, 674, 682.	109a, 284, 313, 313a
June 3	176 .....	.....	53	808	311b
July 15	281	(3d par. under heading “Depart- ment of Vehicles and Traffic”).	53	1033	60a
July 31	400 .....	.....	53	1144	121
Aug. 5	449 .....	.....	53	1211	72c, 72c note, 72d, 72d note, 72e, 72e note, 74a, 74a note, 74b, 74c
Aug. 10	665	1-3	53	1358	723-725, 729
1940					
Feb. 1	18 .....	.....	54	19	255
Mar. 25	71	(6th and last provisos on p. 69, 1st par. on p. 70, last proviso in 2d complete par. on p. 77).	54	69, 70, 77	109a, 284, 313, 313a
June 12	333	(3d par. under heading “Depart- ment of Vehicles and Traffic”).	54	334	60a
June 15	373 .....	.....	54	399	276a, 276a note
June 18	396	(last par. under heading “Office of the Architect of the Capitol”).	54	472	166a
July 18	634	54	764	109, 109a
	635	54	764	304a-304d

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Aug. 13	666	54	788	316
Sept. 9	717	(3d proviso under heading “Military Posts”).	54	873	269a
Oct. 8	756	(1st proviso on p. 968)	54	968	269a
Oct. 9	793 .....	.....	54	1083	255
Oct. 22	908	6	54	1208	13e
1941					
Mar. 23	26	(last proviso in 5th complete par. on p. 53).	55	53	276a–7
Apr. 29	81 .....	.....	55	147	270e, 270f
May 31	156	1 (6th and last provisos on p. 226, 2d par. under heading “Procurement Division”, last proviso in 1st complete par. on p. 234).	55	226, 234	109a, 284, 313, 313a
June 30	262	(2d proviso under heading “Military Posts”).	55	375	269a
July 1	268	(last par. under heading “Office of the Architect of the Capitol”).	55	457	166a
	271	(1st par. on p. 529)	55	529	60a
Aug. 21	395	(last proviso in 14th par. on p. 664).	55	664	276a–7
Dec. 10	563 .....	.....	55	796	291
1942					
Feb. 21	108	(words after last comma in 1st par. on p. 109).	56	109	313
Mar. 10	178	(5th and 6th provisos and 1st complete par. on p. 161, 2d proviso on p. 169).	56	161, 169	109a, 284, 313, 313a
Apr. 28	249 .....	.....	56	247	278b
June 8	396	(last par. under heading “Office of the Architect of the Capitol”).	56	341	166a
June 27	450	(1st proviso in 2d complete par. and last par. on p. 407).	56	407	277a, 284
	452	(1st complete par. on p. 451)	56	451	60a
Oct. 21	618 .....	.....	56	797	258f
1943					
June 26	145	101 (proviso in par. under heading “Office of the Administrator”, last proviso on p. 177, 1st and 2d complete pars. on p. 178).	57	176, 177, 178.	7a, 265a, 277a, 284
June 28	173	(1st complete par. on p. 232)	57	232	166a
June 30	179	(5th and 6th provisos and 1st complete par. on p. 262), 201 (last proviso).	57	262, 269	109a, 284, 313, 313a
July 1	184	(3d par. under heading “Department of Vehicles and Traffic”).	57	338	60a
1944					
Apr. 1	152	(words before proviso in last par. under heading “Treasury Department”).	58	162	756 note
Apr. 22	175	(7th proviso and 1st complete par. on p. 206, last proviso in 1st complete par. on p. 214).	58	206, 214	284, 313, 313a
June 26	277	101 (last par. under heading “Office of the Architect of the Capitol”).	58	346	166a
June 27	286	101 (1st proviso on p. 367, 1st proviso in 2d complete par. and last par. on p. 368, 1st complete par. on p. 369).	58	367, 368, 369.	7a, 265a, 277a, 284
June 28	300	(last proviso on p. 526)	58	526	60a

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1945 Apr. 24	92	(2d proviso and 1st complete par. on p. 67, last proviso in 3d par. under heading “Public Buildings, Maintenance and Operation”).	59	67, 74	284, 313, 313a
May 3	106	101 (proviso in 1st par. under heading “Office of the Administrator”, proviso in 1st and 2d complete pars., last complete par., and last par. on p. 114, 1st and 2d complete pars. on p. 115).	59	112, 114	7a, 265a, 277a, 284, 292, 293
June 13	189	101 (2d par. under heading “Office of the Architect of the Capitol”).	59	251	166a
June 30	209	(4th proviso in 1st complete par. on p. 289).	59	289	60a
1946 Mar. 28	113	101 (proviso in 1st par. under heading “Office of the Administrator”, proviso in 1st and 2d pars. and 3d—last pars. on p. 67).	60	65, 67	7a, 265a, 277a, 284, 292
June 14	404	1–4, 7–9	60	257, 258	128, 295, 296, 304b, 304c, 341 note
July 1	530	101 (2d par. under heading “Office of the Architect of the Capitol”).	60	400	166a
July 9	544	(4th proviso in 1st complete par. on p. 518).	60	518	60a
July 20	588	101 (5th proviso and 1st complete par. on p. 579, last proviso in 3d par. under heading “Public Buildings, Maintenance and Operation”).	60	579, 585	284, 313, 313a
July 31	589	302	60	595	33a
	707	1–8, 10–13, 15, 16(a)	60	718, 719, 720.	193a–193h, 193h note, 193i– 193m, 194–205, 213
Aug. 7	770	(55)	60	870	314
1947 July 1	186	(last proviso and 1st complete par. on p. 224, last proviso in 1st complete par. on p. 233).	61	224, 233	284, 313, 313a
July 17	262	101 (2d par. under heading “Office of the Architect of the Capitol”).	61	369	166a
July 25	324	(4th proviso in 1st par. on p. 443)	61	443	60a
July 30	327	2(a) (5th par.)	61	451	101 note
	358	302	61	583	33a
July 30	359	101 (proviso in last complete par. and last par. on p. 593, 1st and 2d complete pars. on p. 594).	61	593, 594	277a, 284, 292
Aug. 5	493	2 (1st sentence)	61	774	303
1948 Apr. 20	219	101 (proviso in 1st and 2d complete pars., last complete par., and last par. on p. 183).	62	183	277a, 284, 292
May 14	290 .....	.....	62	235	129a–130a
June 1	359 .....	.....	62	281	318–318d
June 14	466	(5th proviso and 1st complete par. on p. 415, 3d complete par. on p. 416, last proviso on p. 421).	62	415, 416, 421.	284, 313, 313a, 756 note

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	467	101 (last par. under heading “Office of the Architect of the Capitol”).	62	430	166a
June 19	555	(4th proviso in 1st complete par. on p. 553).	62	553	60a
June 25	646	6, 27	62	986, 990	13c, 257
June 30	773	302	62	1194	33a
1949					
May 24	139	134	63	108	276c
June 16	218	404, 405, 410–413	63	199, 200	298a, 298a note, 298b, 298d, 356, 356a
June 22	235	101 (1st complete par. on p. 224) ..	63	224	166a
June 29	279	(1st proviso on p. 319)	63	319	60a
June 30	286	(last proviso in 1st par. under heading “Bureau of Federal Supply”, 2d–last sentences in 1st complete par. on p. 364, par. under heading “General Supply Fund”).	63	363, 364	313–1, 314a, 756 note
	288	1–3, 101–103, 106, 107, 109(a)–(c), (e)–(g), 110, 112, 201, 202(a)–(e), (g), (h), 203–212, 401–404, 601, 602(a), (c)–(e), 603, 605, 606, 801–806, 901–905.	63	377, 381, 382, 383, 385, 397, 399, 401, 403.	471, 471 notes, 472–476, 481, 483, 484, 485, 486–490, 491, 492, 511–514, 531, 531 note, 532–535, 541, 541 note, 542–544, 751–755, 756, 757, 758, 760
Aug. 18	479 .....	.....	63	616	13f–13p
Aug. 24	506	101 (provisos and 3d and 4th complete pars. on p. 640), 307.	63	640, 662	33a, 277a, 284, 292
Oct. 13	685	1–5, 7, 8	63	841, 842	451–455, 457, 458
Oct. 26	737 .....	.....	63	920	482
1950					
July 18	467	(3d proviso on p. 364)	64	364	60a
Sept. 5	849	1–5, 6(a) (related to §§ 601, 602(a) and (c)–(e), 603, and 605), (b) (related to §§ 601, 602(a) and (c)–(e), 603, and 605), (c), 7(a)–(d), (e) (“Sec. 602(c)”), (f), (g), 8(a), (b), (c) (related to § 602(e)), 9, 10(b), 11.	64	578, 583, 590, 591.	471 note, 472, 472 note, 473, 474, 475, 481, 484, 486, 490, 491, 492, 752, 756, 756 note, 758
Sept. 6	896	(last par. under heading “Office of the Architect of the Capitol”, 1st complete par. on p. 706, 1st par. and 2d–last sentences in last par. on p. 708, “Sec. 1207”).	64	602, 706, 708, 764.	33a, 166a, 278c, 313–1, 756 note
Sept. 27	1052	(par. under heading “General Supply Fund”).	64	1056	756 note
1951					
Aug. 3	292	(3d proviso in 1st par. on p. 167) ..	65	167	60a
Aug. 31	376	(1st proviso on p. 275)	65	275	313–2

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Oct. 24	559	1–9, 11	65	634	193n–193v, 193x
Oct. 31	654	1(73)–(97), 2(1), (20), (24), 4(8)	65	704, 706, 707, 709.	5a, 7, 8–13, 14, 15–18, 20, 21, 27a, 44, 110–112, 114, 116, 117, 119, 266, 269, 273, 287, 294, 302, 303a, 304, 311b, 312, 484–1, 485a
Nov. 1	664	1307	65	756	33a
1952 July 5	576	(3d proviso in 1st complete par. on p. 385, proviso on p. 400).	66	385, 400	60a, 313–2
July 9	598	(last par. under heading “Office of the Architect of the Capitol”).	66	472	166a
July 10	630	633	66	537	483a
July 12	703	1(a)–(l)	66	593	472, 483, 484, 487, 490, 756, 41:259
July 15	758	1407	66	660	33a
July 19	949	1 “Sec. 1–4(a), (d), (e), 5, 7–10”, 2	66	781, 787, 789.	71, 71 note, 71a–71d, 71f–72, 73, 74
1953 July 31	299	(4th proviso in 1st complete par. on p. 290, last proviso on p. 304).	67	290, 304	60a, 313–2
Aug. 1	304	(last par. under heading “Office of the Architect of the Capitol”).	67	327	166a
Aug. 7	305	630	67	355	483a
Aug. 8	340	1307, 1316	67	436, 439	33a, 483b
	399 .....	.....	67	521	484
1954 June 24	359	(last proviso on p. 282)	68	282	313–2
June 30	432	723	68	355	483a
July 1	449	(last proviso on p. 386)	68	386	60a
July 2	455	(last par. under heading “Office of the Architect of the Capitol”).	68	405	166a
July 14	481 .....	.....	68	474	484
Aug. 2	649	702(a), (b), (d)–(g), 703	68	641	460, 462
Aug. 26	935	1307	68	829	33a
Aug. 30	1076	(20)	68	967	122
Aug. 31	1178 .....	.....	68	1051	485
Sept. 1	1211	1–4	68	1126	471, 472, 490, 491, 491 note
1955 May 25	76 .....	.....	69	66	106
June 3	129 .....	.....	69	83	270e
	130 .....	.....	69	83	484, 484 notes
June 29	226	207	69	196	33a
June 30	244	(last proviso on p. 205)	69	205	313–2
July 5	272	(3d par. under heading “Depart- ment of Vehicles and Traffic”).	69	254	60a
July 13	358	622	69	319	483a
Aug. 1	442	69	430	484

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Aug. 11	783	112	69	641	462
Aug. 12	874	1, 2	69	721	472
1956					
June 13	385	207	70	281	33a
June 27	452	(2d par. on p. 344, 3d par. on p. 345).	70	344, 345	313–2, 756 note
	453	(2d par. under heading “Office of the Architect of the Capitol”).	70	365	166a
June 29	479	(3d par. under heading “Depart- ment of Vehicles and Traffic”).	70	447	60a
July 2	488	618	70	471	483a
July 3	513	1–3, 5	70	493, 495	484, 484 note
July 27	748	(par. under heading “General Sup- ply Fund”).	70	686	756 note
Aug. 3	942 .....	.....	70	1020	484
1957					
June 5	85–48	207	71	54	33a
June 29	85–69	(3d complete par. on p. 231, 5th complete par. on p. 232).	71	231, 232	313–2, 756 note
July 1	85–75	(2d par. under heading “Office of the Architect of the Capitol”).	71	251	166a
Aug. 2	85–117	618	71	326	483a
1958					
Feb. 28	85–337	5	72	29	472
June 25	85–468	207	72	225	33a
July 2	85–486 .....	.....	72	288	484
	85–493 .....	.....	72	294	304c, 490
July 18	85–542 .....	.....	72	399	298d
July 31	85–570	(last par. under heading “Sala- ries”).	72	448	166a
Aug. 19	85–680 .....	.....	72	631	488
Aug. 22	85–724	617	72	727	483a
Aug. 23	85–726	1406	72	808	474
Aug. 27	85–781 .....	.....	72	936	481
Aug. 28	85–800	12	72	967	276c
Aug. 28	85–844	(par. under heading “General Sup- ply Fund”, last par. on p. 1069).	72	1068, 1069	313–2, 756 note
Sept. 2	85–886	1, 3	72	1709	490
1959					
May 20	86–30	(par. under heading “General Sup- ply Fund”).	73	43	756 note
June 25	86–70	30(a)	73	148	472
July 8	86–79	207	73	166	33a
Aug. 4	86–135 .....	.....	73	279	270b, 270b note, 270c
Aug. 18	86–166	616	73	381	483a
Aug. 21	86–176	(2d par. under heading “Salaries”).	73	407	166a
Sept. 1	86–215	73	446	485

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Sept. 14	86-255	(4th par. under heading “General Provisions”).	73	507	313-2
Sept. 23	86-372	801	73	686	462
1960 May 13	86-461 .....	.....	74	128	106
June 27	86-527 .....	.....	74	223	131, 131 note, 132- 135
July 5	86-591 .....	.....	74	330	756
July 7	86-601	516	74	352	483a
	86-608 .....	.....	74	363	345c
July 12	86-624	26, 27(a)-(c)	74	418	276a, 472, 491, 514
	86-626	101 (3d and 6th complete pars. on p. 434).	74	434	313-2, 484a
	86-628	(last par. under heading “Sala- ries”).	74	455	166a
	86-642	207	74	478	33a
Sept. 13	86-764 .....	.....	74	904	126
1961 Mar. 31	87-14	(par. under heading “General Sup- ply Fund”).	75	25	756 note
June 30	87-70	502	75	175	462
July 6	87-82	2	75	199	174j-2
July 20	87-94 .....	.....	75	213	484
Aug. 3	87-125	507	75	283	33a
Aug. 10	87-130	(last par. under heading “Sala- ries”).	75	329	166a
Aug. 17	87-141	(par. under heading “General Sup- ply Fund”, 2d par. on p. 353).	75	351, 353	313-2, 756 note
	87-144	616	75	378	483a
Sept. 22	87-275 .....	.....	75	574	318d
Oct. 4	87-372 .....	.....	75	802	756
1962 May 24	87-456	303(b)	76	78	474
June 8	87-476 .....	.....	76	92	607
July 25	87-545	(par. under heading “General Sup- ply Fund”).	76	212	756 note
Aug. 6	87-571 .....	.....	76	307	193f, 193h
Aug. 9	87-577	516	76	331	483a
Aug. 13	87-581	1, 2, 101-108, 203, 204	76	357, 360	321, 321 note, 322, 324-327, 327 notes, 328-334
Aug. 24	87-600	76	401	756
Aug. 31	87-619	76	414	486
Sept. 14	87-658	6	76	544	462
Sept. 25	87-683	76	575	71a

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Oct. 3	87-741	(par. under heading “General Supply Fund”, last par. on p. 727).	76	725, 727	313-2, 756 note
Oct. 10	87-786 .....	.....	76	805	484
Oct. 23	87-847 .....	.....	76	1117	757
	87-852 .....	.....	76	1129	319c
1963					
May 17	88-25	(par. under heading “General Supply Fund”).	77	26	756 note
Oct. 17	88-149	516	77	267	483a
Dec. 19	88-215	(par. under heading “General Supply Fund”, 4th par. on p. 436).	77	434, 436	313-2, 756 note
Dec. 30	88-248	(last par. under heading “Salaries”).	77	812	166a
1964					
July 2	88-349	1	78	238	276a
Aug. 1	88-391 .....	.....	78	365	193r, 193t, 193v, 193x
Aug. 14	88-426	203(d) (related to Assistant Architect of the Capitol), (e).	78	415	166b, 166b-1
Aug. 19	88-446	516	78	477	483a
Aug. 20	88-454	(last par. under heading “Salaries”).	78	544	166a
Aug. 30	88-507	(2d complete par. on p. 655)	78	655	313-2
	88-515 .....	.....	78	696	701, 701 note, 702, 703
Sept. 2	88-560	602	78	799	462
1965					
Mar. 9	89-4	1, 2, 101-108, 201, 202, 207, 214, 221-226, 301-304, 401-405.	79	5, 17	40 App.:1, 2, 101-108, 201, 202, 207, 214, 221-226, 301-304, 401-405
June 2	89-30	1-4	79	118	301, 306, 308-310
July 27	89-90	(1st par. on p. 276)	79	276	166a
Aug. 10	89-117	1104	79	503	462
Aug. 16	89-128	(2d complete par. on p. 531)	79	531	313-2
Sept. 8	89-173	1, 5(a), 6	79	663, 665, 666.	684, 685
Sept. 29	89-213	616	79	876	483a
Oct. 20	89-276 .....	.....	79	1010	490
Nov. 8	89-343	6	79	1303	474
	89-344 .....	.....	79	1304	490
	89-348	2(4)	79	1312	484
1966					
Aug. 27	89-545	(last par. under heading “Salaries”).	80	364	166a
Sept. 6	89-555	(4th par. on p. 674)	80	674	313-2
Oct. 15	89-670	8(b)	80	942	40 App.:201
	89-687	616	80	994	483a
Oct. 29	89-698	401	80	1072	214a
Nov. 2	89-719	105(b)	80	1139	270a
Nov. 7	89-790 .....	.....	80	1424	71 note
1967					
May 25	90-19	7, 10(a) (related to § 702), (d)	81	22	460, 462, 474
May 29	90-21	(par. under heading “General Supply Fund”).	81	33	756 note

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Nov. 3	90-121	(2d complete par. on p. 349)	81	349	313-2
Nov. 14	90-135	81	441	771, 771 note, 781- 786, 791, 792
Dec. 16	90-206	219(3), (4)	81	639	166b, 166b- 1
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June 19	90-351	525	484
July 5	90-376	3	82	286	193v
July 23	90-417	(2d par. under heading “Salaries”)	82	407	166a
July 23	90-417	(last par. under heading “Sala- ries”).	82	407	167a note
Aug. 1	90-448	201(f), 607, 807(f)	82	502, 534, 544.	462, 612, 40 App.:207
Oct. 4	90-550	(2d complete par. on p. 944)	82	944	313-2
Oct. 16	90-577	501	82	1104	531, 531 note, 532- 535
Oct. 17	90-580	516	82	1132	483a
Oct. 22	90-626	82	1319	490
1969 June 30	91-34	2(c)	83	41	193m
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Nov. 26	91-126	(4th par. under heading “General Provisions”).	83	228	313-2
Dec. 9	91-143	8	83	322	651, 652, 661, 663- 665, 671, 682-684
Dec. 12	91-145	(last par. under heading “Sala- ries”).	83	350	166a
Dec. 29	91-171	617	83	483	483a
1970 May 21	91-258	52(b)(5)	84	235	40 App.:214
June 30	91-297	201(c)	84	357	210a note

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Aug. 18	91-382	(words before proviso (related to salary of Executive Assistant Architect of the Capitol) in 1st par. under heading “Salaries”), 1st complete par. on p. 818).	84	817, 818	166a, 166b-1
Sept. 1	91-393	1, 2, 4	84	835	255, 256, 258e
Sept. 26	91-426 .....	.....	84	883	481, 512
Oct. 17	91-466	2	84	990	521-524
Oct. 21	91-469	39	84	1036	270f
Oct. 22	91-485	2-4	84	1084	484
Oct. 26	91-510	451(a)	84	1193	193n-1
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Dec. 17	91-556	(4th par. under heading “General Provisions”).	84	1448	313-2
1971					
Jan. 11	91-668	817	84	2033	483a
July 9	92-49	611	85	124	313-2
	92-51	(last par. under heading “Salaries”).	85	137	166a
Aug. 5	92-65	201-204, 206, 208, 210-214	85	168, 169, 171.	40 App.:1 note, 105, 106, 201, 201 note, 202, 207, 214, 223 note, 302, 401, 405
Dec. 18	92-204	717	85	730	483a
1972					
June 16	92-313	1-4, 7, 11	86	216, 221, 222.	490, 601 note, 603, 603 notes, 606, 611
June 22	92-317	3(f)	86	235	14a
July 10	92-342	(last par. under heading “Salaries”).	86	442	166a
Aug. 4	92-362	1	86	503	484
Oct. 21	92-520	1, 41	86	1019, 1026	601 note, 616 note
Oct. 26	92-570	717	86	1199	483a
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1973					
July 6	93-62	87	146	802, 804
July 10	93-72	87	169	607
Aug. 6	93-83	2	87	216	484
Nov. 1	93-145	(last par. under heading “Salaries”).	87	540	166a
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Dec. 29	93-226	87	943	193a note
1974					
Jan. 2	93-238	717	87	1041	483a
Aug. 13	93-371	(last par. under heading “Salaries”).	88	437	166a
Aug. 22	93-383	401(c)	88	691	460
Aug. 30	93-400	15	88	800	474, 487, 581

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Oct. 8	93-437	817	88	1228	483a
Oct. 26	93-478	88	1449	802
Dec. 21	93-529	(par. under heading “Appalachian Regional Development Programs”).	88	1711	40 App.:208 note
1975					
Jan. 2	93-594 .....	.....	88	1926	472
	93-599 .....	.....	88	1954	483
	93-604	701	88	1963	756
July 25	94-59	(3d par. under heading “Salaries”).	89	287	166a
Aug. 9	94-82	204(b) “Sec. 203(d) (related to Assistant Architect of the Capitol)”. 401	89	421	166b
Dec. 31	94-91 .....	.....	89	452	490a
	94-188	101-111, 113, 115-122, 124	89	1079, 1082, 1083, 1086.	40 App.:1 note, 2, 2 note, 101, 102, 105-107, 201, 201 note, 202, 207, 214, 223-225, 302, 303, 401, 405
1976					
Feb. 9	94-212	717	90	171	483a
Apr. 21	94-273	2(19), 21	90	375, 379	74, 756
Aug. 3	94-375	16(b)	90	1076	461 note
Aug. 14	94-388 .....	.....	90	1188	885
Sept. 22	94-419	717	90	1294	483a
Oct. 1	94-440	(last par. under heading “Salaries”). 1-5, 7-9	90	1452	166a
Oct. 17	94-519 .....	.....	90	2451, 2456	476, 483, 483c, 484, 484 note, 484c, 512
Oct. 18	94-541	105	90	2505	490, 601 note, 606, 611, 612a
1977					
Aug. 5	95-94	(2d par. under heading “Salaries”).	91	672	166a
Sept. 21	95-111	817	91	902	483a
Nov. 18	95-193 .....	.....	91	1412	40 App.:202, 202 note
1978					
Sept. 30	95-391	(last par. under heading “Salaries”).	92	781	166a
Oct. 10	95-431	(proviso in par. under heading “Care of the Building and Grounds”). 818	92	1036	13a, 13b
Oct. 13	95-457 .....	.....	92	1247	483a
Oct. 20	95-491 .....	.....	92	1641	760, 760 note
Oct. 24	95-506 .....	.....	92	1756	491
Nov. 2	95-585 .....	.....	92	2484	270a
Nov. 6	95-598	325	92	2679	316
	95-599	138(a), (b)	92	2710	40 App.:201
Nov. 10	95-629	101	92	3635	872-875, 877, 885
1979					
July 25	96-38	(par. under heading “General Supply Fund”).	93	124	756 note
July 30	96-41	3(d)	93	325	485
Aug. 15	96-60	203(c)	93	399	474

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Oct. 17	96-88	509(b)	93	695	40 App.:202
Dec. 14	96-146	1(2)	93	1086	166b
Dec. 20	96-152	1(b)	93	1099	
Dec. 21	96-154	718	93	1155	483a
1980					
Oct. 8	96-399	402	94	1667	461 note
Oct. 10	96-432	2, 4, 6(c)	94	1852, 1853	193a, 193a note, 193d note
Oct. 19	96-470	101(a), 202(a), 211	94	2237, 2242, 2246.	50, 514, 610
Dec. 8	96-506	3	94	2746	40 App.:105, 106, 201, 214, 401, 405
Dec. 12	96-514	108	94	2972	131 note
	96-515	505	94	3005	874 note
Dec. 15	96-527	718	94	3084	483a
Dec. 16	96-536	101(c) [H.R. 7593 (related to expenses of travel by the Office of the Architect of the Capitol)].	94	3167	166a
Dec. 18	96-545	2	94	3215	40 App.:202
Dec. 22	96-571	1-5	94	3341	795, 795 note, 795a-795c
Dec. 28	96-610 .....	.....	94	3564	801 note, 802 note, 809
1981					
June 5	97-12	(par. under heading "General Supply Fund").	95	75	756 note, 756a
Aug. 6	97-31	12(12)-(15)	95	154	270f, 474, 483a, 484
Aug. 13	97-35	313(b), 1404, 1822(a)	95	398, 749, 767.	461, 40 App.:105, 201, 401
Oct. 1	97-51	101(c) [H.R. 4120 (related to expenses of travel by the Office of the Architect of the Capitol)].	95	959	166a
Dec. 4	97-88	(par under heading "Appalachian Regional Development Programs").	95	1146	40 App.:401 note
Dec. 22	97-98	1443	95	1321	483
Dec. 29	97-114	717	95	1581	483a
	97-125	1-3(2), (3) "Secs. 111-116(a)(1), (b), 117-119", 4.	95	1667, 1671	801 note, 802, 811, 811 note, 812-819
1982					
Apr. 2	97-164	160(a)(13)	96	48	330
Oct. 2	97-276	101(e) [S. 2939 (related to expenses of travel by the Office of the Architect of the Capitol)].	96	1189	166a
Dec. 21	97-377	101(c) [title VII, § 717], (f) (related to programs authorized by the Appalachian Regional Development Act of 1965), 120.	96	1853, 1906, 1913.	483a, 490c note, 40 App.:401 note
Dec. 29	97-390	1	96	1957	13f, 13l, 13n, 13p
1983					
July 14	98-50	(par under heading "Appalachian Regional Development Programs").	97	259	40 App.:401 note
	98-51	(par. under heading "Travel")	97	273	166a

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July 30	98-63	101 (1st-9th sentences in par. under heading "Consumer Information Center Fund").	97	321	761
Oct. 31	98-141	8	97	910	872, 874, 875, 880, 885
Nov. 14	98-151	112	97	976	490c note
Nov. 30	98-181	126(a)(1)	97	1175	484b
Dec. 1	98-191	8(d), 9(a)(2), (3)	97	1331	474, 481, 487
Dec. 8	98-212	716	97	1441	483a
1984					
Apr. 18	98-269 .....	.....	98	156	270c
July 16	98-360	(par. under heading "Appalachian Regional Development Programs").	98	418	40 App.:401 note
July 17	98-367	(par. under heading "Travel")	98	482	166a
July 18	98-369	2713(b)	98	1184	759 note
Oct. 12	98-473	101(h) [title VIII, § 8013], (j) [H.R. 5798, title IV, § 6, title V, § 507], 701, 702.	98	1925, 1963, 2129.	483a, 484, 490c note, 490d note
Oct. 19	98-524	4(e)(2)	98	2489	40 App.:214
1985					
Nov. 1	99-141	(par. under heading "Appalachian Regional Development Programs").	99	577	40 App.:401 note
Nov. 8	99-145	1241(a)	99	734	328
Nov. 13	99-151	(par. under heading "Travel")	99	800	166a
Dec. 19	99-190	101(h) [H.R. 3036, title IV, § 6, title V, § 507], 139.	99	1291, 1323	490b, 490c note, 490d note
Dec. 26	99-218 .....	.....	99	1729	13n
1986					
Apr. 7	99-272	15301-15313	100	335	901-913
Aug. 22	99-386	201, 207	100	822, 823	484
Oct. 16	99-492	1	100	1240	13n
Oct. 18	99-500	101(e) [title IV, par. under heading "Appalachian Regional Commission"], (j) [H.R. 5203 (related to use of appropriations for travel expenses)], (m) [title IV, § 6, title V, § 507, title VI, § 616, title VIII, §§ 821(a)(1), 832], 151.	100	1783-210, 1783-287, 1783-321, 1783-324, 1783-331, 1783-340, 1783-345, 1783-352.	166a, 490b, 490c note, 490d note, 751, 756b, 757, 40
Oct. 30	99-591	101(e) [title IV, par. under heading "Appalachian Regional Commission"], (j) [H.R. 5203 (related to use of appropriations for travel expenses)], (m) [title IV, § 6, title V, § 507, title VI, § 616, title VIII, §§ 821(a)(1), 832], 151.	100	3341-210, 3341-287, 3341-321, 3341-324, 3341-331, 3341-340, 3341-345, 3341-355.	166a, 490b, 490c note, 490d note, 751, 756b, 757, 40
Nov. 7	99-627	3	100	3509	App.:401 note
Nov. 10	99-640	13(a)-(c)	100	3551	512, 512 notes
Nov. 14	99-652 .....	.....	100	3650	484d
	99-656	1	100	3668	1001, 1001 note, 1002-1010
Nov. 17	99-662	945	100	4200	258a, 258e-1
1987					
July 22	100-77	502(a)	101	510	483d

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Dec. 22	100-202 ...	101(b) [title VIII, § 8093], (d) [title IV, par. under heading "Appalachian Regional Commission"], (f) [title II, § 3], (i) [title I, § 4 and par. under heading "Travel"], (m) [title IV, § 5, title V, § 507, title VI, §§ 616, 619].	101	1329-79, 1329-127, 1329-196, 1329-294, 1329-301, 1329-410, 1329-415, 1329-423, 1329-427.	166a, 490 note, 490b, 490c note, 490d note, 756 notes, 756b, 1003, 40 App.:401 note
1988					
Jan. 5	100-230 ...	3	101	1564	1003
Jan. 8	100-235 ...	1, 2, 5-8	101	1724, 1729	1441 note
Feb. 5	100-242 ...	524	101	1939	462
July 19	100-370 ...	1(k)(3)	102	849	483a
	100-371 ...	(par. under heading "Appalachian Regional Commission").	102	871	40 App.:401 note
Aug. 22	100-415 ...	.....	102	1104	885
Aug. 23	100-418 ...	5115(c)	102	1433	490
Sept. 22	100-440 ...	5, 11, 507	102	1741, 1742, 1747.	490a-1 note, 490c note, 490d note
Oct. 1	100-458 ...	(par. under heading "Travel")	102	2169	166a
Oct. 7	100-480 ...	.....	102	2328	816, 1201, 1201 note, 1202-1208
Oct. 28	100-542 ...	.....	102	2721	762, 762 note, 762a-762d
Nov. 5	100-612 ...	.....	102	3180	471 note, 481, 484, 485, 488, 493
Nov. 15	100-656 ...	742	102	3897	541
Nov. 17	100-678 ...	1-8	102	4049	278a, 318-318b, 601 note, 603, 606, 617-619, 619 note
Nov. 18	100-679 ...	8	102	4068	541
	100-690 ...	2081(b)	102	4216	484
1989					
Aug. 9	101-73	744(f), (g)	103	438	474, 612
Sept. 29	101-101 ...	(par. under heading "Appalachian Regional Commission").	103	663	40 App.:401 note
Nov. 3	101-136 ...	5, 7, 9, 22, 25, 506	103	802, 803, 807, 808, 812.	490a-1, 490c note, 490d, 490e, 491 note, 757
Nov. 21	101-162 ...	(proviso in par. under heading "Care of the Building and Grounds").	103	1010	13a note
	101-163 ...	(par. under heading "Travel"), 106(a), (b).	103	1055, 1056	166a, 166b-1
1990					
Oct. 15	101-427	104	927	40 App.:221

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Oct. 25	101-462	104	1079	13n
Nov. 5	101-509 ...	8, 15, 507	104	1414, 1415, 1423.	490c note, 490f, 490g note
	101-510 ...	2805	104	1786	485
	101-514 ...	(par. under heading “Appalachian Regional Commission”).	104	2095	40 App.:401 note
	101-520 ...	(par. under heading “Travel”)	104	2266	166a
1991					
June 13	102-54	13(o)	105	278	612
Aug. 14	102-90	(par. under heading “Travel”), 312(f).	105	458, 469	166a, 184b– 184f
Aug. 17	102-104 ...	(par. under heading “Appalachian Regional Commission”).	105	533	40 App.:401 note
Oct. 28	102-141 ...	7, 11, 505	105	856, 862	490c note, 490f, 490g note
Dec. 11	102-216 ...	.....	105	1666	1010, 1010 note
	102-219 ...	1	105	1673	885
Dec. 18	102-240 ...	1087	105	2022	40 App.:403
1992					
Aug. 7	102-336 ...	.....	106	864	193v
Oct. 2	102-377 ...	(par. under heading “Appalachian Regional Commission”).	106	1339	40 App.:401 note
Oct. 6	102-392 ...	(par. under heading “Travel”), 311, 318, 324.	106	1714, 1723, 1724, 1726.	166a, 193a note, 1204, 1205, 1207
	102-393 ...	5, 13, 505, 528	106	1750, 1751, 1757, 1760.	490b, 490c note, 490f, 490g
Oct. 23	102-439 ...	1	106	2223	885
Oct. 24	102-486 ...	153	106	2851	490
1993					
Feb. 8	103-4	1	107	30	1201 note
Aug. 11	103-69	(par. under heading “Travel”)	107	702	166a
Sept. 21	103-82	202(f)	107	888	484
Oct. 28	103-123 ...	5, 7, 505	107	1246, 1247, 1252.	485, 490c note, 755a
	103-126 ...	(par. under heading “Appalachian Regional Commission”).	107	1331	40 App.:401 note
Nov. 30	103-160 ...	2927	107	1932	484
Dec. 14	103-193 ...	.....	107	2293	13n
1994					
July 21	103-279 ...	9	108	1416	193r, 193u, 193v
July 22	103-283 ...	(par. under heading “Travel”)	108	1434	166a
Aug. 26	103-316 ...	(par. under heading “Appalachian Regional Commission”).	108	1720	40 App.:401 note
	103-321 ...	2	108	1793	1001 note, 1002, 1003, 1006– 1010
Sept. 30	103-329 ...	(par. under heading “Payment of Government Losses in Ship- ment”), 505, 611.	108	2387, 2409, 2418.	486a, 490c note, 722a

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Nov. 2	103-437 ...	14(b), (d), (e)	108	4590, 4591	606, 610, 874, 40 App.:403
1995 Nov. 13	104-46	(par. under heading “Appalachian Regional Commission”).	109	416	40 App.:401 note
Nov. 15	104-50	401-405	109	463	1301, 1301 note, 1302- 1304
Nov. 19	104-52	5, 503, 611	109	486, 491, 499.	486a, 490c, 490h
	104-53	(par. under heading “Travel”)	109	527	166a
Dec. 21	104-66	2091(a)	109	730	484
Dec. 22	104-68	1	109	766	1101 note
1996 Feb. 10	104-106 ...	1502(f)(7), 2818(b), 4321(i)(8), 5001, 5002, 5101, 5111-5113, 5121-5124, 5125(b)-(d), 5126- 5128, 5131(a)-(d), 5132, 5141, 5142, 5201, 5301-5305, 5311, 5312, 5401-5403, 5607(b), 5608(a), 5701.	110	510, 555, 676, 679, 685, 686, 689, 691, 701, 702.	270a note, 485, 759, 1401, 1401 notes, 1411- 1413, 1421- 1428, 1441, 1441 note, 1442, 1451, 1452, 1461, 1471- 1475, 1491, 1492, 1501- 1503
Apr. 24	104-132 ...	803	110	1305	137
Apr. 26	104-134 ...	101(c) [title I, proviso in 1st par. under heading “John F. Ken- nedy Center for the Performing Arts”, title III, § 313].	110	1321-193, 1321-198.	193n, 872, 872 note
Aug. 6	104-182 ...	306	110	1685	45 note
Aug. 20	104-186 ...	221(15), (18)	110	1750	756b, 1003
Sept. 16	104-197 ...	(par. under heading “Travel”)	110	2404	166a
Sept. 23	104-201 ...	823, 1067	110	2609, 2654	318c, 490
Sept. 26	104-204 ...	(2d proviso under heading “Con- sumer Information Center Fund”).	110	2916	761a
Sept. 30	104-206 ...	(par. under heading “Appalachian Regional Commission”).	110	3000	40 App.:401 note
Sept. 30	104-208 ...	101(f) [title VI, § 640]	110	3009-365 ...	1411 note

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Oct. 9	104-280 ...	1	110	3359	13n
Oct. 19	104-316 ...	120	110	3836	485a, 490
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1997					
July 18	105-27	1	111	244	484
Oct. 6	105-50	111	1167	484
Oct. 10	105-61	(proviso related to buildings considered to be federally owned), 413.	111	1297, 1300	481, 490i note
Oct. 13	105-62	(par. under heading “Appalachian Regional Commission”).	111	1336	40 App.:401 note
Oct. 27	105-65	(last proviso in par. under heading “Consumer Information Center Fund”).	111	1377	761a
Nov. 14	105-83	(last proviso in par. under heading “National Capital Planning Commission”).	111	1589	71a note
Nov. 18	105-85	850(f)(2), 852, 1073(h)(4)	111	1849, 1851, 1907.	1441 note, 1492, 1501
Nov. 19	105-95	4 (related to section 9(3) of the Act of October 24, 1951).	111	2149	193v
	105-100 ...	157(f)	111	2187	138
Nov. 26	105-119 ...	118	111	2468	484
1998					
June 9	105-178 ...	1117(c), 1211(b), 1212(a)(2)(B)(iii), 1222.	112	160, 188, 193, 223.	819a, 40 App.:201, 403, 405, 405 note
Aug. 7	105-220 ...	199(a)(4)	112	1059	40 App.:211
Oct. 7	105-245 ...	(par. under heading “Appalachian Regional Commission”).	112	1854	40 App.:401 note
Oct. 21	105-277 ...	101(h) [title IV, 6th and 9th provisos on p. 2681-502, title VI, §§ 603, 630], 1335(h).	112	2681-502, 2681-513, 2681-522, 2681-788.	490 note, 490b note, 490i, 1106
Oct. 31	105-332 ...	3(g)	112	3126	40 App.:214
Nov. 10	105-362 ...	401(g)	112	3282	795d
Nov. 13	105-393 ...	201-220(c)(1), 221, 222	112	3618, 3625	40 App.:1 note, 2, 101, 105, 106, 202-208, 211-214, 224, 226, 302, 401, 405
1999					
Aug. 17	106-49 .....	.....	113	231	270a, 270a notes, 270b
Sept. 29	106-60	(par. under heading “Appalachian Regional Commission”).	113	498	40 App.:401 note
Oct. 5	106-65	1067(18)	113	775	485
Oct. 22	106-78	752(b)(14)	113	1170	474
Nov. 29	106-113 ...	1000(a)(5) [§ 233(a)]	113	1501A-301	484
Dec. 12	106-168 ...	301	113	1821	484
2000					
Oct. 27	106-377 ...	1(a)(2) (par. under heading “Appalachian Regional Commission”).	114	1441A-82 ...	40 App.:401 note

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Nov. 13	106-518 ...	313	114	2421	13n
Dec. 21	106-554 ...	1(a)(3) [§ 643], (7) [§ 307(a)]	114	2763A-169, 2763A- 635.	258e-1, 490b
2001					
Nov. 12	107-67	630	115	552	490b-1
Dec. 28	107-107 ...	2812	115	1307	485
2002					
Mar. 12	107-149 ...	116	66	40 App.:1 note, 2, 2 note, 101, 102, 104, 106, 202- 205, 207, 214, 224, 225, 302, 303, 401, 403, 405.	

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 2068:

HOUSE REPORTS: No. 107-479 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 11, considered and passed House.

Aug. 1, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Aug. 23, Presidential statement.



Public Law 107–218
107th Congress

An Act

Aug. 21, 2002
[H.R. 2234]

To revise the boundary of the Tumacacori National Historical Park in the State of Arizona.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tumacacori
National
Historical Park
Boundary
Revision Act of
2002.
16 USC 410ss
note.
16 USC 410ss
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Tumacacori National Historical Park Boundary Revision Act of 2002”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds the following:

(1) Tumacacori Mission in southern Arizona was declared a National Monument in 1908 in recognition of its great historical significance as “one of the oldest mission ruins in the southwest”.

(2) In establishing Tumacacori National Historical Park in 1990 to include the Tumacacori Mission and the ruins of the mission of Los Santos Angeles de Guevavi and the Kino visita and rancharia of Calabazas, Congress recognized the importance of these sites “to protect and interpret, for the education and benefit of the public, sites in the State of Arizona associated with the early Spanish missionaries and explorers of the 17th and 18th centuries”.

(3) Tumacacori National Historical Park plays a major role in interpreting the Spanish colonial heritage of the United States.

(b) PURPOSES.—The purposes of this Act are—

(1) to protect and interpret the resources associated with the Tumacacori Mission by revising the boundary of Tumacacori National Historical Park to include approximately 310 acres of land adjacent to the park; and

(2) to enhance the visitor experience at Tumacacori by developing access to these associated mission resources.

SEC. 3. BOUNDARY REVISION, TUMACACORI NATIONAL HISTORICAL PARK, ARIZONA.

Section 1(b) of Public Law 101–344 (16 U.S.C. 410ss(b)) is amended—

(1) by inserting after the first sentence the following new sentence: “The park shall also consist of approximately 310 acres of land adjacent to the original Tumacacori unit of the park and generally depicted on the map entitled ‘Tumacacori National Historical Park, Arizona Proposed Boundary Revision 2001’, numbered 310/80,044, and dated July 2001.”; and

(2) in the last sentence—

(A) by striking “The map” and inserting “The maps”;
and

(B) by striking “the offices” and inserting “the appropriate offices”.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 2234:

HOUSE REPORTS: No. 107-327 (Comm. on Resources).

SENATE REPORTS: No. 107-185 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Jan. 23, considered and passed House.

Aug. 1, considered and passed Senate.



Public Law 107–219
107th Congress

An Act

Aug. 21, 2002
[H.R. 2440]

To rename Wolf Trap Farm Park as “Wolf Trap National Park for the Performing Arts”, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RENAMING OF WOLF TRAP FARM PARK.

(a) AMENDMENT.—The Wolf Trap Farm Park Act (Public Law 89–671; 16 U.S.C. 284 et seq.) is amended—

16 USC 284 and
note, 284j.

(1) by striking “Wolf Trap Farm Park” each place it appears and inserting “Wolf Trap National Park for the Performing Arts”;

16 USC 284a.

(2) in section 2, by inserting before the final period “, except that laws, rules, or regulations that are applicable solely to units of the National Park System that are designated as a ‘National Park’ shall not apply to Wolf Trap National Park for the Performing Arts”; and

(3) by adding at the end the following new section:

16 USC 284k.

“SEC. 14. REFERENCES.

“(a) BY FEDERAL EMPLOYEES.—The Secretary of the Interior, any other Federal employee, and any employee of the Foundation, with respect to any reference to the park in any map, publication, sign, notice, or other official document or communication of the Federal Government or Foundation shall refer to the park as ‘Wolf Trap National Park for the Performing Arts’.

“(b) OTHER SIGNS AND NOTICES.—Any directional or official sign or notice pertaining to the park shall refer to the park as ‘Wolf Trap National Park for the Performing Arts’.

16 USC 1e, 284c
note.

“(c) FEDERAL LAWS AND DOCUMENTS.—Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to ‘Wolf Trap Farm Park’ shall be considered to be a reference to ‘Wolf Trap National Park for the Performing Arts’.”.

16 USC 284k
note.

(b) APPLICABILITY.—Section 14(c) of the Wolf Trap Farm Park Act (as added by subsection (a) of this section) shall not apply to this Act.

SEC. 2. TECHNICAL CORRECTIONS.

Section 4(c) of the Wolf Trap Farm Park Act (Public Law 89–671; 16 U.S.C. 284c(c)) is amended—

(1) by realigning the second sentence so as to appear flush with the left margin; and

(2) by striking “Funds” and inserting “funds”.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 2440:

HOUSE REPORTS: No. 107-330 (Comm. on Resources).

SENATE REPORTS: No. 107-182 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 11, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–220
107th Congress

An Act

Aug. 21, 2002
[H.R. 2441]

To amend the Public Health Service Act to redesignate a facility as the National Hansen’s Disease Programs Center, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF NATIONAL HANSEN’S DISEASE PROGRAMS CENTER.

(a) REFERENCES IN PUBLIC HEALTH SERVICE ACT.—Section 320(a)(1) of the Public Health Service Act (42 U.S.C. 247e(a)(1)) is amended by striking “Gillis W. Long Hansen’s Disease Center” and inserting “National Hansen’s Disease Programs Center”.

42 USC 247e
note.

(b) PUBLIC LAW 105–78.—References in section 211 of Public Law 105–78, and in deeds, agreements, or other documents under such section, to the Gillis W. Long Hansen’s Disease Center shall be deemed to be references to the National Hansen’s Disease Programs Center.

42 USC 247e
note.

SEC. 2. OTHER REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Gillis W. Long Hansen’s Disease Center shall be deemed to be a reference to the “National Hansen’s Disease Programs Center”.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 2441:

HOUSE REPORTS: No. 107–174 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 4, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–221
107th Congress

An Act

To authorize the acquisition of additional lands for inclusion in the Fort Clatsop National Memorial in the State of Oregon, and for other purposes.

Aug. 21, 2002
[H.R. 2643]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fort Clatsop National Memorial Expansion Act of 2002”.

Fort Clatsop
National
Memorial
Expansion Act of
2002.
16 USC 450mm
note.
16 USC
450mm–1 note.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Fort Clatsop National Memorial is the only unit of the National Park System solely dedicated to the Lewis and Clark Expedition.

(2) In 1805, the members of the Lewis and Clark Expedition built Fort Clatsop at the mouth of the Columbia River near Astoria, Oregon, and they spent 106 days at the fort waiting for the end of winter and preparing for their journey home.

(3) In 1958, Congress enacted Public Law 85–435 authorizing the establishment of Fort Clatsop National Memorial for the purpose of commemorating the culmination, and the winter encampment, of the Lewis and Clark Expedition following its successful crossing of the North American continent.

(4) The 1995 General Management Plan for Fort Clatsop National Memorial, prepared with input from the local community, recommends the expansion of the memorial to include the trail used by expedition members to access the Pacific Ocean from the fort and the shore and forest lands surrounding the fort and trail to protect their natural settings.

(5) Expansion of Fort Clatsop National Memorial requires Federal legislation because the size of the memorial is currently limited by statute to 130 acres.

(6) Congressional action to allow for the expansion of Fort Clatsop National Memorial to include the trail to the Pacific Ocean would be timely and appropriate before the start of the bicentennial celebration of the Lewis and Clark Expedition planned to take place during the years 2004 through 2006.

SEC. 3. EXPANSION OF FORT CLATSOP NATIONAL MEMORIAL, OREGON.

(a) REVISED BOUNDARIES.—Section 2 of Public Law 85–435 (16 U.S.C. 450mm–1) is amended—

(1) by inserting “(a) INITIAL DESIGNATION OF LANDS.—” before “The Secretary”;

(2) by striking “coast:” and all that follows through the end of the sentence and inserting “coast.”; and

(3) by adding at the end the following new subsections:

“(b) AUTHORIZED EXPANSION.—The Fort Clatsop National Memorial shall also include the lands depicted on the map entitled ‘Fort Clatsop Boundary Map’, numbered ‘405-80026C-CCO’, and dated June 1996.

“(c) MAXIMUM DESIGNATED AREA.—The total area designated as the Fort Clatsop National Memorial shall not exceed 1,500 acres.”.

(b) AUTHORIZED ACQUISITION METHODS.—Section 3 of Public Law 85-435 (16 U.S.C. 450mm-2) is amended—

(1) by inserting “(a) ACQUISITION METHODS.—” before “Within”; and

(2) by adding at the end the following new subsection:

“(b) LIMITATION.—The lands (other than corporately owned timberlands) depicted on the map referred to in section 2(b) may be acquired by the Secretary of the Interior only by donation or purchase from willing sellers.”.

(c) MEMORANDUM OF UNDERSTANDING.—Section 4 of Public Law 85-435 (16 U.S.C. 450mm-3) is amended—

(1) by striking “Establishment” and all that follows through “its establishment,” and inserting “(a) ADMINISTRATION.—”; and

(2) by adding at the end the following new subsection:

“(b) MEMORANDUM OF UNDERSTANDING.—If the owner of corporately owned timberlands depicted on the map referred to in section 2(b) agrees to enter into a sale of such lands as a result of actual condemnation proceedings or in lieu of condemnation proceedings, the Secretary of the Interior shall enter into a memorandum of understanding with the owner regarding the manner in which such lands will be managed after acquisition by the United States.”.

Washington.

SEC. 4. STUDY OF STATION CAMP SITE AND OTHER AREAS FOR POSSIBLE INCLUSION IN NATIONAL MEMORIAL.

The Secretary of the Interior shall conduct a study of the area near McGowan, Washington, where the Lewis and Clark Expedition first camped after reaching the Pacific Ocean and known as the “Station Camp” site, as well as the Megler Rest Area and Fort Canby State Park, to determine the suitability, feasibility, and national significance of these sites for inclusion in the National

Park System. The study shall be conducted in accordance with section 8 of Public Law 91-383 (16 U.S.C. 1a-5).

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 2643 (S. 423):

HOUSE REPORTS: No. 107-456 (Comm. on Resources).

SENATE REPORTS: No. 107-69 accompanying S. 423 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 8, considered and passed House.

Aug. 1, considered and passed Senate.



Public Law 107-222
107th Congress

An Act

Aug. 21, 2002
[H.R. 3343]

To amend title X of the Energy Policy Act of 1992, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF THORIUM REIMBURSEMENT.

(a) **PAYMENTS TO LICENSEES.**—Section 1001(b)(2)(C) of the Energy Policy Act of 1992 (42 U.S.C. 2296a(b)(2)(C)) is amended—

(1) by striking “\$140,000,000” and inserting “\$365,000,000”; and

(2) by adding at the end the following: “Such payments shall not exceed the following amounts:

“(i) \$90,000,000 in fiscal year 2002.

“(ii) \$55,000,000 in fiscal year 2003.

“(iii) \$20,000,000 in fiscal year 2004.

“(iv) \$20,000,000 in fiscal year 2005.

“(v) \$20,000,000 in fiscal year 2006.

“(vi) \$20,000,000 in fiscal year 2007.

Any amounts authorized to be paid in a fiscal year under this subparagraph that are not paid in that fiscal year may be paid in subsequent fiscal years.”

(b) **AUTHORIZATION.**—Section 1003(a) of such Act (42 U.S.C. 2296a-2(a)) is amended by striking “\$490,000,000” and inserting “\$715,000,000”.

(c) **DEPOSITS.**—Section 1802(a) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g-1(a)) is amended by striking “\$488,333,333” and inserting “\$518,233,333” and by inserting after “inflation” the phrase “beginning on the date of the enactment of the Energy Policy Act of 1992”.

(d) **PORTSMOUTH.**—(1) Chapter 19 of the Atomic Energy Act of 1954 (42 U.S.C. 2015 and following) is amended by inserting the following after section 241:

42 USC 2015a.

“SEC. 242. COLD STANDBY.

“The Secretary is authorized to expend such funds as may be necessary for the purposes of maintaining enrichment capability at the Portsmouth, Ohio, facility.”

(2) The table of contents for such chapter is amended by inserting the following new item after the item relating to section 241:

“Sec. 242. Cold standby.”

SEC. 2. COMPTROLLER GENERAL AUDIT.

The Comptroller General shall conduct an audit on the Uranium Enrichment Decontamination and Decommissioning Fund

established under section 1801 of the Atomic Energy Act of 1954 (42 U.S.C. 2297g). Not later than March 1, 2003, the Comptroller General shall transmit to the Congress a report on the results of the audit. Such report shall assess whether the Fund as currently authorized will be of sufficient size and duration for carrying out decontamination and decommissioning and remedial action activities anticipated to be paid for from the fund, and shall include recommendations for minimizing increases in such activities. In conducting the audit, the Comptroller General shall specifically address whether the deposits collected under sections 1802(c) and 1802(d) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g-1(c) and 2297g-1(d)) are sufficient to—

(1) pay for decontamination and decommissioning activities pursuant to section 1803(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2297g-2(b));

(2) pay for the remedial action costs pursuant to section 1803(c) of such Act (42 U.S.C. 2297g-2(c)); and

(3) pay for the remedial action costs pursuant to section 1001(b)(2)(C) and (D) of the Energy Policy Act of 1992 (42 U.S.C. 2296a(b)(2)(C) and (D)).

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 3343:

HOUSE REPORTS: No. 107-341 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 18, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate.



Public Law 107–223
107th Congress

An Act

Aug. 21, 2002
[H.R. 3380]

To authorize the Secretary of the Interior to issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 403 note.

SECTION 1. PERMITS FOR EXISTING NATURAL GAS PIPELINES.

(a) **IN GENERAL.**—The Secretary of the Interior may issue right-of-way permits for natural gas pipelines that exist as of September 1, 2001, within the boundary of Great Smoky Mountains National Park.

(b) **TERMS AND CONDITIONS.**—A permit issued under subsection (a) shall be—

(1) issued consistent with laws and regulations generally applicable to utility rights-of-way within units of the National Park System; and

(2) subject to any terms and conditions that the Secretary deems necessary.

16 USC 403 note.

SEC. 2. PERMITS FOR PROPOSED NATURAL GAS PIPELINES.

(a) **IN GENERAL.**—The Secretary of the Interior may issue right-of-way permits for natural gas pipelines within the boundary of Great Smoky Mountains National Park that are proposed to be constructed across the following:

(1) The Foothills Parkway.

(2) The Foothills Parkway Spur between Pigeon Forge and Gatlinburg.

(3) The Gatlinburg Bypass.

(b) **TERMS AND CONDITIONS.**—A permit issued under subsection (a) shall be—

(1) issued consistent with laws and regulations generally applicable to utility rights-of-way within units of the National Park System; and

(2) subject to any terms and conditions that the Secretary deems necessary, including—

(A) provisions for the protection and restoration of park resources that are disturbed by pipeline construction; and

(B) assurances that construction and operation of the pipeline will not adversely affect Great Smoky Mountains National Park.

Approved August 21, 2002.

LEGISLATIVE HISTORY—H.R. 3380 (S. 1097):

HOUSE REPORTS: No. 107-491 (Comm. on Resources).

SENATE REPORTS: No. 107-72 accompanying S. 1097 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 8, considered and passed House.

Aug. 1, considered and passed Senate.



Public Law 107–224
107th Congress

An Act

Sept. 18, 2002
[H.R. 5012]

To amend the John F. Kennedy Center Act to authorize the Secretary of Transportation to carry out a project for construction of a plaza adjacent to the John F. Kennedy Center for the Performing Arts, and for other purposes.

John F. Kennedy
Center Plaza
Authorization
Act of 2002.
District of
Columbia.
20 USC 76h note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “John F. Kennedy Center Plaza Authorization Act of 2002”.

SEC. 2. JOHN F. KENNEDY CENTER PLAZA.

The John F. Kennedy Center Act (20 U.S.C. 76h et seq.) is amended—

20 USC 76r, 76s.

- (1) by redesignating sections 12 and 13 as sections 13 and 14, respectively; and
- (2) by inserting after section 11 the following:

20 USC 76q–1.

“SEC. 12. JOHN F. KENNEDY CENTER PLAZA.

“(a) DEFINITIONS.—In this section, the following definitions apply:

“(1) AIR RIGHTS.—The term ‘air rights’ means real property interests conveyed by deed, lease, or permit for the use of space between streets and alleys within the boundaries of the Project.

“(2) CENTER.—The term ‘Center’ means the John F. Kennedy Center for the Performing Arts.

“(3) GREEN SPACES.—The term ‘green spaces’ means areas within the boundaries of the Project or affected by the Project that are covered by grass, trees, or other vegetation.

“(4) PLAZA.—The term ‘Plaza’ means improvements to the area surrounding the John F. Kennedy Center building carried out under the Project and comprised of transportation elements (including roadways, sidewalks, and bicycle lanes) and non-transportation elements (including landscaping, green space, open public space, water, sewer, and utility connections).

“(5) PROJECT.—The term ‘Project’ means the Plaza project, as described in the TEA–21 report, providing for construction of a Plaza adjacent to the Center and for improved bicycle, pedestrian, and vehicular access to and around the Center. The term includes planning, design, engineering, and construction of the Plaza, buildings to be constructed on the Plaza, and related transportation improvements and may include any other elements of the Project identified in the TEA–21 report.

“(6) SECRETARY.—The term ‘Secretary’ means the Secretary of Transportation.

“(7) TEA-21 REPORT.—The term ‘TEA-21 report’ means the report of the Secretary submitted to Congress under section 1214 of the Transportation Equity Act for the 21st Century (20 U.S.C. 76j note; 112 Stat. 204).

“(b) RESPONSIBILITIES OF THE SECRETARY.—

“(1) IN GENERAL.—The Secretary shall be responsible for the Project and may undertake such activities as may be necessary to construct the Project, other than buildings to be constructed on the Plaza, substantially as described in the TEA-21 report.

“(2) PLANNING, DESIGN, ENGINEERING, AND CONSTRUCTION.—The Secretary shall be responsible for the planning, design, engineering, and construction of the Project, other than buildings to be constructed on the Plaza.

“(3) AGREEMENTS WITH THE BOARD AND OTHER AGENCIES.—The Secretary shall enter into memoranda of agreement with the Board and any appropriate Federal or other governmental agency to facilitate the planning, design, engineering, and construction of the Project.

“(4) CONSULTATION WITH THE BOARD.—The Secretary shall consult with the Board to maximize efficiencies in planning and executing the Project, including the construction of any buildings on the Plaza.

“(5) CONTRACTS.—Subject to the approval of the Board, the Secretary may enter into contracts on behalf of the Center related to the planning, design, engineering, and construction of the Project.

“(c) RESPONSIBILITIES OF THE BOARD.—

“(1) IN GENERAL.—The Board may undertake such activities as may be necessary to construct buildings on the Plaza for the Project.

“(2) RECEIPT OF TRANSFERS OF AIR RIGHTS.—The Board may receive from the District of Columbia such transfers of air rights as may be necessary for the planning, design, engineering, and construction of the Project.

“(3) CONSTRUCTION OF BUILDINGS.—The Board may construct, with non-appropriated funds, buildings on the Plaza for the Project and shall be responsible for the planning, design, engineering, and construction of the buildings.

“(4) ACKNOWLEDGMENT OF CONTRIBUTIONS.—

“(A) IN GENERAL.—The Board may acknowledge private contributions used in the construction of buildings on the Plaza for the Project in the interior of the buildings, but may not acknowledge private contributions on the exterior of the buildings.

“(B) APPLICABILITY OF OTHER REQUIREMENTS.—Any acknowledgment of private contributions under this paragraph shall be consistent with the requirements of section 4(b).

“(d) RESPONSIBILITIES OF THE DISTRICT OF COLUMBIA.—

“(1) MODIFICATION OF HIGHWAY SYSTEM.—Notwithstanding any State or local law, the Mayor of the District of Columbia, in consultation with the National Capital Planning Commission and the Secretary, shall have exclusive authority to amend or modify the permanent system of highways of the District

of Columbia as may be necessary to meet the requirements and needs of the Project.

“(2) CONVEYANCES.—

“(A) AUTHORITY.—Notwithstanding any State or local law, the Mayor of the District of Columbia shall have exclusive authority to convey or dispose of any interests in real estate (including air rights or air space as that term is defined by District of Columbia law) owned or controlled by the District of Columbia, as may be necessary to meet the requirements and needs of the Project.

Deadline.

“(B) CONVEYANCE TO THE BOARD.—Not later than 90 days following the date of receipt of notification from the Secretary of the requirements and needs of the Project, the Mayor of the District of Columbia shall convey or dispose of to the Board without compensation interests in real estate described in subparagraph (A).

“(3) AGREEMENTS WITH THE BOARD.—The Mayor of the District of Columbia shall have the authority to enter into memoranda of agreement with the Board and any Federal or other governmental agency to facilitate the planning, design, engineering, and construction of the Project.

“(e) OWNERSHIP.—

“(1) ROADWAYS AND SIDEWALKS.—Upon completion of the Project, responsibility for maintenance and oversight of roadways and sidewalks modified or improved for the Project shall remain with the owner of the affected roadways and sidewalks.

“(2) MAINTENANCE OF GREEN SPACES.—Subject to paragraph (3), upon completion of the Project, responsibility for maintenance and oversight of any green spaces modified or improved for the Project shall remain with the owner of the affected green spaces.

“(3) BUILDINGS AND GREEN SPACES ON THE PLAZA.—Upon completion of the Project, the Board shall own, operate, and maintain the buildings and green spaces established on the Plaza for the Project.

“(f) NATIONAL HIGHWAY BOUNDARIES.—

“(1) REALIGNMENT OF BOUNDARIES.—The Secretary may realign national highways related to proposed changes to the Northern and Southern Interchanges and the E Street Approach recommended in the TEA-21 report in order to facilitate the flow of traffic in the vicinity of the Center.

“(2) ACCESS TO CENTER FROM I-66.—The Secretary may improve direct access and egress between Interstate Route 66 and the Center, including its garages.”.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 13 of John F. Kennedy Center Act (as redesignated by section 2 of this Act) is amended—

- (1) by redesignating subsection (c) as subsection (d); and
- (2) by inserting after subsection (b) the following:

“(c) JOHN F. KENNEDY CENTER PLAZA.—There is authorized to be appropriated to the Secretary of Transportation for capital costs incurred in the planning, design, engineering, and construction of the project authorized by section 12 (including roadway improvements related to the North and South Interchanges and construction of the John F. Kennedy Center Plaza, but not including construction of any buildings on the plaza) a total of \$400,000,000 for fiscal

years 2003 through 2010. Such sums shall remain available until expended.”.

SEC. 4. CONFORMING AMENDMENTS.

(a) **SELECTION OF CONTRACTORS.**—Section 4(a)(2)(D) of the John F. Kennedy Center Act (20 U.S.C 76j(a)(2)(D)) is amended to read as follows:

“(D) **SELECTION OF CONTRACTORS.**—In carrying out the duties of the Board under this Act, the Board may negotiate any contract—

“(i) for planning, design, engineering, or construction of buildings to be erected on the John F. Kennedy Center Plaza under section 12 and for landscaping and other improvements to the Plaza; or

“(ii) for an environmental system for, a protection system for, or a repair to, maintenance of, or restoration of the John F. Kennedy Center for the Performing Arts,

with selected contractors and award the contract on the basis of contractor qualifications as well as price.”.

(b) **DEFINITIONS.**—Section 14 of the John F. Kennedy Center Act (as redesignated by section 2 of this Act) is amended by adding at the end the following: “Upon completion of the project for establishment of the John F. Kennedy Center Plaza authorized by section 12, the Board, in consultation with the Secretary of Transportation, shall amend the map that is on file and available for public inspection under the preceding sentence.”.

Approved September 18, 2002.

LEGISLATIVE HISTORY—H.R. 5012 (S. 2771):

HOUSE REPORTS: No. 107-622 (Comm. on Transportation and Infrastructure).
CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 4, considered and passed House.

Sept. 5, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Sept. 18, Presidential statement.



Public Law 107–225
107th Congress

An Act

Sept. 24, 2002
[H.R. 3287]

To redesignate the facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., as the “Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The facility of the United States Postal Service located at 900 Brentwood Road, NE, in Washington, D.C., and known as the Brentwood Processing and Distribution Center, shall be known and designated as the “Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Joseph Curseen, Jr. and Thomas Morris, Jr. Processing and Distribution Center”.

Approved September 24, 2002.

LEGISLATIVE HISTORY—H.R. 3287:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 4, considered and passed House.

Sept. 5, considered and passed Senate.



Public Law 107–226
107th Congress

An Act

To authorize a national memorial to commemorate the passengers and crew of Flight 93 who, on September 11, 2001, courageously gave their lives thereby thwarting a planned attack on our Nation's Capital, and for other purposes.

Sept. 24, 2002
[H.R. 3917]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Flight 93 National Memorial Act”.

Flight 93
National
Memorial Act.
16 USC 431 note.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds the following:

(1) Passengers and crewmembers of United Airlines Flight 93 of September 11, 2001, courageously gave their lives, thereby thwarting a planned attack on our Nation's Capital.

(2) In the months since the historic events of September 11, thousands of people have visited the Flight 93 site, drawn by the heroic action and sacrifice of the passengers and crew aboard Flight 93.

(3) Many are profoundly concerned about the future disposition of the crash site, including grieving families of the passengers and crew, the people of the region who are the current stewards of the site, and a broad spectrum of citizens across the United States. Many of these people are forming the Flight 93 Task Force as a broad, inclusive organization to provide a voice for all interested and concerned parties.

(4) The crash site commemorates Flight 93 and is a profound symbol of American patriotism and spontaneous leadership of citizen-heroes. The determination of appropriate recognition at the crash site of Flight 93 will be a slowly unfolding process in order to address the interests and concerns of all interested parties. Appropriate national assistance and recognition must give ample opportunity for those involved to voice these broad concerns.

(5) It is appropriate that the crash site of Flight 93 be designated a unit of the National Park System.

(b) **PURPOSES.**—The purposes of this Act are as follows:

(1) To establish a national memorial to honor the passengers and crew of United Airlines Flight 93 of September 11, 2001.

(2) To establish the Flight 93 Advisory Commission to assist with consideration and formulation of plans for a permanent memorial to the passengers and crew of Flight 93, including its nature, design, and construction.

(3) To authorize the Secretary of the Interior (hereinafter referred to as the “Secretary”) to coordinate and facilitate the activities of the Flight 93 Advisory Commission, provide technical and financial assistance to the Flight 93 Task Force, and to administer a Flight 93 memorial.

Pennsylvania.

SEC. 3. MEMORIAL TO HONOR THE PASSENGERS AND CREWMEMBERS OF FLIGHT 93.

There is established a memorial at the September 11, 2001, crash site of United Airlines Flight 93 in the Stonycreek Township, Somerset County, Pennsylvania, to honor the passengers and crew of Flight 93.

SEC. 4. FLIGHT 93 ADVISORY COMMISSION.

(a) **ESTABLISHMENT.**—There is established a commission to be known as the “Flight 93 Advisory Commission” (hereafter in this Act referred to as the “Commission”).

(b) **MEMBERSHIP.**—The Commission shall consist of 15 members, including the Director of the National Park Service, or the Director’s designee, and 14 members appointed by the Secretary from recommendations of the Flight 93 Task Force.

(c) **TERM.**—The term of the members of the Commission shall be for the life of the Commission.

(d) **CHAIR.**—The members of the Commission shall select the Chair of the Commission.

(e) **VACANCIES.**—Any vacancy in the Commission shall not affect its powers if a quorum is present, but shall be filled in the same manner as the original appointment.

(f) **MEETINGS.**—The Commission shall meet at the call of the Chairperson or a majority of the members, but not less often than quarterly. Notice of the Commission meetings and agendas for the meetings shall be published in local newspapers in the vicinity of Somerset County and in the Federal Register. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

(g) **QUORUM.**—A majority of the members serving on the Commission shall constitute a quorum for the transaction of any business.

(h) **NO COMPENSATION.**—Members of the Commission shall serve without compensation, but may be reimbursed for expenses incurred in carrying out the duties of the Commission.

(i) **DUTIES.**—The duties of the Commission shall be as follow:

(1) Not later than 3 years after the date of the enactment of this Act, the Commission shall submit to the Secretary and Congress a report containing recommendations for the planning, design, construction, and long-term management of a permanent memorial at the crash site.

(2) The Commission shall advise the Secretary on the boundaries of the memorial site.

(3) The Commission shall advise the Secretary in the development of a management plan for the memorial site.

(4) The Commission shall consult and coordinate closely with the Flight 93 Task Force, the Commonwealth of Pennsylvania, and other interested parties, as appropriate, to support and not supplant the efforts of the Flight 93 Task Force on and before the date of the enactment of this Act to commemorate Flight 93.

Notice.
Newspapers.
Federal Register,
publication.

Deadline.
Reports.

(5) The Commission shall provide significant opportunities for public participation in the planning and design of the memorial.

(j) POWERS.—The Commission may—

(1) make such expenditures for services and materials for the purpose of carrying out this Act as the Commission considers advisable from funds appropriated or received as gifts for that purpose;

(2) subject to approval by the Secretary, solicit and accept donations of funds and gifts, personal property, supplies, or services from individuals, foundations, corporations, and other private or public entities to be used in connection with the construction or other expenses of the memorial;

(3) hold hearings, enter into contracts for personal services and otherwise;

(4) do such other things as are necessary to carry out this Act; and

(5) by a vote of the majority of the Commission, delegate such of its duties as it determines appropriate to employees of the National Park Service.

(k) TERMINATION.—The Commission shall terminate upon dedication of the completed memorial.

SEC. 5. DUTIES OF THE SECRETARY.

The Secretary is authorized to—

(1) provide assistance to the Commission, including advice on collections, storage, and archives;

(2) consult and assist the Commission in providing information, interpretation, and the conduct of oral history interviews;

(3) provide assistance in conducting public meetings and forums held by the Commission;

(4) provide project management assistance to the Commission for planning, design, and construction activities;

(5) provide programming and design assistance to the Commission for possible memorial exhibits, collections, or activities;

(6) provide staff assistance and support to the Commission and the Flight 93 Task Force;

(7) participate in the formulation of plans for the design of the memorial, to accept funds raised by the Commission for construction of the memorial, and to construct the memorial;

(8) acquire from willing sellers the land or interests in land for the memorial site by donation, purchase with donated or appropriated funds, or exchange; and

(9) to administer the Flight 93 memorial as a unit of the National Park System in accordance with this Act and with the laws generally applicable to units of the National Park System such as the Act of August 25, 1916 (39 Stat. 585).

SEC. 6. CLARIFICATION OF PASSENGERS AND CREW.

For the purposes of this Act, the terrorists on United Airlines Flight 93 on September 11, 2001, shall not be considered passengers or crew of that flight.

Approved September 24, 2002.

LEGISLATIVE HISTORY—H.R. 3917:

HOUSE REPORTS: No. 107-597 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 22, considered and passed House.

Sept. 10, considered and passed Senate.



Public Law 107–227
107th Congress

An Act

To designate the facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, as the “Thomas E. Burnett, Jr. Post Office Building”.

Sept. 24, 2002
[H.R. 5207]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 6101 West Old Shakopee Road in Bloomington, Minnesota, shall be known and designated as the “Thomas E. Burnett, Jr. Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Thomas E. Burnett, Jr. Post Office Building”.

Approved September 24, 2002.

LEGISLATIVE HISTORY—H.R. 5207:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 4, considered and passed House.

Sept. 5, considered and passed Senate.



Public Law 107–228
107th Congress

An Act

Sept. 30, 2002
[H.R. 1646]

To authorize appropriations for the Department of State for fiscal year 2003, to authorize appropriations under the Arms Export Control Act and the Foreign Assistance Act of 1961 for security assistance for fiscal year 2003, and for other purposes.

Foreign Relations
Authorization
Act, Fiscal Year
2003.
22 USC 2651
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Foreign Relations Authorization Act, Fiscal Year 2003”.

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into two divisions as follows:

(1) DIVISION A.—Department of State Authorization Act, Fiscal Year 2003.

(2) DIVISION B.—Security Assistance Act of 2002.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Organization of Act into divisions; table of contents.

Sec. 3. Definitions.

DIVISION A—DEPARTMENT OF STATE AUTHORIZATION ACT, FISCAL YEAR
2003

Sec. 101. Short title.

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

Subtitle A—Department of State

Sec. 111. Administration of foreign affairs.

Sec. 112. United States educational, cultural, and public diplomacy programs.

Sec. 113. Contributions to international organizations.

Sec. 114. International Commissions.

Sec. 115. Migration and refugee assistance.

Sec. 116. Grants to The Asia Foundation.

Subtitle B—United States International Broadcasting Activities

Sec. 121. Authorizations of appropriations.

TITLE II—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

Sec. 201. Emergency evacuation services.

Sec. 202. Special agent authorities.

Sec. 203. International Litigation Fund.

Sec. 204. State Department records of overseas deaths of United States citizens from nonnatural causes.

Sec. 205. Foreign Relations Historical Series.

- Sec. 206. Expansion of eligibility for award of certain construction contracts.
- Sec. 207. International Chancery Center.
- Sec. 208. Travel to Great Lakes fisheries meetings.
- Sec. 209. Correction of Fishermen's Protective Act of 1967.
- Sec. 210. Use of funds received by the International Boundary and Water Commission.
- Sec. 211. Fee collections relating to intercountry adoptions and affidavits of support.
- Sec. 212. Annual reports on compliance with The Hague Convention on the Civil Aspects of International Child Abduction.
- Sec. 213. Repeal of provision regarding housing for Foreign Agricultural Attaches.
- Sec. 214. United States policy with respect to Jerusalem as the capital of Israel.
- Sec. 215. Report concerning efforts to promote Israel's diplomatic relations with other countries.
- Sec. 216. Continuation of reporting requirements.

Subtitle B—Educational, Cultural, and Public Diplomacy Authorities

- Sec. 221. Fulbright-Hays Act authorities.
- Sec. 222. Extension of requirement for scholarships for Tibetans and Burmese.
- Sec. 223. Plan for achievement of public diplomacy objectives.
- Sec. 224. Advisory Committee on Cultural Diplomacy.
- Sec. 225. Allocation of funds for "American Corners" in the Russian Federation.
- Sec. 226. Report relating to Commission on Security and Cooperation in Europe.
- Sec. 227. Amendments to the Vietnam Education Foundation Act of 2000.
- Sec. 228. Ethical issues in international health research.
- Sec. 229. Conforming amendments.

Subtitle C—Consular Authorities

- Sec. 231. Report on visa issuance to inadmissible aliens.
- Sec. 232. Denial of entry into United States of Chinese and other nationals engaged in coerced organ or bodily tissue transplantation.
- Sec. 233. Processing of visa applications.
- Sec. 234. Machine readable visas.

Subtitle D—Migration and Refugees

- Sec. 241. Prohibition on funding the involuntary return of refugees.
- Sec. 242. United States membership in the International Organization for Migration.
- Sec. 243. Report on overseas refugee processing.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

Subtitle A—Organizational Matters

- Sec. 301. Comprehensive workforce plan.
- Sec. 302. "Rightsizing" overseas posts.
- Sec. 303. Qualifications of certain officers of the Department of State.

Subtitle B—Personnel Matters

- Sec. 311. Thomas Jefferson Star for Foreign Service.
- Sec. 312. Presidential rank awards.
- Sec. 313. Foreign Service National Savings Fund.
- Sec. 314. Clarification of separation for cause.
- Sec. 315. Dependents on family visitation travel.
- Sec. 316. Health education and disease prevention programs.
- Sec. 317. Correction of time limitation for grievance filing.
- Sec. 318. Training authorities.
- Sec. 319. Unaccompanied air baggage.
- Sec. 320. Emergency medical advance payments.
- Sec. 321. Retirement credit for certain Government service performed abroad.
- Sec. 322. Computation of Foreign Service retirement annuities as if Washington, D.C., locality-based comparability payments were made to overseas-stationed Foreign Service members.
- Sec. 323. Plan for improving recruitment of veterans into the Foreign Service.
- Sec. 324. Report concerning minority employment.
- Sec. 325. Use of funds authorized for minority recruitment.
- Sec. 326. Assignments and details of personnel to the American Institute in Taiwan.
- Sec. 327. Annual reports on foreign language competence.
- Sec. 328. Travel of children of members of the Foreign Service assigned abroad.

TITLE IV—INTERNATIONAL ORGANIZATIONS

- Sec. 401. Payment of third installment of arrearages.
- Sec. 402. Limitation on the United States share of assessments for United Nations peacekeeping operations in calendar years 2001 through 2004.
- Sec. 403. Limitation on the United States share of assessments for United Nations regular budget.
- Sec. 404. Promotion of sound financial practices by the United Nations.
- Sec. 405. Reports to Congress on United Nations activities.
- Sec. 406. Use of secret ballots within the United Nations.
- Sec. 407. Sense of Congress relating to membership of the United States in UNESCO.
- Sec. 408. United States membership on the United Nations Commission on Human Rights and International Narcotics Control Board.
- Sec. 409. Plan for enhanced Department of State efforts to place United States citizens in positions of employment in the United Nations and its specialized agencies.

TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

- Sec. 501. Modification of limitation on grant amounts to RFE/RL, Incorporated.
- Sec. 502. Pay parity for senior executives of RFE/RL, Incorporated.
- Sec. 503. Authority to contract for local broadcasting services outside the United States.
- Sec. 504. Personal services contracting pilot program.
- Sec. 505. Travel by Voice of America correspondents.
- Sec. 506. Report on broadcasting personnel.
- Sec. 507. Conforming amendments.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Middle East Peace Commitments Act of 2002

- Sec. 601. Short title.
- Sec. 602. Findings.
- Sec. 603. Reports.
- Sec. 604. Imposition of sanctions.

Subtitle B—Tibet Policy

- Sec. 611. Short title.
- Sec. 612. Statement of purpose.
- Sec. 613. Tibet negotiations.
- Sec. 614. Reporting on Tibet.
- Sec. 615. Congressional-Executive Commission on the People's Republic of China.
- Sec. 616. Economic development in Tibet.
- Sec. 617. Release of prisoners and access to prisons.
- Sec. 618. Establishment of a United States branch office in Lhasa, Tibet.
- Sec. 619. Requirement for Tibetan language training.
- Sec. 620. Religious persecution in Tibet.
- Sec. 621. United States Special Coordinator for Tibetan Issues.

Subtitle C—East Timor Transition to Independence Act of 2002

- Sec. 631. Short title.
- Sec. 632. Bilateral assistance.
- Sec. 633. Multilateral assistance.
- Sec. 634. Trade and investment assistance.
- Sec. 635. Generalized System of Preferences.
- Sec. 636. Authority for radio broadcasting.
- Sec. 637. Security assistance for East Timor.
- Sec. 638. Reporting requirement.

Subtitle D—Clean Water for the Americas Partnership

- Sec. 641. Short title.
- Sec. 642. Definitions.
- Sec. 643. Establishment of program.
- Sec. 644. Environmental assessment.
- Sec. 645. Establishment of Technology America Centers.
- Sec. 646. Promotion of water quality, water treatment systems, and energy efficiency.
- Sec. 647. Grants for prefeasibility studies within a designated subregion.
- Sec. 648. Clean Water Technical Support Committee.
- Sec. 649. Authorization of appropriations.
- Sec. 650. Report.

- Sec. 651. Termination date.
- Sec. 652. Effective date.

Subtitle E—Freedom Investment Act of 2002

- Sec. 661. Short title.
- Sec. 662. Purposes.
- Sec. 663. Human rights activities at the Department of State.
- Sec. 664. Human Rights and Democracy Fund.
- Sec. 665. Reports on actions taken by the United States to encourage respect for human rights.

Subtitle F—Elimination and Streamlining of Reporting Requirements

- Sec. 671. Elimination of certain reporting requirements.
- Sec. 672. Biennial reports on programs to encourage good governance.

Subtitle G—Other Matters

- Sec. 681. Amendments to the International Religious Freedom Act of 1998.
- Sec. 682. Amendments to the Victims of Trafficking and Violence Protection Act of 2000.
- Sec. 683. Annual human rights country reports on child soldiers.
- Sec. 684. Extension of authority for Caucus on International Narcotics Control.
- Sec. 685. Participation of South Asian countries in international law enforcement.
- Sec. 686. Payment of anti-terrorism judgments.
- Sec. 687. Reports on participation by small businesses in procurement contracts of USAID.
- Sec. 688. Program to improve building construction and practices in Latin American countries.
- Sec. 689. Sense of Congress relating to HIV/AIDS and United Nations peace-keeping operations.
- Sec. 690. Sense of Congress relating to Magen David Adom Society.
- Sec. 691. Sense of Congress regarding the location of Peace Corps offices abroad.
- Sec. 692. Sense of Congress relating to resolution of the Taiwan Strait issue.
- Sec. 693. Sense of Congress relating to display of the American flag at the American Institute in Taiwan.
- Sec. 694. Reports on activities in Colombia.
- Sec. 695. Report on United States-sponsored activities in Colombia.
- Sec. 696. Report on extradition policy and practice.
- Sec. 697. Special Court for Sierra Leone.
- Sec. 698. United States Envoy for Peace in Sudan.
- Sec. 699. Transfer of proscribed weapons to persons or entities in the West Bank and Gaza.
- Sec. 700. Sense of Congress relating to arsenic contamination in drinking water in Bangladesh.
- Sec. 701. Policing reform and human rights in Northern Ireland.
- Sec. 702. Annual reports on United States-Vietnam human rights dialogue meetings.
- Sec. 703. Sense of Congress regarding human rights violations in Indonesia.
- Sec. 704. Report concerning the German Foundation “Remembrance, Responsibility, and the Future”.
- Sec. 705. Sense of Congress on return of portraits of holocaust victims to the artist Dina Babbitt.
- Sec. 706. International drug control certification procedures.

DIVISION B—SECURITY ASSISTANCE ACT OF 2002

TITLE X—GENERAL PROVISIONS

- Sec. 1001. Short title.
- Sec. 1002. Definitions.

TITLE XI—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS

- Sec. 1101. Verification and Compliance Bureau personnel.
- Sec. 1102. Key Verification Assets Fund.
- Sec. 1103. Revised verification and compliance reporting requirements.

TITLE XII—MILITARY AND RELATED ASSISTANCE

Subtitle A—Foreign Military Sales and Financing Authorities

- Sec. 1201. Authorization of appropriations.
- Sec. 1202. Relationship of Foreign Military Sales to United States nonproliferation interests.

- Sec. 1203. Official reception and representation expenses.
- Sec. 1204. Arms Export Control Act prohibition on transactions with countries that have repeatedly provided support for acts of international terrorism.
- Sec. 1205. Congressional notification of small arms and light weapons license approvals; reports.
- Sec. 1206. Treatment of Taiwan relating to transfers of defense articles and defense services.

Subtitle B—International Military Education and Training

- Sec. 1211. Authorization of appropriations.
- Sec. 1212. Human rights violations.
- Sec. 1213. Participation in post-undergraduate flying training and tactical leadership programs.

Subtitle C—Assistance for Select Countries

- Sec. 1221. Assistance for Israel and Egypt.
- Sec. 1222. Security assistance for Greece and Turkey.
- Sec. 1223. Security assistance for certain other countries.
- Sec. 1224. Assistance for Lebanon.

Subtitle D—Excess Defense Article and Drawdown Authorities

- Sec. 1231. Excess defense articles for certain countries.
- Sec. 1232. Annual listing of possible excess defense articles.
- Sec. 1233. Leases of defense articles for foreign countries and international organizations.
- Sec. 1234. Priority with respect to transfer of excess defense articles.

Subtitle E—Other Political-Military Assistance

- Sec. 1241. Destruction of surplus weapons stockpiles.

Subtitle F—Antiterrorism Assistance

- Sec. 1251. Authorization of appropriations.

Subtitle G—Other Matters

- Sec. 1261. Additions to United States War Reserve Stockpiles for Allies.
- Sec. 1262. Revised military assistance reporting requirements.
- Sec. 1263. Consultation with Congress with regard to Taiwan.

TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

Subtitle A—General Provisions

- Sec. 1301. Authorization of appropriations.
- Sec. 1302. Nonproliferation technology acquisition programs for friendly foreign countries.
- Sec. 1303. International nonproliferation and export control training.
- Sec. 1304. Relocation of scientists.
- Sec. 1305. International Atomic Energy Agency regular budget assessments and voluntary contributions.
- Sec. 1306. Amendments to the Iran Nonproliferation Act of 2000.
- Sec. 1307. Amendments to the North Korea Threat Reduction Act of 1999.
- Sec. 1308. Annual reports on the proliferation of missiles and essential components of nuclear, biological, chemical, and radiological weapons.
- Sec. 1309. Three-year international arms control and nonproliferation strategy.

Subtitle B—Russian Federation Debt Reduction for Nonproliferation

- Sec. 1311. Short title.
- Sec. 1312. Findings and purposes.
- Sec. 1313. Definitions.
- Sec. 1314. Authority to reduce the Russian Federation's Soviet-era debt obligations to the United States.
- Sec. 1315. Russian Federation Nonproliferation Investment Agreement.
- Sec. 1316. Independent media and the rule of law.
- Sec. 1317. Restriction on debt reduction authority.
- Sec. 1318. Discussion of Russian Federation debt reduction for nonproliferation with other creditor states.
- Sec. 1319. Implementation of United States policy.
- Sec. 1320. Consultations with Congress.
- Sec. 1321. Annual reports to Congress.

Subtitle C—Nonproliferation Assistance Coordination

- Sec. 1331. Short title.

- Sec. 1332. Findings.
- Sec. 1333. Definitions.
- Sec. 1334. Establishment of Committee on Nonproliferation Assistance.
- Sec. 1335. Purposes and authority.
- Sec. 1336. Administrative support.
- Sec. 1337. Confidentiality of information.
- Sec. 1338. Statutory construction.
- Sec. 1339. Reporting and consultation.

Subtitle D—Iran Nuclear Proliferation Prevention Act of 2002

- Sec. 1341. Short title.
- Sec. 1342. Withholding of voluntary contributions to the International Atomic Energy Agency for programs and projects in Iran.
- Sec. 1343. Annual review by Secretary of State of programs and projects of the International Atomic Energy Agency; United States opposition to certain programs and projects of the Agency.
- Sec. 1344. Reporting requirements.
- Sec. 1345. Sense of Congress.

TITLE XIV—EXPEDITING THE MUNITIONS LICENSING PROCESS

- Sec. 1401. License officer staffing.
- Sec. 1402. Funding for database automation.
- Sec. 1403. Information management priorities.
- Sec. 1404. Improvements to the Automated Export System.
- Sec. 1405. Adjustment of threshold amounts for congressional review purposes.
- Sec. 1406. Congressional notification of removal of items from the Munitions List.

TITLE XV—NATIONAL SECURITY ASSISTANCE STRATEGY

- Sec. 1501. Briefing on the strategy.
- Sec. 1502. Security assistance surveys.

TITLE XVI—MISCELLANEOUS PROVISIONS

- Sec. 1601. Nuclear and missile nonproliferation in South Asia.
- Sec. 1602. Real-time public availability of raw seismological data.
- Sec. 1603. Detailing United States governmental personnel to international arms control and nonproliferation organizations.
- Sec. 1604. Diplomatic presence overseas.
- Sec. 1605. Compliance with the Chemical Weapons Convention.

TITLE XVII—AUTHORITY TO TRANSFER NAVAL VESSELS

- Sec. 1701. Authority to transfer naval vessels to certain foreign countries.

SEC. 3. DEFINITIONS.

22 USC 2651
note.

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(2) **DEPARTMENT.**—The term “Department” means the Department of State.

(3) **SECRETARY.**—Except as otherwise provided, the term “Secretary” means the Secretary of State.

**DIVISION A—DEPARTMENT OF STATE
AUTHORIZATION ACT, FISCAL YEAR
2003**

Department of
State
Authorization
Act, Fiscal Year
2003.

SEC. 101. SHORT TITLE.

22 USC 2651
note.

This division may be cited as the “Department of State Authorization Act, Fiscal Year 2003”.

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

Subtitle A—Department of State

SEC. 111. ADMINISTRATION OF FOREIGN AFFAIRS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated for the Department under “Administration of Foreign Affairs” to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States, and for other purposes authorized by law, including public diplomacy activities and the diplomatic security program:

(1) DIPLOMATIC AND CONSULAR PROGRAMS.—

(A) AUTHORIZATION OF APPROPRIATIONS.—For “Diplomatic and Consular Programs”, \$4,030,023,000 for the fiscal year 2003.

(B) WORLDWIDE SECURITY UPGRADES.—Of the amount authorized to be appropriated by subparagraph (A), \$564,000,000 for the fiscal year 2003 is authorized to be appropriated for worldwide security upgrades.

(C) BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR.—Of the amount authorized to be appropriated by subparagraph (A), \$20,000,000 for the fiscal year 2003 is authorized to be appropriated for salaries and expenses of the Bureau of Democracy, Human Rights, and Labor.

(D) RECRUITMENT OF MINORITY GROUPS.—Of the amount authorized to be appropriated by subparagraph (A), \$2,000,000 for the fiscal year 2003 is authorized to be appropriated for the recruitment of members of minority groups for careers in the Foreign Service and international affairs.

(2) CAPITAL INVESTMENT FUND.—For “Capital Investment Fund”, \$200,000,000 for the fiscal year 2003.

(3) EMBASSY SECURITY, CONSTRUCTION AND MAINTENANCE.—

(A) IN GENERAL.—For “Embassy Security, Construction and Maintenance”, \$555,000,000 for the fiscal year 2003, in addition to amounts otherwise authorized to be appropriated for such purpose by section 604 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A-470).

(B) AMENDMENT OF THE NANCE-DONOVAN FOREIGN RELATIONS AUTHORIZATION ACT.—Section 604(a)(4) of that Act (113 Stat. 1501A-453) is amended by striking “\$900,000,000” and inserting “\$1,000,000,000”.

(4) REPRESENTATION ALLOWANCES.—For “Representation Allowances”, \$9,000,000 for the fiscal year 2003.

(5) PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—For “Protection of Foreign Missions and Officials”, \$11,000,000 for the fiscal year 2003.

(6) EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE.—For “Emergencies in the Diplomatic and Consular Service”, \$15,000,000 for the fiscal year 2003.

(7) REPATRIATION LOANS.—For “Repatriation Loans”, \$1,250,000 for the fiscal year 2003.

(8) PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN.—For “Payment to the American Institute in Taiwan”, \$18,817,000 for the fiscal year 2003.

(9) OFFICE OF THE INSPECTOR GENERAL.—For “Office of the Inspector General”, \$30,800,000 for the fiscal year 2003.

(b) AVAILABILITY OF FUNDS FOR PROTECTION OF FOREIGN MISSIONS AND OFFICIALS.—The amount appropriated pursuant to subsection (a)(5) is authorized to remain available through September 30, 2004.

SEC. 112. UNITED STATES EDUCATIONAL, CULTURAL, AND PUBLIC DIPLOMACY PROGRAMS.

The following amounts are authorized to be appropriated for the Department to carry out public diplomacy programs of the Department under the United States Information and Educational Exchange Act of 1948, the Mutual Educational and Cultural Exchange Act of 1961, Reorganization Plan Number 2 of 1977, the Foreign Affairs Reform and Restructuring Act of 1998, the Center for Cultural and Technical Interchange Between East and West Act of 1960, the Dante B. Fascell North-South Center Act of 1991, and the National Endowment for Democracy Act, and to carry out other authorities in law consistent with such purposes:

(1) EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(A) FULBRIGHT ACADEMIC EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For the “Fulbright Academic Exchange Programs” (other than programs described in subparagraph (B)), \$135,000,000 for the fiscal year 2003.

(ii) VIETNAM FULBRIGHT ACADEMIC EXCHANGE PROGRAM.—Of the amount authorized to be appropriated by clause (i), \$5,000,000 for the fiscal year 2003 is authorized to be available to carry out the Vietnam scholarship program established by section 229 of the Foreign Relations Authorization Act, Fiscal Years 1992 and 1993 (Public Law 102-138).

(iii) NEW CENTURY SCHOLARS INITIATIVE—HIV/AIDS.—Of the amount authorized to be appropriated under clause (i), \$1,000,000 for the fiscal year 2003 is authorized to be available for HIV/AIDS research and mitigation strategies under the Health Issues in a Border-Less World academic program of the New Century Scholars Initiative.

(B) OTHER EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS.—

(i) IN GENERAL.—For other educational and cultural exchange programs authorized by law, \$125,000,000 for the fiscal year 2003.

(ii) TIBETAN EXCHANGES.—Of the amount authorized to be appropriated by clause (i), \$500,000 for the fiscal year 2003 is authorized to be available for “Ngawang Choephel Exchange Programs” (formerly known as “programs of educational and cultural

exchange between the United States and the people of Tibet”) under section 103(a) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104-319).

(iii) EAST TIMORESE SCHOLARSHIPS.—Of the amount authorized to be appropriated by clause (i), \$500,000 for the fiscal year 2003 is authorized to be available for “East Timorese Scholarships”.

(iv) MONTENEGRO PARLIAMENTARY DEVELOPMENT.—Of the amount authorized to be appropriated by clause (i), \$500,000 for the fiscal year 2003 is authorized to be available for a program of parliamentary development and exchanges in Montenegro.

(v) SOUTH PACIFIC EXCHANGES.—Of the amount authorized to be appropriated under clause (i), \$750,000 for the fiscal year 2003 is authorized to be available for “South Pacific Exchanges”.

(vi) ISRAEL-ARAB PEACE PARTNERS PROGRAM.—Of the amount authorized to be appropriated under clause (i), \$750,000 for the fiscal year 2003 is authorized to be available for people-to-people activities (with a focus on young people) to support the Middle East peace process involving participants from Israel, the Palestinian Authority, Arab countries, and the United States, to be known as the “Israel-Arab Peace Partners Program”.

(vii) SUDANESE SCHOLARSHIPS.—Of the amount authorized to be appropriated under clause (i), \$500,000 for the fiscal year 2003 is authorized to be available for scholarships for students from southern Sudan for secondary or postsecondary education in the United States, to be known as “Sudanese Scholarships”.

(2) NATIONAL ENDOWMENT FOR DEMOCRACY.—

(A) IN GENERAL.—For the “National Endowment for Democracy”, \$42,000,000 for the fiscal year 2003.

(B) REAGAN-FASCELL DEMOCRACY FELLOWS.—Of the amount authorized to be appropriated under subparagraph (A), \$1,000,000 for the fiscal year 2003 is authorized to be available for a fellowship program known as the “Reagan-Fascell Democracy Fellows”, for democracy activists and scholars from around the world at the International Forum for Democratic Studies in Washington, D.C., to study, write, and exchange views with other activists and scholars and with Americans.

(3) CENTER FOR CULTURAL AND TECHNICAL INTERCHANGE BETWEEN EAST AND WEST.—For the “Center for Cultural and Technical Interchange between East and West”, \$15,000,000 for the fiscal year 2003.

(4) DANTE B. FASCELL NORTH-SOUTH CENTER.—For the “Dante B. Fascell North-South Center”, \$2,500,000 for the fiscal year 2003.

SEC. 113. CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.

(a) ASSESSED CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS.—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated under the heading “Contributions to International Organizations” \$891,378,000 for the fiscal year 2003 for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international organizations and to carry out other authorities in law consistent with such purposes.

(2) **AVAILABILITY OF FUNDS FOR CIVIL BUDGET OF NATO.**—Of the amount authorized to be appropriated under the heading “Contributions to International Organizations” for fiscal year 2003, and for each fiscal year thereafter, such sums as may be necessary are authorized for the United States assessment for the civil budget of the North Atlantic Treaty Organization.

(b) **CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES.**—There is authorized to be appropriated under the heading “Contributions for International Peacekeeping Activities” \$725,981,000 for the fiscal year 2003 for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international peacekeeping activities and to carry out other authorities in law consistent with such purposes.

(c) **PROHIBITION ON FUNDING OTHER FRAMEWORK TREATY-BASED ORGANIZATIONS.**—None of the funds made available for the 2002–2003 biennium budget under subsection (a) for United States contributions to the regular budget of the United Nations may be available for the United States proportionate share of any framework treaty-based organization, including the Framework Convention on Global Climate Change, the International Seabed Authority, and the International Criminal Court.

(d) **FOREIGN CURRENCY EXCHANGE RATES.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to the amount authorized to be appropriated by subsection (a), there is authorized to be appropriated such sums as may be necessary for the fiscal year 2003 to offset adverse fluctuations in foreign currency exchange rates.

(2) **AVAILABILITY OF FUNDS.**—Amounts appropriated under this subsection may be available for obligation and expenditure only to the extent that the Director of the Office of Management and Budget determines and certifies to the appropriate congressional committees that such amounts are necessary due to such fluctuations.

(e) **REFUND OF EXCESS CONTRIBUTIONS.**—The United States shall continue to insist that the United Nations and its specialized and affiliated agencies shall credit or refund to each member of the organization or agency concerned its proportionate share of the amount by which the total contributions to the organization or agency exceed the expenditures of the regular assessed budget of the organization or agency.

22 USC 287e
note.

SEC. 114. INTERNATIONAL COMMISSIONS.

The following amounts are authorized to be appropriated under “International Commissions” for the Department to carry out the authorities, functions, duties, and responsibilities in the conduct of the foreign affairs of the United States with respect to international commissions, and for other purposes authorized by law:

(1) INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO.—For “International Boundary and Water Commission, United States and Mexico”—

(A) for “Salaries and Expenses”, \$28,387,000 for the fiscal year 2003; and

(B) for “Construction”, \$9,517,000 for the fiscal year 2003.

(2) INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND CANADA.—For “International Boundary Commission, United States and Canada”, \$1,157,000 for the fiscal year 2003.

(3) INTERNATIONAL JOINT COMMISSION.—For “International Joint Commission”, \$7,544,000 for the fiscal year 2003.

(4) INTERNATIONAL FISHERIES COMMISSIONS.—For “International Fisheries Commissions”, \$19,780,000 for the fiscal year 2003.

SEC. 115. MIGRATION AND REFUGEE ASSISTANCE.

(a) IN GENERAL.—There is authorized to be appropriated for the Department for “Migration and Refugee Assistance” for authorized activities, \$820,000,000 for the fiscal year 2003.

(b) REFUGEES RESETTLING IN ISRAEL.—Of the amount authorized to be appropriated by subsection (a), \$60,000,000 is authorized to be available for the fiscal year 2003 for the resettlement of refugees in Israel.

(c) TIBETAN REFUGEES IN INDIA AND NEPAL.—Of the amount authorized to be appropriated by subsection (a), \$2,000,000 for the fiscal year 2003 is authorized to be available for humanitarian assistance, including food, medicine, clothing, and medical and vocational training, to Tibetan refugees in India and Nepal who have fled Chinese-occupied Tibet.

(d) HUMANITARIAN ASSISTANCE FOR DISPLACED BURMESE.—Of the amount authorized to be appropriated by subsection (a), \$2,000,000 for the fiscal year 2003 is authorized to be available for humanitarian assistance (including food, medicine, clothing, and medical and vocational training) to persons displaced as a result of civil conflict in Burma, including persons still within Burma.

(e) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to this section are authorized to remain available until expended.

SEC. 116. GRANTS TO THE ASIA FOUNDATION.

Section 404 of The Asia Foundation Act (title IV of Public Law 98-164; 22 U.S.C. 4403) is amended to read as follows:

“SEC. 404. There is authorized to be appropriated to the Secretary of State \$15,000,000 for the fiscal year 2003 for grants to The Asia Foundation pursuant to this title.”.

Subtitle B—United States International Broadcasting Activities

SEC. 121. AUTHORIZATIONS OF APPROPRIATIONS.

(a) IN GENERAL.—The following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948, the United States International Broadcasting Act of 1994, the Radio Broadcasting to Cuba Act, the Television Broadcasting to Cuba Act, and the Foreign Affairs

Reform and Restructuring Act of 1998, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—

(A) IN GENERAL.—For “International Broadcasting Operations”, \$485,823,000 for the fiscal year 2003.

(B) ALLOCATION OF FUNDS.—Of the amount authorized to be appropriated by subparagraph (A) for the fiscal year 2003, there is authorized to be available for Radio Free Asia \$35,000,000 for the fiscal year 2003.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For “Broadcasting Capital Improvements”, \$13,740,000 for the fiscal year 2003.

(3) BROADCASTING TO CUBA.—For “Broadcasting to Cuba”, \$25,923,000 for the fiscal year 2003.

(b) CONTINUATION OF ADDITIONAL AUTHORIZATION FOR BROADCASTING TO THE PEOPLE’S REPUBLIC OF CHINA AND NEIGHBORING COUNTRIES.—Section 701 of Public Law 106-286 (22 U.S.C. 7001) is amended—

(1) in subsection (a) by striking “2001” and inserting “2003”; and

(2) in subsection (b)(1), by striking “2001 and 2002” and inserting “2001, 2002, and 2003”.

(c) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR MIDDLE EAST RADIO NETWORK OF VOICE OF AMERICA.—In addition to such amounts as are made available for the Middle East Radio Network of Voice of America pursuant to the authorization of appropriations under subsection (a), there is authorized to be appropriated \$20,000,000 for the fiscal year 2003 for the Middle East Radio Network of Voice of America.

TITLE II—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES

Subtitle A—Basic Authorities and Activities

SEC. 201. EMERGENCY EVACUATION SERVICES.

Section 4(b)(2)(A) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2671(b)(2)(A)) is amended to read as follows:

“(A) the evacuation when their lives are endangered by war, civil unrest, or natural disaster of—

“(i) United States Government employees and their dependents; and

“(ii) private United States citizens or third-country nationals, on a reimbursable basis to the maximum extent practicable, with such reimbursements to be credited to the applicable Department of State appropriation and to remain available until expended, except that no reimbursement under this clause shall be paid that is greater than the amount the person evacuated would have been charged for a reasonable commercial air fare immediately prior to the events giving rise to the evacuation;”.

SEC. 202. SPECIAL AGENT AUTHORITIES.

(a) **GENERAL AUTHORITY.**—Section 37(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(a)) is amended—

(1) by amending paragraph (2) to read as follows:

“(2) obtain and execute search and arrest warrants, as well as obtain and serve subpoenas and summonses issued under the authority of the United States;”;

(2) in paragraph (3)(F), by inserting “or President-elect” after “President”; and

(3) by amending paragraph (5) to read as follows:

“(5) make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.”.

(b) **AGREEMENTS.**—Section 37(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2709(b)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by striking “(b) AGREEMENT.—” and all that follows through the end of paragraph (1) and inserting the following:

“(b) **AGREEMENTS WITH ATTORNEY GENERAL AND SECRETARY OF THE TREASURY AND FIREARMS REGULATIONS.**—

“(1) **AGREEMENT WITH ATTORNEY GENERAL.**—The authority conferred by paragraphs (1) and (4) of subsection (a) shall be exercised subject to an agreement between the Secretary and the Attorney General.

“(2) **AGREEMENT WITH ATTORNEY GENERAL AND SECRETARY OF THE TREASURY.**—The authority conferred by paragraphs (2) and (5) of subsection (a) shall be exercised subject to an agreement among the Secretary, the Attorney General, and the Secretary of the Treasury.”.

22 USC 2709
note.

(c) **IMPLEMENTATION OF SEARCH, SEIZURE, SERVICE, AND ARREST AUTHORITY.**—(1) The authority conferred by paragraphs (2) and (5) of section 37(a) of the State Department Basic Authorities Act of 1956, as amended by subsection (a), may not be exercised until the date on which the Secretary—

(A) submits the agreement required by subsection (b)(2) of section 37 of such Act to the appropriate congressional committees; and

Federal Register,
publication.

(B) publishes in the Federal Register a notice that the agreement has been submitted in accordance with the requirements of subparagraph (A).

(2) The authority conferred by paragraphs (2) and (5) of subsection (a) of section 37 of the State Department Basic Authorities Act of 1956, as in effect on the day before the date of the enactment of this Act, may continue to be exercised until the date on which the notice described in paragraph (1)(B) is published in the Federal Register.

SEC. 203. INTERNATIONAL LITIGATION FUND.

Section 38 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2710) is amended by adding at the end the following new subsection:

“(e) **RETENTION OF FUNDS.**—

“(1) **IN GENERAL.**—To reimburse the expenses of the United States Government in preparing or prosecuting a proceeding before an international tribunal, or a claim against a foreign

government or other foreign entity, the Secretary may retain 1.5 percent of any amount between \$100,000 and \$5,000,000, and one percent of any amount over \$5,000,000, received per claim under chapter 34 of the Act of February 27, 1896 (22 U.S.C. 2668a; 29 Stat. 32).

“(2) TREATMENT.—Amounts retained under the authority of paragraph (1) shall be deposited into the fund under subsection (d).”.

SEC. 204. STATE DEPARTMENT RECORDS OF OVERSEAS DEATHS OF UNITED STATES CITIZENS FROM NONNATURAL CAUSES.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.) is amended by adding at the end the following new section:

“SEC. 57. STATE DEPARTMENT RECORDS OF OVERSEAS DEATHS OF UNITED STATES CITIZENS FROM NONNATURAL CAUSES.

22 USC 2729.

“(a) COLLECTION OF INFORMATION.—The Secretary shall, to the maximum extent practicable, collect, with respect to each foreign country, the following information with respect to each United States citizen who dies in that country from a nonnatural cause on or after the date of enactment of the Foreign Relations Authorization Act, Fiscal Year 2003:

“(1) The date of death.

“(2) The locality where the death occurred (including the state or province and municipality, if available).

“(3) The cause of death, including information on the circumstances of the death, and including, if the death resulted from an act of terrorism, a statement disclosing that information.

“(4) Such other information as the Secretary shall prescribe.

“(b) DATABASE.—The Secretary shall establish and maintain a database containing the information collected under subsection (a).

“(c) PUBLIC AVAILABILITY OF INFORMATION.—Beginning three months after the date of enactment of the Foreign Relations Authorization Act, Fiscal Year 2003, the Secretary, shall make available, on a country-by-country basis, on the Internet website of the Department’s Bureau of Consular Affairs, the information from the database described in subsection (b) with respect to deaths occurring since the date of enactment of that Act, or occurring during the preceding three calendar years, whichever period is shorter. The information shall be updated at least every six months.”.

SEC. 205. FOREIGN RELATIONS HISTORICAL SERIES.

(a) ANNUAL REPORTS BY THE ADVISORY COMMITTEE.—Section 404(d) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4354(d)) is amended—

(1) by striking “REPORTING REQUIREMENT.—” and inserting “ANNUAL REPORTS BY THE ADVISORY COMMITTEE.—”; and

(2) by inserting “and to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives” after “Secretary of State”.

(b) ANNUAL REPORTS BY THE SECRETARY.—Section 404(e) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4354(e)) is amended to read as follows:

Deadline.

“(e) ANNUAL REPORTS BY THE SECRETARY.—

“(1) IN GENERAL.—Not later than March 1 of each year, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives on the compliance of the Department of State with the provisions of this title, including—

“(A) the volumes published in the previous calendar year;

“(B) the degree to which the Department is not in compliance with the deadline set forth in section 401(c); and

“(C) the factors relevant to the inability of the Department to comply with the provisions of this title, including section 401(c).

“(2) FORM OF REPORTS.—Each report required to be submitted by paragraph (1) shall be submitted in unclassified form, together with a classified annex if necessary.”.

SEC. 206. EXPANSION OF ELIGIBILITY FOR AWARD OF CERTAIN CONSTRUCTION CONTRACTS.

(a) IN GENERAL.—Section 11(b)(4)(A) of the Foreign Service Buildings Act, 1926 (22 U.S.C. 302(b)(4)(A)) is amended by inserting “or at a United States diplomatic or consular establishment abroad” after “United States”.

(b) CONFORMING AMENDMENT.—Section 402(c)(2)(D) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4852(c)(2)(D)) is amended by inserting “or at a United States diplomatic or consular establishment abroad” after “United States”.

SEC. 207. INTERNATIONAL CHANCERY CENTER.

82 Stat. 958.

Section 1 of the Act of October 8, 1968 (Public Law 90-553, as amended; commonly known as the “International Center Act”) is amended—

(1) by redesignating clauses (a) and (b) as clauses (1) and (2), respectively;

(2) by inserting “(a)” after “That”; and

(3) by adding at the end the following new subsections:

“(b) There is established in the Treasury of the United States an account into which may be deposited funds provided as advance payments pursuant to subsection (a).

“(c) The Secretary of State may request the Secretary of the Treasury to invest such portion of the funds deposited in that account as is not, in the judgment of the Secretary of State, required to meet the current needs of the account. Such investments shall be made by the Secretary of the Treasury in public debt securities with maturities suitable to the needs of the account, as determined by the Secretary of State, and bearing interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States of comparable maturity.”.

SEC. 208. TRAVEL TO GREAT LAKES FISHERIES MEETINGS.

Section 4(c) of the Great Lakes Fisheries Act of 1956 (16 U.S.C. 933(c)) is amended—

(1) by striking “five” and inserting “ten”; and

(2) by striking “each” and inserting “the annual”.

SEC. 209. CORRECTION OF FISHERMEN'S PROTECTIVE ACT OF 1967.

Section 7(a)(3) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(a)(3)) is amended by striking "Secretary of Commerce" and inserting "Secretary of State".

SEC. 210. USE OF FUNDS RECEIVED BY THE INTERNATIONAL BOUNDARY AND WATER COMMISSION.

Section 5 of the Act entitled "An Act providing for a study regarding the equitable use of the waters of the Rio Grande below Fort Quitman, Texas, in cooperation with the United States of Mexico", approved May 13, 1924 (22 U.S.C. 277d), is amended by inserting ", the North American Development Bank, or the Border Environment Cooperation Commission" after "United Mexican States".

SEC. 211. FEE COLLECTIONS RELATING TO INTERCOUNTRY ADOPTIONS AND AFFIDAVITS OF SUPPORT.

(a) **ADOPTION FEES.**—Section 403(b) of the Intercountry Adoption Act of 2000 (Public Law 106-279) is amended—

42 USC 14943.

(1) in paragraph (2), by adding at the end the following new sentence: "Such fees shall remain available for obligation until expended."; and

(2) by striking paragraph (3).

(b) **AFFIDAVIT OF SUPPORT FEES.**—Section 232 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113 and contained in appendix G of that Act; 113 Stat. 1501A-425) is amended—

8 USC 1183a
note.

(1) in subsection (c), by adding at the end the following new sentence: "Such fees shall remain available for obligation until expended."; and

(2) by striking subsection (d).

SEC. 212. ANNUAL REPORTS ON COMPLIANCE WITH THE HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION.

Section 2803(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as contained in division G of Public Law 105-277; 112 Stat. 2681-846) is amended by striking "during the period ending September 30, 2001".

42 USC 11601
note.

SEC. 213. REPEAL OF PROVISION REGARDING HOUSING FOR FOREIGN AGRICULTURAL ATTACHES.

Section 738 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (as enacted into law by Public Law 106-387; 114 Stat. 1549A-34) is repealed.

7 USC 1765d-1.

SEC. 214. UNITED STATES POLICY WITH RESPECT TO JERUSALEM AS THE CAPITAL OF ISRAEL.

(a) **CONGRESSIONAL STATEMENT OF POLICY.**—The Congress maintains its commitment to relocating the United States Embassy in Israel to Jerusalem and urges the President, pursuant to the Jerusalem Embassy Act of 1995 (Public Law 104-45; 109 Stat. 398), to immediately begin the process of relocating the United States Embassy in Israel to Jerusalem.

(b) **LIMITATION ON USE OF FUNDS FOR CONSULATE IN JERUSALEM.**—None of the funds authorized to be appropriated by this

Act may be expended for the operation of a United States consulate or diplomatic facility in Jerusalem unless such consulate or diplomatic facility is under the supervision of the United States Ambassador to Israel.

(c) **LIMITATION ON USE OF FUNDS FOR PUBLICATIONS.**—None of the funds authorized to be appropriated by this Act may be available for the publication of any official government document which lists countries and their capital cities unless the publication identifies Jerusalem as the capital of Israel.

(d) **RECORD OF PLACE OF BIRTH AS ISRAEL FOR PASSPORT PURPOSES.**—For purposes of the registration of birth, certification of nationality, or issuance of a passport of a United States citizen born in the city of Jerusalem, the Secretary shall, upon the request of the citizen or the citizen's legal guardian, record the place of birth as Israel.

SEC. 215. REPORT CONCERNING EFFORTS TO PROMOTE ISRAEL'S DIPLOMATIC RELATIONS WITH OTHER COUNTRIES.

(a) **FINDINGS.**—The Congress makes the following findings:

(1) Israel is a friend and ally of the United States whose security is vital to regional stability and United States interests.

(2) Israel currently maintains diplomatic relations with approximately 160 countries. Approximately 30 countries do not have any diplomatic relations with Israel.

(3) The State of Israel has been actively seeking to establish formal relations with a number of countries.

(4) The United States should assist its ally, Israel, in its efforts to establish diplomatic relations.

(5) After more than 50 years of existence, Israel deserves to be treated as an equal nation by its neighbors and the world community.

Deadline.

(b) **REPORT CONCERNING UNITED STATES EFFORTS TO PROMOTE ISRAEL'S DIPLOMATIC RELATIONS WITH OTHER COUNTRIES.**—Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees that includes the following information (in classified or unclassified form, as appropriate):

(1) Actions taken by the United States to encourage other countries to establish full diplomatic relations with Israel.

(2) Specific responses solicited and received by the Secretary from countries that do not maintain full diplomatic relations with Israel with respect to the status of negotiations to enter into diplomatic relations with Israel.

(3) Other measures being undertaken, and measures that will be undertaken, by the United States to ensure and promote Israel's full participation in the world diplomatic community.

SEC. 216. CONTINUATION OF REPORTING REQUIREMENTS.

(a) **REPORTS ON CLAIMS BY UNITED STATES FIRMS AGAINST THE GOVERNMENT OF SAUDI ARABIA.**—Section 2801(b)(1) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 105-277) is amended by striking “seventh” and inserting “eleventh”.

22 USC 6091
note.

(b) **REPORTS ON DETERMINATIONS UNDER TITLE IV OF THE LIBERTAD ACT.**—Section 2802(a) of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act,

1999; Public Law 105–277) is amended by striking “September 30, 2001,” and inserting “September 30, 2003,”.

112 Stat.
2681–845.

(c) REPORT ON TERRORIST ACTIVITY IN WHICH UNITED STATES CITIZENS WERE KILLED AND RELATED MATTERS.—Section 805(a) of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (section 805(a) of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106–113; appendix G; 113 Stat. 1501A–470) is amended by striking “Not later” and all that follows through “2001,” and inserting “Not later than May 1, 2003, and not later than May 1, 2004,”.

22 USC 2656f
note.

Subtitle B—Educational, Cultural, and Public Diplomacy Authorities

SEC. 221. FULBRIGHT-HAYS ACT AUTHORITIES.

Section 112(d) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(d)) is amended—

(1) by inserting “(1)” immediately after “(d)”; and

(2) by adding at the end the following:

“(2) Notwithstanding paragraph (1), the Bureau may also exercise the authorities of this Act to administer programs authorized by, or funded pursuant to, the FREEDOM Support Act, the Support for East European Democracy Act, the Foreign Assistance Act of 1961, or any other Act authorizing educational or cultural exchanges or activities, to the extent that such programs are consistent with the purposes of this Act.”.

SEC. 222. EXTENSION OF REQUIREMENT FOR SCHOLARSHIPS FOR TIBETANS AND BURMESE.

Section 103(b)(1) of the Human Rights, Refugee, and Other Foreign Relations Provisions Act of 1996 (Public Law 104–319; 22 U.S.C. 2151 note) is amended by striking “for the fiscal year 2000” and inserting “for the fiscal year 2003”.

22 USC 2452
note.

SEC. 223. PLAN FOR ACHIEVEMENT OF PUBLIC DIPLOMACY OBJECTIVES.

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department designed to achieve the following objectives:

(1) Full integration of public diplomacy policy into overall policy formulation and implementation.

(2) Closer communication and policy coordination between public diplomacy officers and other officers in the regional bureaus of the Department and at overseas posts.

(3) The creation of channels of direct communication between the public diplomacy officers in regional bureaus of the Department and the Under Secretary of State for Public Diplomacy.

(4) Minimizing any adverse consequences of public diplomacy officers in country posts reporting to the regional bureaus of the Department.

22 USC 2451
note.

SEC. 224. ADVISORY COMMITTEE ON CULTURAL DIPLOMACY.

(a) **ESTABLISHMENT.**—There is established an Advisory Committee on Cultural Diplomacy (in this section referred to as the “Advisory Committee”), which shall be composed of nine members, as follows:

(1) The Under Secretary of State for Public Diplomacy, who shall serve as Chair.

(2) The Assistant Secretary of State for Educational and Cultural Affairs.

(3) Seven members appointed pursuant to subsection (c).

(b) **DUTIES.**—The Advisory Committee shall advise the Secretary on programs and policies to advance the use of cultural diplomacy in United States foreign policy. The Advisory Committee shall, in particular, provide advice to the Secretary on—

(1) increasing the presentation abroad of the finest of the creative, visual, and performing arts of the United States; and

(2) strategies for increasing public-private partnerships to sponsor cultural exchange programs that promote the national interests of the United States.

(c) **APPOINTMENTS.**—The members of the Advisory Committee shall be appointed by the Secretary, not more than four of whom shall be from the same political party, from among distinguished Americans with a demonstrated record of achievement in the creative, visual, and performing arts, or international affairs. No officer or employee of the United States shall be appointed to the Advisory Committee.

(d) **VACANCIES.**—A vacancy in the membership of the Advisory Committee shall be filled in the same manner as provided under this subsection to make the original appointment.

(e) **MEETINGS.**—A majority of the members of the Advisory Committee shall constitute a quorum. The Advisory Committee shall meet at least twice each year or as frequently as may be necessary to carry out its duties.

(f) **ADMINISTRATIVE SUPPORT.**—The Secretary is authorized to provide the Advisory Committee with necessary administrative support from among the staff of the Bureau of Educational and Cultural Affairs of the Department.

(g) **COMPENSATION.**—Members of the Advisory Committee shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Advisory Committee.

(h) **EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act shall not apply to the Advisory Committee to the extent that the provisions of this section are inconsistent with that Act.

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Department such sums as may be necessary to carry out this section.

(j) **TERMINATION.**—The Advisory Committee shall terminate September 30, 2005.

SEC. 225. ALLOCATION OF FUNDS FOR “AMERICAN CORNERS” IN THE RUSSIAN FEDERATION.

(a) **FINDING.**—Congress finds that joint ventures with host libraries in the Russian Federation known as “American Corners” are an effective means—

(1) to provide information about United States history, government, society, and values;

(2) to provide access to computers and the Internet; and

(3) to leverage United States assistance and exchange programs in the Russian Federation.

(b) **ALLOCATION OF FUNDS.**—Of the amount authorized to be appropriated by section 112(1)(B) of this Act for the fiscal year 2003, \$500,000 is authorized to be available for “American Corner” centers operating in the Russian Federation.

SEC. 226. REPORT RELATING TO COMMISSION ON SECURITY AND COOPERATION IN EUROPE.

Section 5 of the Act entitled “An Act to establish a Commission on Security and Cooperation in Europe” (22 U.S.C. 3005) is amended to read as follows:

“SEC. 5. In order to assist the Commission in carrying out its duties, the Secretary of State shall submit to the Commission an annual report discussing the overall United States policy objectives that are advanced through meetings of decision-making bodies of the Organization for Security and Cooperation in Europe (OSCE), the OSCE implementation review process, and other activities of the OSCE. The report shall also include a summary of specific United States policy objectives with respect to participating states where there is particular concern relating to the implementation of OSCE commitments or where an OSCE presence exists. Such summary shall address the role played by OSCE institutions, mechanisms, or field activities in achieving United States policy objectives. Each annual report shall cover the period from January 1 to December 31, shall be submitted not more than 90 days after the end of the reporting period, and shall be posted on the Internet website of the Department of State.”.

Deadline.

SEC. 227. AMENDMENTS TO THE VIETNAM EDUCATION FOUNDATION ACT OF 2000.

22 USC 2452
note.

(a) **PURPOSES OF THE ACT.**—Section 202 of the Vietnam Education Foundation Act of 2000 (title II of division B of H.R. 5666, as enacted by section 1(a)(4) of Public Law 106–554 and contained in appendix D of that Act; 114 Stat. 2763A-255) is amended—

(1) in paragraph (1)(A), by inserting “in the United States” after “technology”; and

(2) in paragraph (1)(B), by striking “appropriate Vietnamese institutions” and inserting “academic institutions in Vietnam”.

(b) **ELECTION OF THE CHAIR.**—Section 205(c) of such Act is amended by inserting “voting members of the” after “The”.

(c) **DUTIES OF THE BOARD.**—Section 205(e) of such Act is amended by striking paragraphs (1) and (2) and inserting the following:

“(1) provide overall supervision and direction of the Foundation;

“(2) establish criteria for the eligibility of applicants, including criteria established by section 206(b), and for the selection of fellowship recipients; and

“(3) select the fellowship recipients.”.

(d) TREATMENT OF PRESIDENTIAL APPOINTEES TO THE BOARD OF DIRECTORS.—Section 205 of such Act is amended—

(1) in subsection (f)—

(A) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each member of the Board shall serve without compensation.”; and

(B) by adding at the end the following new paragraph:

“(3) COMPENSATION OF PRESIDENTIAL APPOINTEES.—The members of the Board appointed under subsection (a)(6) shall be paid at the daily equivalent of the rate of basic pay payable for positions at level V of the Executive Schedule under section 5316 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties as a Board member.”; and

(2) by adding at the end the following new subsection:

“(g) TREATMENT OF PRESIDENTIAL APPOINTEES AS SPECIAL GOVERNMENT EMPLOYEES.—The members of the Board appointed under subsection (a)(6) shall be special Government employees, as defined in section 202(a) of title 18, United States Code.”.

(e) TRAVEL REGULATIONS.—Section 205 of such Act, as amended by subsection (d), is further amended by adding at the end the following new subsection:

“(h) TRAVEL REGULATIONS.—Members of the Board shall be subject to the same travel regulations as apply to officers and employees of the Department of State.”.

(f) VACANCIES.—Section 205(b) of such Act is amended by adding at the end the following new paragraph:

“(3)(A) Any member appointed to fill a vacancy prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

“(B) Upon the expiration of his or her term of office, any member may continue to serve until a successor is appointed.”.

(g) ENGLISH PROFICIENCY.—Section 206(a)(2) of such Act is amended to read as follows:

“(2) SCIENTIFIC AND TECHNICAL VOCABULARY IN ENGLISH.—Fellowships awarded to Vietnamese nationals under paragraph (1) may include funding to improve English proficiency in a fellowship recipient’s field of study.”.

(h) SELECTION CRITERIA.—Section 206(b) of such Act is amended—

(1) in paragraph (1), by striking “Vietnamese candidates for fellowships” and inserting “Fellowship candidates from Vietnam”; and

(2) in paragraph (2), by striking “teaching candidates” and inserting “candidates for teaching fellowships”.

(i) ANNUAL REPORT.—Such Act is amended—

(1) in section 207(d), by striking “Board” and inserting “Secretary of the Treasury”; and

(2) in section 209(b)—

(A) by striking “Foundation” and inserting “Board”; and

(B) by striking “its operations under this title” and inserting “the operations of the Foundation under this title, including the financial condition of the Foundation”.

(j) COMPENSATION OF EXECUTIVE DIRECTOR.—Section 208(d) of such Act is amended by striking “level V of the Executive Schedule under section 5316” and inserting “level IV of the Executive Schedule under section 5315”.

(k) CLERICAL CORRECTIONS.—Such Act is amended—

(1) in section 206(d)—

(A) in the subsection heading, by striking “MATCHING” and inserting “COST-SHARING”; and

(B) by striking “matching” and inserting “cost-sharing”;

(2) in section 206(e)—

(A) by striking “proficiency” and inserting “progress”; and

(B) by inserting before the period at the end the following: “and applicable law”;

(3) in section 208(a), by striking “Secretary” and inserting “Director”;

(4) in section 208(d), by striking “title V” and inserting “title 5”; and

(5) in section 209(a)(5), by striking “District of Columbia” and inserting “metropolitan Washington, D.C., area”.

SEC. 228. ETHICAL ISSUES IN INTERNATIONAL HEALTH RESEARCH. 22 USC 2464.

(a) IN GENERAL.—The Secretary shall make available funds for international exchanges to provide opportunities to researchers in developing countries to participate in activities related to ethical issues in human subject research, as described in subsection (c).

(b) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall coordinate programs conducted pursuant to this section with similar programs that may be conducted by the United States Agency for International Development and other Federal agencies as part of United States international health programs, particularly with respect to research and treatment of infectious diseases.

(c) ETHICAL ISSUES IN HUMAN SUBJECT RESEARCH.—For purposes of subsection (a), the phrase “activities related to ethical issues in human subject research” includes courses of study, conferences, and fora on development of and compliance with international ethical standards for clinical trials involving human subjects, particularly with respect to responsibilities of researchers to individuals and local communities participating in such trials, and on management and monitoring of such trials based on such international ethical standards.

SEC. 229. CONFORMING AMENDMENTS.

Section 112(g) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2460(g)) is amended—

(1) in paragraph (1), by striking “United States Information Agency” and inserting “Department of State”;

(2) in paragraph (3)—

(A) in subparagraph (A), by striking “Associate Director for Educational and Cultural Affairs of the United States Information Agency” and inserting “Assistant Secretary of State for Educational and Cultural Affairs”;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraphs (C), (D), (E), (F), and (G) as subparagraphs (B), (C), (D), (E), and (F), respectively;

(3) in paragraph (5), by striking “United States Information Agency” and inserting “Department of State”;

(4) in paragraph (6)(G), by striking “United States Information Agency” and inserting “Department of State”; and

(5) in paragraph (7), by striking “Director of the United States Information Agency” and inserting “Secretary of State, acting through the Under Secretary of State for Public Diplomacy”.

Subtitle C—Consular Authorities

SEC. 231. REPORT ON VISA ISSUANCE TO INADMISSIBLE ALIENS.

Section 51(a) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723(a)) is amended—

(1) by inserting “(1) DENIAL OF VISAS.—” before “The Secretary”; and

(2) by adding at the end the following:

“(2) VISA ISSUANCE TO INADMISSIBLE ALIENS.—The Secretary shall, on a semiannual basis, submit to the appropriate committees of the Congress a report describing every instance during the period covered by the report in which a consular post or the Visa Office of the Department of State issued an immigrant or nonimmigrant visa to an alien who is inadmissible to the United States based upon terrorist activity or failed to object to the issuance of an immigrant or nonimmigrant visa to an alien notwithstanding any such ground of inadmissibility. The report shall set forth the name and nationality of the alien, the issuing post, and a brief factual statement of the basis for issuance of the visa or the failure to object. The report may be submitted in classified or unclassified form.”.

8 USC 1182f.

SEC. 232. DENIAL OF ENTRY INTO UNITED STATES OF CHINESE AND OTHER NATIONALS ENGAGED IN COERCED ORGAN OR BODILY TISSUE TRANSPLANTATION.

(a) DENIAL OF ENTRY.—Notwithstanding any other provision of law and except as provided in subsection (b), the Secretary shall direct consular officers not to issue a visa to any person whom the Secretary finds, based on credible and specific information, to have been directly involved with the coercive transplantation of human organs or bodily tissue, unless the Secretary has substantial grounds for believing that the foreign national has discontinued his or her involvement with, and support for, such practices.

(b) EXCEPTION.—The prohibitions in subsection (a) do not apply to an applicant who is a head of state, head of government, or cabinet-level minister.

(c) WAIVER.—The Secretary may waive the prohibitions in subsection (a) with respect to a foreign national if the Secretary—

(1) determines that it is important to the national interest of the United States to do so; and

(2) not later than 30 days after the issuance of a visa, provides written notification to the appropriate congressional committees containing a justification for the waiver.

Deadline.

SEC. 233. PROCESSING OF VISA APPLICATIONS.

8 USC 1201 note.

(a) **IN GENERAL.**—It shall be the policy of the Department to process each visa application from an alien classified as an immediate relative or as a K-1 nonimmigrant within 30 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service. In the case of an immigrant visa application where the petitioner is a relative other than an immediate relative, it should be the policy of the Department to process such an application within 60 days of the receipt of all necessary documents from the applicant and the Immigration and Naturalization Service.

Deadline.

(b) **DEFINITIONS.**—In this section:

(1) **IMMEDIATE RELATIVE.**—The term “immediate relative” has the meaning given the term in section 201(b)(2)(A)(i) of the Immigration and Nationality Act (8 U.S.C. 1151(b)(2)(A)(i)).

(2) **K-1 NONIMMIGRANT.**—The term “K-1 nonimmigrant” means a nonimmigrant alien described in section 101(a)(15)(K)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(K)(i)).

SEC. 234. MACHINE READABLE VISAS.

Section 140(a) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (8 U.S.C. 1351 note) is amended by adding at the end the following:

“(3) For the fiscal year 2003, any amount that exceeds \$460,000,000 may be made available only if a notification is submitted to Congress in accordance with the procedures applicable to reprogramming notifications under section 34 of the State Department Basic Authorities Act of 1956.”.

Subtitle D—Migration and Refugees

SEC. 241. PROHIBITION ON FUNDING THE INVOLUNTARY RETURN OF REFUGEES.

Title I of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a et seq.), as amended by section 204 of this Act, is further amended by adding at the end the following new section:

“SEC. 58. PROHIBITION ON FUNDING THE INVOLUNTARY RETURN OF REFUGEES.

22 USC 2730.

“(a) **PROHIBITION.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), none of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistance Fund established in section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)), may be available to effect the involuntary return by the United States of any person to a country in which the person has a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion.

“(2) **EXCEPTION.**—The prohibition in paragraph (1) does not apply to the return of any person on grounds recognized as precluding protection as a refugee under the United Nations Convention Relating to the Status of Refugees of July 28, 1951, and the Protocol Relating to the Status of Refugees of January 31, 1967, subject to the reservations contained in

the United States Senate resolution of advice and consent to ratification of the Protocol.

“(b) CONGRESSIONAL NOTIFICATION REQUIRED IN ALL CASES.—None of the funds made available to the Department of State, or the United States Emergency Refugee and Migration Assistance Fund established in section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(c)), may be available to effect the involuntary return by the United States of any person to any country unless the Secretary first notifies the appropriate congressional committees, except that, in the case of an emergency involving a threat to human life, the Secretary shall notify the appropriate congressional committees as soon as practicable.

“(c) STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting activities of the Department of State that relate to removal proceedings under the Immigration and Nationality Act or extradition.

“(d) DEFINITIONS.—In this section:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

“(2) TO EFFECT THE INVOLUNTARY RETURN.—The term ‘to effect the involuntary return’ means to require, by means of physical force or circumstances amounting to a threat thereof, a person to return to a country against the person’s will, regardless of whether the person is physically present in the United States and regardless of whether the United States acts directly or through an agent.”.

SEC. 242. UNITED STATES MEMBERSHIP IN THE INTERNATIONAL ORGANIZATION FOR MIGRATION.

Section 2(a) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601(a)) is amended to read as follows:

“(a)(1) The President is authorized to continue membership for the United States in the International Organization for Migration in accordance with the constitution of such organization approved in Venice, Italy, on October 19, 1953, as amended in Geneva, Switzerland, on November 24, 1998, upon entry into force of such amendments.

“(2) For the purpose of assisting in the movement of refugees and migrants, there are authorized to be appropriated to the President such amounts as may be necessary from time to time for payment by the United States of its contributions to the International Organization for Migration and all necessary salaries and expenses incidental to United States participation in such organization.”.

SEC. 243. REPORT ON OVERSEAS REFUGEE PROCESSING.

(a) REPORT ON OVERSEAS REFUGEE PROCESSING.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report on overseas processing of refugees for admission to the United States.

(b) CONTENTS.—The report shall include the following detailed information:

(1) United States procedures for the identification of refugees who are particularly vulnerable or whose individual circumstances otherwise suggest an urgent need for resettlement,

including the extent to which the Department now insists on referral by the United Nations High Commissioner for Refugees as a prerequisite to consideration of such refugees for resettlement in the United States, together with a plan for the expanded use of alternatives to such referral, including the use of field-based nongovernmental organizations to identify refugees in urgent need of resettlement.

(2) The extent to which the Department makes use in overseas refugee processing of the designation of groups of refugees who are of special concern to the United States, together with the reasons for any decline in such use over the last 10 years and a plan for making more generous use of such categories in the future.

(3) The extent to which the United States currently provides opportunities for resettlement in the United States of individuals who are close family members of citizens or lawful residents of the United States, together with the reasons for any decline in the extent of such provision over the last 10 years and a plan for expansion of such opportunities in the future.

(4) The extent to which opportunities for resettlement in the United States are currently provided to “urban refugees” and others who do not currently reside in refugee camps, together with a plan for increasing such opportunities, particularly for refugees who are in urgent need of resettlement, who are members of refugee groups of special interest to the United States, or who are close family members of United States citizens or lawful residents.

(5) The Department’s assessment of the feasibility and desirability of modifying the Department’s current list of refugee priorities to create an additional category for refugees whose need for resettlement is based on a long period of residence in a refugee camp with no immediate prospect of safe and voluntary repatriation to their country of origin or last permanent residence.

(6) The extent to which the Department uses private voluntary agencies to assist in the identification of refugees for admission to the United States, including the Department’s assessment of the advantages and disadvantages of private voluntary agencies, the reasons for any decline in the Department’s use of voluntary agencies over the last 10 years, and a plan for the expanded use of such agencies.

(7) The extent to which the per capita reception and placement grant to voluntary agencies assisting in resettlement of refugees has increased over the last 10 years commensurate with the cost to such agencies of providing such services.

(8) An estimate of the cost of each change in current practice or procedure discussed in the report, together with an estimate of any increase in the annual refugee admissions ceiling that would be necessary to implement each change.

TITLE III—ORGANIZATION AND PERSONNEL OF THE DEPARTMENT OF STATE

Subtitle A—Organizational Matters

22 USC 2651a
note.
Deadlines.

SEC. 301. COMPREHENSIVE WORKFORCE PLAN.

(a) WORKFORCE PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a comprehensive workforce plan for the Department for the fiscal years 2003 through 2007. The plan shall consider personnel needs in both the Civil Service and the Foreign Service and expected domestic and overseas personnel allocations. The workforce plan should set forth—

- (1) the detailed mission of the Department;
- (2) the definition of work to be done;
- (3) a description of cyclical personnel needs based on expected retirements and attrition; and
- (4) a statement of the time required to hire, train, and deploy new personnel.

(b) DOMESTIC STAFFING MODEL.—Not later than one year after the date of the enactment of this Act, the Secretary shall compile and submit to the appropriate congressional committees a domestic staffing model for the Department.

Deadlines.
22 USC 2651a
note.
Establishment.

SEC. 302. “RIGHTSIZING” OVERSEAS POSTS.

(a) “RIGHTSIZING” AT THE DEPARTMENT OF STATE.—

(1) IN GENERAL.—The Secretary shall establish a task force within the Department on the issue of “rightsizing” overseas posts.

(2) PRELIMINARY REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report that outlines the status, plans, and activities of the task force. In addition to such other information as the Secretary considers appropriate, the report shall include the following:

- (A) The objectives of the task force.
- (B) Measures for achieving the objectives under subparagraph (A).

(C) Identification of the official of the Department with primary responsibility for the issue of “rightsizing”.

(D) The plans of the Department for the reallocation of staff and resources based on changing needs at overseas posts and in the metropolitan Washington, D.C., area.

(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report reviewing the activities and progress of the task force established under paragraph (1).

(b) INTERAGENCY WORKING GROUP.—

(1) ESTABLISHMENT.—The Secretary shall establish an interagency working group on the issue of “rightsizing” the overseas presence of the United States Government.

(2) PRELIMINARY REPORT.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall

submit to the appropriate congressional committees a report which outlines the status, plans, and activities of the inter-agency working group. In addition to such other information as the Secretary considers appropriate, the report shall include the following:

(A) The objectives of the working group.

(B) Measures for achieving the objectives under subparagraph (A).

(C) Identification of the official of each agency with primary responsibility for the issue of “rightsizing”.

(3) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report reviewing the activities and progress of the working group established under paragraph (1).

SEC. 303. QUALIFICATIONS OF CERTAIN OFFICERS OF THE DEPARTMENT OF STATE.

Section 1 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2651a) is amended—

(1) by striking subsections (f) and (g); and

(2) by inserting after subsection (e) the following new subsection:

“(f) **QUALIFICATIONS OF CERTAIN OFFICERS OF THE DEPARTMENT OF STATE.**—

“(1) **OFFICER HAVING PRIMARY RESPONSIBILITY FOR PERSONNEL MANAGEMENT.**—The officer of the Department of State with primary responsibility for assisting the Secretary with respect to matters relating to personnel in the Department of State, or that officer’s principal deputy, shall have substantial professional qualifications in the field of human resource policy and management.

“(2) **OFFICER HAVING PRIMARY RESPONSIBILITY FOR DIPLOMATIC SECURITY.**—The officer of the Department of State with primary responsibility for assisting the Secretary with respect to diplomatic security, or that officer’s principal deputy, shall have substantial professional qualifications in the fields of (A) management, and (B) Federal law enforcement, intelligence, or security.

“(3) **OFFICER HAVING PRIMARY RESPONSIBILITY FOR INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT.**—The officer of the Department of State with primary responsibility for assisting the Secretary with respect to international narcotics and law enforcement, or that officer’s principal deputy, shall have substantial professional qualifications in the fields of (A) management, and (B) law enforcement or international narcotics policy.”.

Subtitle B—Personnel Matters

SEC. 311. THOMAS JEFFERSON STAR FOR FOREIGN SERVICE.

Section 36A of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2708a) is amended—

(1) in the section heading, by striking “**FOREIGN SERVICE STAR**” and inserting “**THOMAS JEFFERSON STAR FOR FOREIGN SERVICE**”; and

(2) by striking “Foreign Service star” each place it appears and inserting “Thomas Jefferson Star for Foreign Service”.

SEC. 312. PRESIDENTIAL RANK AWARDS.

(a) **COMPARABLE PAYMENTS.**—Section 405(b)(3) of the Foreign Service Act of 1980 (22 U.S.C. 3965(b)(3)) is amended by striking the second sentence and inserting “Payments under this paragraph to a member of the Senior Foreign Service may not exceed, in any fiscal year, the percentage of basic pay established under section 4507(e)(1) of title 5, United States Code, for a Meritorious Executive, except that payments of the percentage of the basic pay established under section 4507(e)(2) of such title for Distinguished Executives may be made in any fiscal year to up to 1 percent of the members of the Senior Foreign Service.”.

22 USC 3965
note.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect October 1, 2002.

SEC. 313. FOREIGN SERVICE NATIONAL SAVINGS FUND.

Section 408(a)(1) of the Foreign Service Act of 1980 (22 U.S.C. 3968(a)(1)) is amended in the third sentence by striking “(C)” and all that follows through “covered employees.” and inserting “(C) payments by the Government and employees to (i) a trust or other fund in a financial institution in order to finance future benefits for employees, including provision for retention in the fund of accumulated interest and dividends for the benefit of covered employees; or (ii) a Foreign Service National Savings Fund established in the Treasury of the United States, which (I) shall be administered by the Secretary, at whose direction the Secretary of the Treasury shall invest amounts not required for the current needs of the Fund; and (II) shall be public monies, which are authorized to be appropriated and remain available without fiscal year limitation to pay benefits, to be invested in public debt obligations bearing interest at rates determined by the Secretary of the Treasury taking into consideration current average market yields on outstanding marketable obligations of the United States of comparable maturity, and to pay administrative expenses.”.

SEC. 314. CLARIFICATION OF SEPARATION FOR CAUSE.

(a) **IN GENERAL.**—Section 610(a) of the Foreign Service Act of 1980 (22 U.S.C. 4010(a)) is amended—

- (1) in paragraph (1), by inserting “decide to” after “may”;
- (2) by striking paragraphs (2), (3), (4), (5), and (6); and
- (3) by inserting after paragraph (1) the following:

“(2)(A) Except as provided in subparagraph (B), whenever the Secretary decides under paragraph (1) to separate, on the basis of misconduct, any member of the Service (other than a United States citizen employed under section 311 of the Foreign Service Act of 1980 who is not a family member) who either—

- “(i) is serving under a career appointment, or
- “(ii) is serving under a limited appointment,

the member may not be separated from the Service until the member receives a hearing before the Foreign Service Grievance Board and the Board decides that cause for separation has been established, unless the member waives, in writing, the right to such a hearing, or the member’s appointment has expired, whichever is sooner.

“(B) The right to a hearing in subparagraph (A) does not apply in the case of an individual who has been convicted of a

crime for which a sentence of imprisonment of more than one year may be imposed.

“(3) If the Board decides that cause for separation has not been established, the Board may direct the Department to pay reasonable attorneys’ fees to the extent and in the manner provided by section 1107(b)(5). The hearing provided under this paragraph shall be conducted in accordance with the hearing procedures applicable to grievances under section 1106 and shall be in lieu of any other administrative procedure authorized or required by this or any other Act. Section 1110 shall apply to proceedings under this paragraph.

“(4) Notwithstanding the hearing required by paragraph (2), at the time that the Secretary decides to separate a member of the Service for cause, the member shall be placed on leave without pay. If the member does not waive the right to a hearing, and the Board decides that cause for separation has not been established, the member shall be reinstated with back pay.”.

(b) CONFORMING AMENDMENTS.—Section 1106(8) of the Foreign Service Act of 1980 (22 U.S.C. 4136(8)) is amended—

(1) in the first sentence—

(A) by striking “the involuntary separation of the grievant,”; and

(B) by striking “grievant, or” and inserting “grievant or”; and

(2) by striking the last sentence.

SEC. 315. DEPENDENTS ON FAMILY VISITATION TRAVEL.

(a) IN GENERAL.—Section 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(8)) is amended by striking “Service” and inserting “Service, and members of his or her family,”.

(b) PROMULGATION OF GUIDANCE.—The Secretary shall promulgate guidance for the implementation of the amendment made by subsection (a) to ensure its implementation in a manner which does not substantially increase the total amount of travel expenses paid or reimbursed by the Department for travel under section 901 of the Foreign Service Act of 1980 (22 U.S.C. 4081).

22 USC 4801
note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date on which guidance for implementation of such amendment is issued by the Secretary.

22 USC 4801
note.

SEC. 316. HEALTH EDUCATION AND DISEASE PREVENTION PROGRAMS.

Section 904(b) of the Foreign Service Act of 1980 (22 U.S.C. 4084(b)) is amended by striking “families, and (3)” and inserting “families, (3) health education and disease prevention programs for all employees, and (4)”.

SEC. 317. CORRECTION OF TIME LIMITATION FOR GRIEVANCE FILING.

Section 1104(a) of the Foreign Service Act of 1980 (22 U.S.C. 4134(a)) is amended in the first sentence by striking “but in no case less than two years” and inserting “but in no case more than three years”.

SEC. 318. TRAINING AUTHORITIES.

Section 2205 of the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted by division G of Public Law 105-277; 112 Stat. 2681-808) is amended—

(1) in the section heading, by striking “PILOT”;

(2) by striking subsection (a)(3); and

22 USC 4021 and
note.

22 USC 2725
note.

(3) by striking subsection (c).

SEC. 319. UNACCOMPANIED AIR BAGGAGE.

Section 5924(4)(B) of title 5, United States Code, is amended by inserting after the first sentence the following: “At the election of the employee, in lieu of the transportation of the baggage of a dependent from the dependent’s school, the costs incurred to store the baggage at or in the vicinity of the school during the dependent’s annual trip between the school and the employee’s duty station may be paid or reimbursed to the employee, except that the amount of the payment or reimbursement may not exceed the cost that the Government would incur to transport the baggage.”.

SEC. 320. EMERGENCY MEDICAL ADVANCE PAYMENTS.

Section 5927 of title 5, United States Code, is amended—
(1) by amending subsection (a)(3) to read as follows:

“(3) to an employee compensated pursuant to section 408 of the Foreign Service Act of 1980, who—

“(A) pursuant to United States Government authorization is located outside the country of employment; and

“(B) requires medical treatment outside the country of employment in circumstances specified by the President in regulations.”; and

(2) in subsection (b), by striking “appointed” and inserting “hired”.

5 USC 8411 note. **SEC. 321. RETIREMENT CREDIT FOR CERTAIN GOVERNMENT SERVICE PERFORMED ABROAD.**

(a) RETIREMENT CREDIT FOR CERTAIN GOVERNMENT SERVICE PERFORMED ABROAD.—Subject to subsection (b)(1), credit under chapter 84 of title 5, United States Code, shall be allowed for any service performed by an individual if or to the extent that—

(1) it was performed by such individual—

(A) after December 31, 1988, and before May 24, 1998;

(B) at a United States diplomatic mission, consular post (other than a consular agency), or other Foreign Service post abroad; and

(C) under a temporary appointment pursuant to sections 309 and 311 of the Foreign Service Act of 1980 (22 U.S.C. 3949 and 3951);

(2) at the time of performing such service, such individual would have satisfied all eligibility requirements under regulations of the Department (as in effect on the date of the enactment of this Act) for a family member limited noncareer appointment (within the meaning of such regulations, as in effect on such date of enactment), except that, in applying this paragraph, an individual not employed by the Department while performing such service shall be treated as if then so employed;

(3) such service would have been creditable under section 8411(b)(3) of such title 5 if—

(A) the service had been performed before January 1, 1989; and

(B) the deposit requirements of section 8411(f) of such title 5 had been met with respect to such service;

(4) such service would not otherwise be creditable under the Federal Employees' Retirement System or any other retirement system for employees of the United States Government (disregarding title II of the Social Security Act); and

(5) the total amount of service performed by such individual (satisfying paragraphs (1) through (4)) is not less than 90 days.

(b) REQUIREMENTS.—

(1) REQUIREMENTS OF THE INDIVIDUAL.—In order to receive credit under chapter 84 of title 5, United States Code, for any service described in subsection (a), the individual who performed such service (or, if deceased, any person who is or would be eligible for a survivor annuity under the Federal Employees' Retirement System based on the service of such individual)—

(A) shall file a written application with the Office of Personnel Management not later than 36 months after the effective date of the regulations prescribed to carry out this section (as specified in those regulations); and

Deadline.

(B) shall remit to the Office (for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund) the total amount that, under section 8422 of such title 5, should have been deducted from the basic pay of such individual for such service if such service had then been creditable under such chapter 84.

(2) GOVERNMENT CONTRIBUTIONS.—

(A) IN GENERAL.—In addition to any other payment that it is required to make under chapter 84 of title 5, United States Code, a department, agency, or other instrumentality of the United States shall remit to the Office of Personnel Management (for deposit in the Treasury of the United States to the credit of the Fund) the amount described in subparagraph (B).

(B) AMOUNT DESCRIBED.—The amount described in this subparagraph is, with respect to a remittance under paragraph (1), the total amount of Government contributions that would, under section 8423 of title 5, United States Code, have been required of the instrumentality involved (to the extent that it was the employing entity during the period of service to which such remittance relates) in connection with such service.

(C) SPECIAL RULE.—If an amount cannot be remitted under this paragraph because an instrumentality has ceased to exist, such amount shall instead be treated as part of the supplemental liability referred to in section 8423(b)(1) (A) or (B) of title 5, United States Code (which ever would be appropriate).

(3) RELATED REQUIREMENTS.—Any remittance under paragraph (1) or (2)—

(A) shall be made in such time, form, and manner as the Office of Personnel Management may by regulation require; and

(B) shall be computed with interest (in accordance with section 8334(e) of title 5, United States Code, and such requirements as the Office may by regulation prescribe).

(4) NOTIFICATION AND ASSISTANCE REQUIREMENTS.—

(A) IN GENERAL.—The Office of Personnel Management shall take such action as may be necessary and appropriate to inform individuals entitled to have any service credited under this section, or to have any annuity computed or recomputed under this section, of their entitlement to such credit, computation, or recomputation.

(B) ASSISTANCE TO INDIVIDUALS.—The Office shall, on request, assist any individual referred to in subparagraph (A) in obtaining from any department, agency, or other instrumentality of the United States such information in the possession of such instrumentality as may be necessary to verify the entitlement of such individual to have any service credited, or to have any annuity computed or recomputed, pursuant to this section.

(C) ASSISTANCE FROM INSTRUMENTALITIES.—Any department, agency, or other instrumentality of the United States that possesses any information with respect to any service described in subsection (a) shall, at the request of the Office, furnish such information to the Office.

(c) DEFINITIONS.—In this section:

(1) ABROAD.—The term “abroad” has the meaning given such term under section 102 of the Foreign Service Act of 1980 (22 U.S.C. 3902).

(2) BASIC PAY.—The term “basic pay” has the meaning given such term under section 8401 of title 5, United States Code.

(3) CIVIL SERVICE RETIREMENT AND DISABILITY FUND.—The term “Civil Service Retirement and Disability Fund” or “Fund” means the Civil Service Retirement and Disability Fund under section 8348 of title 5, United States Code.

(4) TEMPORARY APPOINTMENT.—The term “temporary appointment” means an appointment that is limited by its terms to a period of one year or less.

(d) RULE OF CONSTRUCTION.—Nothing in this section shall be considered to permit or require the making of any contributions to the Thrift Savings Fund that would not otherwise have been permitted or required had this section not been enacted.

(e) APPLICABILITY.—

(1) ANNUITIES COMMENCING ON OR AFTER EFFECTIVE DATE OF IMPLEMENTING REGULATIONS.—An annuity or survivor annuity—

(A) which is based on the service of an individual who performed service described in subsection (a), and

(B) which commences on or after the effective date of the regulations prescribed to carry out this section (as determined under subsection (b)(1)(A)),

shall (subject to subsection (b)(1)) be computed taking into account all service described in subsection (a) that was performed by such individual.

(2) ANNUITIES WITH COMMENCEMENT DATE PRECEDING EFFECTIVE DATE OF IMPLEMENTING REGULATIONS.—

(A) RECOMPUTATION CASES.—An annuity or survivor annuity—

(i) which is based on the service of an individual who performed service described in subsection (a), and

(ii) which commences before the effective date referred to in paragraph (1)(B), shall (subject to subsection (b)(1)) be recomputed taking into account all service described in subsection (a) that was performed by such individual.

(B) OTHER CASES.—An annuity or survivor annuity—

(i) which is based on the service of an individual who performed service described in subsection (a),

(ii) the requirements for entitlement which could not be met without taking into account service described in subsection (a), and

(iii) which (if service described in subsection (a) had been taken into account, and an appropriate application been submitted) would have commenced before the effective date referred to in paragraph (1)(B), shall (subject to subsection (b)(1)) be computed taking into account all service described in subsection (a) that was performed by such individual.

(C) RETROACTIVE EFFECT.—Any computation or recomputation of an annuity or survivor annuity pursuant to this paragraph shall—

(i) if pursuant to subparagraph (A), be effective as of the commencement date of the annuity or survivor annuity involved; and

(ii) if pursuant to subparagraph (B), be effective as of the commencement date that would have applied if application for the annuity or survivor annuity involved had been submitted on the earliest date possible in order for it to have been approved.

(D) LUMP-SUM PAYMENT.—Any amounts which by virtue of subparagraph (C) are payable for any months preceding the first month (on or after the effective date referred to in paragraph (1)(B)) as of which annuity or survivor annuity payments become payable fully reflecting the computation or recomputation under subparagraph (A) or (B) (as the case may be) shall be payable in the form of a lump-sum payment.

(E) ORDER OF PRECEDENCE.—Section 8424(d) of title 5, United States Code, shall apply in the case of any payment under subparagraph (D) payable to an individual who has died.

(f) IMPLEMENTATION.—The Office of Personnel Management, in consultation with the Secretary, shall prescribe such regulations and take such action as may be necessary and appropriate to implement this section.

Regulations.

SEC. 322. COMPUTATION OF FOREIGN SERVICE RETIREMENT ANNUITIES AS IF WASHINGTON, D.C., LOCALITY-BASED COMPENSABILITY PAYMENTS WERE MADE TO OVERSEAS-STATIONED FOREIGN SERVICE MEMBERS.

(a) FOREIGN SERVICE RETIREMENT AND DISABILITY SYSTEM.—

(1) COMPUTATION OF ANNUITIES.—Section 806(a) of the Foreign Service Act of 1980 (22 U.S.C. 4046(a)) is amended by adding at the end the following new paragraph:

“(9) For purposes of any annuity computation under this subsection, the basic salary or basic pay of any member of the Service whose official duty station is outside the continental United States

shall be considered to be the salary or pay that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C.”.

(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—Section 805(a) of the Foreign Service Act of 1980 (22 U.S.C. 4045(a)) is amended—

(A) in paragraph (1)—

(i) in the first sentence, by striking “7” and inserting “7.25”; and

(ii) in the second sentence, by striking “An equal amount shall be contributed by the Department” and inserting “The contribution by the employing agency shall be a percentage of basic salary equal to the percentage in effect under section 7001(d)(1) of the Balanced Budget Act of 1997 (Public Law 105-33; 22 U.S.C. 4045 note), and section 505(h) of the Department of Transportation and Related Agencies Appropriations Act, 2001 (as enacted by Public Law 106-346; 114 Stat. 1356A-54), plus .25 percent of basic salary, and shall be made”;

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting at the end of the first sentence “, plus an amount equal to .25 percent of basic pay”; and

(ii) in subparagraph (B), by inserting at the end of the first sentence “, plus an amount equal to .25 percent of basic pay”;

(C) in paragraphs (1) and (2), by striking “Department” each place it appears and inserting “employing agency”; and

(D) in paragraph (3), by inserting at the end of the first sentence “, plus .25 percent”.

(b) FOREIGN SERVICE PENSION SYSTEM.—

(1) COMPUTATION OF ANNUITIES.—Section 855(a) of the Foreign Service Act of 1980 (22 U.S.C. 4071d(a)) is amended by adding at the end the following new paragraph:

“(3) For purposes of any annuity computation under this subsection, the average pay (as used in section 8414 of title 5, United States Code) of any member of the Service whose official duty station is outside the continental United States shall be considered to be the salary that would have been paid to the member had the member's official duty station been Washington, D.C., including locality-based comparability payments under section 5304 of title 5, United States Code, that would have been payable to the member if the member's official duty station had been Washington, D.C.”.

(2) INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—Section 856(a)(2) of the Foreign Service Act of 1980 (22 U.S.C. 4071e(a)(2)) is amended by striking:

“7.5 After December 31, 2000.”

and inserting the following:

“7.55 After January 11, 2003.”.

(c) EFFECTIVE DATES.—

(1) COMPUTATION OF ANNUITIES.—The amendments made by subsections (a)(1) and (b)(1) shall apply to service performed on or after the first day of the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act. 22 USC 4046 note.

(2) GOVERNMENT CONTRIBUTIONS AND INDIVIDUAL DEDUCTIONS AND WITHHOLDINGS.—The amendments made by subsections (a)(2) and (b)(2) shall take effect with the first pay period beginning on or after the date that is 90 days after the date of enactment of this Act. 22 USC 4045 note.

SEC. 323. PLAN FOR IMPROVING RECRUITMENT OF VETERANS INTO THE FOREIGN SERVICE.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department to improve the recruitment of veterans for the career Foreign Service. The plan shall— Deadline.

(1) address personnel issues relevant to such recruitment efforts; and

(2) include proposals for improving coordination between the Department and the Departments of Defense, Transportation, and Veterans Affairs in promoting the recruitment of veterans to the career Foreign Service.

(b) DEFINITION.—In this section, the term “veterans” has the meaning given that term in section 101(2) of title 38, United States Code.

SEC. 324. REPORT CONCERNING MINORITY EMPLOYMENT.

22 USC 2651a note.

On April 1, 2003, and April 1, 2004, the Secretary shall submit a comprehensive report to Congress, with respect to the preceding calendar year, concerning the employment of members of minority groups at the Department, including the Civil Service and the Foreign Service. The report shall include the following data (reported in terms of real numbers and percentages and not as ratios):

(1) For the last preceding Foreign Service examination and promotion cycles for which such information is available—

(A) the numbers and percentages of members of all minority groups taking the written Foreign Service examination;

(B) the numbers and percentages of members of all minority groups successfully completing and passing the written Foreign Service examination;

(C) the numbers and percentages of members of all minority groups successfully completing and passing the oral Foreign Service examination;

(D) the numbers and percentages of members of all minority groups entering the junior officer class of the Foreign Service;

(E) the numbers and percentages of members of all minority groups who are Foreign Service officers at each grade; and

(F) the numbers and percentages of members of all minority groups promoted to each grade of the Foreign Service.

(2) For the last preceding year for Civil Service employment at the Department for which such information is available—

(A) numbers and percentages of members of all minority groups entering the Civil Service;

(B) the number and percentages of members of all minority groups who are Civil Service employees at each grade of the Civil Service; and

(C) the number of and percentages of members of all minority groups promoted at each grade of the Civil Service.

22 USC 2651a
note.

SEC. 325. USE OF FUNDS AUTHORIZED FOR MINORITY RECRUITMENT.

(a) CONDUCT OF RECRUITMENT ACTIVITIES.—

(1) IN GENERAL.—Amounts authorized to be appropriated for minority recruitment under section 111(1)(D) shall be used only for activities directly related to minority recruitment, such as recruitment materials designed to target members of minority groups and the travel expenses of recruitment trips to colleges, universities, and other institutions or locations.

(2) LIMITATION.—Amounts authorized to be appropriated for minority recruitment under section 111(1)(D) may not be used to pay salaries of employees of the Department.

(b) RECRUITMENT ACTIVITIES AT ACADEMIC INSTITUTIONS.—The Secretary shall expand the recruitment efforts of the Department to include not less than 25 percent of the part B institutions (as defined under section 322 of the Higher Education Act of 1965) in the United States and not less than 25 percent of the Hispanic-serving institutions (as defined in section 502(a)(5) of such Act) in the United States.

(c) EVALUATION OF RECRUITMENT EFFORTS.—The Secretary shall establish a database relating to efforts to recruit members of minority groups into the Foreign Service and the Civil Service and shall report to the appropriate congressional committees on the evaluation of efforts to recruit such individuals, including an analysis of the information collected in the database created under this subsection. Such report shall be included in each of the two reports required under section 324.

SEC. 326. ASSIGNMENTS AND DETAILS OF PERSONNEL TO THE AMERICAN INSTITUTE IN TAIWAN.

Section 503 of the Foreign Service Act of 1980 (22 U.S.C. 3983) is amended—

(1) by adding at the end the following new subsection:

“(d)(1) The Secretary may assign a member of the Service, or otherwise detail an employee of the Department, for duty at the American Institute in Taiwan, if the Secretary determines that to do so is in the national interest of the United States.

“(2) The head of any other department or agency of the United States may, with the concurrence of the Secretary, detail an employee of that department or agency to the American Institute in Taiwan, if the Secretary determines that to do so is in the national interest of the United States.

“(3) In this subsection, the term ‘employee’ does not include—

“(A) a noncareer appointee, limited term appointee, or limited emergency appointee (as such terms are defined in section

3132(a) of title 5, United States Code) in the Senior Executive Service; or

“(B) an employee in a position that has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

“(4) An assignment or detail under this subsection may be made with or without reimbursement from the American Institute in Taiwan.

“(5) The period of an assignment or detail under this subsection shall not exceed a total of 6 years, except that the Secretary (or any other head of a department or agency of the United States, with the concurrence of the Secretary) may extend the period of an assignment or detail for an additional period of not more than 6 years.”; and

(2) in subsection (c), by striking “Assignments” and inserting “Except as otherwise provided in subsection (d)(5), assignments”.

SEC. 327. ANNUAL REPORTS ON FOREIGN LANGUAGE COMPETENCE.

Section 702(c) of the Foreign Service Act of 1980 (22 U.S.C. 4022(c)) is amended—

(1) by striking “March 31” and inserting “January 31”; and

(2) in paragraph (1), by striking “calendar year” and inserting “fiscal year”.

SEC. 328. TRAVEL OF CHILDREN OF MEMBERS OF THE FOREIGN SERVICE ASSIGNED ABROAD.

Section 901(15) of the Foreign Service Act of 1980 (22 U.S.C. 4081(15)) is amended by striking “port of entry in the contiguous 48 States which is nearest to that post” and inserting “residence of the other parent, or between the post to which the member is assigned and the residence of the child if the child does not reside with a parent”.

TITLE IV—INTERNATIONAL ORGANIZATIONS

SEC. 401. PAYMENT OF THIRD INSTALLMENT OF ARREARAGES.

(a) IN GENERAL.—The United Nations Reform Act of 1999 (title IX of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-475) is amended as follows:

(1) Section 912(b)(3) is amended by striking “, upon the certification described in section 941” and inserting the following: “upon a certification described in section 941 with respect to the United Nations or a particular designated specialized agency, and immediately with respect to organizations to which none of the conditions in section 941(b) apply”.

(2) Section 941(a)(2) is amended—

(A) by striking “also”;

(B) by striking “in subsection (b)(4)” both places it appears; and

(C) by striking “, if the other conditions in subsection (b) are satisfied”.

(3) Section 941(a)(3) is amended by striking “and for any other organization to which none of the conditions in subsection (b) apply”.

(4) Section 941(b)(3) is amended—

(A) in the paragraph heading, by striking “NEW BUDGET PROCEDURES” and inserting “BUDGET PRACTICES”;

(B) by striking “has established and”;

(C) by striking “procedures” and inserting “practices”; and

(D) in subparagraphs (A) and (B) by striking “require” each place it appears and inserting “result in”.

(5) Section 941(b)(9) is amended—

(A) in the paragraph heading by striking “NEW BUDGET PROCEDURES” and inserting “BUDGET PRACTICES”;

(B) by striking “Each designated specialized agency has established procedures to—” and inserting “The practices of each designated specialized agency—”; and

(C) in subparagraphs (A), (B), and (C) by striking “require” each place it appears and inserting “result in”.

(b) CONFORMING AMENDMENT.—The undesignated paragraph under the heading “ARREARAGE PAYMENTS” in title IV of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2000 (as contained in section 1000 of division B of the Consolidated Appropriations Act, 2000; Public Law 106-113) is amended—

(1) in the first proviso, by striking “the share of the total of all assessed contributions for any designated specialized agency of the United Nations does not exceed 22 percent for any single member of the agency, and”; and

(2) by inserting after “respective agencies:” the following: “*Provided further*, That none of the funds appropriated or otherwise made available under this heading for payment of arrearages may be obligated with respect to a designated specialized agency of the United Nations until such time as the share of the total of all assessed contributions for that designated specialized agency does not exceed 22 percent for any member of the agency:”.

(c) TRANSMITTAL OF CERTIFICATIONS TO CONGRESS.—Section 912(c) of the United Nations Reform Act of 1999 (title IX of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-477) is amended to read as follows:

“(c) ADVANCE CONGRESSIONAL NOTIFICATION.—Funds made available pursuant to section 911 may be obligated and expended only if the appropriate certification has been submitted to the appropriate congressional committees 15 days prior to payment of the funds, in the case of a certification submitted with respect to funds made available for fiscal year 2000.”.

SEC. 402. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS PEACEKEEPING OPERATIONS IN CALENDAR YEARS 2001 THROUGH 2004.

(a) IN GENERAL.—Section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note) is amended—

(1) by striking “Funds” and inserting “(A) IN GENERAL.—Except as provided in subparagraph (B), funds”; and

(2) by adding at the end the following:

“(B) REDUCTION IN UNITED STATES SHARE OF ASSESSED CONTRIBUTIONS.—Notwithstanding the percentage limitation contained in subparagraph (A), the United States share of assessed contributions for each United Nations peace-keeping operation during the following periods is authorized to be as follows:

“(i) For assessments made during calendar year 2001, 28.15 percent.

“(ii) For assessments made during calendar year 2002, 27.90 percent.

“(iii) For assessments made during calendar year 2003, 27.40 percent.

“(iv) For assessments made during calendar year 2004, 27.40 percent.”

(b) CONFORMING AMENDMENTS TO PUBLIC LAW 92-544.—Title I of the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (22 U.S.C. 287e note) is amended—

(1) in the next to the last sentence of the undesignated paragraph under the heading “CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS” in Public Law 92-544 (22 U.S.C. 287e note), by striking “After” and inserting “Subject to section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), after”; and

(2) in the last sentence of the undesignated paragraph under the heading “CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS” in Public Law 92-544 (22 U.S.C. 287e note)—

(A) by striking “Appropriations are authorized” and inserting “Subject to section 404(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), appropriations are authorized”; and

(B) by striking “(other than United Nations peace-keeping operations) conducted” and inserting “conducted by or under the auspices of the United Nations or”.

SEC. 403. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS REGULAR BUDGET.

The United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.) is amended by adding at the end the following new section:

“SEC. 11. LIMITATION ON THE UNITED STATES SHARE OF ASSESSMENTS FOR UNITED NATIONS REGULAR BUDGET.

22 USC 287e-3.

“None of the funds available to the Department of State shall be used to pay the United States share of assessed contributions for the regular budget of the United Nations in an amount greater than 22 percent of the total of all assessed contributions for that budget.”.

SEC. 404. PROMOTION OF SOUND FINANCIAL PRACTICES BY THE UNITED NATIONS.

(a) FINDINGS.—Congress makes the following findings:

(1) In the early 1980s, the United States Government began to pay United States assessments to certain international organizations in the last quarter of the calendar year in which they were due. This practice allowed the United States to pay its annual assessment to the United Nations and other

international organizations with the next fiscal year's appropriations, taking advantage of the fact that international organizations operate on calendar years. It also allowed the United States to reduce budgetary outlays, making the United States budget deficit appear smaller.

(2) The United States, which is assessed 22 percent of the United Nations regular budget, now pays its dues at least 10 months late, and often later depending on when the relevant appropriation is enacted.

(3) This practice causes the United Nations to operate throughout much of the year without a significant portion of its operating budget. By midyear, the budget is usually depleted, forcing the United Nations to borrow from its separate peacekeeping budget (the organization is prohibited from external borrowing). As a result, countries that contribute to United Nations peacekeeping missions are not reimbursed on a timely basis.

(4) For years, the United States has been encouraging the United Nations and other international organizations to engage in sound, fiscally responsible budgetary practices. In fact, many of the conditions in United States law for paying nearly \$1,000,000,000 in debt to the United Nations and other international organizations are aimed at this goal. But late payment of United States dues forces the United Nations and other international organizations to engage in budgetary practices that are neither sound nor responsible.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should initiate a process to synchronize the payment of its assessments to the United Nations and other international organizations over a multiyear period so that the United States can resume paying its dues to such international organizations at the beginning of each calendar year.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—In addition to amounts otherwise available for the purpose of payment of the United States assessed contributions to the United Nations and other international organizations, there are authorized to be appropriated such sums as may be necessary to carry out the policy described in subsection (b).

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 405. REPORTS TO CONGRESS ON UNITED NATIONS ACTIVITIES.

(a) AMENDMENTS TO UNITED NATIONS PARTICIPATION ACT.—Section 4 of the United Nations Participation Act (22 U.S.C. 287b) is amended—

(1) by striking subsections (b) and (c);

(2) by inserting after subsection (a) the following new subsection:

“(b) ANNUAL REPORT ON FINANCIAL CONTRIBUTIONS.—Not later than July 1 of each year, the Secretary of State shall submit a report to the designated congressional committees on the extent and disposition of all financial contributions made by the United States during the preceding year to international organizations in which the United States participates as a member.”;

Deadline.

(3) in subsection (e)(5) by striking subparagraph (B) and inserting the following:

“(B) ANNUAL REPORT.—The President shall submit an annual report to the designated congressional committees on all assistance provided by the United States during the preceding calendar year to the United Nations to support peacekeeping operations. Each such report shall describe the assistance provided for each such operation, listed by category of assistance.”; and

(4) by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 2 of Public Law 81-806 (22 U.S.C. 262a) is amended by striking the last sentence.

(2) Section 409 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (22 U.S.C. 287e note), is amended by striking subsection (d).

SEC. 406. USE OF SECRET BALLOTS WITHIN THE UNITED NATIONS.

Deadline.
Reports.

Not later than 120 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees containing a detailed analysis, and a determination based on such analysis, on whether the use of secret ballots within the United Nations and the specialized agencies of the United Nations serves the interests of the United States.

SEC. 407. SENSE OF CONGRESS RELATING TO MEMBERSHIP OF THE UNITED STATES IN UNESCO.

It is the sense of Congress that the President, having announced that the United States will rejoin the United Nations Educational, Scientific, and Cultural Organization (UNESCO), should submit a report to the appropriate congressional committees—

(1) describing the merits of renewing the membership and participation of the United States in UNESCO; and

(2) detailing the projected costs of United States membership in UNESCO.

SEC. 408. UNITED STATES MEMBERSHIP ON THE UNITED NATIONS COMMISSION ON HUMAN RIGHTS AND INTERNATIONAL NARCOTICS CONTROL BOARD.

22 USC 287 note.

The United States, in connection with its voice and vote in the United Nations General Assembly and the United Nations Economic and Social Council, shall make every reasonable effort—

(1) to secure a seat for the United States on the United Nations Commission on Human Rights;

(2) to secure a seat for a United States national on the United Nations International Narcotics Control Board; and

(3) to prevent membership on the Human Rights Commission by any member nation the government of which, in the judgment of the Secretary, based on the Department's Annual Country Reports on Human Rights and the Annual Report on International Report on Religious Freedom, consistently violates internationally recognized human rights or has engaged in or tolerated particularly severe violations of religious freedom in that country.

**SEC. 409. PLAN FOR ENHANCED DEPARTMENT OF STATE EFFORTS
TO PLACE UNITED STATES CITIZENS IN POSITIONS OF
EMPLOYMENT IN THE UNITED NATIONS AND ITS
SPECIALIZED AGENCIES.**

Deadline.
Reports.

Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan that provides for—

(1) proposals to reverse the decline in recent years in funding and personnel resources devoted to the placement of United States citizens in positions within the United Nations system;

(2) steps to intensify coordinated, high-level diplomatic efforts to place United States citizens in senior posts in the United Nations Secretariat and the specialized agencies of the United Nations; and

(3) appropriate mechanisms to address the underrepresentation, relative to the United States share of assessed contributions to the United Nations, of United States citizens in junior positions within the United Nations and its specialized agencies.

TITLE V—UNITED STATES INTERNATIONAL BROADCASTING ACTIVITIES

SEC. 501. MODIFICATION OF LIMITATION ON GRANT AMOUNTS TO RFE/RL, INCORPORATED.

Section 308(c) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(c)) is amended to read as follows:

“(c) The total amount of grants made for the operating costs of RFE/RL, Incorporated, may not exceed \$85,000,000 in fiscal year 2003.”.

SEC. 502. PAY PARITY FOR SENIOR EXECUTIVES OF RFE/RL, INCORPORATED.

Section 308(h)(1) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6207(h)(1)) is amended—

(1) by adding at the end the following new subparagraph:

“(C) Notwithstanding the limitations under subparagraph (A), grant funds provided under this section may be used by RFE/RL, Incorporated, to pay up to three employees employed in Washington, D.C., salary or other compensation not to exceed the rate of pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.”; and

(2) in subparagraph (A), by striking “(B),” and inserting “(B) or (C),”.

SEC. 503. AUTHORITY TO CONTRACT FOR LOCAL BROADCASTING SERVICES OUTSIDE THE UNITED STATES.

Section 802(b)(4) of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1472(b)(4)) is amended—

(1) by inserting before the period the following: “and is authorized to enter into contracts for periods not to exceed ten years to acquire local broadcasting services outside the United States”; and

(2) by striking “United States Information Agency” and inserting “Broadcasting Board of Governors”.

SEC. 504. PERSONAL SERVICES CONTRACTING PILOT PROGRAM.

22 USC 6206
note.

(a) IN GENERAL.—The Director of the International Broadcasting Bureau (in this section referred to as the “Director”) may establish a pilot program (in this section referred to as the “program”) for the purpose of hiring United States citizens or aliens as personal services contractors, without regard to Civil Service and classification laws, for service in the United States as broadcasters, producers, and writers in the International Broadcasting Bureau to respond to new or emerging broadcast needs or to augment broadcast services.

(b) CONDITIONS.—The Director is authorized to use the authority of subsection (a) subject to the following conditions:

(1) The Director determines that existing personnel resources are insufficient and the need is not of permanent duration.

(2) The Director approves each employment of a personal services contractor.

(3) The contract length, including options, may not exceed 2 years, unless the Director makes a finding that exceptional circumstances justify an extension of up to one additional year.

(4) Not more than a total of 60 United States citizens or aliens are employed at any one time as personal services contractors under the program.

(c) TERMINATION OF AUTHORITY.—The authority to award personal services contracts under the pilot program authorized by this section shall terminate on December 31, 2005. A contract entered into prior to the termination date under this subsection may remain in effect for a period not to exceed 6 months after such termination date.

SEC. 505. TRAVEL BY VOICE OF AMERICA CORRESPONDENTS.

(a) EXEMPTION FROM RESPONSIBILITIES OF THE SECRETARY.—Section 103(a)(1)(A) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (22 U.S.C. 4802(a)(1)(A)) is amended in the parenthetical clause by inserting “Voice of America correspondents on official assignment and” after “other than”.

(b) EXEMPTION FROM CHIEF OF MISSION RESPONSIBILITIES.—Section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) is amended—

(1) in the parenthetical clause in subsection (a)(1), by inserting “Voice of America correspondents on official assignment and” after “except for”;

(2) in the parenthetical clause in subsection (a)(2), by inserting “Voice of America correspondents on official assignment and” after “except for”; and

(3) in the parenthetical clause in subsection (b), by inserting “Voice of America correspondents on official assignment and” after “except for”.

SEC. 506. REPORT ON BROADCASTING PERSONNEL.

Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report regarding senior personnel of the United States Broadcasting Board of Governors and efforts to diversify the workforce. The report shall include

Deadline.

the following information, reported separately, for the International Broadcasting Bureau, RFE/RL, Incorporated, and Radio Free Asia:

(1) A list of all personnel positions at or above the GS-13 pay level.

(2) The number and percentage of women and members of minority groups in positions under paragraph (1).

(3) The increase or decrease in the representation of women and members of minority groups in positions under paragraph (1) from previous years.

(4) The recruitment budget for each broadcasting entity and the aggregate budget.

(5) Information concerning the recruitment efforts of the Broadcasting Board of Governors relating to women and members of minority groups, including the percentage of the recruitment budget utilized for such efforts.

SEC. 507. CONFORMING AMENDMENTS.

The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended—

(1) in section 305(a)(4) (22 U.S.C. 6204(a)(4)), by striking “annually,” and inserting “annually,”; and

(2) in section 313(a) (22 U.S.C. 6212(a)), in the text above paragraph (1), by striking “the direction and”.

TITLE VI—MISCELLANEOUS PROVISIONS

Subtitle A—Middle East Peace Commitments Act of 2002

Middle East
Peace
Commitments
Act of 2002.

SEC. 601. SHORT TITLE.

This subtitle may be cited as the “Middle East Peace Commitments Act of 2002”.

SEC. 602. FINDINGS.

Congress makes the following findings:

(1) In 1993, the Palestine Liberation Organization (in this subtitle referred to as the “PLO”) made the following commitments in an exchange of letters with the Prime Minister of Israel:

(A) Recognition of the right of the State of Israel to exist in peace and security.

(B) Acceptance of United Nations Security Council Resolutions 242 and 338.

(C) Resolution of all outstanding issues in the conflict between the two sides through negotiations and exclusively peaceful means.

(D) Renunciation of the use of terrorism and all other acts of violence and responsibility over all PLO elements and personnel in order to assure their compliance, prevent violations, and discipline violators.

(2) The Palestinian Authority, the governing body of autonomous Palestinian territories, was created as a result of agreements between the PLO and the State of Israel that are a direct outgrowth of the commitments made in 1993.

(3) Congress has provided authorities to the President to suspend certain statutory restrictions relating to the PLO, subject to Presidential certifications that the PLO has continued to abide by commitments made.

SEC. 603. REPORTS.

(a) IN GENERAL.—The President shall, at the times specified in subsection (b), transmit to the appropriate congressional committees a report on compliance by the PLO or the Palestinian Authority, as appropriate, with each of the commitments specified in section 602(1). The report shall include, with respect to each such commitment, the determination of the President as to whether or not the PLO or the Palestinian Authority, as appropriate, has complied with that commitment during the period since the submission of the preceding report or, in the case of the initial report, during the preceding six-month period. In the event that the President imposed one or more sanctions under section 604 during the period covered by the report, the report shall include a description of each such sanction imposed. President.

(b) TRANSMISSION.—The initial report required under subsection (a) shall be transmitted not later than 60 days after the date of enactment of this Act. Each subsequent report shall be submitted on the date on which the President is next required to submit a report under the P.L.O. Commitments Compliance Act of 1989 (title VIII of Public Law 101-246) and may be combined with such report. Deadline.

SEC. 604. IMPOSITION OF SANCTIONS.

(a) IN GENERAL.—If, in any report transmitted pursuant to section 603, the President determines that the PLO or the Palestinian Authority, as appropriate, has not complied with each of the commitments specified in section 602(1), or if the President fails to make a determination with respect to such compliance, the President shall, for a period of time not less than the period described in subsection (b), impose one or more of the following sanctions:

(1) DENIAL OF VISAS TO PLO AND PALESTINIAN AUTHORITY OFFICIALS.—The Secretary shall direct consular officers not to issue a visa to any member of the PLO or any official of the Palestinian Authority.

(2) DOWNGRADE IN STATUS OF PLO OFFICE IN THE UNITED STATES.—Notwithstanding any other provision of law, the President shall withdraw or terminate any waiver by the President of the requirements of section 1003 of the Foreign Relations Authorization Act of 1988 and 1989 (22 U.S.C. 5202) (prohibiting the establishment or maintenance of a Palestinian information office in the United States), and such section shall apply so as to prohibit the operation of a PLO or Palestinian Authority office in the United States from carrying out any function other than those functions carried out by the Palestinian information office in existence prior to the Oslo Accords.

(3) DESIGNATION AS A FOREIGN TERRORIST ORGANIZATION.—The Secretary shall designate the PLO, or one or more of its constituent groups (including Fatah and Tanzim) or groups operating as arms of the Palestinian Authority (including Force 17), as a foreign terrorist organization, in accordance with section 219(a) of the Immigration and Nationality Act.

(4) PROHIBITION ON UNITED STATES ASSISTANCE TO THE WEST BANK AND GAZA.—United States assistance (except humanitarian assistance) may not be provided to programs or projects in the West Bank or Gaza.

(b) DURATION OF SANCTIONS.—The period of time referred to in subsection (a) is the period of time commencing on the date that the report pursuant to section 603 was transmitted and ending on the later of—

(1) the date that is 180 days after such date; or

(2) the date that the next report under section 603 is required to be transmitted.

(c) WAIVER AUTHORITY.—The President may waive any sanction imposed under subsection (a) if the President determines that such a waiver is in the national security interest of the United States. The President shall report such a determination to the appropriate congressional committees.

Subtitle B—Tibet Policy

Tibetan Policy
Act of 2002.

22 USC 6901
note.

SEC. 611. SHORT TITLE.

This subtitle may be cited as “Tibetan Policy Act of 2002”.

22 USC 6901
note.

SEC. 612. STATEMENT OF PURPOSE.

The purpose of this subtitle is to support the aspirations of the Tibetan people to safeguard their distinct identity.

22 USC 6901
note.

SEC. 613. TIBET NEGOTIATIONS.

(a) POLICY.—

(1) IN GENERAL.—The President and the Secretary should encourage the Government of the People’s Republic of China to enter into a dialogue with the Dalai Lama or his representatives leading to a negotiated agreement on Tibet.

(2) COMPLIANCE.—After such an agreement is reached, the President and the Secretary should work to ensure compliance with the agreement.

Deadline.

(b) PERIODIC REPORTS.—Not later than 180 days after the date of the enactment of this Act, and every 12 months thereafter, the President shall transmit to the appropriate congressional committees a report on—

(1) the steps taken by the President and the Secretary in accordance with subsection (a)(1); and

(2) the status of any discussions between the People’s Republic of China and the Dalai Lama or his representatives.

22 USC 6901
note.

SEC. 614. REPORTING ON TIBET.

Whenever a report is transmitted to Congress under section 116 or 502B of the Foreign Assistance Act of 1961 (22 U.S.C. 2151m, 2304) or under section 102(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)), Tibet shall be included in such report as a separate section.

22 USC 6901
note, 6912.

SEC. 615. CONGRESSIONAL-EXECUTIVE COMMISSION ON THE PEOPLE’S REPUBLIC OF CHINA.

Section 302(h) of the U.S.-China Relations Act of 2000 (Public Law 106-286), relating to the Congressional-Executive Commission on the People’s Republic of China, is amended—

(1) by striking “shall include specific information” and inserting the following: “shall include—

“(1) specific information”;

(2) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(2) a description of the status of negotiations between the Government of the People’s Republic of China and the Dalai Lama or his representatives, and measures taken to safeguard Tibet’s distinct historical, religious, cultural, and linguistic identity and the protection of human rights.”.

SEC. 616. ECONOMIC DEVELOPMENT IN TIBET.

22 USC 6901
note.

(a) **DECLARATIONS OF POLICY.**—It is the policy of the United States to support economic development, cultural preservation, health care, and education and environmental sustainability for Tibetans inside Tibet. In support of this policy, the United States shall use its voice and vote to support projects designed in accordance with the principles contained in subsection (d) that are designed to raise the standard of living for the Tibetan people and assist Tibetans to become self-sufficient.

(b) **INTERNATIONAL FINANCIAL INSTITUTIONS.**—The Secretary of the Treasury shall instruct the United States executive director of each international financial institution to use the voice and vote of the United States to support projects in Tibet, if the projects are designed in accordance with the principles contained in subsection (d).

(c) **EXPORT-IMPORT BANK AND TDA.**—The Export-Import Bank of the United States and the Trade and Development Agency should support projects proposed to be funded or otherwise supported by such entities in Tibet, if the projects are designed in accordance with the principles contained in subsection (d).

(d) **TIBET PROJECT PRINCIPLES.**—Projects in Tibet supported by international financial institutions, other international organizations, nongovernmental organizations, and the United States entities referred to in subsection (c), should—

(1) be implemented only after conducting a thorough assessment of the needs of the Tibetan people through field visits and interviews;

(2) be preceded by cultural and environmental impact assessments;

(3) foster self-sufficiency and self-reliance of Tibetans;

(4) promote accountability of the development agencies to the Tibetan people and active participation of Tibetans in all project stages;

(5) respect Tibetan culture, traditions, and the Tibetan knowledge and wisdom about their landscape and survival techniques;

(6) be subject to on-site monitoring by the development agencies to ensure that the intended target group benefits;

(7) be implemented by development agencies prepared to use Tibetan as the working language of the projects;

(8) neither provide incentive for, nor facilitate the migration and settlement of, non-Tibetans into Tibet; and

(9) neither provide incentive for, nor facilitate the transfer of ownership of, Tibetan land or natural resources to non-Tibetans.

22 USC 6901
note.

SEC. 617. RELEASE OF PRISONERS AND ACCESS TO PRISONS.

The President and the Secretary, in meetings with representatives of the Government of the People's Republic of China, should—

(1) request the immediate and unconditional release of all those held prisoner for expressing their political or religious views in Tibet;

(2) seek access for international humanitarian organizations to prisoners in Tibet to ensure that prisoners are not being mistreated and are receiving necessary medical care; and

(3) seek the immediate medical parole of Tibetan prisoners known to be in serious ill health.

22 USC 6901
note.

SEC. 618. ESTABLISHMENT OF A UNITED STATES BRANCH OFFICE IN LHASA, TIBET.

The Secretary should make best efforts to establish an office in Lhasa, Tibet, to monitor political, economic, and cultural developments in Tibet.

22 USC 6901
note.

SEC. 619. REQUIREMENT FOR TIBETAN LANGUAGE TRAINING.

The Secretary shall ensure that Tibetan language training is available to Foreign Service officers, and that every effort is made to ensure that a Tibetan-speaking Foreign Service officer is assigned to a United States post in the People's Republic of China responsible for monitoring developments in Tibet.

22 USC 6901
note.

SEC. 620. RELIGIOUS PERSECUTION IN TIBET.

(a) **HIGH-LEVEL CONTACTS.**—Pursuant to section 105 of the International Religious Freedom Act of 1998 (22 U.S.C. 6414), the United States Ambassador to the People's Republic of China should—

(1) meet with the 11th Panchen Lama, who was taken from his home on May 17, 1995, and otherwise ascertain information concerning his whereabouts and well-being; and

(2) request that the Government of the People's Republic of China release the 11th Panchen Lama and allow him to pursue his religious studies without interference and according to tradition.

(b) **PROMOTION OF INCREASED ADVOCACY.**—Pursuant to section 108(a) of the International Religious Freedom Act of 1998 (22 U.S.C. 6417(a)), it is the sense of Congress that representatives of the United States Government in exchanges with officials of the Government of the People's Republic of China should call for and otherwise promote the cessation of all interference by the Government of the People's Republic of China or the Communist Party in the religious affairs of the Tibetan people.

22 USC 6901
note.

SEC. 621. UNITED STATES SPECIAL COORDINATOR FOR TIBETAN ISSUES.

(a) **UNITED STATES SPECIAL COORDINATOR FOR TIBETAN ISSUES.**—There shall be within the Department a United States Special Coordinator for Tibetan Issues (in this section referred to as the "Special Coordinator").

(b) **CONSULTATION.**—The Secretary shall consult with the chairmen and ranking minority members of the appropriate congressional committees prior to the designation of the Special Coordinator.

(c) **CENTRAL OBJECTIVE.**—The central objective of the Special Coordinator is to promote substantive dialogue between the Government of the People’s Republic of China and the Dalai Lama or his representatives.

(d) **DUTIES AND RESPONSIBILITIES.**—The Special Coordinator shall—

(1) coordinate United States Government policies, programs, and projects concerning Tibet;

(2) vigorously promote the policy of seeking to protect the distinct religious, cultural, linguistic, and national identity of Tibet, and pressing for improved respect for human rights;

(3) maintain close contact with religious, cultural, and political leaders of the Tibetan people, including regular travel to Tibetan areas of the People’s Republic of China, and to Tibetan refugee settlements in India and Nepal;

(4) consult with Congress on policies relevant to Tibet and the future and welfare of the Tibetan people;

(5) make efforts to establish contacts in the foreign ministries of other countries to pursue a negotiated solution for Tibet; and

(6) take all appropriate steps to ensure adequate resources, staff, and bureaucratic support to fulfill the duties and responsibilities of the Special Coordinator.

Subtitle C—East Timor Transition to Independence Act of 2002

East Timor
Transition to
Independence Act
of 2002.

SEC. 631. SHORT TITLE.

This subtitle may be cited as the “East Timor Transition to Independence Act of 2002”.

22 USC 2656
note.

SEC. 632. BILATERAL ASSISTANCE.

22 USC 2656
note.

(a) **AUTHORITY.**—The President, acting through the Administrator of the United States Agency for International Development, is authorized to—

(1) support the development of civil society, including non-governmental organizations in East Timor;

(2) promote the development of an independent news media;

(3) support job creation, including support for small business and microenterprise programs, environmental protection, sustainable development, development of East Timor’s health care infrastructure, educational programs, and programs strengthening the role of women in society;

(4) promote reconciliation, conflict resolution, and prevention of further conflict with respect to East Timor, including establishing accountability for past gross human rights violations;

(5) support the voluntary and safe repatriation and reintegration of refugees into East Timor;

(6) support political party development, voter education, voter registration, and other activities in support of free and fair elections in East Timor; and

(7) promote the development of the rule of law.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) IN GENERAL.—There is authorized to be appropriated to the President to carry out this section \$25,000,000 for the fiscal year 2003.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

22 USC 2656
note.

SEC. 633. MULTILATERAL ASSISTANCE.

The Secretary of the Treasury shall instruct the United States executive director at each international financial institution to which the United States is a member to use the voice, vote, and influence of the United States to support economic and democratic development in East Timor.

22 USC 2656
note.

SEC. 634. TRADE AND INVESTMENT ASSISTANCE.

(a) OPIC.—The President should initiate negotiations with the Government of East Timor to enter into a new agreement authorizing the Overseas Private Investment Corporation to carry out programs with respect to East Timor in order to expand United States investment in East Timor, emphasizing partnerships with local East Timorese enterprises.

(b) TRADE AND DEVELOPMENT AGENCY.—

(1) IN GENERAL.—The Director of the Trade and Development Agency is authorized to carry out projects in East Timor under section 661 of the Foreign Assistance Act of 1961 (22 U.S.C. 2421).

(2) AUTHORIZATION OF APPROPRIATIONS.—

(A) IN GENERAL.—There are authorized to be appropriated to the Trade and Development Agency to carry out this subsection \$1,000,000 for fiscal year 2003.

(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

(c) EXPORT-IMPORT BANK.—The Export-Import Bank of the United States should expand its activities in connection with exports to East Timor to the extent such activities are requested and to the extent there is a reasonable assurance of repayment.

Records.
22 USC 2656
note.

SEC. 635. GENERALIZED SYSTEM OF PREFERENCES.

As soon as possible after the enactment of this Act, the United States Trade Representative and the Commissioner of Customs should send an assessment team to East Timor to compile a list of duty-free eligible products so that the Government of East Timor can begin the process of applying for General System of Preference benefits.

22 USC 2656
note.

SEC. 636. AUTHORITY FOR RADIO BROADCASTING.

The Broadcasting Board of Governors should broadcast to East Timor in an appropriate language or languages.

22 USC 2656
note.

SEC. 637. SECURITY ASSISTANCE FOR EAST TIMOR.

(a) STUDY AND REPORT.—

(1) STUDY.—The President shall conduct a study to determine—

(A) the extent to which East Timor's security needs can be met by the transfer of excess defense articles under section 516 of the Foreign Assistance Act of 1961;

President.

(B) the extent to which international military education and training (IMET) assistance will enhance professionalism of the armed forces of East Timor, provide training in human rights, and promote respect for human rights and humanitarian law; and

(C) the terms and conditions under which such defense articles or training, as appropriate, should be provided.

(2) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a report that contains the findings of the study conducted under paragraph (1).

Deadline.

(b) AUTHORIZATION OF ASSISTANCE.—

(1) IN GENERAL.—Beginning on the date on which Congress receives the report transmitted under subsection (a)(2), or the date on which Congress receives the certification transmitted under paragraph (2), whichever occurs later, the President is authorized—

Effective date.

(A) to transfer excess defense articles under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) to East Timor in accordance with such section; and

(B) to provide military education and training under chapter 5 of part II of such Act (22 U.S.C. 2347 et seq.) for the armed forces of East Timor in accordance with such chapter.

(2) CERTIFICATION.—A certification described in this paragraph is a certification that—

(A) East Timor has established an independent armed forces; and

(B) the assistance proposed to be provided pursuant to paragraph (1)—

(i) is in the national security interests of the United States; and

(ii) will promote both human rights in East Timor and the professionalization of the armed forces of East Timor.

SEC. 638. REPORTING REQUIREMENT.

22 USC 2656
note.
Deadline.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and every 12 months thereafter for the next five years, the Secretary shall prepare and transmit to the appropriate congressional committees a report that contains the information described in subsection (b).

(b) INFORMATION.—The report required by subsection (a) shall include—

(1) developments in East Timor's political and economic situation in the period covered by the report, including an evaluation of any elections which have occurred in East Timor and the refugee reintegration process in East Timor;

(2) in the initial report, a 3-year plan for United States foreign assistance to East Timor in accordance with section 632, prepared by the Administrator of the United States Agency for International Development, which outlines the goals for United States foreign assistance to East Timor during the 3-year period;

(3) a description of the activities undertaken in East Timor by the International Bank for Reconstruction and Development, the Asian Development Bank, and other international financial

institutions, and an evaluation of the effectiveness of these activities;

(4) an assessment of the status of United States trade and investment relations with East Timor, including a detailed analysis of any trade and investment-related activity supported by the Overseas Private Investment Corporation, the Export-Import Bank of the United States, or the Trade and Development Agency during the period of time since the previous report;

(5) a comprehensive study and report on local agriculture in East Timor, emerging opportunities for producing, processing, and exporting indigenous agricultural products, and recommendations for appropriate technical assistance from the United States; and

(6) statistical data drawn from other sources on economic growth, health, education, and distribution of resources in East Timor.

Clean Water for the Americas Partnership Act of 2002.

22 USC 2151p note.

22 USC 2151p note.

Subtitle D—Clean Water for the Americas Partnership

SEC. 641. SHORT TITLE.

This subtitle may be cited as the “Clean Water for the Americas Partnership Act of 2002”.

SEC. 642. DEFINITIONS.

In this subtitle:

(1) **JOINT PROJECT.**—The term “joint project” means a project between a United States association or nonprofit entity and a Latin American or Caribbean association or nongovernmental organization.

(2) **LATIN AMERICAN OR CARIBBEAN NONGOVERNMENTAL ORGANIZATION.**—The term “Latin American or Caribbean nongovernmental organization” includes any institution of higher education, any private nonprofit entity involved in international education activities, or any research institute or other research organization, based in the region.

(3) **REGION.**—The term “region” refers to the region comprised of the member countries of the Organization of American States (other than the United States and Canada).

(4) **UNITED STATES ASSOCIATION.**—The term “United States association” means a business league described in section 501(c)(6) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(6)), and exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)).

(5) **UNITED STATES NONPROFIT ENTITY.**—The term “United States nonprofit entity” includes any institution of higher education (as defined in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), any private nonprofit entity involved in international education activities, or any research institute or other research organization, based in the United States.

22 USC 2151p note.

SEC. 643. ESTABLISHMENT OF PROGRAM.

The President is authorized to establish a program which shall be known as the “Clean Water for the Americas Partnership”.

SEC. 644. ENVIRONMENTAL ASSESSMENT.22 USC 2151p
note.

The President is authorized to conduct a comprehensive assessment of the environmental problems in the region to determine—

(1) which environmental problems threaten human health the most, particularly the health of the urban poor;

(2) which environmental problems are most threatening, in the long-term, to the region's natural resources;

(3) which countries have the most pressing environmental problems; and

(4) whether and to what extent there is a market for United States environmental technology, practices, knowledge, and innovations in the region.

SEC. 645. ESTABLISHMENT OF TECHNOLOGY AMERICA CENTERS.22 USC 2151p
note.

(a) **AUTHORITY TO ESTABLISH.**—The President, acting through the Director General of the United States and Foreign Commercial Service of the Department of Commerce, is authorized to establish Technology America Centers (TEAMs) in the region to serve the entire region and, where appropriate, to establish TEAMs in urban areas of the region to focus on urban environmental problems.

(b) **FUNCTIONS.**—The TEAMs would link United States private sector environmental technology firms with local partners, both public and private, by providing logistic and information support to United States firms seeking to find local partners and opportunities for environmental projects. TEAMs should emphasize assisting United States small businesses.

(c) **LOCATION.**—In determining whether to locate a TEAM in a country, the President, acting through the Director General of the United States and Foreign Commercial Service of the Department of Commerce, shall take into account the country's need for logistic and informational support and the opportunities presented for United States firms in the country. A TEAM may be located in a country without regard to whether a mission of the United States Agency for International Development is established in that country.

SEC. 646. PROMOTION OF WATER QUALITY, WATER TREATMENT SYSTEMS, AND ENERGY EFFICIENCY.Grants.
22 USC 2151p
note.

Subject to the availability of appropriations, the President is authorized to provide matching grants to United States associations and United States nonprofit entities for the purpose of promoting water quality, water treatment systems, and energy efficiency in the region. The grants shall be used to support joint projects, including professional exchanges, academic fellowships, training programs in the United States or in the region, cooperation in regulatory review, development of training materials, the establishment and development in the region of local chapters of the associations or nonprofit entities, and the development of online exchanges.

SEC. 647. GRANTS FOR PREFEASIBILITY STUDIES WITHIN A DESIGNATED SUBREGION.22 USC 2151p
note.

(a) **GRANT AUTHORITY.**—

(1) **IN GENERAL.**—Subject to the availability of appropriations, the Director of the Trade and Development Agency is authorized to make grants for prefeasibility studies for water projects in any country within a single subregion or in a single country designated under paragraph (2).

(2) DESIGNATION OF SUBREGION.—The Director of the Trade and Development Agency shall designate in advance a single subregion or a single country for purposes of paragraph (1).

(b) MATCHING REQUIREMENT.—The Director of the Trade and Development Agency may not make any grant under this section unless there are made available non-Federal contributions in an amount equal to not less than 25 percent of the amount of Federal funds provided under the grant.

(c) LIMITATION PER SINGLE PROJECT.—With respect to any single project, grant funds under this section shall be available only for the prefeasibility portion of that project.

(d) DEFINITIONS.—In this section:

(1) PREFEASIBILITY.—The term “prefeasibility” means, with respect to a project, not more than 25 percent of the design phase of the project.

(2) SUBREGION.—The term “subregion” means an area within the region and includes areas such as Central America, the Andean region, and the Southern cone.

22 USC 2151p
note.

SEC. 648. CLEAN WATER TECHNICAL SUPPORT COMMITTEE.

(a) IN GENERAL.—The President is authorized to establish a Clean Water Technical Support Committee (in this section referred to as the “Committee”) to provide technical support and training services for individual water projects.

(b) COMPOSITION.—The Committee shall consist of international investors, lenders, water service providers, suppliers, advisers, and others with a direct interest in accelerating development of water projects in the region.

(c) FUNCTIONS.—Members of the Committee shall act as field advisers and may form specialized working groups to provide in-country training and technical assistance, and shall serve as a source of technical support to resolve barriers to project development.

22 USC 2151p
note.

SEC. 649. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to the President \$10,000,000 for each of the fiscal years 2003, 2004, and 2005 to carry out this subtitle.

(b) AVAILABILITY OF FUNDS.—Funds appropriated pursuant to subsection (a) are authorized to remain available until expended.

Deadline.
President.
22 USC 2151p
note.

SEC. 650. REPORT.

Eighteen months after the establishment of the program pursuant to section 643, the President shall submit a report to the appropriate congressional committees containing—

(1) an assessment of the progress made in carrying out the program established under this subtitle; and

(2) any recommendations for the enactment of legislation to make changes in the program established under this subtitle.

22 USC 2151p
note.

SEC. 651. TERMINATION DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the authorities of this subtitle shall terminate 3 years after the date of establishment of the program described in section 643.

(b) EXCEPTION.—In lieu of the termination date specified in subsection (a), the termination required by that subsection shall take effect five years after the date of establishment of the program described in section 643 if, prior to the termination date specified

in subsection (a), the President determines and certifies to the appropriate congressional committees that it would be in the national interest of the United States to continue the program described in such section 643 for an additional 2-year period.

SEC. 652. EFFECTIVE DATE.

This subtitle shall take effect 90 days after the date of enactment of this Act.

22 USC 2151p
note.

Subtitle E—Freedom Investment Act of 2002

Freedom
Investment Act
of 2002.
Human rights.

SEC. 661. SHORT TITLE.

This subtitle may be cited as the “Freedom Investment Act of 2002”.

22 USC 2151
note.

SEC. 662. PURPOSES.

The purposes of this subtitle are the following:

(1) To underscore that promoting and protecting human rights is in the national interests of the United States and is consistent with American values and beliefs.

(2) To establish a goal of devoting one percent of the funds available to the Department under “Diplomatic and Consular Programs”, other than such funds that will be made available for worldwide security upgrades and information resource management, to enhance the ability of the United States to promote respect for human rights and the protection of human rights defenders.

22 USC 2151n–2
note.

SEC. 663. HUMAN RIGHTS ACTIVITIES AT THE DEPARTMENT OF STATE.

(a) INCREASING RESOURCES AND IMPORTANCE OF HUMAN RIGHTS.—It is the sense of Congress that—

(1) the budget for the Bureau of Democracy, Human Rights, and Labor for fiscal years 2003 and 2004 should be substantially increased so that beginning in fiscal year 2005, and each fiscal year thereafter, not less than 1 percent of the amounts made available to the Department under the heading “Diplomatic and Consular Programs”, other than amounts made available for worldwide security upgrades and information resource management, should be made available for salaries and expenses of the Bureau of Democracy, Human Rights, and Labor; and

(2) any assignment of an individual to a political officer position at a United States mission abroad that has the primary responsibility for monitoring human rights developments in a foreign country should be made upon the recommendation of the Assistant Secretary of State for Democracy, Human Rights, and Labor in conjunction with the head of the Department’s regional bureau having primary responsibility for that country.

(b) PLAN RELATED TO HUMAN RIGHTS ACTIVITIES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the appropriate congressional committees a report containing a plan for the Department designed to achieve the following objectives:

Deadline.

(1) Improving the integration of human rights policy into the Department's overall policy formulation and implementation.

(2) Achieving closer communication and policy coordination between the Bureau of Democracy, Human Rights, and Labor and the regional bureaus of the Department, both within the United States and at overseas posts.

(3) Assigning individuals recommended by the Bureau of Democracy, Human Rights, and Labor, in conjunction with the relevant Department regional bureau, to political officer positions at United States missions abroad that have the primary responsibility for monitoring human rights developments in foreign countries.

22 USC 2151n-2. **SEC. 664. HUMAN RIGHTS AND DEMOCRACY FUND.**

(a) **ESTABLISHMENT OF FUND.**—There is established a Human Rights and Democracy Fund (in this section referred to as the “Fund”) to be administered by the Assistant Secretary of State for Democracy, Human Rights, and Labor.

(b) **PURPOSES OF FUND.**—The purposes of the Fund shall be—

(1) to support defenders of human rights;

(2) to assist the victims of human rights violations;

(3) to respond to human rights emergencies;

(4) to promote and encourage the growth of democracy, including the support for nongovernmental organizations in foreign countries; and

(5) to carry out such other related activities as are consistent with paragraphs (1) through (4).

(c) **FUNDING.**—

(1) **IN GENERAL.**—Of the amounts made available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for fiscal year 2003, \$21,500,000 is authorized to be available to the Fund for carrying out the purposes described in subsection (b). Amounts made available to the Fund under this paragraph shall also be deemed to have been made available under section 116(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(e)).

(2) **ALLOCATION OF FUNDS FOR THE DOCUMENTATION CENTER OF CAMBODIA.**—Of the amount authorized to be available to the Fund under paragraph (1) for fiscal year 2003, \$1,000,000 is authorized to be available for the Documentation Center of Cambodia for the purpose of collecting, cataloguing, and disseminating information about the atrocities committed by the Khmer Rouge against the Cambodian people.

(3) **FATHER JOHN KAISER MEMORIAL FUND.**—Of the amount authorized to be available to the Fund under paragraph (1) for fiscal year 2003, \$500,000 is authorized to be available to advance the extraordinary work and values of Father John Kaiser with respect to solving ethnic conflict and promoting government accountability and respect for human rights. The amount made available under this paragraph may be referred to as the “Father John Kaiser Memorial Fund”.

SEC. 665. REPORTS ON ACTIONS TAKEN BY THE UNITED STATES TO ENCOURAGE RESPECT FOR HUMAN RIGHTS.

(a) **SECTION 116 REPORT.**—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)) is amended—

(1) in paragraph (7), by striking “and” at the end and inserting a semicolon;

(2) in paragraph (8), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(9) for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country.”.

(b) SECTION 502B REPORT.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended by inserting after the fourth sentence the following: “Such report shall also include, for each country with respect to which the report indicates that extrajudicial killings, torture, or other serious violations of human rights have occurred in the country, the extent to which the United States has taken or will take action to encourage an end to such practices in the country.”.

(c) SEPARATE REPORT.—The information to be included in the report required by sections 116(d) and 502B(b) of the Foreign Assistance Act of 1961 pursuant to the amendments made by subsections (a) and (b) may be submitted by the Secretary as a separate report. If the Secretary elects to submit such information as a separate report, such report shall be submitted not later than 30 days after the date of submission of the report required by section 116(d) and 502B(b) of the Foreign Assistance Act of 1961.

22 USC 2151n
note.

Subtitle F—Elimination and Streamlining of Reporting Requirements

SEC. 671. ELIMINATION OF CERTAIN REPORTING REQUIREMENTS.

The following provisions of law are hereby repealed:

(1) ECONOMIC POLICY AND TRADE PRACTICES.—Section 2202 of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4711).

(2) ANNUAL REPORTS ON ECONOMIC AND SOCIAL GROWTH.—Section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996 (22 U.S.C. 2394 note).

(3) REPORTING REQUIREMENTS REGARDING CERTAIN LEASES OF REAL PROPERTY.—Section 488(a)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291g(3)); relating to reporting requirements regarding certain leases of real property).

(4) REPORTING REQUIREMENTS REGARDING PLACEMENT OF SENIOR FOREIGN SERVICE PERSONNEL.—Section 324 of the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (section 324 of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-437).

22 USC 3945
note.

SEC. 672. BIENNIAL REPORTS ON PROGRAMS TO ENCOURAGE GOOD GOVERNANCE.

(a) CONVERSION OF ANNUAL REPORTS TO BIENNIAL REPORTS.—Section 133(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152c(d)) is amended—

(1) in the subsection heading, by striking “ANNUAL REPORT” and inserting “BIENNIAL REPORTS”; and

(2) in paragraph (1)—

(A) in the text above subparagraph (A), by striking “an annual report” and inserting “a biennial report”;

(B) in subparagraph (A), by striking “prior year” and inserting “preceding two-year period”; and

(C) in subparagraph (B), by striking “prior year” and inserting “preceding two-year period”.

Deadline.
22 USC 2152c
note.

(b) TRANSITION.—The first biennial report under section 133(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2152c(d)), as amended by subsection (a), is required to be submitted not later than two years after the date of submission of the last annual report required under such section 133 (as in effect before the date of enactment of this Act).

Subtitle G—Other Matters

SEC. 681. AMENDMENTS TO THE INTERNATIONAL RELIGIOUS FREEDOM ACT OF 1998.

(a) VIOLATIONS OF RELIGIOUS FREEDOM.—Section 102(b)(1)(B) of the International Religious Freedom Act of 1998 (22 U.S.C. 6412(b)(1)(B)) is amended by inserting “including policies that discriminate against particular religious groups or members of such groups,” after “the existence of government policies violating religious freedom,”.

(b) ESTABLISHMENT OF STAGGERED TERMS OF MEMBERS OF COMMISSION.—Section 201(c) of such Act (22 U.S.C. 6431(c)) is amended by adding after paragraph (1) the following new paragraph:

“(2) ESTABLISHMENT OF STAGGERED TERMS.—

“(A) IN GENERAL.—Notwithstanding paragraph (1), members of the Commission appointed to serve on the Commission during the period May 15, 2003, through May 14, 2005, shall be appointed to terms in accordance with the provisions of this paragraph.

“(B) PRESIDENTIAL APPOINTMENTS.—Of the three members of the Commission appointed by the President under subsection (b)(1)(B)(i), two shall be appointed to a 1-year term and one shall be appointed to a 2-year term.

“(C) APPOINTMENTS BY THE PRESIDENT PRO TEMPORE OF THE SENATE.—Of the three members of the Commission appointed by the President pro tempore of the Senate under subsection (b)(1)(B)(ii), one of the appointments made upon the recommendation of the leader in the Senate of the political party that is not the political party of the President shall be appointed to a 1-year term, and the other two appointments under such clause shall be 2-year terms.

“(D) APPOINTMENTS BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES.—Of the three members of the Commission appointed by the Speaker of the House of Representatives under subsection (b)(1)(B)(iii), one of the appointments made upon the recommendation of the leader in the House of the political party that is not the political party of the President shall be to a 1-year term, and

the other two appointments under such clause shall be 2-year terms.

“(E) APPOINTMENTS TO 1-YEAR TERMS.—The term of each member of the Commission appointed to a 1-year term shall be considered to have begun on May 15, 2003, and shall end on May 14, 2004, regardless of the date of the appointment to the Commission. Each vacancy which occurs upon the expiration of the term of a member appointed to a 1-year term shall be filled by the appointment of a successor to a 2-year term.

“(F) APPOINTMENTS TO 2-YEAR TERMS.—Each appointment of a member to a two-year term shall identify the member succeeded thereby, and each such term shall end on May 14 of the year that is at least two years after the expiration of the previous term, regardless of the date of the appointment to the Commission.”.

(c) ELECTION OF CHAIR OF COMMISSION.—Section 201(d) of such Act (22 U.S.C. 6431(d)) is amended by striking “in each calendar” and inserting “after May 30 of each”.

(d) VACANCIES.—Section 201(g) of such Act (22 U.S.C. 6431(g)) is amended by adding at the end the following: “A member may serve after the expiration of that member’s term until a successor has taken office. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member’s predecessor was appointed shall be appointed only for the remainder of that term.”.

(e) AUTHORIZATIONS OF APPROPRIATIONS.—Section 207(a) of such Act (22 U.S.C. 6435(a)) is amended by inserting “for the fiscal year 2003” after “\$3,000,000”.

(f) PROCUREMENT OF NONGOVERNMENTAL SERVICES.—The third sentence of section 208(c)(1) of such Act (22 U.S.C. 6435a(c)(1)) is amended to read as follows: “The Commission may procure temporary and intermittent services under the authority of section 3109(b) of title 5, United States Code, except that the Commission may not expend more than \$100,000 in any fiscal year to procure such services.”.

(g) REVISED TERMINATION DATE OF COMMISSION.—Section 209 of the International Religious Freedom Act of 1998 (22 U.S.C. 6436) is amended by striking “May 14, 2003” and inserting “September 30, 2011”.

SEC. 682. AMENDMENTS TO THE VICTIMS OF TRAFFICKING AND VIOLENCE PROTECTION ACT OF 2000.

(a) ASSISTANCE FOR VICTIMS IN OTHER COUNTRIES.—Section 107(a)(1) of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7105(a)(1)) is amended by adding at the end the following: “In addition, such programs and initiatives shall, to the maximum extent practicable, include the following:

“(A) Support for local in-country nongovernmental organization-operated hotlines, culturally and linguistically appropriate protective shelters, and regional and international nongovernmental organization networks and databases on trafficking, including support to assist nongovernmental organizations in establishing service centers and systems that are mobile and extend beyond large cities.

“(B) Support for nongovernmental organizations and advocates to provide legal, social, and other services and

assistance to trafficked individuals, particularly those individuals in detention.

“(C) Education and training for trafficked women and girls.

“(D) The safe integration or reintegration of trafficked individuals into an appropriate community or family, with full respect for the wishes, dignity, and safety of the trafficked individual.

“(E) Support for developing or increasing programs to assist families of victims in locating, repatriating, and treating their trafficked family members, in assisting the voluntary repatriation of these family members or their integration or resettlement into appropriate communities, and in providing them with treatment.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 113 of the Victims of Trafficking and Violence Protection Act of 2000 (22 U.S.C. 7110) is amended—

(1) in subsection (a), by striking “for fiscal year 2002” and inserting “for each of the fiscal years 2002 and 2003”;

(2) in subsection (c)—

(A) in paragraph (1), by striking “and \$10,000,000 for fiscal year 2002” and inserting “, \$10,000,000 for fiscal year 2002, and \$15,000,000 for fiscal year 2003”; and

(B) in paragraph (2)—

(i) by striking “there are authorized to be appropriated to the Secretary of State” and inserting “there is authorized to be appropriated to the Secretary of State for each of the fiscal years 2001, 2002, and 2003”; and

(ii) by striking “for fiscal year 2001” and inserting “for such fiscal year”; and

(3) in paragraphs (1) and (2) of subsection (e), by striking “and \$10,000,000 for fiscal year 2002” each place it appears and inserting “, \$10,000,000 for fiscal year 2002, and \$15,000,000 for fiscal year 2003”.

SEC. 683. ANNUAL HUMAN RIGHTS COUNTRY REPORTS ON CHILD SOLDIERS.

(a) **COUNTRIES RECEIVING ECONOMIC ASSISTANCE.**—Section 116(d) of the Foreign Assistance Act of 1961 (22 U.S.C. 2151n(d)), as amended by section 665(a) of this Act, is further amended—

(1) in paragraph (8), by striking “and” at the end;

(2) in paragraph (9), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(10)(A) wherever applicable, a description of the nature and extent—

“(i) of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, and the participation of such individuals in such groups; and

“(ii) that such individuals take a direct part in hostilities;

“(B) what steps, if any, taken by the government of the country to eliminate such practices; and

“(C) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary.”.

(b) COUNTRIES RECEIVING SECURITY ASSISTANCE.—Section 502B(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2304(b)) is amended by inserting after the sixth sentence the following: “Each report under this section shall also include (i) wherever applicable, a description of the nature and extent of the compulsory recruitment and conscription of individuals under the age of 18 by armed forces of the government of the country, government-supported paramilitaries, or other armed groups, the participation of such individuals in such groups, and the nature and extent that such individuals take a direct part in hostilities, (ii) what steps, if any, taken by the government of the country to eliminate such practices, and (iii) such other information related to the use by such government of individuals under the age of 18 as soldiers, as determined to be appropriate by the Secretary of State.”.

SEC. 684. EXTENSION OF AUTHORITY FOR CAUCUS ON INTERNATIONAL NARCOTICS CONTROL.

Section 814(i) of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99-93) is amended by striking “2002” and inserting “2005”.

22 USC 2291
note.

SEC. 685. PARTICIPATION OF SOUTH ASIAN COUNTRIES IN INTERNATIONAL LAW ENFORCEMENT.

The Secretary shall ensure, where practicable, that appropriate government officials from countries in the South Asia region shall be eligible to attend courses at the International Law Enforcement Academy located in Bangkok, Thailand, and Budapest, Hungary, consistent with other provisions of law, with the goal of enhancing regional cooperation in the fight against transnational crime.

SEC. 686. PAYMENT OF ANTI-TERRORISM JUDGMENTS.

Section 2002(a)(2)(A)(ii) of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106-386; 114 Stat. 1542)) is amended by striking “or July 27, 2000” and inserting “June 6, 2000, July 27, 2000, or January 16, 2002”.

SEC. 687. REPORTS ON PARTICIPATION BY SMALL BUSINESSES IN PROCUREMENT CONTRACTS OF USAID.

22 USC 2352
note.

(a) INITIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the Administrator shall submit to the designated congressional committees a report that contains the following:

Deadline.

(1) For each of the fiscal years 2000, 2001, and 2002:

(A) The total number of the contracts that were awarded by the Agency to—

- (i) all small businesses;
- (ii) small business concerns owned and controlled by socially and economically disadvantaged individuals;
- (iii) small business concerns owned and controlled by women;
- (iv) small businesses participating in the program under section 8(a) of such Act (15 U.S.C. 637(a)); and
- (v) qualified HUBZone small business concerns.

(B) The percentage of all contracts awarded by the Agency that were awarded to the small businesses in each

category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(C) Of all contracts awarded by the Agency for performance in the United States, the percentage of the contracts that were awarded to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(D) To the extent available—

(i) the total number of grant and cooperative agreements that were made by the Agency to the small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A);

(ii) the percentage of all grant and cooperative agreements awarded by the Agency that were awarded to small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts; and

(iii) of all grant and cooperative agreements made by the Agency to entities in the United States, the percentage of the grant and cooperative agreements that were awarded to small businesses in each category of small businesses specified in clauses (i) through (v) of subparagraph (A), as computed on the basis of dollar amounts.

(E) To the extent available—

(i) the total dollar amount of all subcontracts entered into with the small businesses in each category specified in clauses (i) through (v) of subparagraph (A) by the prime contractors for contracts entered into by the Agency; and

(ii) the percentage of all contracts entered into by the Agency that were performed under subcontracts described in clause (i), as computed on the basis of dollar amounts.

(2) An analysis of any specific industries or sectors that are underrepresented by small businesses in the awarding of contracts by the Agency and, to the extent such information is available, such analysis pertaining to the making of grants and cooperative agreements by the Agency.

(3) A specific plan of outreach, including measurable achievement milestones, to increase the total number of contracts that are awarded by the Agency, and the percentage of all contracts awarded by the Agency (computed on the basis of dollar amount) that are awarded, to—

(A) all small businesses;

(B) small business concerns owned and controlled by socially and economically disadvantaged individuals;

(C) small business concerns owned and controlled by women;

(D) small businesses participating in the program under section 8(a) of such Act (15 U.S.C. 637(a)); and

(E) qualified HUBZone small business concerns, in order to meet the statutory and voluntary targets established by the Agency and the Small Business Administration, with

a particular focus on the industries or sectors identified in paragraph (2).

(4) Any other information the Administrator determines appropriate.

(b) **PLAN TO INCREASE SMALL BUSINESS CONTRACTING.**—The plan required for the report under subsection (a)(3) shall include the following matters:

(1) Proposals and milestones that apply to all contracts entered into by or on behalf of the Agency in Washington, D.C., and proposals and milestones that apply to all contracts entered into by or on behalf of the Agency by offices outside Washington, D.C.

(2) Proposals and milestones of the Agency to increase the amount of subcontracting to businesses described in such subsection (a)(3) by the prime contractors of the Agency.

(3) With the milestones described in paragraph (2), a description of how the Administrator plans to use the failure of a prime contractor to meet goals as a ranking factor for evaluating any other submission from the contractor for future contracts by the Agency.

(c) **ANNUAL REPORTS.**—Not later than January 31, 2004, January 31, 2005, and January 31, 2006, the Administrator shall submit to the designated congressional committees a report for the preceding fiscal year that contains a description of the percentage of total contract and grant and cooperative agreement dollar amounts that were entered into by the Agency, and the total number of contracts and grants and cooperative agreements that were awarded by the Agency, to small businesses in each category specified in clauses (i) through (v) of subsection (a)(1)(A) during such fiscal year. The report for a fiscal year shall include, separately stated for contracts and grant and cooperative agreements entered into by the Agency, the percentage of the contracts and grant and cooperative agreements, respectively, that were awarded to small businesses in each such category, as computed on the basis of dollar amounts. The report shall also include a description of achievements toward measurable milestones for direct contracts of the Agency entered into by offices outside of Washington, D.C., and for subcontracting by prime contractors of the Agency.

Deadlines.

(d) **DEFINITIONS.**—In this section:

(1) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the United States Agency for International Development.

(2) **AGENCY.**—The term “Agency” means the United States Agency for International Development.

(3) **DESIGNATED CONGRESSIONAL COMMITTEES.**—The term “designated congressional committees” means—

(A) the Committee on International Relations and the Committee on Small Business of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Small Business of the Senate.

SEC. 688. PROGRAM TO IMPROVE BUILDING CONSTRUCTION AND PRACTICES IN LATIN AMERICAN COUNTRIES. 22 USC 2152e.

(a) **IN GENERAL.**—The President, acting through the Administrator of the United States Agency for International Development, is authorized, under such terms and conditions as the President

may determine, to carry out a program to improve building construction codes and practices in Ecuador, El Salvador, and other Latin American countries (in this section referred to as the “program”).

(b) PROGRAM DESCRIPTION.—

(1) IN GENERAL.—The program shall be in the form of grants to, or contracts with, organizations described in paragraph (2) to support the following activities:

(A) TRAINING.—Training of appropriate professionals in Latin America from both the public and private sectors to enhance their understanding of building and housing codes and standards.

(B) TRANSLATION AND DISTRIBUTION.—Translating and distributing in the region detailed construction manuals, model building codes, and publications from organizations described in paragraph (2), including materials that address zoning, egress, fire and life safety, plumbing, sewage, sanitation, electrical installation, mechanical installation, structural engineering, and seismic design.

(C) OTHER ASSISTANCE.—Offering other relevant assistance as needed, such as helping government officials develop seismic micro-zonation maps or draft pertinent legislation, to implement building codes and practices that will help improve the resistance of buildings and housing in the region to seismic activity and other natural disasters.

(2) COVERED ORGANIZATIONS.—Grants and contracts provided under this section shall be carried out through United States organizations with expertise in the areas described in paragraph (1), including the American Society of Testing Materials, the Underwriters Laboratories, the American Society of Mechanical Engineers, the American Society of Civil Engineers, the American Society of Heating, Refrigeration, and Air Conditioning Engineers, the International Association of Plumbing and Mechanical Officials, the International Code Council, and the National Fire Protection Association.

SEC. 689. SENSE OF CONGRESS RELATING TO HIV/AIDS AND UNITED NATIONS PEACEKEEPING OPERATIONS.

It is the sense of the Congress that the President should direct the Secretary and the United States Representative to the United Nations to urge the United Nations to adopt an HIV/AIDS mitigation strategy as a component of United Nations peacekeeping operations.

SEC. 690. SENSE OF CONGRESS RELATING TO MAGEN DAVID ADOM SOCIETY.

(a) FINDINGS.—Congress finds the following:

(1) It is the mission of the International Red Cross and Red Crescent Movement to prevent and alleviate human suffering wherever it may be found, without discrimination.

(2) The International Red Cross and Red Crescent Movement is a worldwide institution in which all national Red Cross and Red Crescent societies have equal status.

(3) The Magen David Adom Society is the national humanitarian society in the State of Israel.

(4) Since 1949 the Magen David Adom Society has been refused admission into the International Red Cross and Red Crescent Movement and has been relegated to observer status without a vote because it has used the Red Shield of David,

the only such national organization denied membership in the Movement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the International Committee of the Red Cross should immediately recognize the Magen David Adom Society;

(2) the Federation of Red Cross and Red Crescent Societies should grant full membership to the Magen David Adom Society immediately following recognition by the International Committee of the Red Cross of the Magen David Adom Society as a full member of the International Committee of the Red Cross;

(3) the Red Shield of David should be accorded the same protections under international law as the Red Cross and the Red Crescent; and

(4) the United States should continue to press for full membership for the Magen David Adom Society in the International Red Cross Movement.

SEC. 691. SENSE OF CONGRESS REGARDING THE LOCATION OF PEACE CORPS OFFICES ABROAD.

It is the sense of the Congress that, to the degree permitted by security considerations, the Secretary should give favorable consideration to requests by the Director of the Peace Corps that the Secretary exercise his authority under section 606(a)(2)(B) of the Secure Embassy Construction and Counterterrorism Act of 1999 (22 U.S.C. 4865(a)(2)(B)) to waive certain requirements of that Act in order to permit the Peace Corps to maintain offices in foreign countries at locations separate from the United States embassy.

SEC. 692. SENSE OF CONGRESS RELATING TO RESOLUTION OF THE TAIWAN STRAIT ISSUE.

It is the sense of the Congress that Taiwan is a mature democracy that fully respects human rights and it is the policy of the United States that any resolution of the Taiwan Strait issue must be peaceful and include the assent of the people of Taiwan.

SEC. 693. SENSE OF CONGRESS RELATING TO DISPLAY OF THE AMERICAN FLAG AT THE AMERICAN INSTITUTE IN TAIWAN.

It is the sense of the Congress that the American Institute in Taiwan and the residence of the director of the American Institute in Taiwan should publicly display the flag of the United States in the same manner as United States embassies, consulates, and official residences throughout the world.

SEC. 694. REPORTS ON ACTIVITIES IN COLOMBIA.

(a) REPORT ON REFORM ACTIVITIES.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, and not later than April 1 of each year thereafter, the Secretary shall submit to the appropriate congressional committees a report on the status of activities funded or authorized, in whole or in part, by the Department or the Department of Defense in Colombia to promote alternative development, recovery and resettlement of internally displaced persons, judicial reform, the peace process, and human rights.

(2) CONTENTS.—Each such report shall contain the following:

22 USC 2291
note.

Deadlines.

(A) A summary of activities described in paragraph (1) during the previous 12-month period.

(B) An estimated timetable for the conduct of such activities in the subsequent 12-month period.

(C) An explanation of any delay in meeting timetables contained in the previous report submitted in accordance with this subsection.

(D) An assessment of steps to be taken to correct any delays in meeting such timetables.

(b) **REPORT ON CERTAIN COUNTERNARCOTICS ACTIVITIES.**—

(1) **DECLARATION OF POLICY.**—It is the policy of the United States to encourage the transfer of counternarcotics activities carried out in Colombia by United States businesses that have entered into agreements with the Department or the Department of Defense to conduct such activities, to Colombian nationals, in particular personnel of the Colombian antinarcotics police, when properly qualified personnel are available.

Deadlines.

(2) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, and not later than April 1 of each year thereafter, the Secretary shall submit to the appropriate congressional committees a report on the activities of United States businesses that have entered into agreements in the previous 12-month period with the Department or the Department of Defense to carry out counternarcotics activities in Colombia.

(3) **CONTENTS.**—Each such report shall contain the following:

(A) The name of each United States business described in paragraph (2) and description of the counternarcotics activities carried out by the business in Colombia.

(B) The total value of all payments by the Department and the Department of Defense to each such business for such activities.

(C) A written statement justifying the decision by the Department and the Department of Defense to enter into an agreement with each such business for such activities.

(D) An assessment of the risks to personal safety and potential involvement in hostilities incurred by employees of each such business as a result of their activities in Colombia.

(E) A plan to provide for the transfer of the counternarcotics activities carried out by such United States businesses to Colombian nationals, in particular personnel of the Colombian antinarcotics police.

(4) **DEFINITION.**—In this subsection, the term “United States business” means any person (including any corporation, partnership, or other organization) that is subject to the jurisdiction of the United States or organized under the laws of the United States, but does not include any person (including any corporation, partnership, or other organization) that performs contracts involving personal services.

SEC. 695. REPORT ON UNITED STATES-SPONSORED ACTIVITIES IN COLOMBIA.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Heroin originating from Colombia is beginning to dominate the illicit market of that narcotic in the United States partly because law enforcement has struggled to interdict effectively what is often voluminous importations of small quantities of Colombia's inexpensive and pure heroin.

(2) Destruction of opium, from which heroin is derived, at its source in Colombia is traditionally one of the best strategies to combat the heroin crisis in the United States, according to Federal law enforcement officials.

(3) There is a growing alarm concerning the spillover effect of Plan Colombia on Ecuador, a frontline state. The northern region of Ecuador, including the Sucumbios province, is an area of particular concern.

(4) As a result of Plan Colombia-related activities, drug traffickers, guerrillas, and paramilitary groups have made incursions from Colombia into Ecuador, increasing the level of violence and delinquency in the border region.

(b) REPORT TO CONGRESS.—Not later than 150 days after the date of enactment of this Act, the Secretary shall submit a report to the appropriate congressional committees which sets forth a statement of policy and comprehensive strategy for United States activities in Colombia related to—

Deadline.

(1) the eradication of all opium cultivation at its source in Colombia; and

(2) the impact of Plan Colombia on Ecuador and the other adjacent countries to Colombia.

SEC. 696. REPORT ON EXTRADITION POLICY AND PRACTICE.

Not later than May 1, 2003, the Secretary shall submit a report to the appropriate congressional committees on extradition practice between the United States and governments of foreign countries with which the United States has an extradition relationship. The report shall include—

Deadline.

(1) an aggregate list, by country, of—

(A) the number of extradition requests made by the United States to that country in 2002; and

(B) the number of fugitives extradited by that country to the United States in 2002;

(2) an aggregate list, by country, of—

(A) the number of extradition requests made by that country to the United States in 2002; and

(B) the number of fugitives extradited by the United States to that country in 2002;

(3) any other relevant information regarding difficulties the United States has experienced in obtaining the extradition of fugitives (including a discussion of the unwillingness of treaty partners to extradite nationals or where fugitives may face capital punishment or life imprisonment); and

(4) a summary of the Department's efforts in 2002 to negotiate new or revised extradition treaties, and its agenda for such negotiations in 2003.

SEC. 697. SPECIAL COURT FOR SIERRA LEONE.

(a) FINDING.—Congress finds that prompt establishment of a Special Court for Sierra Leone is an important step in restoring a credible system of justice and accountability for the crimes committed in Sierra Leone and would contribute to the process of national reconciliation in that country.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States should support the Truth and Reconciliation Commission in Sierra Leone, including through assistance in the collection of human rights data relevant to the Commission's work.

(c) **ALLOCATION OF FUNDS.**—Of the amounts made available to the Department of State for fiscal year 2003, there is authorized to be available \$5,000,000 to support the Special Court for Sierra Leone.

(d) **EXTENSION OF REWARDS PROGRAM.**—Section 102 of Public Law 105-323, as amended (22 U.S.C. 2708 note), is further amended—

(1) in subsection (a), by inserting “the Special Court of Sierra Leone” after “by,”; and

(2) in subsection (c), by adding at the end the following new paragraph:

“(3) For the purposes of subsection (a), the Statute of the Special Court for Sierra Leone means the Statute contained in the Annex to the Agreement Between the United Nations and the Government of Sierra Leone on the Establishment of a Special Court for Sierra Leone.”.

SEC. 698. UNITED STATES ENVOY FOR PEACE IN SUDAN.

There should continue to be a United States Envoy for Peace in Sudan until the full implementation of a comprehensive settlement to the conflict in Sudan that is acceptable to the parties to the conflict.

22 USC 2301
note.

SEC. 699. TRANSFER OF PROSCRIBED WEAPONS TO PERSONS OR ENTITIES IN THE WEST BANK AND GAZA.

(a) **DETERMINATION REGARDING TRANSFERS.**—If the President determines, based on a preponderance of the evidence, that a foreign person or entity has knowingly transferred proscribed weapons to Palestinian entities in the West Bank or Gaza, then, for the period specified in subsection (b), no assistance may be provided to the person or entity under part II of the Foreign Assistance Act of 1961 and no sales of defense articles or defense services may be made to the person or entity under section 23 of the Arms Export Control Act.

(b) **DURATION OF PROHIBITION.**—The period referred to in subsection (a) is the period commencing on the date on which a notification of a determination under subsection (a) is submitted to the appropriate congressional committees and ending on the date that is two years after such date.

President.

(c) **REPORT.**—In conjunction with the report required under title VIII of the P.L.O. Commitments Compliance Act of 1989 (Public Law 101-246), the President shall submit a report to the appropriate congressional committees on transfers reviewed pursuant to subsection (a).

(d) **DEFINITION.**—In this section, the term “proscribed weapons” means arms, ammunition, and equipment the transfer of which is not in compliance with the Agreement on the Gaza Strip and the Jericho Area of May 4, 1994, its annexes, or subsequent agreements between Israel and the PLO, or Palestinian Authority, as appropriate.

SEC. 700. SENSE OF CONGRESS RELATING TO ARSENIC CONTAMINATION IN DRINKING WATER IN BANGLADESH.

(a) **FINDINGS.**—Congress finds that—

(1) beginning in 1993, naturally occurring inorganic arsenic contamination of water began to be confirmed in Bangladesh in tube-wells installed in the 1970s, when standard water testing did not include arsenic tests;

(2) because health effects of ingesting arsenic-contaminated drinking water appear slowly, preventative measures are critical to preventing future contamination in the Bangladeshi population; and

(3) health effects of exposure to arsenic include skin lesions, skin cancer, and mortality from internal cancers.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should—

(1) work with appropriate United States Government agencies, national laboratories, universities in the United States, the Government of Bangladesh, international financial institutions and organizations, and international donors to identify a long-term solution to the arsenic-contaminated drinking water problem in Bangladesh, including drawing arsenic out of the existing tube-wells and finding alternate sources of water; and

(2) submit a report to the appropriate congressional committees on proposals to bring about arsenic-free drinking water to Bangladeshis and to facilitate treatment for those who have already been affected by arsenic-contaminated drinking water in Bangladesh.

SEC. 701. POLICING REFORM AND HUMAN RIGHTS IN NORTHERN IRELAND.

(a) CONGRESSIONAL STATEMENT OF POLICY.—Congress—

(1) supports independent judicial public inquiries into the murders of defense attorneys Patrick Finucane and Rosemary Nelson as a way to instill confidence in the Police Service of Northern Ireland; and

Patrick
Finucane.
Rosemary
Nelson.

(2) continues to urge the United Kingdom to take appropriate action to protect defense lawyers and human rights defenders in Northern Ireland.

(b) DECOMMISSIONING WEAPONS.—Congress—

(1) calls on the Irish Republican Army to continue and complete the decommissioning of all their arms and explosives; and

(2) calls for—

(A) the decommissioning of all weapons held by paramilitaries on all sides, such as the Provisional Irish Republican Army (PIRA), the Real Irish Republican Army (RIRA), the Continuity Irish Republican Army (CIRA), the Loyalist Volunteer Force (LVF), the Orange Volunteers (OV), the Red Hand Defenders (RHD), the Ulster Defense Association/Ulster Freedom Fighters (UDA/UFF), the Ulster Volunteer Force (UVF); and

(B) the immediate cessation of paramilitary punishment attacks and exiling.

(c) SUPPORT FOR GLOBAL WAR ON TERRORISM.—Congress recognizes the United Kingdom's commitment to support the United States in a global war on terrorism.

(d) REPORT ON POLICING REFORM AND HUMAN RIGHTS IN NORTHERN IRELAND.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to the appropriate congressional committees on the following:

Deadline.
President.

Robert Hammill.

(1) The extent to which the Governments of the United Kingdom and Ireland have implemented the recommendations relating to the 175 policing reforms contained in the Patten Commission report issued on September 9, 1999, including a description of the progress of the integration of human rights, as well as recruitment procedures aimed at increasing Catholic representation, including the effectiveness of such procedures, in the new Police Service of Northern Ireland.

(2) The status of the investigations into the murders of Patrick Finucane, Rosemary Nelson, and Robert Hammill, including the extent to which progress has been made on recommendations for independent judicial public inquiries into these murders.

(3) All decommissioning acts taken to date by the Irish Republican Army, including the quantity and precise character of what the IRA decommissioned, as reported and verified by the International Commission on Decommissioning.

(4) All acts of decommissioning taken by other paramilitary organizations, including a description of all weapons and explosives decommissioned.

(5) A description of the measures taken to ensure that the programs described under subsection (e) comply with the requirements of that subsection.

(e) COMPLIANCE WITH PRIOR PROVISIONS.—Any training or exchange program conducted by the Federal Bureau of Investigation or any other Federal law enforcement agency for the Police Service of Northern Ireland or its members shall—

(1) be necessary to improve the professionalism of policing in Northern Ireland;

(2) be necessary to advance the peace process in Northern Ireland;

(3) include in the curriculum a significant human rights component; and

(4) only be provided to Police Service of Northern Ireland (PSNI) members who have been subject to a vetting procedure established by the Department and the Department of Justice to ensure that such program does not include PSNI members who there are substantial ground for believing have committed or condoned violations of internationally recognized human rights, including any role in the murder of Patrick Finucane or Rosemary Nelson or other violence or serious threat of violence against defense attorneys in Northern Ireland.

22 USC 2151n
note.

Deadline.

SEC. 702. ANNUAL REPORTS ON UNITED STATES-VIETNAM HUMAN RIGHTS DIALOGUE MEETINGS.

Not later than December 31 of each year or 60 days after the second United States-Vietnam human rights dialogue meeting held in a calendar year, whichever is earlier, the Secretary shall submit to the appropriate congressional committees a report covering the issues discussed at the previous two meetings and describing to what extent the Government of Vietnam has made progress during the calendar year toward achieving the following objectives:

(1) Improving the Government of Vietnam's commercial and criminal codes to bring them into conformity with international standards, including the repeal of the Government of Vietnam's administrative detention decree (Directive 31/CP).

(2) Releasing political and religious activists who have been imprisoned or otherwise detained by the Government of Vietnam, and ceasing surveillance and harassment of those who have been released.

(3) Ending official restrictions on religious activity, including implementing the recommendations of the United Nations Special Rapporteur on Religious Intolerance.

(4) Promoting freedom for the press, including freedom of movement of members of the Vietnamese and foreign press.

(5) Improving prison conditions and providing transparency in the penal system of Vietnam, including implementing the recommendations of the United Nations Working Group on Arbitrary Detention.

(6) Respecting the basic rights of indigenous minority groups, especially in the central and northern highlands of Vietnam.

(7) Respecting the basic rights of workers, including working with the International Labor Organization to improve mechanisms for promoting such rights.

(8) Cooperating with requests by the United States to obtain full and free access to persons who may be eligible for admission to the United States as refugees or immigrants, and allowing such persons to leave Vietnam without being subjected to extortion or other corrupt practices.

SEC. 703. SENSE OF CONGRESS REGARDING HUMAN RIGHTS VIOLATIONS IN INDONESIA.

It is the sense of Congress that the Government of Indonesia should—

(1) demonstrate substantial progress toward ending human rights violations by the armed forces in Indonesia (TNI);

(2) terminate any TNI support for and cooperation with terrorist organizations, including Laskar Jihad and militias operating in the Maluku, Central Sulawesi, West Papua (Irian Jaya), and elsewhere;

(3) investigate and prosecute those responsible for human rights violations, including TNI officials, members of Laskar Jihad, militias, and other terrorist organizations; and

(4) make concerted and demonstrable efforts to find and prosecute those responsible for the murders of Papuan leader Theys Elvay, Aceh human rights advocate Jafar Siddiq Hamzah, and United States citizens Edwin L. Burgon and Ricky L. Spier.

SEC. 704. REPORT CONCERNING THE GERMAN FOUNDATION “REMEMBRANCE, RESPONSIBILITY, AND THE FUTURE”.

(a) REPORT CONCERNING THE GERMAN FOUNDATION “REMEMBRANCE, RESPONSIBILITY, AND THE FUTURE”.—Not later than 180 days after the date of the enactment of this Act, and every 180 days thereafter until all funds made available to the German Foundation have been disbursed, the Secretary shall report to the appropriate congressional committees on the status of the implementation of the Agreement and, to the extent possible, on whether or not—

Deadline.

(1) during the 180-day period preceding the date of the report, the German Bundestag has authorized the allocation of funds to the Foundation, in accordance with section 17 of

the law on the creation of the Foundation, enacted by the Federal Republic of Germany on August 8, 2000;

(2) the entire sum of 10,000,000,000 deutsche marks has been made available to the German Foundation in accordance with Annex B to the Joint Statement of July 17, 2000;

(3) during the 180-day period preceding the date of the report, any company or companies investigating a claim, who are members of ICHEIC, were required to provide to the claimant, within 90 days after receiving the claim, a status report on the claim, or a decision that included—

(A) an explanation of the decision, pursuant to those standards of ICHEIC to be applied in approving claims;

(B) all documents relevant to the claim that were retrieved in the investigation; and

(C) an explanation of the procedures for appeal of the decision;

(4) during the 180-day period preceding the date of the report, any entity that elected to determine claims under Article 1(4) of the Agreement was required to comply with the standards of proof, criteria for publishing policyholder names, valuation standards, auditing requirements, and decisions of the Chairman of ICHEIC;

(5) during the 180-day period preceding the date of the report, an independent process to appeal decisions made by any entity that elected to determine claims under Article 1(4) of the Agreement was available to and accessible by any claimant wishing to appeal such a decision, and the appellate body had the jurisdiction and resources necessary to fully investigate each claim on appeal and provide a timely response;

(6) an independent audit of compliance by every entity that has elected to determine claims under Article 1(4) of the Agreement has been conducted; and

(7) the administrative and operational expenses incurred by the companies that are members of ICHEIC are appropriate for the administration of claims described in paragraph (3). The Secretary's report shall include the Secretary's justification for each determination under this subsection.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the resolution of slave and forced labor claims is an urgent issue for aging Holocaust survivors, and the German Bundestag should allocate funds for disbursement by the German Foundation to Holocaust survivors as soon as possible; and

(2) ICHEIC should work in consultation with the Secretary in gathering the information required for the report under subsection (a).

(c) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term “Agreement” means the Agreement between the Government of the United States of America and the Government of the Federal Republic of Germany concerning the Foundation “Remembrance, Responsibility and the Future”, done at Berlin July 17, 2000.

(2) ANNEX B TO THE JOINT STATEMENT OF JULY 17, 2000.—The term “Annex B to the Joint Statement of July 17, 2000” means Annex B to the Joint Statement on occasion of the final plenary meeting concluding international talks on the

preparation of the Federal Foundation “Remembrance, Responsibility and the Future”, done at Berlin on July 17, 2000.

(3) GERMAN FOUNDATION.—The term “German Foundation” means the Foundation “Remembrance, Responsibility and the Future” referred to in the Agreement.

(4) ICHEIC.—The term “ICHEIC” means the International Commission on Holocaust Era Insurance Claims referred to in Article 1(4) of the Agreement.

SEC. 705. SENSE OF CONGRESS ON RETURN OF PORTRAITS OF HOLOCAUST VICTIMS TO THE ARTIST DINA BABBITT.

(a) FINDINGS.—Congress finds that—

(1) Dina Babbitt (formerly known as Dinah Gottliebova), a United States citizen has requested the return of watercolor portraits she painted while suffering a 1½-year-long internment at the Auschwitz death camp during World War II;

Dinah
Gottliebova.

(2) Dina Babbitt was ordered to paint the portraits by the infamous war criminal Dr. Josef Mengele;

(3) Dina Babbitt’s life, and her mother’s life, were spared only because she painted portraits of doomed inmates of Auschwitz-Birkenau, under orders from Dr. Josef Mengele;

(4) these paintings are currently in the possession of the Auschwitz-Birkenau State Museum;

(5) Dina Babbitt is the rightful owner of the artwork, since the paintings were produced by her own talented hands as she endured the unspeakable conditions that existed at the Auschwitz death camp;

(6) the artwork is not available for the public to view at the Auschwitz-Birkenau State Museum and therefore this unique and important body of work is essentially lost to history; and

(7) this continued injustice can be righted through cooperation between agencies of the United States and Poland.

(b) SENSE OF CONGRESS.—Congress—

(1) recognizes the moral right of Dina Babbitt to obtain the artwork she created, and recognizes her courage in the face of the evils perpetrated by the Nazi command of the Auschwitz-Birkenau death camp, including the atrocities committed by Dr. Josef Mengele;

(2) urges the President to make all efforts necessary to retrieve the 7 watercolor portraits Dina Babbitt painted, while suffering a 1½-year-long internment at the Auschwitz death camp, and return them to her;

(3) urges the Secretary to make immediate diplomatic efforts to facilitate the transfer of the 7 original watercolors painted by Dina Babbitt from the Auschwitz-Birkenau State Museum to Dina Babbitt, their rightful owner;

(4) urges the Government of Poland to immediately facilitate the return to Dina Babbitt of the artwork painted by her that is now in the possession of the Auschwitz-Birkenau State Museum; and

(5) urges the officials of the Auschwitz-Birkenau State Museum to transfer the 7 original paintings to Dina Babbitt as expeditiously as possible.

22 USC 2291j-1. **SEC. 706. INTERNATIONAL DRUG CONTROL CERTIFICATION PROCEDURES.**

During any fiscal year, funds that would otherwise be withheld from obligation or expenditure under section 490 of the Foreign Assistance Act of 1961 may be obligated or expended beginning October 1 of such fiscal year provided that:

Deadline.
President.

(1) **REPORT.**—Not later than September 15 of the previous fiscal year the President has submitted to the appropriate congressional committees a report identifying each country determined by the President to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

(2) **DESIGNATION AND JUSTIFICATION.**—In each report under paragraph (1), the President shall also—

(A) designate each country, if any, identified in such report that has failed demonstrably, during the previous 12 months, to make substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961; and

(B) include a justification for each country so designated.

(3) **LIMITATION ON ASSISTANCE FOR DESIGNATED COUNTRIES.**—In the case of a country identified in a report under paragraph (1) that is also designated under paragraph (2) in the report, United States assistance may be provided to such country in the subsequent fiscal year only if the President determines and reports to the appropriate congressional committees that—

(A) provision of such assistance to the country in such fiscal year is vital to the national interests of the United States; or

(B) subsequent to the designation being made under paragraph (2)(A), the country has made substantial efforts—

(i) to adhere to its obligations under international counternarcotics agreements; and

(ii) to take the counternarcotics measures set forth in section 489(a)(1) of the Foreign Assistance Act of 1961.

(4) **INTERNATIONAL COUNTERNARCOTICS AGREEMENT DEFINED.**—In this section, the term “international counternarcotics agreement” means—

(A) the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances; or

(B) any bilateral or multilateral agreement in force between the United States and another country or countries that addresses issues relating to the control of illicit drugs, such as—

(i) the production, distribution, and interdiction of illicit drugs;

(ii) demand reduction;

(iii) the activities of criminal organizations;

(iv) international legal cooperation among courts, prosecutors, and law enforcement agencies (including the exchange of information and evidence);

(v) the extradition of nationals and individuals involved in drug-related criminal activity;

(vi) the temporary transfer for prosecution of nationals and individuals involved in drug-related criminal activity;

(vii) border security;

(viii) money laundering;

(ix) illicit firearms trafficking;

(x) corruption;

(xi) control of precursor chemicals;

(xii) asset forfeiture; and

(xiii) related training and technical assistance,

and includes, where appropriate, timetables and objective and measurable standards to assess the progress made by participating countries with respect to such issues.

(5) APPLICATION.—(A) Section 490 (a) through (h) of the Foreign Assistance Act of 1961 (22 U.S.C. 2291j(a)-(h)) shall not apply during any fiscal year with respect to any country identified in the report required by paragraph (1) of this section.

(B) Notwithstanding paragraphs (1) through (5)(A) of this section, the President may apply the procedures set forth in section 490 (a) through (h) of the Foreign Assistance Act of 1961 during any fiscal year with respect to any country determined to be a major drug transit country or major illicit drug producing country as defined in section 481(e) of the Foreign Assistance Act of 1961.

(6) STATUTORY CONSTRUCTION.—Nothing in this section supersedes or modifies the requirement in section 489(a) of the Foreign Assistance Act of 1961 (with respect to the International Narcotics Control Strategy Report) for the transmittal of a report not later than March 1, each fiscal year under that section.

(7) TRANSITION RULE.—For funds obligated or expended under this section in fiscal year 2003, the date for submission of the report required by paragraph (1) of this section shall be at least 15 days before funds are obligated or expended.

(8) EFFECTIVE DATE.—This section shall take effect upon the date of enactment of this Act into law and shall remain in effect thereafter unless Congress enacts subsequent legislation repealing such section.

DIVISION B—SECURITY ASSISTANCE ACT OF 2002

Security
Assistance Act of
2002.

TITLE X—GENERAL PROVISIONS

SEC. 1001. SHORT TITLE.

This division may be cited as the “Security Assistance Act of 2002”.

22 USC 2151
note.

SEC. 1002. DEFINITIONS.

In this division:

22 USC 2151
note.

(1) **DEFENSE ARTICLE.**—The term “defense article” has the meaning given the term in section 47(3) of the Arms Export Control Act (22 U.S.C. 2794 note).

(2) **DEFENSE SERVICE.**—The term “defense service” has the meaning given the term in section 47(4) of the Arms Export Control Act (22 U.S.C. 2794 note).

(3) **EXCESS DEFENSE ARTICLE.**—The term “excess defense article” has the meaning given the term in section 644(g) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(g)).

TITLE XI—VERIFICATION OF ARMS CONTROL AND NONPROLIFERATION AGREEMENTS

SEC. 1101. VERIFICATION AND COMPLIANCE BUREAU PERSONNEL.

(a) **IN GENERAL.**—Of the amount authorized to be appropriated by section 111(a)(1)(A), \$14,000,000 is authorized to be available for the Bureau of Verification and Compliance of the Department of State for Bureau-administered activities, including the Key Verification Assets Fund and to upgrade Bureau spaces for certification as a Sensitive Compartmented Information Facility (SCIF).

(b) **ADDITIONAL PERSONNEL.**—In addition to the amount made available under subsection (a), \$1,800,000 is authorized to be available for the fiscal year 2003 from the Department’s American Salaries Account, for the purpose of hiring new personnel to carry out the Bureau’s responsibilities, as set forth in section 112 of the Arms Export Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113, including the assignment of one full-time person to the Bureau to manage the document control, tracking, and printing requirements of the Bureau’s operation in a SCIF.

SEC. 1102. KEY VERIFICATION ASSETS FUND.

Of the total amount made available to the Department for fiscal year 2003, \$7,000,000 is authorized to be available within the Verification and Compliance Bureau’s account to carry out section 1111 of the Arms Control and Nonproliferation Act of 1999 (113 Stat. 1501A–486), as enacted into law by section 1000(a)(7) of Public Law 106–113.

SEC. 1103. REVISED VERIFICATION AND COMPLIANCE REPORTING REQUIREMENTS.

Section 403(a) of the Arms Control and Disarmament Act (22 U.S.C. 2593a(a)) is amended by striking “January 31” and inserting “April 15”.

TITLE XII—MILITARY AND RELATED ASSISTANCE

Subtitle A—Foreign Military Sales and Financing Authorities

SEC. 1201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the President for grant assistance under section 23 of the Arms Export Control Act (22 U.S.C. 2763) and for the subsidy cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of direct loans under such section \$4,107,200,000 for fiscal year 2003.

SEC. 1202. RELATIONSHIP OF FOREIGN MILITARY SALES TO UNITED STATES NONPROLIFERATION INTERESTS.

(a) **AUTHORIZED PURPOSES.**—The first sentence of section 4 of the Arms Export Control Act (22 U.S.C. 2754) is amended by inserting “for preventing or hindering the proliferation of weapons of mass destruction and of the means of delivering such weapons,” after “self-defense,”.

(b) **DEFINITION OF “WEAPONS OF MASS DESTRUCTION”.**—Section 47 of the Arms Export Control Act (22 U.S.C. 2794) is amended—

(1) by striking “and” at the end of paragraph (8);

(2) by striking the period at the end of paragraph (9) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(10) ‘weapons of mass destruction’ has the meaning provided by section 1403(1) of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 110 Stat. 2717; 50 U.S.C. 2302(1)).”.

SEC. 1203. OFFICIAL RECEPTION AND REPRESENTATION EXPENSES.

Section 43(c) of the Arms Export Control Act (22 U.S.C. 2792(c)), is amended by striking “\$72,500” and inserting “\$86,500”.

SEC. 1204. ARMS EXPORT CONTROL ACT PROHIBITION ON TRANSACTIONS WITH COUNTRIES THAT HAVE REPEATEDLY PROVIDED SUPPORT FOR ACTS OF INTERNATIONAL TERRORISM.

The second sentence of section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) is amended—

(1) by striking “groups or” and inserting “groups,”; and

(2) by inserting before the period the following: “, or willfully aid or abet the efforts of an individual or group to use, develop, produce, stockpile, or otherwise acquire chemical, biological, or radiological weapons”.

SEC. 1205. CONGRESSIONAL NOTIFICATION OF SMALL ARMS AND LIGHT WEAPONS LICENSE APPROVALS; REPORTS.

(a) **CONGRESSIONAL NOTIFICATION OF EXPORT LICENSE APPROVALS.**—Section 36(c) of the Arms Export Control Act (22 U.S.C. 2776(c)) is amended by inserting “(or, in the case of a defense article that is a firearm controlled under category I of the United States Munitions List, \$1,000,000 or more)” after “\$50,000,000 or more”.

(b) REPORT.—Section 40A(c) of the Arms Export Control Act (22 U.S.C. 2785(c)) is amended by inserting before the period the following: “and the numbers, range, and findings of end-use monitoring of United States transfers of small arms and light weapons”.

(c) ANNUAL MILITARY ASSISTANCE REPORTS.—Section 655(b)(3) of the Foreign Assistance Act of 1961 (22 U.S.C. 2415(b)(3)) is amended by inserting before the period at the end the following: “, including, in the case of defense articles that are firearms controlled under category I of the United States Munitions List, a statement of the aggregate dollar value and quantity of semiautomatic assault weapons, or spare parts for such weapons, the manufacture, transfer, or possession of which is unlawful under section 922 of title 18, United States Code, that were licensed for export during the period covered by the report”.

Deadline.

(d) REPORT ON ARMS BROKERING.—Not later than June 30, 2003, the Secretary shall submit a report to the appropriate congressional committees on activities of registered arms brokers, which shall discuss—

(1) the role of such brokers in the United States and other countries;

(2) United States law, regulations, and policy regarding arms brokers;

(3) violations of the Arms Export Control Act;

(4) United States resources and personnel devoted to the monitoring of arms brokers;

(5) any needed changes in law, regulation, policy, or resources; and

(6) any implications for the regulation of arms brokers in other countries.

22 USC 2321k
note.

SEC. 1206. TREATMENT OF TAIWAN RELATING TO TRANSFERS OF DEFENSE ARTICLES AND DEFENSE SERVICES.

Notwithstanding any other provision of law, for purposes of the transfer or possible transfer of defense articles or defense services under the Arms Export Control Act (22 U.S.C. 2751 et seq.), the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or any other provision of law, Taiwan shall be treated as though it were designated a major non-NATO ally (as defined in section 644(q) of the Foreign Assistance Act of 1961 (22 U.S.C. 2403(q))).

Subtitle B—International Military Education and Training

SEC. 1211. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the President \$85,000,000 for fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.; relating to international military education and training).

SEC. 1212. HUMAN RIGHTS VIOLATIONS.

(a) ANNUAL REPORT.—Chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.) is amended by adding at the end the following new section:

“SEC. 549. HUMAN RIGHTS REPORT.

22 USC 2347h.

“(a) IN GENERAL.—Not later than March 1 of each year, the Secretary of State shall submit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate a report describing, to the extent practicable, any involvement of a foreign military or defense ministry civilian participant in education and training activities under this chapter in a violation of internationally recognized human rights reported under section 116(d) of this Act subsequent to such participation.

Deadline.

“(b) FORM.—The report described in subsection (a) shall be in unclassified form, but may include a classified annex.”.

(b) RECORDS REGARDING FOREIGN PARTICIPANTS.—Section 548 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347g) is amended—

(1) by striking “In” and inserting:

“(a) DEVELOPMENT AND MAINTENANCE OF DATABASE.—In”; and

(2) by adding at the end the following new subsections:

“(b) ANNUAL LIST OF FOREIGN PERSONNEL.—For the purposes of preparing the report required pursuant to section 549 of this Act, the Secretary of State may annually request the Secretary of Defense to provide information contained in the database, with respect to a list submitted to the Secretary of Defense by the Secretary of State, that contains the names of foreign personnel or military units. To the extent practicable, the Secretary of Defense shall provide, and the Secretary of State may take into account, the information contained in the database, if any, relating to the Secretary of State’s submission.

“(c) UPDATING OF DATABASE.—If the Secretary of State determines and reports to Congress under section 549 of this Act that a foreign person identified in the database maintained pursuant to this section was involved in a violation of internationally recognized human rights, the Secretary of Defense shall ensure that the database is updated to contain such fact and all relevant information.”.

SEC. 1213. PARTICIPATION IN POST-UNDERGRADUATE FLYING TRAINING AND TACTICAL LEADERSHIP PROGRAMS.

Section 544 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347c) is amended by adding at the end the following new subsection:

“(c)(1) The President is authorized to enter into cooperative arrangements providing for the participation of foreign and United States military and civilian defense personnel in post-undergraduate flying training and tactical leadership programs at training locations in Southwest Asia without charge to participating foreign countries, and without charge to funds available to carry out this chapter (notwithstanding section 632(d) of this Act). Such training must satisfy common requirements with the United States for post-undergraduate flying and tactical leadership training.

“(2) Cooperative arrangements under this subsection shall require an equitable contribution of support and services from each participating country. The President may waive the requirement for an equitable contribution of a participating foreign country if he determines that to do so is important to the national security interests of the United States.

“(3) Costs incurred by the United States shall be charged to the current applicable appropriations accounts or funds of the participating United States Government agencies.”.

Subtitle C—Assistance for Select Countries

SEC. 1221. ASSISTANCE FOR ISRAEL AND EGYPT.

114 Stat. 856. (a) AUTHORIZATION OF APPROPRIATIONS FOR ISRAEL.—Section 513 of the Security Assistance Act of 2000 (Public Law 106-280) is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) by striking “2001 and 2002” and inserting “2002 and 2003”; and

(ii) by adding at the end the following new sentence: “Such funds are authorized to be made available on a grant basis as a cash transfer.”;

(B) by adding at the end the following new paragraph:

“(3) ADDITIONAL ESF ASSISTANCE FOR FISCAL YEAR 2003.—Only for fiscal year 2003, in addition to the amount computed under paragraph (2) for that fiscal year, an additional amount of \$200,000,000 is authorized to be made available for ESF assistance for Israel, notwithstanding section 531(e) or 660(a) of the Foreign Assistance Act of 1961, for defensive, nonlethal, antiterrorism assistance, which amount shall be considered, for purposes of subsection (d), as an amount appropriated by an Act making supplemental appropriations.”;

(2) in subsection (c)(1), by striking “2001 and 2002” and inserting “2002 and 2003”;

(3) in subsection (c)(3), by striking “Funds authorized” and all that follows through “later” and inserting: “Funds authorized to be available for Israel under subsection (b)(1) and paragraph (1) of this subsection for fiscal years 2002 and 2003 shall be disbursed not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or October 31 of the respective fiscal year, whichever is later.”; and

(4) in subsection (c)(4)—

(A) by striking “fiscal year 2001” and inserting “fiscal years 2002 and 2003”; and

(B) by striking “\$520,000,000” and inserting “\$535,000,000 for fiscal year 2002 and not less than \$550,000,000 for fiscal year 2003”.

114 Stat. 857. (b) AUTHORIZATION OF APPROPRIATIONS FOR EGYPT.—Section 514 of the Security Assistance Act of 2000 (Public Law 106-280) is amended—

(1) by striking “2001 and 2002” each place it appears and inserting “2002 and 2003”; and

(2) in subsection (e), by striking “Funds estimated” and all that follows through “and” at the end of paragraph (2) and inserting the following: “Funds estimated to be outlaid for Egypt under subsection (c) during fiscal years 2002 and 2003 shall be disbursed to an interest-bearing account for Egypt

Deadline.

in the Federal Reserve Bank of New York not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2002, and not later than 30 days after the date of enactment of an Act making appropriations for foreign operations, export financing, and related programs for fiscal year 2003, or by October 31 of the respective fiscal year, whichever is later, provided that—

“(1) withdrawal of funds from such account shall be made only on authenticated instructions from the Defense Finance and Accounting Service of the Department of Defense;

“(2) in the event such account is closed, the balance of the account shall be transferred promptly to the appropriations account for the Foreign Military Financing Program.”.

SEC. 1222. SECURITY ASSISTANCE FOR GREECE AND TURKEY.

(a) **IN GENERAL.**—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2347 et seq.)—

(1) \$1,120,000 for fiscal year 2003 is authorized to be available for Greece; and

(2) \$2,800,000 for fiscal year 2003 is authorized to be available for Turkey.

(b) **USE FOR PROFESSIONAL MILITARY EDUCATION.**—Of the amounts available under paragraphs (1) and (2) of subsection (a) for fiscal year 2003, \$500,000 of each such amount should be available for purposes of professional military education.

(c) **USE FOR JOINT TRAINING.**—It is the sense of Congress that, to the maximum extent practicable, amounts available under subsection (a) that are used in accordance with subsection (b) should be used for joint training of Greek and Turkish officers.

(d) **REPEAL.**—Effective October 1, 2002, section 512 of the Security Assistance Act of 2000 (Public Law 106-280; 114 Stat. 856) is repealed.

SEC. 1223. SECURITY ASSISTANCE FOR CERTAIN OTHER COUNTRIES.

(a) **FMF FOR CERTAIN OTHER COUNTRIES.**—Of the total amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), the following amounts are authorized to be available on a grant basis for the following countries:

(1) **THE BALTIC STATES.**—For all of the Baltic states of Estonia, Latvia, and Lithuania, \$22,000,000.

(2) **BULGARIA.**—For Bulgaria, \$11,000,000.

(3) **THE CZECH REPUBLIC.**—For the Czech Republic, \$11,000,000.

(4) **GEORGIA.**—For Georgia, \$7,000,000.

(5) **HUNGARY.**—For Hungary, \$11,000,000.

(6) **JORDAN.**—For Jordan, \$198,000,000.

(7) **MALTA.**—For Malta, \$1,150,000.

(8) **THE PHILIPPINES.**—For the Philippines, \$25,000,000.

(9) **POLAND.**—For Poland, \$16,000,000.

(10) **ROMANIA.**—For Romania, \$12,000,000.

(11) **SLOVAKIA.**—For Slovakia, \$9,000,000.

(12) **SLOVENIA.**—For Slovenia, \$5,000,000.

(b) **IMET.**—Of the amount made available for the fiscal year 2003 to carry out chapter 5 of part II of the Foreign Assistance

Act of 1961 (22 U.S.C. 2347 et seq.), the following amounts are authorized to be available for the following countries:

- (1) THE BALTIC STATES.—For all of the Baltic states of Estonia, Latvia, and Lithuania, \$3,300,000.
- (2) BULGARIA.—For Bulgaria, \$1,370,000.
- (3) THE CZECH REPUBLIC.—For the Czech Republic, \$1,900,000.
- (4) GEORGIA.—For Georgia, \$1,200,000.
- (5) HUNGARY.—For Hungary, \$1,900,000.
- (6) JORDAN.—For Jordan, \$4,000,000.
- (7) MALTA.—For Malta, \$350,000.
- (8) THE PHILIPPINES.—For the Philippines, \$2,000,000.
- (9) POLAND.—For Poland, \$2,000,000.
- (10) ROMANIA.—For Romania, \$1,500,000.
- (11) SLOVAKIA.—For Slovakia, \$950,000.
- (12) SLOVENIA.—For Slovenia, \$950,000.

(c) REPEALS.—Sections 511 (a) and (b) and 515 of the Security Assistance Act of 2000 are repealed.

114 Stat. 855,
858.
22 USC 2346
note.

SEC. 1224. ASSISTANCE TO LEBANON.

(a) PROHIBITION.—Notwithstanding any other provision of law, \$10,000,000 of the amounts made available for fiscal year 2003 or any subsequent fiscal year that are allocated for assistance to Lebanon under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.; relating to the economic support fund) may not be obligated unless and until the President certifies to the appropriate congressional committees that—

(1) the armed forces of Lebanon have been deployed to the internationally recognized border between Lebanon and Israel; and

(2) the Government of Lebanon is effectively asserting its authority in the area in which such armed forces have been deployed.

(b) REQUIREMENT RELATING TO FUNDS WITHHELD.—Notwithstanding any other provision of law, any funds withheld pursuant to subsection (a) may not be programmed in order to be used for a purpose other than for assistance to Lebanon until the last month of the fiscal year in which the authority to obligate such funds lapses.

Subtitle D—Excess Defense Article and Drawdown Authorities

SEC. 1231. EXCESS DEFENSE ARTICLES FOR CERTAIN COUNTRIES.

(a) AUTHORITY.—Notwithstanding section 516(e) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)), during the fiscal year 2003 funds available to the Department of Defense may be expended for crating, packing, handling, and transportation of excess defense articles transferred under the authority of section 516 of such Act to Albania, Bulgaria, Croatia, Estonia, Former Yugoslavia Republic of Macedonia, Georgia, India, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Moldova, Mongolia, Pakistan, Romania, Slovakia, Slovenia, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the authority provided under this section should be utilized only

for those countries demonstrating a genuine commitment to democracy and human rights.

SEC. 1232. ANNUAL LISTING OF POSSIBLE EXCESS DEFENSE ARTICLES.

Section 25(a) of the Arms Export Control Act (22 U.S.C. 2765(a)) is amended—

- (1) by striking “and” at the end of paragraph (12)(B);
- (2) by redesignating paragraph (13) as paragraph (14);
- and
- (3) by inserting after paragraph (12) the following:
“(13) a list of weapons systems that are significant military equipment (as defined in section 47(9) of this Act), and numbers thereof, that are believed likely to become available for transfer as excess defense articles during the next 12 months; and”.

SEC. 1233. LEASES OF DEFENSE ARTICLES FOR FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS.

Section 61(b) of the Arms Export Control Act (22 U.S.C. 2796(b)), is amended—

- (1) by striking “(b) Each lease agreement” and inserting “(b)(1) Each lease agreement”;
- (2) by striking “of not to exceed five years” and inserting “which may not exceed (A) five years, and (B) a specified period of time required to complete major refurbishment work of the leased articles to be performed prior to the delivery of the leased articles,”; and
- (3) by adding at the end the following:
“(2) In this subsection, the term ‘major refurbishment work’ means work for which the period of performance is 6 months or more.”.

SEC. 1234. PRIORITY WITH RESPECT TO TRANSFER OF EXCESS DEFENSE ARTICLES.

Section 516(c)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(c)(2)) is amended by striking “and to major non-NATO allies on such southern and southeastern flank” and inserting “, to major non-NATO allies on such southern and southeastern flank, and to the Philippines”.

Subtitle E—Other Political-Military Assistance

SEC. 1241. DESTRUCTION OF SURPLUS WEAPONS STOCKPILES.

Of the funds authorized to be appropriated to the President for fiscal year 2003 to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), relating to development assistance, up to \$10,000,000 is authorized to be made available for the destruction of surplus stockpiles of small arms, light weapons, and other munitions.

Subtitle F—Antiterrorism Assistance

SEC. 1251. AUTHORIZATION OF APPROPRIATIONS.

Section 574(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa–4(a)) is amended by striking “and \$73,000,000 for fiscal

year 2002” and inserting “, \$73,000,000 for fiscal year 2002, and \$64,200,000 for fiscal year 2003”.

Subtitle G—Other Matters

SEC. 1261. ADDITIONS TO UNITED STATES WAR RESERVE STOCKPILES FOR ALLIES.

Section 514(b)(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h(b)(2)) is amended to read as follows:

“(2)(A) The value of such additions to stockpiles of defense articles in foreign countries shall not exceed \$100,000,000 for fiscal year 2003.

“(B) Of the amount specified in subparagraph (A) for fiscal year 2003, not more than \$100,000,000 may be made available for stockpiles in the State of Israel.”.

SEC. 1262. REVISED MILITARY ASSISTANCE REPORTING REQUIREMENTS.

(a) EXCEPTION FOR CERTAIN COUNTRIES.—Section 656(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2416(a)) is amended—

(1) by striking “(a) ANNUAL REPORT.—Not” and inserting the following:

“(a) ANNUAL REPORT.—

“(1) IN GENERAL.—Not”; and

(2) by adding at the end the following:

“(2) EXCEPTION FOR CERTAIN COUNTRIES.—Paragraph (1) does not apply to any NATO member, Australia, Japan, or New Zealand, unless one of the appropriate congressional committees has specifically requested, in writing, inclusion of such country in the report. Such request shall be made not later than 90 calendar days prior to the date on which the report is required to be transmitted.”.

(b) ANNUAL MILITARY ASSISTANCE REPORTS.—Section 655 of the Foreign Assistance Act of 1961 (22 U.S.C. 2415) is amended—

(1) by striking subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

(c) QUARTERLY REPORTS ON GOVERNMENT-TO-GOVERNMENT ARMS EXPORTS.—Section 36(a) of the Arms Export Control Act (22 U.S.C. 2776(a)) is amended—

(1) by striking paragraph (7); and

(2) by redesignating paragraphs (8), (9), (10), (11), (12), and (13) as paragraphs (7), (8), (9), (10), (11), and (12), respectively.

Deadline.

Effective date.
President.
22 USC 3302
note.

SEC. 1263. CONSULTATION WITH CONGRESS WITH REGARD TO TAIWAN.

Beginning 180 days after the date of enactment of this Act, and every 180 days thereafter, the President shall provide detailed briefings to and consult with the appropriate congressional committees regarding the United States security assistance to Taiwan, including the provision of defense articles and defense services.

TITLE XIII—NONPROLIFERATION AND EXPORT CONTROL ASSISTANCE

Subtitle A—General Provisions

SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb-4) is amended—

(1) in subsection (a), by striking all after “chapter” and inserting “\$162,000,000 for fiscal year 2003.”; and

(2) in subsection (c)—

(A) in the subsection heading by striking “FISCAL YEAR 2001”; and

(B) by striking “2001” and inserting “2002”.

(b) SUBALLOCATIONS.—Of the amount authorized to be appropriated to the President for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb-4)—

(1) \$2,000,000 is authorized to be available for such fiscal year for the purpose of carrying out section 584 of the Foreign Assistance Act of 1961, as added by section 1303 of this Act; and

(2) \$65,000,000 for fiscal year 2003 are authorized to be available for science and technology centers in the independent states of the former Soviet Union.

(c) CONFORMING AMENDMENT.—Section 302 of the Security Assistance Act of 2000 (Public Law 106-280; 114 Stat. 853) is repealed.

(d) FURTHER AUTHORIZATION.—There is authorized to be appropriated under “Nonproliferation, Anti-terrorism, Demining, and Related Programs” \$382,400,000 for fiscal year 2003.

SEC. 1302. NONPROLIFERATION TECHNOLOGY ACQUISITION PROGRAMS FOR FRIENDLY FOREIGN COUNTRIES.

22 USC 2349bb
note.

(a) IN GENERAL.—For the purpose of enhancing the nonproliferation and export control capabilities of friendly countries, of the amount authorized to be appropriated for fiscal year 2003 by section 585 of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.), the Secretary is authorized to make available—

(1) \$5,000,000 for the procurement and provision of nuclear, chemical, and biological detection systems, including spectroscopic and pulse echo technologies; and

(2) \$10,000,000 for the procurement and provision of x-ray systems capable of imaging sea-cargo containers.

(b) REPORTS ON TRAINING PROGRAM.—

Deadlines.

(1) INITIAL REPORT.—Not later than March 31, 2003, the Secretary shall submit a report to the appropriate congressional committees setting forth his plans and budget for a multiyear training program to train foreign personnel in the utilization of the systems described in subsection (a).

(2) SUBSEQUENT REPORTS.—Not later than March 31, 2004, and annually thereafter for the next three years, the Secretary shall submit a report to the appropriate congressional committees describing the progress, current status, and budget of that training program and of the provision of those systems.

SEC. 1303. INTERNATIONAL NONPROLIFERATION AND EXPORT CONTROL TRAINING.

Chapter 9 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349bb et seq.) is amended—

22 USC
2349bb-3,
2349bb-4.

(1) by redesignating sections 584 and 585 as sections 585 and 586, respectively; and

(2) by inserting after section 583 the following:

22 USC
2349bb-2a note.

“SEC. 584. INTERNATIONAL NONPROLIFERATION EXPORT CONTROL TRAINING.

“(a) GENERAL AUTHORITY.—The President is authorized to furnish, on such terms and conditions consistent with this chapter (but whenever feasible on a reimbursable basis), education and training to appropriate military and civilian personnel of foreign countries for the purpose of enhancing the nonproliferation and export control capabilities of such personnel through their attendance in special courses of instruction conducted by the United States.

“(b) ADMINISTRATION OF COURSES.—The Secretary of State shall have overall responsibility for the development and conduct of international nonproliferation education and training programs under this section, and may utilize other departments and agencies of the United States, as appropriate, to recommend personnel for the education and training and to administer specific courses of instruction.

“(c) PURPOSES.—Education and training activities conducted under this section shall be—

“(1) of a technical nature, emphasizing techniques for detecting, deterring, monitoring, interdicting, and countering proliferation;

“(2) designed to encourage effective and mutually beneficial relations and increased understanding between the United States and friendly countries; and

“(3) designed to improve the ability of friendly countries to utilize their resources with maximum effectiveness, thereby contributing to greater self-reliance by such countries.

“(d) PRIORITY TO CERTAIN COUNTRIES.—In selecting personnel for education and training pursuant to this section, priority should be given to personnel from countries determined by the Secretary of State to be countries frequently transited by proliferation-related shipments of cargo.”.

SEC. 1304. RELOCATION OF SCIENTISTS.

(a) REINSTATEMENT OF CLASSIFICATION AUTHORITY.—Section 4 of the Soviet Scientists Immigration Act of 1992 (Public Law 102-509; 106 Stat. 3316; 8 U.S.C. 1153 note) is amended by striking subsection (d) and inserting the following:

“(d) DURATION OF AUTHORITY.—The authority under subsection (a) shall be in effect during the following periods:

“(1) The period beginning on the date of the enactment of this Act and ending 4 years after such date.

“(2) The period beginning on the date of the enactment of the Security Assistance Act of 2002 and ending 4 years after such date.”.

(b) LIMITATION ON NUMBER OF SCIENTISTS ELIGIBLE FOR VISAS UNDER AUTHORITY.—Section 4(c) of such Act (8 U.S.C. 1153 note) is amended by striking “750” and inserting “950”.

(c) **LIMITATION ON ELIGIBILITY.**—Section 4(a) of that Act (8 U.S.C. 1153 note) is amended by adding at the end the following new sentence: “A scientist is not eligible for designation under this subsection if the scientist has previously been granted the status of an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))).”.

(d) **CONSULTATION REQUIREMENT.**—The Attorney General shall consult with the Secretary, the Secretary of Defense, the Secretary of Energy, and the heads of other appropriate agencies of the United States regarding—

8 USC 1153 note.

(1) previous experience in implementing the Soviet Scientists Immigration Act of 1992; and

(2) any changes that those officials would recommend in the regulations prescribed under that Act.

SEC. 1305. INTERNATIONAL ATOMIC ENERGY AGENCY REGULAR BUDGET ASSESSMENTS AND VOLUNTARY CONTRIBUTIONS.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The Department has concluded that the International Atomic Energy Agency (in this section referred to as the “IAEA”) is a critical and effective instrument for verifying compliance with international nuclear nonproliferation agreements, and that it serves as an essential barrier to the spread of nuclear weapons.

(2) The IAEA furthers United States national security objectives by helping to prevent the proliferation of nuclear weapons material, especially through its work on effective verification and safeguards measures.

(3) The IAEA can also perform a critical role in monitoring and verifying aspects of nuclear weapons reduction agreements between nuclear weapons states.

(4) The IAEA has adopted a multifaceted action plan, to be funded by voluntary contributions, to address the threats posed by radioactive sources that could be used in a radiological weapon and will be the leading international agency in this effort.

(5) As the IAEA has negotiated and developed more effective verification and safeguards measures, it has experienced significant real growth in its mission, especially in the vital area of nuclear safeguards inspections.

(6) Nearly two decades of zero budget growth have affected the ability of the IAEA to carry out its mission and to hire and retain the most qualified inspectors and managers, as evidenced in the decreasing proportion of such personnel who hold doctorate degrees.

(7) Increased voluntary contributions by the United States will be needed if the IAEA is to increase its safeguards activities and also to implement its action plan to address the worldwide risks posed by lost or poorly secured radioactive sources.

(8) Although voluntary contributions by the United States lessen the IAEA’s budgetary constraints, they cannot readily be used for the long-term capital investments or permanent staff increases necessary to an effective IAEA safeguards regime.

(9) The recent United States decision to accept a 25 percent IAEA regular budget assessment was based upon a correct interpretation of existing law. It was not the intent of Congress that the United States contributions to all United Nations-related organizations and activities be reduced pursuant to the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001 (as enacted into law by section 1000(a)(7) of Public Law 106-113; 113 Stat. 1501A-405 et seq.), which sets 22 percent assessment rates as benchmarks for the general United Nations budget, the Food and Agricultural Organization, the World Health Organization, and the International Labor Organization. Rather, contributions for an important and effective agency such as the IAEA should be maintained at levels commensurate with the criticality of its mission.

(10) The Secretary should negotiate a gradual and sustained increase in the regular budget of the International Atomic Energy Agency, which should begin with the 2004 budget.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Of the funds authorized to be appropriated for Nonproliferation, Anti-terrorism, Demining, and Related Programs there is authorized to be appropriated \$60,000,000 for fiscal year 2003 for a United States voluntary contribution to the International Atomic Energy Agency, including for the purpose of implementing the Protection Against Nuclear Terrorism program adopted by the International Atomic Energy Agency Board of Governors in March 2002.

SEC. 1306. AMENDMENTS TO THE IRAN NONPROLIFERATION ACT OF 2000.

(a) **REPORTS ON PROLIFERATION TO IRAN.**—Section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106-178; 114 Stat. 39; 50 U.S.C. 1701 note) is amended by adding at the end the following new subsection:

“(e) **CONTENT OF REPORTS.**—Each report under subsection (a) shall contain, with respect to each foreign person identified in such report, a brief description of the type and quantity of the goods, services, or technology transferred by that person to Iran, the circumstances surrounding the transfer, the usefulness of the transfer to Iranian weapons programs, and the probable awareness or lack thereof of the transfer on the part of the government with primary jurisdiction over the person.”.

(b) **DETERMINATION EXEMPTING FOREIGN PERSONS FROM CERTAIN MEASURES UNDER THE ACT.**—Section 5(a)(2) of such Act is amended by striking “systems” and inserting “systems, or weapons listed on the Wassenaar Arrangement Munitions List of July 12, 1996, or any subsequent revision of that list”.

SEC. 1307. AMENDMENTS TO THE NORTH KOREA THREAT REDUCTION ACT OF 1999.

(a) **RESTRICTIONS.**—Section 822(a) of the North Korea Threat Reduction Act of 1999 (subtitle B of title VIII of division A of H.R. 3427, as enacted into law by section 1000(a)(7) of Public Law 106-113; appendix G; 113 Stat. 1501A-472) is amended by striking “nuclear material, facilities, components, or other goods, services, or technology that would be subject to such agreement,” each of the two places it appears and inserting “specified nuclear item,”.

(b) SPECIFIED NUCLEAR ITEM DEFINED.—Section 823 of the North Korea Threat Reduction Act of 1999 is amended by inserting at the end the following:

113 Stat.
1501A-473.

“(5) SPECIFIED NUCLEAR ITEM.—The term ‘specified nuclear item’ includes—

“(A) nuclear material, facilities, components, or other goods, services, or technology the transfer of which to North Korea would be required by the Atomic Energy Act of 1954 to be subject to an agreement for cooperation, as defined in section 11 b. of that Act (42 U.S.C. 2014 b.), between the United States and North Korea; and

“(B) components that are listed on Annex A or Annex B to the Nuclear Suppliers Group Guidelines for the Export of Nuclear Material, Equipment and Technology (published by the International Atomic Energy Agency as Information Circular INFCIRC/254/Rev. 5/Part 1, or any subsequent revision thereof).”.

SEC. 1308. ANNUAL REPORTS ON THE PROLIFERATION OF MISSILES AND ESSENTIAL COMPONENTS OF NUCLEAR, BIOLOGICAL, CHEMICAL, AND RADIOLOGICAL WEAPONS.

50 USC 2368.

(a) REPORT.—Not later than March 1, 2003, and annually thereafter, the President shall transmit to the designated congressional committees an annual report on the transfer by any country of weapons, technology, components, or materials that can be used to deliver, manufacture (including research and experimentation), or weaponize nuclear, biological, chemical or radiological weapons (in this section referred to as “NBC weapons”) to any country other than a country referred to in subsection (d) that is seeking to possess or otherwise acquire such weapons, technology, or materials, or other system that the Secretary or the Secretary of Defense has reason to believe could be used to develop, acquire, or deliver NBC weapons.

Deadline.
President.

(b) MATTERS TO BE INCLUDED.—Each such report shall include—

(1) the transfer of all aircraft, cruise missiles, artillery weapons, unguided rockets and multiple rocket systems, and related bombs, shells, warheads and other weaponization technology and materials that the Secretary or the Secretary of Defense has reason to believe may be intended for the delivery of NBC weapons;

(2) international transfers of MTCR equipment or technology to any country that is seeking to acquire such equipment or any other system that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(3) the transfer of technology, test equipment, radioactive materials, feedstocks and cultures, and all other specialized materials that the Secretary or the Secretary of Defense has reason to believe could be used to manufacture NBC weapons.

(c) CONTENT OF REPORT.—Each such report shall include the following with respect to preceding calendar year:

(1) The status of missile, aircraft, and other NBC weapons delivery and weaponization programs in any such country, including efforts by such country or by any subnational group to acquire MTCR-controlled equipment, NBC-capable aircraft, or any other weapon or major weapon component which may

be utilized in the delivery of NBC weapons, whose primary use is the delivery of NBC weapons, or that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(2) The status of NBC weapons development, acquisition, manufacture, stockpiling, and deployment programs in any such country, including efforts by such country or by any subnational group to acquire essential test equipment, manufacturing equipment and technology, weaponization equipment and technology, and radioactive material, feedstocks or components of feedstocks, and biological cultures and toxins.

(3) A description of assistance provided by any person or government, after the date of the enactment of this Act, to any such country or subnational group in the acquisition or development of—

(A) NBC weapons;

(B) missile systems, as defined in the MTCR or that the Secretary or the Secretary of Defense has reason to believe may be used to deliver NBC weapons; and

(C) aircraft and other delivery systems and weapons that the Secretary or the Secretary of Defense has reason to believe could be used to deliver NBC weapons.

(4) A listing of those persons and countries that continue to provide such equipment or technology described in paragraph (3) to any country or subnational group as of the date of submission of the report, including the extent to which foreign persons and countries were found to have knowingly and materially assisted such programs.

(5) A description of the use of, or substantial preparations to use, the equipment or technology described in paragraph (3) by any foreign country or subnational group.

(6) A description of the diplomatic measures that the United States, and that other adherents to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons, have made with respect to activities and private persons and governments suspected of violating the MTCR and such other arrangements.

(7) An analysis of the effectiveness of the regulatory and enforcement regimes of the United States and other countries that adhere to the MTCR and other arrangements affecting the acquisition and delivery of NBC weapons in controlling the export of MTCR and other NBC weapons and delivery system equipment or technology.

(8) A summary of advisory opinions issued under section 11B(b)(4) of the Export Administration Act of 1979 (50 U.S.C. App. 2401b(b)(4)) and under section 73(d) of the Arms Export Control Act (22 U.S.C. 2797b(d)).

(9) An explanation of United States policy regarding the transfer of MTCR equipment or technology to foreign missile programs, including programs involving launches of space vehicles.

(10) A description of each transfer by any person or government during the preceding 12-month period which is subject to sanctions under the Iran-Iraq Arms Non-Proliferation Act of 1992 (title XVI of Public Law 102-484).

(d) EXCLUSIONS.—The countries excluded under subsection (a) are Australia, Belgium, Canada, the Czech Republic, Denmark,

France, Germany, Greece, Hungary, Iceland, Italy, Japan, Luxembourg, the Netherlands, New Zealand, Norway, Poland, Portugal, Spain, Turkey, the United Kingdom, and the United States.

(e) CLASSIFICATION OF REPORT.—The Secretary shall make every effort to submit all of the information required by this section in unclassified form. Whenever the Secretary submits any such information in classified form, the Secretary shall submit such classified information in an addendum and shall also submit concurrently a detailed summary, in unclassified form, of that classified information.

(f) DEFINITIONS.—In this section:

(1) DESIGNATED CONGRESSIONAL COMMITTEES.—The term “designated congressional committees” means—

(A) the Committee on Appropriations, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives; and

(B) the Committee on Appropriations, the Committee on Armed Services, and the Committee on Foreign Relations of the Senate.

(2) MISSILE; MTCR; MTCR EQUIPMENT OR TECHNOLOGY.—The terms “missile”, “MTCR”, and “MTCR equipment or technology” have the meanings given those terms in section 74 of the Arms Export Control Act (22 U.S.C. 2797c).

(3) PERSON.—The term “person” means any United States or foreign individual, partnership, corporation, or other form of association, or any of its successor entities, parents, or subsidiaries.

(4) WEAPONIZE; WEAPONIZATION.—The term “weaponize” or “weaponization” means to incorporate into, or the incorporation into, usable ordnance or other militarily useful means of delivery.

(g) REPEALS.—

(1) IN GENERAL.—The following provisions of law are repealed:

(A) Section 1097 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (22 U.S.C. 2751 note).

(B) Section 308 of the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (22 U.S.C. 5606).

(C) Section 1607(a) of the Iran-Iraq Arms Non-Proliferation Act of 1992 (Public Law 102-484).

(D) Paragraph (d) of section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (as contained in section 101(c) of title I of division A of Public Law 104-208; 110 Stat. 3009-171).

(2) CONFORMING AMENDMENTS.—Section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, is amended—

(A) in paragraph (b), by adding “and” at the end; and

(B) in paragraph (c), by striking “; and” and inserting a period.

50 USC 1701
note.

22 USC 2656
note.

22 USC 2656
note.

SEC. 1309. THREE-YEAR INTERNATIONAL ARMS CONTROL AND NON-PROLIFERATION STRATEGY.

Deadline.

Not later than 180 days after the date of the enactment of this Act, the Secretary of State shall prepare and submit to the

appropriate congressional committees a 3-year international arms control and nonproliferation strategy. The strategy shall contain the following:

(1) A 3-year plan for the reduction of existing nuclear, chemical, and biological weapons and ballistic missiles and for controlling the proliferation of these weapons.

(2) Identification of the goals and objectives of the United States with respect to arms control and nonproliferation of weapons of mass destruction and their delivery systems.

(3) A description of the programs, projects, and activities of the Department of State intended to accomplish goals and objectives described in paragraph (2).

Russian
Federation Debt
for
Nonproliferation
Act of 2002.
22 USC 5952
note.

Subtitle B—Russian Federation Debt Reduction for Nonproliferation

SEC. 1311. SHORT TITLE.

This subtitle may be cited as the “Russian Federation Debt for Nonproliferation Act of 2002”.

22 USC 5952
note.

SEC. 1312. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) It is in the vital security interests of the United States to prevent the spread of weapons of mass destruction to additional states or to terrorist organizations, and to ensure that other nations’ obligations to modify their stockpiles of such arms in accordance with treaties, executive agreements, or political commitments are fulfilled.

(2) In particular, it is in the vital national security interests of the United States to ensure that—

(A) all stocks of nuclear weapons and weapons-usable nuclear material in the Russian Federation are secure and accounted for;

(B) stocks of nuclear weapons and weapons-usable nuclear material that are excess to military needs in the Russian Federation are monitored and reduced;

(C) any chemical or biological weapons, related materials, and facilities in the Russian Federation are destroyed;

(D) the Russian Federation’s nuclear weapons complex is reduced to a size appropriate to its post-Cold War missions, and its experts in weapons of mass destruction technologies are shifted to gainful and sustainable civilian employment;

(E) the Russian Federation’s export control system blocks any proliferation of weapons of mass destruction, the means of delivering such weapons, and materials, equipment, know-how, or technology that would be used to develop, produce, or deliver such weapons; and

(F) these objectives are accomplished with sufficient monitoring and transparency to provide confidence that they have in fact been accomplished and that the funds provided to accomplish these objectives have been spent efficiently and effectively.

(3) United States programs should be designed to accomplish these vital objectives in the Russian Federation as rapidly

as possible, and the President should develop and present to Congress a plan for doing so.

(4) Substantial progress has been made in United States-Russian Federation cooperative programs to achieve these objectives, but much more remains to be done to reduce the urgent risks to United States national security posed by the current state of the Russian Federation's weapons of mass destruction stockpiles and complexes.

(5) The threats posed by inadequate management of weapons of mass destruction stockpiles and complexes in the Russian Federation remain urgent. Incidents in years immediately preceding 2001, which have been cited by the Russia Task Force of the Secretary of Energy Advisory Board, include—

(A) a conspiracy at one of the Russian Federation's largest nuclear weapons facilities to steal nearly enough highly enriched uranium for a nuclear bomb;

(B) an attempt by an employee of the Russian Federation's premier nuclear weapons facility to sell nuclear weapons designs to agents of Iraq and Afghanistan; and

(C) the theft of radioactive material from a Russian Federation submarine base.

(6) Addressing these threats to United States and world security will ultimately consume billions of dollars, a burden that will have to be shared by the Russian Federation, the United States, and other governments, if these threats are to be neutralized.

(7) The creation of new funding streams could accelerate progress in reducing these threats to United States security and help the government of the Russian Federation to fulfill its responsibility for secure management of its weapons stockpiles and complexes as United States assistance phases out.

(8) The Russian Federation has a significant foreign debt, a substantial proportion of which it inherited from the Soviet Union.

(9) Past debt-for-environment exchanges, in which a portion of a country's foreign debt is canceled in return for certain environmental commitments or payments by that country, suggest that a debt-for-nonproliferation exchange with the Russian Federation could be designed to provide additional funding for nonproliferation and arms reduction initiatives.

(10) Most of the Russian Federation's official bilateral debt is held by United States allies that are advanced industrial democracies. Since the issues described pose threats to United States allies as well, United States leadership that results in a larger contribution from United States allies to cooperative threat reduction activities will be needed.

(11) At the June 2002 meeting of the G-8 countries, agreement was achieved on a G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, under which the advanced industrial democracies committed to contribute \$20,000,000,000 to nonproliferation programs in the Russian Federation during a 10-year period, with each contributing country having the option to fund some or all of its contribution through reduction in the Russian Federation's official debt to that country.

(12) The Russian Federation's Soviet-era official debt to the United States is estimated to be \$480,000,000 in Lend-

Lease debt and \$2,250,000,000 in debt as a result of credits extended under title I of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1701 et seq.).

(b) PURPOSES.—The purposes of this subtitle are—

(1) to facilitate the accomplishment of the United States objectives described in the findings set forth in subsection (a) by providing for the use of a portion of the Russian Federation's foreign debt to fund nonproliferation programs, thus allowing the use of additional resources for these purposes; and

(2) to help ensure that the resources made available to the Russian Federation are targeted to the accomplishment of the United States objectives described in the findings set forth in subsection (a).

22 USC 5952
note.

SEC. 1313. DEFINITIONS.

In this subtitle:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees” means—

(A) the Committee on International Relations and the Committee on Appropriations of the House of Representatives; and

(B) the Committee on Foreign Relations and the Committee on Appropriations of the Senate.

(2) COST.—The term “cost” has the meaning given that term in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5)).

(3) RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT OR AGREEMENT.—The term “Russian Federation Nonproliferation Investment Agreement” or “Agreement” means the agreement between the United States and the Russian Federation entered into under section 1315(a).

(4) SOVIET-ERA DEBT.—The term “Soviet-era debt” means debt owed as a result of loans or credits provided by the United States (or any agency of the United States) to the Union of Soviet Socialist Republics under the Lend Lease Act of 1941 or the Commodity Credit Corporation Charter Act.

(5) STATE SPONSOR OF INTERNATIONAL TERRORISM.—The term “state sponsor of international terrorism” means those countries that have been determined by the Secretary of State, for the purposes of section 40 of the Arms Export Control Act, section 620A of the Foreign Assistance Act of 1961, or section 6(j) of the Export Administration Act of 1979, to have repeatedly provided support for acts of international terrorism.

22 USC 5952
note.

SEC. 1314. AUTHORITY TO REDUCE THE RUSSIAN FEDERATION'S SOVIET-ERA DEBT OBLIGATIONS TO THE UNITED STATES.

(a) AUTHORITY TO REDUCE DEBT.—

(1) IN GENERAL.—Upon the entry into force of a Russian Federation Nonproliferation Investment Agreement, the President may reduce amounts of Soviet-era debt owed by the Russian Federation to the United States (or any agency or instrumentality of the United States) that are outstanding as of the last day of the fiscal year preceding the fiscal year for which appropriations are available for the reduction of debt, in accordance with this subtitle.

(2) LIMITATION.—The authority provided by paragraph (1) shall be available only to the extent that appropriations for the cost (as defined in section 502(5) of the Federal Credit

Reform Act of 1990) of reducing any debt pursuant to such subsection are made in advance.

(3) SUPERSEDES EXISTING LAW.—The authority provided by paragraph (1) may be exercised notwithstanding section 620(r) of the Foreign Assistance Act of 1961 (22 U.S.C. 2370(r)) or section 321 of the International Development and Food Assistance Act of 1975.

(b) IMPLEMENTATION.—

(1) DELEGATION OF AUTHORITY.—The President may delegate any authority conferred upon the President in this subtitle to the Secretary of State.

(2) ESTABLISHMENT OF TERMS AND CONDITIONS.—Consistent with this subtitle, the President shall establish the terms and conditions under which loans and credits may be reduced pursuant to subsection (a).

President.

(3) IMPLEMENTATION.—In exercising the authority of subsection (a), the President—

President.

(A) shall notify—

Notification.

(i) the Department of State, with respect to obligations of the former Soviet Union under the Lend Lease Act of 1941; and

(ii) the Commodity Credit Corporation, with respect to obligations of the former Soviet Union under the Commodity Credit Corporation Act;

(B) shall direct the cancellation of old obligations and the substitution of new obligations consistent with the Russian Federation Nonproliferation Investment Agreement; and

(C) shall direct the appropriate agency to make an adjustment in the relevant accounts to reflect the new debt treatment.

(4) DEPOSIT OF REPAYMENTS.—All repayments of outstanding loan amounts under subsection (a) that are not designated under a Russian Federation Nonproliferation Investment Agreement shall be deposited in the United States Government accounts established for repayments of the original obligations.

(5) NOT TREATED AS FOREIGN ASSISTANCE.—Any reduction of Soviet-era debt pursuant to this subtitle shall not be considered assistance for the purposes of any provision of law limiting assistance to a country.

(c) AUTHORIZATION OF APPROPRIATION.—

(1) IN GENERAL.—For the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990) of modifying any Soviet-era debt obligation pursuant to subsection (a), there are authorized to be appropriated to the President such sums as may be necessary.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 1315. RUSSIAN FEDERATION NONPROLIFERATION INVESTMENT AGREEMENT.

22 USC 5952
note.

(a) IN GENERAL.—

(1) IN GENERAL.—The President is authorized to enter into an agreement with the Russian Federation under which an amount equal to the value of the debt reduced pursuant to

section 1314 will be used to promote the nonproliferation of weapons of mass destruction and the means of delivering such weapons. An agreement entered into under this section may be referred to as the “Russian Federation Nonproliferation Investment Agreement”.

President.

(2) CONGRESSIONAL NOTIFICATION.—The President shall notify the appropriate congressional committees at least 15 days in advance of the United States entering into a Russian Federation Nonproliferation Investment Agreement.

(b) CONTENT OF THE AGREEMENT.—The Russian Federation Nonproliferation Investment Agreement shall ensure that—

(1) an amount equal to the value of the debt reduced pursuant to this subtitle will be made available by the Russian Federation for agreed nonproliferation programs and projects;

(2) each program or project funded pursuant to the Agreement will be approved by the President;

(3) the administration and oversight of nonproliferation programs and projects will incorporate best practices from established threat reduction and nonproliferation assistance programs;

(4) each program or project funded pursuant to the Agreement will be subject to monitoring and audits conducted by or for the United States Government to confirm that agreed funds are expended on agreed projects and meet agreed targets and benchmarks;

(5) unobligated funds for investments pursuant to the Agreement will not be diverted to other purposes;

(6) funds allocated to programs and projects pursuant to the Agreement will not be subject to any taxation by the Russian Federation;

(7) all matters relating to the intellectual property rights and legal liabilities of United States firms in any project will be agreed upon before the expenditure of funds would be authorized for that project; and

(8) not less than 75 percent of the funds made available for each nonproliferation program or project under the Agreement will be spent in the Russian Federation.

(c) USE OF EXISTING MECHANISMS.—It is the sense of Congress that, to the extent practicable, the boards and administrative mechanisms of existing threat reduction and nonproliferation programs should be used in the administration and oversight of programs and projects under the Agreement.

(d) JOINT AUDITING.—It is the sense of Congress that the United States and the Russian Federation should consider commissioning the United States General Accounting Office and the Russian Chamber of Accounts to conduct joint audits to ensure that the funds saved by the Russian Federation as a result of any debt reduction are used exclusively, efficiently, and effectively to implement agreed programs or projects pursuant to the Agreement.

(e) STRUCTURE OF THE AGREEMENT.—It is the sense of Congress that the Agreement should provide for significant penalties—

(1) if funds obligated for approved programs or projects are determined to have been misappropriated; and

(2) if the President is unable to make the certification required by section 1317(a) for two consecutive years.

SEC. 1316. INDEPENDENT MEDIA AND THE RULE OF LAW.22 USC 5952
note.

Notwithstanding section 1315 (a)(1) and (b)(1), up to 10 percent of the amount equal to the value of the debt reduced pursuant to this subtitle may be used to promote a vibrant, independent media sector and the rule of law in the Russian Federation through an endowment to support the establishment of a “Center for an Independent Press and the Rule of Law” in the Russian Federation, which shall be directed by a joint United States-Russian Board of Directors in which the majority of members, including the chairman, shall be United States personnel, and which shall be responsible for management of the endowment, its funds, and the Center’s programs.

SEC. 1317. RESTRICTION ON DEBT REDUCTION AUTHORITY.22 USC 5952
note.

(a) **PROLIFERATION TO STATE SPONSORS OF TERRORISM.**—Subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until the President certifies to the appropriate congressional committees that the Russian Federation has made material progress in stemming the flow of sensitive goods, technologies, material, and know-how related to the design, development, and production of weapons of mass destruction and the means to deliver them to state sponsors of international terrorism.

(b) **ANNUAL DETERMINATION.**—If, in any annual report to Congress submitted pursuant to section 1321, the President cannot certify that the Russian Federation continues to meet the condition required in subsection (a), then, subject to the provisions of subsection (c), the debt reduction authority provided by section 1314 may not be exercised unless and until such certification is made to the appropriate congressional committees.

(c) **PRESIDENTIAL WAIVER.**—The President may waive the requirements of subsection (a) or (b) for a fiscal year if the President—

(1) determines that application of the subsection for a fiscal year would be counter to the national interest of the United States; and

(2) so reports to the appropriate congressional committees.

SEC. 1318. DISCUSSION OF RUSSIAN FEDERATION DEBT REDUCTION FOR NONPROLIFERATION WITH OTHER CREDITOR STATES.22 USC 5952
note.

It is the sense of Congress that the President and such other appropriate officials as the President may designate should pursue discussions with other creditor states with the objectives of—

(1) ensuring that other advanced industrial democracies, especially the largest holders of Soviet-era Russian debt, dedicate significant proportions of their bilateral official debt with the Russian Federation or equivalent amounts of direct assistance to the G–8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction, as agreed upon in the Statement by G–8 Leaders on June 27, 2002; and

(2) reaching agreement, as appropriate, to establish a unified Russian Federation official debt reduction fund to manage and provide financial transparency for the resources provided by creditor states through debt reductions.

22 USC 5952
note.

SEC. 1319. IMPLEMENTATION OF UNITED STATES POLICY.

It is the sense of Congress that implementation of debt-for-nonproliferation programs with the Russian Federation should be overseen by the coordinating mechanism established pursuant to section 1334 of this Act.

President.
22 USC 5952
note.

SEC. 1320. CONSULTATIONS WITH CONGRESS.

The President shall consult with the appropriate congressional committees on a periodic basis to review the implementation of this subtitle and the Russian Federation's eligibility for debt reduction pursuant to this subtitle.

Deadlines.
President.
22 USC 5952
note.

SEC. 1321. ANNUAL REPORTS TO CONGRESS.

Not later than December 31, 2003, and not later than December 31 of each year thereafter, the President shall prepare and transmit to Congress a report concerning actions taken to implement this subtitle during the fiscal year preceding the fiscal year in which the report is transmitted. The report on a fiscal year shall include—

(1) a description of the activities undertaken pursuant to this subtitle during the fiscal year;

(2) a description of the nature and amounts of the loans reduced pursuant to this subtitle during the fiscal year;

(3) a description of any agreement entered into under this subtitle;

(4) a description of the progress during the fiscal year of any projects funded pursuant to this subtitle;

(5) a summary of the results of relevant audits performed in the fiscal year; and

(6) a certification, if appropriate, that the Russian Federation continued to meet the condition required by section 1317(a), and an explanation of why the certification was or was not made.

Nonproliferation
Assistance
Coordination Act
of 2002.

Subtitle C—Nonproliferation Assistance Coordination

50 USC 2301
note.

SEC. 1331. SHORT TITLE.

This subtitle may be cited as the “Nonproliferation Assistance Coordination Act of 2002”.

50 USC 2357.

SEC. 1332. FINDINGS.

Congress finds that—

(1) United States nonproliferation efforts in the independent states of the former Soviet Union have achieved important results in ensuring that weapons of mass destruction, weapons-usable material and technology, and weapons-related knowledge remain beyond the reach of terrorists and weapons-proliferating states;

(2) although these efforts are in the United States national security interest, the effectiveness of these efforts has suffered from a lack of coordination within and among United States Government agencies;

(3) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union, specifically, spending and investment by the United States private sector in job creation

initiatives and proposals for unemployed Russian Federation weapons scientists and technicians, are making an important contribution in ensuring that knowledge related to weapons of mass destruction remains beyond the reach of terrorists and weapons-proliferating states; and

(4) increased spending and investment by the United States private sector on nonproliferation efforts in the independent states of the former Soviet Union make advisable the establishment of a coordinating body to ensure that United States public and private efforts are not in conflict, and to ensure that public spending on efforts by the independent states of the former Soviet Union is maximized to ensure efficiency and further United States national security interests.

SEC. 1333. DEFINITIONS.

50 USC 2357a.

(a) **INDEPENDENT STATES OF THE FORMER SOVIET UNION.**—In this subtitle, the term “independent states of the former Soviet Union” has the meaning given the term in section 3 of the FREEDOM Support Act (22 U.S.C. 5801).

(b) **APPROPRIATE COMMITTEES OF CONGRESS.**—In this subtitle, the term “the appropriate committees of Congress” means the Committees on Foreign Relations, Armed Services, and Appropriations of the Senate and the Committees on International Relations, Armed Services, and Appropriations of the House of Representatives.

SEC. 1334. ESTABLISHMENT OF COMMITTEE ON NONPROLIFERATION ASSISTANCE.

President.
50 USC 2357b.

(a) **IN GENERAL.**—The President shall establish a mechanism to coordinate, with the maximum possible effectiveness and efficiency, the efforts of United States Government departments and agencies engaged in formulating policy and carrying out programs for achieving nonproliferation and threat reduction.

(b) **MEMBERSHIP.**—The coordination mechanism established pursuant to subsection (a) shall include—

(1) representatives designated by—

(A) the Secretary of State;

(B) the Secretary of Defense;

(C) the Secretary of Energy;

(D) the Secretary of Commerce;

(E) the Attorney General; and

(F) the Director of the Office of Homeland Security, or the head of a successor department or agency; and

(2) such other executive branch officials as the President may select.

(c) **LEVEL OF REPRESENTATION.**—To the maximum extent possible, each department or agency’s representative designated pursuant to subsection (b)(1) shall be an official of that department or agency who has been appointed by the President with the advice and consent of the Senate.

(d) **CHAIR.**—The President shall designate an official to direct the coordination mechanism established pursuant to subsection (a). The official so designated may invite the head of any other department or agency of the United States to designate a representative of that department or agency to participate from time to time in the activities of the Committee.

50 USC 2357c.

SEC. 1335. PURPOSES AND AUTHORITY.**(a) PURPOSES.—**

(1) **IN GENERAL.**—The primary purpose of the coordination mechanism established pursuant to section 1334 of this Act should be—

(A) to exercise continuing responsibility for coordinating worldwide United States nonproliferation and threat reduction efforts to ensure that they effectively implement United States policy; and

(B) to enhance the ability of participating departments and agencies to anticipate growing nonproliferation areas of concern.

(2) **PROGRAM MONITORING AND COORDINATION.**—The coordination mechanism established pursuant to section 1334 of this Act should have primary continuing responsibility within the executive branch of the Government for—

(A) United States nonproliferation and threat reduction efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(B) coordinating the implementation of United States policy with respect to such efforts.

(b) AUTHORITY.—In carrying out the responsibilities described in subsection (a), the coordination mechanism established pursuant to section 1334 of this Act should have, at a minimum, the authority to—

(1) establish such subcommittees and working groups as it deems necessary;

(2) direct the preparation of analyses on issues and problems relating to coordination within and among United States departments and agencies on nonproliferation and threat reduction efforts;

(3) direct the preparation of analyses on issues and problems relating to coordination between the United States public and private sectors on nonproliferation and threat reduction efforts, including coordination between public and private spending on nonproliferation and threat reduction programs and coordination between public spending and private investment in defense conversion activities of the independent states of the former Soviet Union;

(4) provide guidance on arrangements that will coordinate, deconflict, and maximize the utility of United States public spending on nonproliferation and threat reduction programs, and particularly such efforts in the independent states of the former Soviet Union;

(5) encourage companies and nongovernmental organizations involved in nonproliferation efforts of the independent states of the former Soviet Union or other countries of concern to voluntarily report these efforts to it;

(6) direct the preparation of analyses on issues and problems relating to the coordination between the United States and other countries with respect to nonproliferation efforts, and particularly such efforts in the independent states of the former Soviet Union; and

(7) consider, and make recommendations to the President with respect to, proposals for such new legislation or regulations relating to United States nonproliferation efforts as may be necessary.

SEC. 1336. ADMINISTRATIVE SUPPORT.

50 USC 2357d.

All United States departments and agencies shall provide, to the extent permitted by law, such information and assistance as may be requested by the coordination mechanism established pursuant to section 1334 of this Act, in carrying out its functions and activities under this subtitle.

SEC. 1337. CONFIDENTIALITY OF INFORMATION.

50 USC 2357e.

Information which has been submitted to or received by the coordination mechanism established pursuant to section 1334 of this Act in confidence shall not be publicly disclosed, except to the extent required by law, and such information shall be used by it only for the purpose of carrying out the functions set forth in this subtitle.

SEC. 1338. STATUTORY CONSTRUCTION.

50 USC 2357f.

Nothing in this subtitle—

(1) applies to the data-gathering, regulatory, or enforcement authority of any existing United States department or agency over nonproliferation efforts in the independent states of the former Soviet Union, and the review of those efforts undertaken by the coordination mechanism established pursuant to section 1334 of this Act shall not in any way supersede or prejudice any other process provided by law; or

(2) applies to any activity that is reportable pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

SEC. 1339. REPORTING AND CONSULTATION.

50 USC 2357g.

(a) **PRESIDENTIAL REPORT.**—Not later than 120 days after each inauguration of a President, the President shall submit a report to the Congress on his general and specific nonproliferation and threat reduction objectives and how the efforts of executive branch agencies will be coordinated most effectively, pursuant to section 1334 of this Act, to achieve those objectives.

(b) **CONSULTATION.**—The President should consult with and brief, from time to time, the appropriate committees of Congress regarding the efficacy of the coordination mechanism established pursuant to section 1334 of this Act in achieving its stated objectives.

Deadline.

Subtitle D—Iran Nuclear Proliferation Prevention Act of 2002

Iran Nuclear
Proliferation
Prevention Act of
2002.

SEC. 1341. SHORT TITLE.

22 USC 2021
note.

This subtitle may be cited as the “Iran Nuclear Proliferation Prevention Act of 2002”.

**SEC. 1342. WITHHOLDING OF VOLUNTARY CONTRIBUTIONS TO THE
INTERNATIONAL ATOMIC ENERGY AGENCY FOR PRO-
GRAMS AND PROJECTS IN IRAN.**

Section 307 of the Foreign Assistance Act of 1961 (22 U.S.C. 2227) is amended by adding at the end the following:

“(d)(1) Notwithstanding subsection (c), if the Secretary of State determines that programs and projects of the International Atomic Energy Agency in Iran are inconsistent with United States nuclear

nonproliferation and safety goals, will provide Iran with training or expertise relevant to the development of nuclear weapons, or are being used as a cover for the acquisition of sensitive nuclear technology, the limitations of subsection (a) shall apply to such programs and projects, and the Secretary of State shall so notify the appropriate congressional committees (as defined in section 3 of the Foreign Relations Authorization Act, Fiscal Year 2003).

Effective date. “(2) A determination made by the Secretary of State under paragraph (1) shall be effective for the 1-year period beginning on the date of the determination.”.

22 USC 2027. **SEC. 1343. ANNUAL REVIEW BY SECRETARY OF STATE OF PROGRAMS AND PROJECTS OF THE INTERNATIONAL ATOMIC ENERGY AGENCY; UNITED STATES OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF THE AGENCY.**

(a) ANNUAL REVIEW.—

(1) IN GENERAL.—The Secretary shall undertake a comprehensive annual review of all programs and projects of the International Atomic Energy Agency (IAEA) in the countries described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and shall determine if such programs and projects are consistent with United States nuclear nonproliferation and safety goals.

Deadline.

(2) REPORT.—Not later than one year after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary shall submit to Congress a report containing the results of the review under paragraph (1).

(b) OPPOSITION TO CERTAIN PROGRAMS AND PROJECTS OF INTERNATIONAL ATOMIC ENERGY AGENCY.—The Secretary shall direct the United States representative to the International Atomic Energy Agency to oppose programs of the Agency that are determined by the Secretary under the review conducted under subsection (a)(1) to be inconsistent with nuclear nonproliferation and safety goals of the United States.

22 USC 2021
note.
Deadline.

SEC. 1344. REPORTING REQUIREMENTS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, and on an annual basis thereafter for five years, the Secretary, in consultation with the United States representative to the International Atomic Energy Agency, shall prepare and submit to Congress a report that contains—

(1) a description of the total amount of annual assistance to Iran from the International Atomic Energy Agency;

(2) a list of Iranian officials in leadership positions at the Agency;

(3) the expected timeframe for the completion of the nuclear power reactors at the Bushehr nuclear power plant;

(4) a summary of the nuclear materials and technology transferred to Iran from the Agency in the preceding year that could assist in the development of Iran's nuclear weapons program; and

(5) a description of all programs and projects of the International Atomic Energy Agency in each country described in section 307(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2227(a)) and any inconsistencies between the technical cooperation and assistance programs and projects of the Agency and United States nuclear nonproliferation and safety goals in those countries.

(b) **ADDITIONAL REQUIREMENT.**—The report required to be submitted under subsection (a) shall be submitted in an unclassified form, to the extent appropriate, but may include a classified annex.

SEC. 1345. SENSE OF CONGRESS.

It is the sense of Congress that the President should pursue internal reforms at the International Atomic Energy Agency that will ensure that all programs and projects funded under the Technical Cooperation and Assistance Fund of the Agency are compatible with United States nuclear nonproliferation policy and international nuclear nonproliferation norms.

TITLE XIV—EXPEDITING THE MUNITIONS LICENSING PROCESS

SEC. 1401. LICENSE OFFICER STAFFING.

(a) **FUNDING.**—Of the amount authorized to be appropriated by section 111(a)(1)(A), \$10,000,000 is authorized to be available for salaries and expenses of the Office of Defense Trade Controls of the Department.

(b) **ASSIGNMENT OF LICENSE REVIEW OFFICERS.**—Effective January 1, 2003, the Secretary shall assign to the Office of Defense Trade Controls of the Department a sufficient number of license review officers to ensure that the average weekly caseload for each officer does not routinely exceed 40.

Effective date.

(c) **DETAILEES.**—Given the priority placed on expedited license reviews in recent years by the Department of Defense, the Secretary of Defense should ensure that 10 military officers are continuously detailed to the Office of Defense Trade Controls of the Department of State on a nonreimbursable basis.

SEC. 1402. FUNDING FOR DATABASE AUTOMATION.

Of the amount authorized to be appropriated by section 111(a)(2), \$4,000,000 is authorized to be available for the Office of Defense Trade Controls of the Department for the modernization of information management systems.

SEC. 1403. INFORMATION MANAGEMENT PRIORITIES.

22 USC 2778
note.
Internet.
Records.

(a) **OBJECTIVE.**—The Secretary shall establish a secure, Internet-based system for the filing and review of applications for export of Munitions List items.

(b) **ESTABLISHMENT OF AN ELECTRONIC SYSTEM.**—Of the amount made available pursuant to section 1402 of this Act, \$3,000,000 is authorized to be available to fully automate the Defense Trade Application System, and to ensure that the system—

(1) is a secure, electronic system for the filing and review of Munitions List license applications;

(2) is accessible by United States companies through the Internet for the purpose of filing and tracking their Munitions List license applications; and

(3) is capable of exchanging data with—

(A) the Export Control Automated Support System of the Department of Commerce;

(B) the Foreign Disclosure and Technology Information System and the USXPORTS systems of the Department of Defense;

(C) the Export Control System of the Central Intelligence Agency; and

(D) the Proliferation Information Network System of the Department of Energy.

(c) **MUNITIONS LIST DEFINED.**—In this section, the term “Munitions List” means the United States Munitions List of defense articles and defense services controlled under section 38 of the Arms Export Control Act (22 U.S.C. 2778).

SEC. 1404. IMPROVEMENTS TO THE AUTOMATED EXPORT SYSTEM.

13 USC 301 note.

(a) **CONTRIBUTION TO THE AUTOMATED EXPORT SYSTEM.**—Of the amount provided under section 1402 of this Act, \$250,000 is authorized to be available for the purpose of—

(1) providing the Department with full access to the Automated Export System;

(2) ensuring that the system is modified to meet the needs of the Department, if such modifications are consistent with the needs of other United States Government agencies; and

(3) providing operational support.

Regulations.
Federal Register,
publication.
13 USC 301 note.

(b) **MANDATORY FILING.**—The Secretary of Commerce, with the concurrence of the Secretary of State and the Secretary of Treasury, shall publish regulations in the Federal Register to require, upon the effective date of those regulations, that all persons who are required to file export information under chapter 9 of title 13, United States Code, file such information through the Automated Export System.

13 USC 301 note.

(c) **REQUIREMENT FOR INFORMATION SHARING.**—The Secretary shall conclude an information-sharing arrangement with the heads of the United States Customs Service and the Census Bureau—

(1) to allow the Department to access information on controlled exports made through the United States Postal Service; and

(2) to adjust the Automated Export System to parallel information currently collected by the Department.

(d) **SECRETARY OF TREASURY FUNCTIONS.**—Section 303 of title 13, United States Code, is amended by striking “, other than by mail,”.

(e) **FILING EXPORT INFORMATION, DELAYED FILINGS, PENALTIES FOR FAILURE TO FILE.**—Section 304 of title 13, United States Code, is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking “the penal sum of \$1,000” and inserting “a penal sum of \$10,000”; and

(B) in the third sentence, by striking “a penalty not to exceed \$100 for each day’s delinquency beyond the prescribed period, but not more than \$1,000,” and inserting “a penalty not to exceed \$1,000 for each day’s delinquency beyond the prescribed period, but not more than \$10,000 per violation”;

(2) by redesignating subsection (b) as subsection (c); and

(3) by inserting after subsection (a) the following:

“(b) Any person, other than a person described in subsection (a), required to submit export information, shall file such information in accordance with any rule, regulation, or order issued pursuant to this chapter. In the event any such information or reports are not filed within such prescribed period, the Secretary of Commerce (and officers of the Department of Commerce specifically

designated by the Secretary) may impose a civil penalty not to exceed \$1,000 for each day's delinquency beyond the prescribed period, but not more than \$10,000 per violation.”.

(f) ADDITIONAL PENALTIES.—

(1) IN GENERAL.—Section 305 of title 13, United States Code, is amended to read as follows:

“SEC. 305. PENALTIES FOR UNLAWFUL EXPORT INFORMATION ACTIVITIES.

“(a) CRIMINAL PENALTIES.—

“(1) FAILURE TO FILE; SUBMISSION OF FALSE OR MISLEADING INFORMATION.—Any person who knowingly fails to file or knowingly submits false or misleading export information through the Shippers Export Declaration (SED) (or any successor document) or the Automated Export System (AES) shall be subject to a fine not to exceed \$10,000 per violation or imprisonment for not more than 5 years, or both.

“(2) FURTHERANCE OF ILLEGAL ACTIVITIES.—Any person who knowingly reports any information on or uses the SED or the AES to further any illegal activity shall be subject to a fine not to exceed \$10,000 per violation or imprisonment for not more than 5 years, or both.

“(3) FORFEITURE PENALTIES.—Any person who is convicted under this subsection shall, in addition to any other penalty, be subject to forfeiting to the United States—

“(A) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in the goods or tangible items that were the subject of the violation;

“(B) any of that person's interest in, security of, claim against, or property or contractual rights of any kind in tangible property that was used in the export or attempt to export that was the subject of the violation; and

“(C) any of that person's property constituting, or derived from, any proceeds obtained directly or indirectly as a result of the violation.

“(b) CIVIL PENALTIES.—The Secretary (and officers of the Department of Commerce specifically designated by the Secretary) may impose a civil penalty not to exceed \$10,000 per violation on any person violating the provisions of this chapter or any rule, regulation, or order issued thereunder, except as provided in section 304. Such penalty may be in addition to any other penalty imposed by law.

“(c) CIVIL PENALTY PROCEDURE.—

“(1) IN GENERAL.—Whenever a civil penalty is sought for a violation of this section or of section 304, the charged party is entitled to receive a formal complaint specifying the charges and, at his or her request, to contest the charges in a hearing before an administrative law judge. Any such hearing shall be conducted in accordance with sections 556 and 557 of title 5, United States Code.

“(2) COMMENCEMENT OF CIVIL ACTIONS.—If any person fails to pay a civil penalty imposed under this chapter, the Secretary may request the Attorney General to commence a civil action in an appropriate district court of the United States to recover the amount imposed (plus interest at currently prevailing rates

from the date of the final order). No such action may be commenced more than 5 years after the date the order imposing the civil penalty becomes final. In such action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

“(3) REMISSION OR MITIGATION OF PENALTIES.—The Secretary may remit or mitigate any penalties imposed under paragraph (1) if, in the Secretary’s opinion—

“(A) the penalties were incurred without willful negligence or fraud; or

“(B) other circumstances exist that justify a remission or mitigation.

“(4) APPLICABLE LAW FOR DELEGATED FUNCTIONS.—If, pursuant to section 306, the Secretary delegates functions under this section to another agency, the provisions of law of that agency relating to penalty assessment, remission or mitigation of such penalties, collection of such penalties, and limitations of actions and compromise of claims, shall apply.

“(5) DEPOSIT OF PAYMENTS IN GENERAL FUND OF THE TREASURY.—Any amount paid in satisfaction of a civil penalty imposed under this section or section 304 shall be deposited into the general fund of the Treasury and credited as miscellaneous receipts.

“(d) ENFORCEMENT.—

“(1) BY THE SECRETARY OF COMMERCE.—The Secretary of Commerce may designate officers or employees of the Office of Export Enforcement to conduct investigations pursuant to this chapter. In conducting such investigations, those officers or employees may, to the extent necessary or appropriate to the enforcement of this chapter, exercise such authorities as are conferred upon them by other laws of the United States, subject to policies and procedures approved by the Attorney General.

“(2) BY THE COMMISSIONER OF CUSTOMS.—The Commissioner of Customs may designate officers or employees of the Customs Service to enforce the provisions of this chapter, or to conduct investigations pursuant to this chapter.

“(e) REGULATIONS.—The Secretary of Commerce shall promulgate regulations for the implementation and enforcement of this section.

“(f) EXEMPTION.—The criminal fines provided for in this section are exempt from the provisions of section 3571 of title 18, United States Code.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 9 of title 13, United States Code, is amended by striking the item relating to section 305 and inserting the following:

“305. Penalties for unlawful export information activities.”.

SEC. 1405. ADJUSTMENT OF THRESHOLD AMOUNTS FOR CONGRESSIONAL REVIEW PURPOSES.

(a) IN GENERAL.—The Arms Export Control Act is amended—
(1) in section 3(d) (22 U.S.C. 2753(d))—

(A) in paragraphs (1) and (3)(A), by striking “The President may not” and inserting “Subject to paragraph (5), the President may not”; and

(B) by adding at the end of the following new paragraph:

“(5) In the case of a transfer to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on consent of the President set forth in paragraphs (1) and (3)(A) shall apply only if the transfer is—

“(A) a transfer of major defense equipment valued (in terms of its original acquisition cost) at \$25,000,000 or more; or

“(B) a transfer of defense articles or defense services valued (in terms of its original acquisition cost) at \$100,000,000 or more.”;

(2) in section 36 (22 U.S.C. 2776)—

(A) in subsection (b)—

(i) in paragraph (1), by striking “(1) In the case of” and inserting “(1) Subject to paragraph (6), in the case of”;

(ii) in paragraph (5)(C), by striking “(C) If” and inserting “(C) Subject to paragraph (6), if”;

(iii) by adding at the end of the following new paragraph:

“(6) The limitation in paragraph (1) and the requirement in paragraph (5)(C) shall apply in the case of a letter of offer to sell to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries only if the letter of offer involves—

“(A) the sale of major defense equipment under this Act for, or the enhancement or upgrade of major defense equipment at a cost of, \$25,000,000 or more, as the case may be; and

“(B) the sale of defense articles or services for, or the enhancement or upgrade of defense articles or services at a cost of, \$100,000,000 or more, as the case may be; or

“(C) the sale of design and construction services for, or the enhancement or upgrade of design and construction services at a cost of, \$300,000,000 or more, as the case may be.”; and

(B) in subsection (c)—

(i) in paragraph (1), by striking “(1) In the case of” and inserting “(1) Subject to paragraph (5), in the case of”;

(ii) by adding at the end the following new paragraph:

“(5) In the case of an application by a person (other than with regard to a sale under section 21 or 22 of this Act) for a license for the export to a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand that does not authorize a new sales territory that includes any country other than such countries, the limitations on the issuance of the license set forth in paragraph (1) shall apply only if the license is for export of—

“(A) major defense equipment sold under a contract in the amount of \$25,000,000 or more; or

“(B) defense articles or defense services sold under a contract in the amount of \$100,000,000 or more.”;

(3) in section 63(a) (22 U.S.C. 2796b(a))—

(A) by striking “In the case of” and inserting “(1) Subject to paragraph (2), in the case of”; and

(B) by adding at the end the following new paragraph:

“(2) In the case of an agreement described in paragraph (1) that is entered into with a member country of the North Atlantic Treaty Organization (NATO) or Australia, Japan, or New Zealand, the limitations in paragraph (1) shall apply only if the agreement involves a lease or loan of—

“(A) major defense equipment valued (in terms of its replacement cost less any depreciation in its value) at \$25,000,000 or more; or

“(B) defense articles valued (in terms of their replacement cost less any depreciation in their value) at \$100,000,000 or more.”; and

(4) in section 47 (22 U.S.C. 2794), as amended by section 1202(b) of this Act—

(A) by striking “and” at the end of paragraph (9);

(B) by striking the period at the end of paragraph

(10) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(11) ‘Sales territory’ means a country or group of countries to which a defense article or defense service is authorized to be reexported.”.

(b) LICENSES FOR EXPORTS TO INDIA AND PAKISTAN.—Section 9001(e) of the Department of Defense Appropriations Act, Fiscal Year 2000 (Public Law 106-79) is amended by adding at the end the following: “The application of these requirements shall be subject to the dollar amount thresholds specified in that section.”.

22 USC
2799aa-1 note.

SEC. 1406. CONGRESSIONAL NOTIFICATION OF REMOVAL OF ITEMS FROM THE MUNITIONS LIST.

Section 38(f)(1) of the Arms Export Control Act (22 U.S.C. 2778(f)(1)) is amended by striking the third sentence and inserting the following: “The President may not remove any item from the Munitions List until 30 days after the date on which the President has provided notice of the proposed removal to the Committee on International Relations of the House of Representatives and to the Committee on Foreign Relations of the Senate in accordance with the procedures applicable to reprogramming notifications under section 634A(a) of the Foreign Assistance Act of 1961. Such notice shall describe the nature of any controls to be imposed on that item under any other provision of law.”.

TITLE XV—NATIONAL SECURITY ASSISTANCE STRATEGY

Deadline.

SEC. 1501. BRIEFING ON THE STRATEGY.

Not later than March 31, 2003, officials of the Department and the Department of Defense shall brief the appropriate congressional committees regarding their plans and progress in formulating and implementing a national security assistance strategy. This briefing shall include—

(1) a description of how, and to what extent, the elements of the strategy recommended in section 501(b) of the Security Assistance Act of 2000 (22 U.S.C. 2305(b)) have been or will be incorporated in security assistance plans and decisions;

- (2) the number of out-years considered in the strategy;
- (3) a description of the actions taken to include the programs listed in section 501(c) of the Security Assistance Act of 2000 (22 U.S.C. 2305(c)), as well as similar programs of military training or other assistance to the military or security forces of a foreign country;
- (4) a description of how a national security assistance strategy is being implemented regarding specific countries;
- (5) a description of any programmatic changes adopted or expected as a result of adopting a strategic approach to security assistance policymaking;
- (6) a description of any obstacles encountered in formulating or implementing a national security assistance strategy; and
- (7) a description of any resource or legislative needs highlighted by this process.

SEC. 1502. SECURITY ASSISTANCE SURVEYS.

(a) **UTILIZATION.**—The Secretary should utilize security assistance surveys in preparation of a national security assistance strategy pursuant to section 501 of the Security Assistance Act of 2000 (22 U.S.C. 2305).

(b) **FUNDING.**—Of the amount made available for the fiscal year 2003 under section 23 of the Arms Export Control Act (22 U.S.C. 2763), \$2,000,000 is authorized to be available to the Secretary to conduct security assistance surveys, or to request such surveys, on a reimbursable basis, by the Department of Defense or other United States Government agencies. Such surveys shall be conducted consistent with the requirements of section 26 of the Arms Export Control Act (22 U.S.C. 2766).

TITLE XVI—MISCELLANEOUS PROVISIONS

SEC. 1601. NUCLEAR AND MISSILE NONPROLIFERATION IN SOUTH ASIA.

(a) **UNITED STATES POLICY.**—It shall be the policy of the United States, consistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.T. 483), to encourage and work with the governments of India and Pakistan to achieve the following objectives by September 30, 2003:

- (1) Continuation of a nuclear testing moratorium.
- (2) Commitment not to deploy nuclear weapons.
- (3) Commitment not to deploy ballistic missiles that can carry nuclear weapons and to restrain the ranges and types of missiles developed or deployed.
- (4) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Nuclear Suppliers Group.
- (5) Agreement by both governments to bring their export controls in accord with the guidelines and requirements of the Zangger Committee.
- (6) Agreement by both governments to bring their export controls in accord with the guidelines, requirements, and annexes of the Missile Technology Control Regime.

(7) Establishment of a modern, effective system to control the export of sensitive dual-use items, technology, technical information, and materiel that can be used in the design, development, or production of weapons of mass destruction and ballistic missiles.

(8) Conduct of bilateral meetings between Indian and Pakistani senior officials to discuss security issues and establish confidence-building measures with respect to nuclear policies and programs.

(b) **FURTHER UNITED STATES POLICY.**—It shall also be the policy of the United States, consistent with its obligations under the Treaty on the Nonproliferation of Nuclear Weapons (21 U.S.T. 483), to encourage, and, where appropriate, to work with, the Governments of India and Pakistan to achieve not later than September 30, 2003, the establishment by those governments of modern, effective systems to protect and secure their nuclear devices and materiel from unauthorized use, accidental employment, or theft. Any such dialogue with India or Pakistan would not be represented or considered, nor would it be intended, as granting any recognition to India or Pakistan, as appropriate, as a nuclear weapon state (as defined in the Treaty on the Non-Proliferation of Nuclear Weapons).

Deadline.
President.

(c) **REPORT.**—Not later than March 1, 2003, the President shall submit to the appropriate congressional committees a report describing United States efforts to achieve the objectives listed in subsections (a) and (b), the progress made toward the achievement of those objectives, and the likelihood that each objective will be achieved by September 30, 2003.

42 USC 7704
note.

SEC. 1602. REAL-TIME PUBLIC AVAILABILITY OF RAW SEISMOLOGICAL DATA.

The head of the Air Force Technical Applications Center shall make available to the public, immediately upon receipt or as soon after receipt as is practicable, all raw seismological data provided to the United States Government by any international monitoring organization that is directly responsible for seismological monitoring.

SEC. 1603. DETAILING UNITED STATES GOVERNMENTAL PERSONNEL TO INTERNATIONAL ARMS CONTROL AND NON-PROLIFERATION ORGANIZATIONS.

(a) **IN GENERAL.**—The Secretary, in consultation with the Secretaries of Defense and Energy and the heads of other relevant United States departments and agencies, as appropriate, should develop measures to improve the process by which United States Government personnel may be detailed to international arms control and nonproliferation organizations without adversely affecting the pay or career advancement of such personnel.

Deadline.

(b) **REPORT REQUIRED.**—Not later than May 1, 2003, the Secretary shall submit a report to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives setting forth the measures taken under subsection (a).

22 USC 2655b.

SEC. 1604. DIPLOMATIC PRESENCE OVERSEAS.

(a) **PURPOSE.**—The purpose of this section is to—

(1) elevate the stature given United States diplomatic initiatives relating to nonproliferation and political-military issues; and

(2) develop a group of highly specialized, technical experts with country expertise capable of administering the nonproliferation and political-military affairs functions of the Department.

(b) **AUTHORITY.**—To carry out the purposes of subsection (a), the Secretary is authorized to establish the position of Counselor for Nonproliferation and Political Military Affairs in United States diplomatic missions overseas, to be filled by individuals who are career Civil Service officers or Foreign Service officers committed to follow-on assignments in the Nonproliferation Bureau or the Political Military Affairs Bureau of the Department.

Government
organization.

(c) **TRAINING.**—After being selected to serve as Counselor, any person so selected shall spend not less than 10 months in language training courses at the Foreign Service Institute, or in technical courses administered by the Department of Defense, the Department of Energy, or other appropriate departments and agencies of the United States, except that such requirement for training may be waived by the Secretary.

SEC. 1605. COMPLIANCE WITH THE CHEMICAL WEAPONS CONVENTION.

(a) **FINDINGS.**—Congress makes the following findings:

(1) On April 24, 1997, the Senate provided its advice and consent to ratification of the Chemical Weapons Convention subject to the condition, among others, that the President certify that no sample collected in the United States pursuant to the Convention will be transferred for analysis to any laboratory outside the territory of the United States.

(2) Congress enacted the same condition into law as section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)).

(3) Part II, paragraph 57, of the Verification Annex of the Convention requires that all samples requiring off-site analysis under the Convention shall be analyzed by at least two laboratories that have been designated as capable of conducting such testing by the OPCW.

(4) The only United States laboratory currently designated by the OPCW is the United States Army Edgewood Forensic Science Laboratory.

(5) In order to comply with the Chemical Weapons Convention, the certification submitted pursuant to condition (18) of the resolution of ratification of the Chemical Weapons Convention, and the requirements of section 304(f)(1) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6724(f)(1)), the United States must possess, at a minimum, a second OPCW-designated laboratory.

(6) The possession of a second OPCW-designated laboratory is necessary in view of the potential for a challenge inspection to be initiated against the United States by a foreign nation.

(7) The possession of a third OPCW-designated laboratory would enable the OPCW to implement its normal sample analysis procedures, which randomly assign real and manufactured samples so that no laboratory knows the origin of a given sample.

(8) To qualify as a designated laboratory, a laboratory must be certified under ISO Guide 25 or a higher standard and complete three proficiency tests. The laboratory must have the full capability to handle substances listed on Schedule

1 of the Annex on Schedules of Chemicals of the Chemical Weapons Convention. In order to handle such substances in the United States, a laboratory also must operate under a bailment agreement with the United States Army.

(9) Several existing United States commercial laboratories have approved quality control systems, already possess bailment agreements with the United States Army, and have the capabilities necessary to obtain OPCW designation.

(10) In order to bolster the legitimacy of United States analysis of samples taken on its national territory, it is preferable that one designated laboratory not be a United States Government facility.

Deadlines.

(b) ESTABLISHMENT OF NON-GOVERNMENTAL DESIGNATED LABORATORY.—

(1) REPORT.—Not later than March 1, 2003, the United States National Authority, as designated under section 101 of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711) (referred to in this section as the “National Authority”), shall submit to the appropriate congressional committees a report detailing a plan for securing OPCW designation of a nongovernmental United States laboratory by December 1, 2004.

(2) DIRECTIVE.—Not later than June 1, 2003, the National Authority shall select, through competitive procedures, a nongovernmental laboratory within the United States to pursue designation by the OPCW.

(3) DELEGATION.—The National Authority may delegate the authority and administrative responsibility for carrying out paragraph (2) to one or more of the heads of the agencies described in section 101(b)(2) of the Chemical Weapons Convention Implementation Act of 1998 (22 U.S.C. 6711(b)(2)).

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION OR CONVENTION.—The term “Chemical Weapons Convention” or “Convention” means the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, including the following protocols and memorandum of understanding:

(A) The Annex on Chemicals.

(B) The Annex on Implementation and Verification.

(C) The Annex on the Protection of Confidential Information.

(D) The Resolution Establishing the Preparatory Commission for the Organization for the Prohibition of Chemical Weapons.

(E) The Text on the Establishment of a Preparatory Commission.

(2) OPCW.—The term “OPCW” means the Organization for the Prohibition of Chemical Weapons established under the Convention.

TITLE XVII—AUTHORITY TO TRANSFER NAVAL VESSELS

SEC. 1701. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN FOREIGN COUNTRIES.

(a) TRANSFERS BY GRANT.—The President is authorized to transfer vessels to foreign countries on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) as follows:

(1) POLAND.—To the Government of Poland, the OLIVER HAZARD PERRY class guided missile frigate WADSWORTH (FFG 9).

(2) TURKEY.—To the Government of Turkey, the KNOX class frigates CAPODANNO (FF 1093), THOMAS C. HART (FF 1092), DONALD B. BEARY (FF 1085), McCANDLESS (FF 1084), REASONER (FF 1063), and BOWEN (FF 1079).

(b) TRANSFERS BY SALE.—The President is authorized to transfer vessels to foreign governments and foreign governmental entities on a sale basis under section 21 of the Arms Export Control Act (22 U.S.C. 2761) as follows:

(1) MEXICO.—To the Government of Mexico, the NEWPORT class tank landing ship FREDERICK (LST 1184).

(2) TAIWAN.—To the Taipei Economic and Cultural Representative Office in the United States (which is the Taiwan instrumentality designated pursuant to section 10(a) of the Taiwan Relations Act), the KIDD class guided missile destroyers KIDD (DDG 993), CALLAGHAN (DDG 994), SCOTT (DDG 995), and CHANDLER (DDG 996).

(3) TURKEY.—To the Government of Turkey, the OLIVER HAZARD PERRY class guided missile frigates ESTOCIN (FFG 15) and SAMUEL ELIOT MORISON (FFG 13).

(c) GRANTS NOT COUNTED IN ANNUAL TOTAL OF TRANSFERRED EXCESS DEFENSE ARTICLES.—The value of a vessel transferred to another country on a grant basis under section 516 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j) pursuant to authority provided by subsection (a) shall not be counted for the purposes of subsection (g) of that section in the aggregate value of excess defense articles transferred to countries under that section in any fiscal year.

(d) COSTS OF TRANSFERS ON GRANT BASIS.—Any expense incurred by the United States in connection with a transfer authorized by this section shall be charged to the recipient (notwithstanding section 516(e)(1) of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j(e)(1))) in the case of a transfer authorized to be made on a grant basis under subsection (a).

(e) WAIVER AUTHORITY.—For a vessel transferred on a grant basis pursuant to authority provided by subsection (a)(2), the President may waive reimbursement of charges for the lease of that vessel under section 61(a) of the Arms Export Control Act (22 U.S.C. 2796(a)) for a period of one year before the date of the transfer of that vessel.

(f) REPAIR AND REFURBISHMENT IN UNITED STATES SHIPYARDS.—To the maximum extent practicable, the President shall require, as a condition of the transfer of a vessel under this section, that the country to which the vessel is transferred have such repair or refurbishment of the vessel as is needed, before the

President.

vessel joins the naval forces of that country, performed at a shipyard located in the United States, including a United States Navy shipyard.

(g) EXPIRATION OF AUTHORITY.—The authority to transfer a vessel under this section shall expire at the end of the two-year period beginning on the date of the enactment of this Act.

Approved September 30, 2002.

LEGISLATIVE HISTORY—H.R. 1646 (S. 1401):

HOUSE REPORTS: Nos. 107–57 (Comm. on International Relations) and 107–671 (Comm. of Conference).

SENATE REPORTS: No. 107–60 accompanying S. 1401 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD:

Vol. 147 (2001): May 16, considered and passed House.

Vol. 148 (2002): May 1, considered and passed Senate, amended.

Sept. 25, House agreed to conference report.

Sept. 26, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Sept. 30, Presidential statement.



Public Law 107–229
107th Congress

Joint Resolution

Making continuing appropriations for the fiscal year 2003, and for other purposes.

Sept. 30, 2002

[H.J. Res. 111]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2003, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2002 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2002, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available in the following appropriations Acts:

(1) the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2002;

(2) the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2002, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(3) the Department of Defense Appropriations Act, 2002, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(4) the District of Columbia Appropriations Act, 2002;

(5) the Energy and Water Development Appropriations Act, 2002, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1));

(6) the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002, notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956;

(7) the Department of the Interior and Related Agencies Appropriations Act, 2002;

(8) the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002;

(9) the Legislative Branch Appropriations Act, 2002;

(10) the Military Construction Appropriations Act, 2002;

(11) the Department of Transportation and Related Agencies Appropriations Act, 2002;

(12) the Treasury and General Government Appropriations Act, 2002; and

(13) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002.

SEC. 102. No appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used for new production of items not funded for production in fiscal year 2002 or prior years, for the increase in production rates above those sustained with fiscal year 2002 funds, or to initiate, resume, or continue any project, activity, operation, or organization which are defined as any project, subproject, activity, budget activity, program element, and subprogram within a program element and for investment items are further defined as a P-1 line item in a budget activity within an appropriation account and an R-1 line item which includes a program element and subprogram element within an appropriation account, for which appropriations, funds, or other authority were not available during fiscal year 2002: *Provided*, That no appropriation or funds made available or authority granted pursuant to section 101 for the Department of Defense shall be used to initiate multi-year procurements utilizing advance procurement funding for economic order quantity procurement unless specifically appropriated later.

SEC. 103. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2002.

SEC. 105. (a) For purposes of section 101, the term “rate for operations not exceeding the current rate”—

(1) has the meaning given such term (including supplemental appropriations and rescissions) in the attachment to Office of Management and Budget Bulletin No. 01-10 entitled “Apportionment of the Continuing Resolution(s) for Fiscal Year 2002” and dated September 27, 2001, applied by substituting “FY 2002” for “FY 2001” each place it appears; but

(2) does not include any unobligated balance of funds appropriated in Public Law 107-38 and carried forward to fiscal year 2002, other than funds transferred by division B of Public Law 107-117.

(b) The appropriations Acts listed in section 101 shall be deemed to include supplemental appropriation laws enacted during fiscal year 2002.

SEC. 106. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution,

Expiration date.

or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) October 4, 2002, whichever first occurs.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 110. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of fiscal year 2002 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2003 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 112. For the Overseas Private Investment Corporation Program account, for the cost of direct and guaranteed loans, at an annual rate not to exceed \$19,000,000, to be derived by transfer from the Overseas Private Investment Corporation non-credit account, subject to section 107(c).

SEC. 113. Activities authorized by section 403(f) of Public Law 103-356, as amended by section 634 of Public Law 107-67, and activities authorized under the heading "Treasury Franchise Fund" in the Treasury Department Appropriations Act, 1997 (Pub. L. 104-208), as amended by section 120 of the Treasury Department Appropriations Act, 2001 (Pub. L. 106-554), may continue through the date specified in section 107(c) of this joint resolution.

SEC. 114. Activities authorized by Title IV-A of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue in the manner authorized for fiscal year 2002 through December 31, 2002 (notwithstanding section 1902(e)(1)(A) of such Act): *Provided*, That grants and payments may be made pursuant to this authority at the beginning of fiscal year 2003 for the first quarter of such year, at the level provided for such activities for the first quarter of fiscal year 2002: *Provided further*, That notwithstanding Rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, the provisions of this section that would have been estimated by the Office of Management and Budget as changing direct spending or receipts under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 were they included in an Act other than an appropriations Act shall be treated as direct spending or receipts legislation, as appropriate, under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985, and by the Chairmen of

the House and Senate Budget Committees, as appropriate, under the Congressional Budget Act of 1974.

SEC. 115. Activities authorized by section 1722A of title 38, United States Code may continue through the date specified in section 107(c) of this joint resolution.

SEC. 116. In addition to amounts made available in section 101 and subject to sections 107(c) and 108 of this joint resolution, such sums as may be necessary for contributions authorized by 10 U.S.C. 1111 for the Uniformed Services of the Department of Defense, the Coast Guard, the Public Health Service, and the National Oceanic and Atmospheric Administration are made available to accounts for the pay of members of such participating uniformed services, to be paid from such accounts into the Fund established under 10 U.S.C. 1111, pursuant to 10 U.S.C. 1116(c).

SEC. 117. None of the funds made available under this Act, or any other Act, shall be used by an Executive agency to implement any activity in violation of section 501 of title 44, United States Code.

SEC. 118. Collection and use of maintenance fees as authorized by section 4(i) and 4(k) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136a-1(i) and (k)) may continue through the date specified in section 107(c) of this joint resolution. Prohibitions against collecting “other fees” as described in section 4(i)(6) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a-1(i)(6)) shall continue in effect through the date specified in section 107(c) of this joint resolution.

SEC. 119. Security service fees authorized under 49 U.S.C. 44940 shall be credited as offsetting collections and the maximum amount collected shall be used for providing security services authorized by that section: *Provided*, That the sum available from the General Fund shall be reduced as such offsetting collections are received during fiscal year 2003.

Approved September 30, 2002.

LEGISLATIVE HISTORY—H.J. Res. 111:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 26, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Sept. 30, Presidential statement.



Public Law 107–230
107th Congress

An Act

To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes.

Oct. 1, 2002
[H.R. 3880]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLEAN AIR TRANSPORTATION CONFORMITY; TEMPORARY WAIVER FOR NEW YORK AREAS.

(a) TEMPORARY WAIVER.—Notwithstanding any other provision of law, until September 30, 2005, the provisions of section 176(c) of the Clean Air Act, and the regulations promulgated thereunder, shall not apply to transportation projects, programs, and plans (as defined in 40 C.F.R. Part 93, Subpart A) for the counties of New York, Queens, Kings, Bronx, Richmond, Nassau, Suffolk, Westchester, Rockland, Putnam, or the towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick, and Woodbury in Orange County, New York. The preceding sentence shall not apply to the regulations under section 176(c)(4)(B)(i) of such Act relating to Federal and State interagency consultation procedures.

(b) INTERIM PROGRESS REPORT.—Not later than January 1, 2004, the Governor of New York shall submit to the Committees on Energy and Commerce and Transportation and Infrastructure of the House of Representatives, the Committee on Environment and Public Works of the Senate, the Administrator of the Environmental Protection Agency, and the Secretary of Transportation a report regarding the status of the State's progress towards achieving compliance with the provisions of law and regulation subject to the temporary waiver provided by subsection (a). Such report shall explain in detail the steps that the State has taken towards achieving such compliance and identify the necessary steps that remain to be taken by September 30, 2005, in order for the transportation projects, programs, and plans for the counties referred to in subsection (a) to be in compliance with the provisions of section 176(c) of the Clean Air Act, and the regulations promulgated thereunder, by September 30, 2005. The report shall also include a regional emissions analysis generally consistent with the requirements of 40 CFR 93.122, together with the relevant air quality data.

Deadline.

SEC. 2. METROPOLITAN PLANNING REQUIREMENTS; TEMPORARY WAIVER FOR NEW YORK AREAS.

Notwithstanding any other provision of law, until September 30, 2005, the provisions of sections 134(h)(1)(D), 134(i)(3), 134(i)(5),

and 134(l)(1) of title 23 of the United States Code and sections 5304(a)(1), 5305(c), and 5305(e)(1) of title 49 of the United States Code and the regulations promulgated thereunder, shall not apply to the New York Metropolitan Transportation Council or to the Metropolitan Planning Organization designated under section 134(b) of title 23 of the United States Code.

SEC. 3. ADDITIONAL REQUIREMENTS.

(a) **PROHIBITION ON CAPACITY EXPANSION.**—During the period of the temporary transportation conformity waiver for transportation plans, programs, and projects under section 1, no regionally significant capacity expanding highway project shall be added to the Regional Transportation Plan for the counties referred to in section 1 and no such project may be advanced from the out years of the Plan into the TIP, except as provided in subsection (b).

(b) **EXCEPTION.**—Any regionally significant capacity expanding highway project south of Canal Street and West of Broadway in Manhattan may be added to the Plan referred to in subsection (a) if—

(1) the project is part of a redevelopment plan for lower Manhattan subject to NEPA and the New York State Environmental Quality Act, as applicable; and

(2) any projected increases in transportation related emissions resulting from the project are offset by corresponding reductions within the affected county, with best efforts made to secure reductions from within the immediate area affected by the project's emissions.

Approved October 1, 2002.

LEGISLATIVE HISTORY—H.R. 3880:

HOUSE REPORTS: No. 107–649 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 10, considered and passed House.

Sept. 12, considered and passed Senate.



Public Law 107–231
107th Congress

An Act

To provide for the establishment of investigative teams to assess building performance and emergency response and evacuation procedures in the wake of any building failure that has resulted in substantial loss of life or that posed significant potential of substantial loss of life.

Oct. 1, 2002
[H.R. 4687]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Construction Safety Team Act”.

National
Construction
Safety Team Act.
15 USC 7301
note.

SEC. 2. NATIONAL CONSTRUCTION SAFETY TEAMS.

15 USC 7301.

(a) **ESTABLISHMENT.**—The Director of the National Institute of Standards and Technology (in this Act referred to as the “Director”) is authorized to establish National Construction Safety Teams (in this Act referred to as a “Team”) for deployment after events causing the failure of a building or buildings that has resulted in substantial loss of life or that posed significant potential for substantial loss of life. To the maximum extent practicable, the Director shall establish and deploy a Team within 48 hours after such an event. The Director shall promptly publish in the Federal Register notice of the establishment of each Team.

Federal Register,
publication.

(b) **PURPOSE OF INVESTIGATION; DUTIES.**—

(1) **PURPOSE.**—The purpose of investigations by Teams is to improve the safety and structural integrity of buildings in the United States.

(2) **DUTIES.**—A Team shall—

(A) establish the likely technical cause or causes of the building failure;

(B) evaluate the technical aspects of evacuation and emergency response procedures;

(C) recommend, as necessary, specific improvements to building standards, codes, and practices based on the findings made pursuant to subparagraphs (A) and (B); and

(D) recommend any research and other appropriate actions needed to improve the structural safety of buildings, and improve evacuation and emergency response procedures, based on the findings of the investigation.

(c) **PROCEDURES.**—

(1) **DEVELOPMENT.**—Not later than 3 months after the date of the enactment of this Act, the Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall develop procedures for the establishment and deployment of Teams. The Director shall

Deadline.

update such procedures as appropriate. Such procedures shall include provisions—

(A) regarding conflicts of interest related to service on the Team;

(B) defining the circumstances under which the Director will establish and deploy a Team;

(C) prescribing the appropriate size of Teams;

(D) guiding the disclosure of information under section 8;

(E) guiding the conduct of investigations under this Act, including procedures for providing written notice of inspection authority under section 4(a) and for ensuring compliance with any other applicable law;

(F) identifying and prescribing appropriate conditions for the provision by the Director of additional resources and services Teams may need;

(G) to ensure that investigations under this Act do not impede and are coordinated with any search and rescue efforts being undertaken at the site of the building failure;

(H) for regular briefings of the public on the status of the investigative proceedings and findings;

(I) guiding the Teams in moving and preserving evidence as described in section 4 (a)(4), (b)(2), and (d)(4);

(J) providing for coordination with Federal, State, and local entities that may sponsor research or investigations of building failures, including research conducted under the Earthquake Hazards Reduction Act of 1977; and

(K) regarding such other issues as the Director considers appropriate.

Federal Register,
publication.

(2) PUBLICATION.—The Director shall publish promptly in the Federal Register final procedures, and subsequent updates thereof, developed under paragraph (1).

15 USC 7302.

SEC. 3. COMPOSITION OF TEAMS.

Each Team shall be composed of individuals selected by the Director and led by an individual designated by the Director. Team members shall include at least 1 employee of the National Institute of Standards and Technology and shall include other experts who are not employees of the National Institute of Standards and Technology, who may include private sector experts, university experts, representatives of professional organizations with appropriate expertise, and appropriate Federal, State, or local officials. Team members who are not Federal employees shall be considered Federal Government contractors.

15 USC 7303.

SEC. 4. AUTHORITIES.

(a) ENTRY AND INSPECTION.—In investigating a building failure under this Act, members of a Team, and any other person authorized by the Director to support a Team, on display of appropriate credentials provided by the Director and written notice of inspection authority, may—

(1) enter property where a building failure being investigated has occurred, or where building components, materials, and artifacts with respect to the building failure are located, and take action necessary, appropriate, and reasonable in light of the nature of the property to be inspected to carry out the duties of the Team under section 2(b)(2) (A) and (B);

(2) during reasonable hours, inspect any record (including any design, construction, or maintenance record), process, or facility related to the investigation;

(3) inspect and test any building components, materials, and artifacts related to the building failure; and

(4) move such records, components, materials, and artifacts as provided by the procedures developed under section 2(c)(1).

(b) AVOIDING UNNECESSARY INTERFERENCE AND PRESERVING EVIDENCE.—An inspection, test, or other action taken by a Team under this section shall be conducted in a way that—

(1) does not interfere unnecessarily with services provided by the owner or operator of the building components, materials, or artifacts, property, records, process, or facility; and

(2) to the maximum extent feasible, preserves evidence related to the building failure, consistent with the ongoing needs of the investigation.

(c) COORDINATION.—

(1) WITH SEARCH AND RESCUE EFFORTS.—A Team shall not impede, and shall coordinate its investigation with, any search and rescue efforts being undertaken at the site of the building failure.

(2) WITH OTHER RESEARCH.—A Team shall coordinate its investigation, to the extent practicable, with qualified researchers who are conducting engineering or scientific (including social science) research relating to the building failure.

(3) MEMORANDA OF UNDERSTANDING.—The National Institute of Standards and Technology shall enter into a memorandum of understanding with each Federal agency that may conduct or sponsor a related investigation, providing for coordination of investigations.

(4) WITH STATE AND LOCAL AUTHORITIES.—A Team shall cooperate with State and local authorities carrying out any activities related to a Team's investigation.

(d) INTERAGENCY PRIORITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2) or (3), a Team investigation shall have priority over any other investigation of any other Federal agency.

(2) NATIONAL TRANSPORTATION SAFETY BOARD.—If the National Transportation Safety Board is conducting an investigation related to an investigation of a Team, the National Transportation Safety Board investigation shall have priority over the Team investigation. Such priority shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(3) CRIMINAL ACTS.—If the Attorney General, in consultation with the Director, determines, and notifies the Director, that circumstances reasonably indicate that the building failure being investigated by a Team may have been caused by a criminal act, the Team shall relinquish investigative priority to the appropriate law enforcement agency. The relinquishment of investigative priority by the Team shall not otherwise affect the authority of the Team to continue its investigation under this Act.

(4) PRESERVATION OF EVIDENCE.—If a Federal law enforcement agency suspects and notifies the Director that a building failure being investigated by a Team under this Act may have

been caused by a criminal act, the Team, in consultation with the Federal law enforcement agency, shall take necessary actions to ensure that evidence of the criminal act is preserved.

15 USC 7304.

SEC. 5. BRIEFINGS, HEARINGS, WITNESSES, AND SUBPOENAS.

(a) GENERAL AUTHORITY.—The Director or his designee, on behalf of a Team, may conduct hearings, administer oaths, and require, by subpoena (pursuant to subsection (e)) and otherwise, necessary witnesses and evidence as necessary to carry out this Act.

(b) BRIEFINGS.—The Director or his designee (who may be the leader or a member of a Team), on behalf of a Team, shall hold regular public briefings on the status of investigative proceedings and findings, including a final briefing after the report required by section 8 is issued.

(c) PUBLIC HEARINGS.—During the course of an investigation by a Team, the National Institute of Standards and Technology may, if the Director considers it to be in the public interest, hold a public hearing for the purposes of—

(1) gathering testimony from witnesses; and

(2) informing the public on the progress of the investigation.

(d) PRODUCTION OF WITNESSES.—A witness or evidence in an investigation under this Act may be summoned or required to be produced from any place in the United States. A witness summoned under this subsection is entitled to the same fee and mileage the witness would have been paid in a court of the United States.

(e) ISSUANCE OF SUBPOENAS.—A subpoena shall be issued only under the signature of the Director but may be served by any person designated by the Director.

(f) FAILURE TO OBEY SUBPOENA.—If a person disobeys a subpoena issued by the Director under this Act, the Attorney General, acting on behalf of the Director, may bring a civil action in a district court of the United States to enforce the subpoena. An action under this subsection may be brought in the judicial district in which the person against whom the action is brought resides, is found, or does business. The court may punish a failure to obey an order of the court to comply with the subpoena as a contempt of court.

15 USC 7305.

SEC. 6. ADDITIONAL POWERS.

In order to support Teams in carrying out this Act, the Director may—

(1) procure the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code;

(2) request the use, when appropriate, of available services, equipment, personnel, and facilities of a department, agency, or instrumentality of the United States Government on a reimbursable or other basis;

(3) confer with employees and request the use of services, records, and facilities of State and local governmental authorities;

(4) accept voluntary and uncompensated services;

(5) accept and use gifts of money and other property, to the extent provided in advance in appropriations Acts;

(6) make contracts with nonprofit entities to carry out studies related to purpose, functions, and authorities of the Teams; and

(7) provide nongovernmental members of the Team reasonable compensation for time spent carrying out activities under this Act.

SEC. 7. DISCLOSURE OF INFORMATION.

15 USC 7306.

(a) **GENERAL RULE.**—Except as otherwise provided in this section, a copy of a record, information, or investigation submitted or received by a Team shall be made available to the public on request and at reasonable cost.

Records.

(b) **EXCEPTIONS.**—Subsection (a) does not require the release of—

(1) information described by section 552(b) of title 5, United States Code, or protected from disclosure by any other law of the United States; or

(2) information described in subsection (a) by the National Institute of Standards and Technology or by a Team until the report required by section 8 is issued.

(c) **PROTECTION OF VOLUNTARY SUBMISSION OF INFORMATION.**—Notwithstanding any other provision of law, a Team, the National Institute of Standards and Technology, and any agency receiving information from a Team or the National Institute of Standards and Technology, shall not disclose voluntarily provided safety-related information if that information is not directly related to the building failure being investigated and the Director finds that the disclosure of the information would inhibit the voluntary provision of that type of information.

(d) **PUBLIC SAFETY INFORMATION.**—A Team and the National Institute of Standards and Technology shall not publicly release any information it receives in the course of an investigation under this Act if the Director finds that the disclosure of that information might jeopardize public safety.

SEC. 8. NATIONAL CONSTRUCTION SAFETY TEAM REPORT.

15 USC 7307.

Not later than 90 days after completing an investigation, a Team shall issue a public report which includes—

Deadline.

(1) an analysis of the likely technical cause or causes of the building failure investigated;

(2) any technical recommendations for changes to or the establishment of evacuation and emergency response procedures;

(3) any recommended specific improvements to building standards, codes, and practices; and

(4) recommendations for research and other appropriate actions needed to help prevent future building failures.

SEC. 9. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACTIONS.

15 USC 7308.

After the issuance of a public report under section 8, the National Institute of Standards and Technology shall comprehensively review the report and, working with the United States Fire Administration and other appropriate Federal and non-Federal agencies and organizations—

(1) conduct, or enable or encourage the conducting of, appropriate research recommended by the Team; and

(2) promote (consistent with existing procedures for the establishment of building standards, codes, and practices) the

appropriate adoption by the Federal Government, and encourage the appropriate adoption by other agencies and organizations, of the recommendations of the Team with respect to—

- (A) technical aspects of evacuation and emergency response procedures;
- (B) specific improvements to building standards, codes, and practices; and
- (C) other actions needed to help prevent future building failures.

15 USC 7309.

SEC. 10. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ANNUAL REPORT.

Deadline.

Not later than February 15 of each year, the Director shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

- (1) a summary of the investigations conducted by Teams during the prior fiscal year;
- (2) a summary of recommendations made by the Teams in reports issued under section 8 during the prior fiscal year and a description of the extent to which those recommendations have been implemented; and
- (3) a description of the actions taken to improve building safety and structural integrity by the National Institute of Standards and Technology during the prior fiscal year in response to reports issued under section 8.

15 USC 7310.

SEC. 11. ADVISORY COMMITTEE.

(a) ESTABLISHMENT AND FUNCTIONS.—The Director, in consultation with the United States Fire Administration and other appropriate Federal agencies, shall establish an advisory committee to advise the Director on carrying out this Act and to review the procedures developed under section 2(c)(1) and the reports issued under section 8.

Deadline.

(b) ANNUAL REPORT.—On January 1 of each year, the advisory committee shall transmit to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

- (1) an evaluation of Team activities, along with recommendations to improve the operation and effectiveness of Teams; and
- (2) an assessment of the implementation of the recommendations of Teams and of the advisory committee.

(c) DURATION OF ADVISORY COMMITTEE.—Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this section.

15 USC 7311.

SEC. 12. ADDITIONAL APPLICABILITY.

The authorities and restrictions applicable under this Act to the Director and to Teams shall apply to the activities of the National Institute of Standards and Technology in response to the attacks of September 11, 2001.

SEC. 13. AMENDMENT.

Section 7 of the National Bureau of Standards Authorization Act for Fiscal Year 1986 (15 U.S.C. 281a) is amended by inserting “, or from an investigation under the National Construction Safety Team Act,” after “from such investigation”.

SEC. 14. CONSTRUCTION.

15 USC 7312.

Nothing in this Act shall be construed to confer any authority on the National Institute of Standards and Technology to require the adoption of building standards, codes, or practices.

SEC. 15. AUTHORIZATION OF APPROPRIATIONS.

15 USC 7313.

The National Institute of Standards and Technology is authorized to use funds otherwise authorized by law to carry out this Act.

Approved October 1, 2002.

LEGISLATIVE HISTORY—H.R. 4687:**HOUSE REPORTS:** No. 107–530 (Comm. on Science).**CONGRESSIONAL RECORD**, Vol. 148 (2002):

July 12, considered and passed House.

Sept. 9, considered and passed Senate, amended.

Sept. 17, House concurred in Senate amendment.



Public Law 107–232
107th Congress

An Act

Oct. 1, 2002
[H.R. 5157]

To amend section 5307 of title 49, United States Code, to allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. URBANIZED AREA FORMULA GRANTS.

Section 5307(b) of title 49, United States Code, is amended—

- (1) by striking the last sentence of paragraph (1);
- (2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively;
- (3) by inserting after paragraph (1) the following:

“(2) SPECIAL RULE FOR FISCAL YEAR 2003.—

“(A) INCREASED FLEXIBILITY.—The Secretary may make grants under this section, from funds made available to carry out this section for fiscal year 2003, to finance the operating cost of equipment and facilities for use in mass transportation in an urbanized area with a population of at least 200,000 as determined under the 2000 decennial census of population if—

“(i) the urbanized area had a population of less than 200,000 as determined under the 1990 Federal decennial census of population;

“(ii) a portion of the urbanized area was a separate urbanized area with a population of less than 200,000 as determined under the 1990 Federal decennial census of population; or

“(iii) the area was not designated as a urbanized area as determined under the 1990 Federal decennial census of population.

“(B) MAXIMUM AMOUNTS.—Amounts made available pursuant to subparagraphs (A)(i) and (A)(ii) shall be no more than the amount apportioned in fiscal year 2002 to the urbanized area with a population of less than 200,000 as determined in the 1990 Federal decennial census of population. Amounts made available pursuant to subparagraph (A)(iii) shall be no more than the amount apportioned under this section for fiscal year 2003.”; and

(4) in paragraph (3) (as redesignated by paragraph (2) of this section) by aligning subparagraph (C) with subparagraphs (A) and (B).

Approved October 1, 2002.

LEGISLATIVE HISTORY—H.R. 5157

HOUSE REPORTS: No. 107–644 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 9, considered and passed House.

Sept. 13, considered and passed Senate.



Public Law 107–233
107th Congress

An Act

Oct. 1, 2002
[S. 2810]

To amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF IPO DEADLINE.

Section 621(5)(A)(i) of the Communications Satellite Act of 1962 (47 U.S.C. 763(5)(A)(i)) is amended—

(1) by striking “October 1, 2001,” and inserting “December 31, 2003,”; and

(2) by striking “December 31, 2002,” and inserting “June 30, 2004,”.

Approved October 1, 2002.

LEGISLATIVE HISTORY—S. 2810:

CONGRESSIONAL RECORD, Vol. 148 (2002):
July 26, considered and passed Senate.
Sept. 10, considered and passed House.



Public Law 107–234
107th Congress

An Act

To extend the Irish Peace Process Cultural and Training Program.

Oct. 4, 2002

[H.R. 4558]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. EXTENSION OF IRISH PEACE PROCESS CULTURAL AND
TRAINING PROGRAM.**

Section 2 of the Irish Peace Process Cultural and Training
Program Act of 1998 (8 U.S.C. 1101 note) is amended—

- (1) in subsection (a)(2)(A) by striking “3” and inserting
“4”;
- (2) in subsection (a)(3) by striking “3” and inserting “4”;
- (3) in subsection (d)(1) by striking “2005,” and inserting
“2006,”; and
- (4) in subsection (d)(2) by striking “2005,” and inserting
“2006,”.

Approved October 4, 2002.

LEGISLATIVE HISTORY—H.R. 4558:

HOUSE REPORTS: No. 107–596, Pt. 1 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 22, considered and passed House.

Sept. 18, considered and passed Senate.



Public Law 107–235
107th Congress

Joint Resolution

Oct. 4, 2002
[H.J. Res. 112]

Making further continuing appropriations for the fiscal year 2003, and for other purposes.

Ante, p. 1467.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 107–229 is amended by striking the date specified in section 107(c) and inserting in lieu thereof “October 11, 2002”.

Approved October 4, 2002.

LEGISLATIVE HISTORY—H.J. Res. 112:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 3, considered and passed House and Senate.



Public Law 107–236
107th Congress

An Act

To adjust the boundaries of Santa Monica Mountains National Recreation Area,
and for other purposes.

Oct. 9, 2002

[H.R. 640]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Santa Monica Mountains National
Recreation Area Boundary Adjustment Act”.

Santa Monica
Mountains
National
Recreation Area
Adjustment Act.
California.
16 USC 1 note.

SEC. 2. BOUNDARY ADJUSTMENT.

Section 507(c) of the National Parks and Recreation Act of 1978 (92 Stat. 3501; 16 U.S.C. 460kk) establishing Santa Monica Mountains National Recreation Area is amended—

(1) in paragraph (1), by striking “Boundary Map, Santa Monica Mountains National Recreation Area, California, and Santa Monica Mountains Zone’, numbered SMM–NRA 80,000, and dated May 1978” and inserting “‘Santa Monica Mountains National Recreation Area and Santa Monica Mountains Zone, California, Boundary Map’, numbered 80,047–C and dated August 2001”; and

(2) by adding the following sentence after the third sentence of paragraph (2)(A): “Lands within the ‘Wildlife Corridor Expansion Zone’ identified on the boundary map referred to in paragraph (1) may be acquired only by donation or with donated funds.”.

SEC. 3. TECHNICAL CORRECTIONS.

Section 507 of the National Parks and Recreation Act of 1978 (92 Stat. 3501; 16 U.S.C. 460kk) establishing Santa Monica Mountains National Recreation Area is amended—

(1) in subsection (c)(1), by striking “Committee on Natural Resources” and inserting “Committee on Resources”;

(2) in subsection (c)(2)(B), by striking “of certain” in the first sentence and inserting “certain”; and

(3) in subsection (n)(5), by striking “laws” in the second sentence and inserting “laws,”.

Approved October 9, 2002.

LEGISLATIVE HISTORY—H.R. 640:

HOUSE REPORTS: No. 170-90 (Comm. on Resources).

SENATE REPORTS: No. 107-204 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): June 6, considered and passed House.

Vol. 148 (2002): Aug. 1, considered and passed Senate, amended.

Sept. 24, House concurred in Senate amendment.



Public Law 107–237
107th Congress

An Act

To authorize the Secretary of the Interior to conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

Oct. 11, 2002
[S. 238]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Burnt, Malheur, Owyhee, and Powder River Basin Water Optimization Feasibility Study Act of 2002”.

Burnt, Malheur,
Owyhee, and
Powder River
Basin Water
Optimization
Feasibility Study
Act of 2002.

SEC. 2. STUDY.

The Secretary of the Interior may conduct feasibility studies on water optimization in the Burnt River basin, Malheur River basin, Owyhee River basin, and Powder River basin, Oregon.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Approved October 11, 2002.

LEGISLATIVE HISTORY—S. 238 (H.R. 1883):

HOUSE REPORTS: Nos. 107–638 and 107–363 accompanying H.R. 1883 (both from Comm. on Resources).

SENATE REPORTS: No. 107–22 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Aug. 3, considered and passed Senate.

Vol. 148 (2002): Sept. 24, considered and passed House.



Public Law 107–238
107th Congress

An Act

Oct. 11, 2002
[S. 1175]

To modify the boundary of Vicksburg National Military Park to include the property known as Pemberton’s Headquarters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Vicksburg
National Military
Park Boundary
Modification Act
of 2002.
16 USC 430h
note.
16 USC 430h–10.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Vicksburg National Military Park Boundary Modification Act of 2002”.

SEC. 2. BOUNDARY MODIFICATION.

The boundary of Vicksburg National Military Park is modified to include the property known as Pemberton’s Headquarters, as generally depicted on the map entitled “Boundary Map, Pemberton’s Headquarters at Vicksburg National Military Park”, numbered 306/80015A, and dated August, 2001. The map shall be on file and available for inspection in the appropriate offices of the National Park Service.

16 USC 430h–11.

SEC. 3. ACQUISITION OF PROPERTY.

(a) PEMBERTON’S HEADQUARTERS.—The Secretary of the Interior is authorized to acquire the properties described in section 2 and 3(b) by purchase, donation, or exchange, except that each property may only be acquired with the consent of the owner thereof.

(b) PARKING.—The Secretary is also authorized to acquire not more than one acre of land, or interest therein, adjacent to or near Pemberton’s Headquarters for the purpose of providing parking and other facilities related to the operation of Pemberton’s Headquarters. Upon the acquisition of the property referenced in this subsection, the Secretary add it to Vicksburg National Military Park and shall modify the boundaries of the park to reflect its inclusion.

16 USC 430h–12.

SEC. 4. ADMINISTRATION.

The Secretary shall administer any properties acquired under this Act as part of the Vicksburg National Military Park in accordance with applicable laws and regulations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

16 USC 430h-13.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 11, 2002.

LEGISLATIVE HISTORY—S. 1175 (H.R. 3307):

HOUSE REPORTS: No. 107-508 accompanying H.R. 3307 (Comm. on Resources).

SENATE REPORTS: No. 107-183 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 24, considered and passed Senate.

Sept. 24, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 11, Presidential statement.



Public Law 107-239
107th Congress

An Act

Oct. 11, 2002
[S. 1325]

Alaska.
16 USC 668dd
note.

To ratify an agreement between The Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds that:

(1) Adak Island is an isolated island located 1,200 miles southwest of Anchorage, Alaska, between the Pacific Ocean and the Bering Sea. The Island, with its unique physical and biological features, including a deep water harbor and abundant marine-associated wildlife, was recognized early for both its natural and military values. In 1913, Adak Island was reserved and set aside as a Preserve because of its value to seabirds, marine mammals, and fisheries. Withdrawals of portions of Adak Island for various military purposes date back to 1901 and culminated in the 1959 withdrawal of approximately half of the Island for use by the Department of the Navy for military purposes.

(2) By 1990, military development on Adak Island supported a community of 6,000 residents. Outside of the Adak Naval Complex, there was no independent community on Adak Island.

(3) As a result of the Defense Base Closure and Realignment Act of 1990 (104 Stat. 1808), as amended, the Adak Naval Complex has been closed by the Department of Defense.

(4) The Aleut Corporation is an Alaskan Native Regional Corporation incorporated in the State of Alaska pursuant to the Alaska Native Claims Settlement Act (ANCSA), as amended (43 U.S.C. 1601, et seq.). The Aleut Corporation represents the indigenous people of the Aleutian Islands who prior to the Russian exploration and settlement of the Aleutian Islands were found throughout the Aleutian Islands which includes Adak Island.

(5) None of Adak Island was available for selection by The Aleut Corporation under section 14(h)(8) of ANCSA (43 U.S.C. 1613(h)(8)) because it was part of a National Wildlife Refuge and because the portion comprising the Adak Naval Complex was withdrawn for use by the United States Navy for military purposes prior to the passage of ANCSA in December 1971.

(6) The Aleut Corporation is attempting to establish a community on Adak and has offered to exchange ANCSA land

selections and entitlements for conveyance of certain lands and interests therein on a portion of Adak formerly occupied by the Navy.

(7) Removal of a portion of the Adak Island land from refuge status will be offset by the acquisition of high quality wildlife habitat in other Aleut Corporation selections within the Alaska Maritime National Wildlife Refuge, maintaining a resident human population on Adak to control caribou, and making possible a continued United States Fish and Wildlife Service presence in that remote location to protect the natural resources of the Aleutian Islands Unit of the Alaska Maritime National Wildlife Refuge.

(8) It is in the public interest to promote reuse of the Adak Island lands by exchanging certain lands for lands selected by The Aleut Corporation elsewhere in the Alaska Maritime National Wildlife Refuge. Experience with environmental problems associated with formerly used defense sites in the State of Alaska suggests that the most effective and efficient way to avoid future environmental problems on Adak is to support and encourage active reuse of Adak.

SEC. 2. RATIFICATION OF AGREEMENT.

The document entitled the “Agreement Concerning the Conveyance of Property at the Adak Naval Complex” (hereinafter “the Agreement”), and dated September 20, 2000, executed by The Aleut Corporation, the Department of the Interior and the Department of the Navy, together with any technical amendments or modifications to the boundaries that may be agreed to by the parties is hereby ratified, confirmed, and approved and the terms, conditions, procedures, covenants, reservations, indemnities and other provisions set forth in the Agreement are declared to be obligations and commitments of the United States and The Aleut Corporation: *Provided*, That modifications to the maps and legal descriptions of lands to be removed from the National Wildlife Refuge System within the military withdrawal on Adak Island set forth in Public Land Order 1949 may be made only upon agreement of all Parties to the Agreement and notification given to the Committee on Resources of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate: *Provided further*, That the acreage conveyed to the United States by The Aleut Corporation under the Agreement, as modified, shall be at least 36,000 acres.

SEC. 3. REMOVAL OF LANDS FROM REFUGE.

Effective on the date of conveyance to The Aleut Corporation of the Adak Exchange Lands as described in the Agreement, all such lands shall be removed from the National Wildlife Refuge System and shall neither be considered as part of the Alaska Maritime National Wildlife Refuge nor be subject to any laws pertaining to lands within the boundaries of the Alaska Maritime National Wildlife Refuge, including the conveyance restrictions imposed by section 22(g) of ANCSA (43 U.S.C. 1621(g)), for land in the National Wildlife Refuge System. The Secretary shall adjust the boundaries of the Refuge so as to exclude all interests in lands and land rights, surface and subsurface, received by The Aleut Corporation in accordance with this Act and the Agreement.

Effective date.

SEC. 4. ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Lands and interests therein exchanged and conveyed by the United States pursuant to this Act shall be considered and treated as conveyances of lands or interests therein under the Alaska Native Claims Settlement Act, except that receipt of such lands and interests therein shall not constitute a sale or disposition of land or interests received pursuant to such Act. The public easements for access to public lands and waters reserved pursuant to the Agreement are deemed to satisfy the requirements and purposes of section 17(b) of the Alaska Native Claims Settlement Act.

SEC. 5. REACQUISITION OF LANDS.

The Secretary of the Interior is authorized to acquire by purchase or exchange, on a willing seller basis only, any land conveyed to The Aleut Corporation under the Agreement and this Act. In the event any of the lands are subsequently acquired by the United States, they shall be automatically included in the Refuge System. The laws and regulations applicable to Refuge lands shall then apply to these lands and the Secretary shall then adjust the boundaries accordingly.

Applicability.

SEC. 6. GENERAL.

(a) Notwithstanding the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 483–484) and the Defense Base Closure and Realignment Act of 1990, as amended (10 U.S.C. 2687), and for the purposes of the transfer of property authorized by this Act, Department of Navy personal property that remains on Adak Island is deemed related to the real property and shall be conveyed by the Department of the Navy to The Aleut Corporation at no additional cost when the related real property is conveyed by the Department of the Interior.

(b) The Secretary of the Interior shall convey to The Aleut Corporation those lands identified in the Agreement as the former landfill sites without charge to The Aleut Corporation's entitlement under the Alaska Native Claims Settlement Act.

(c) Any property, including, but not limited to, appurtenances and improvements, received pursuant to this Act shall, for purposes of section 21(d) of the Alaska Native Claims Settlement Act, as amended, and section 907(d) of the Alaska National Interest Lands Conservation Act, as amended, be treated as not developed until such property is actually occupied, leased (other than leases for nominal consideration to public entities) or sold by The Aleut Corporation, or, in the case of a lease or other transfer by The Aleut Corporation to a wholly owned development subsidiary, actually occupied, leased, or sold by the subsidiary.

(d) Upon conveyance to The Aleut Corporation of the lands described in Appendix A of the Agreement, the lands described in Appendix C of the Agreement will become unavailable for selection under ANCSA.

(e) The maps included as part of Appendix A to the Agreement depict the lands to be conveyed to The Aleut Corporation. The maps shall be left on file at the Region 7 Office of the United States Fish and Wildlife Service and the offices of Alaska Maritime National Wildlife Refuge in Homer, Alaska. The written legal descriptions of the lands to be conveyed to The Aleut Corporation are also part of Appendix A. In case of any discrepancies, the maps shall be controlling.

Approved October 11, 2002.

LEGISLATIVE HISTORY—S. 1325:

SENATE REPORTS: No. 107-180 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Aug. 1, considered and passed Senate.

Sept. 24, considered and passed House.



Public Law 107-240
107th Congress

Joint Resolution

Oct. 11, 2002
[H.J. Res. 122]

Making further continuing appropriations for the fiscal year 2003, and for other purposes.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 107-229 is further amended by striking the date specified in section 107(c) and inserting “October 18, 2002”.

Ante, p. 1482.
Ante, p. 1465.

SEC. 2. Section 101(2) of Public Law 107-229 is amended by striking “section 15” and all that follows through “(Public Law 103-236), and”.

Ante, p. 1467.

Effective date.
42 USC 10601
and note.

SEC. 3. Section 114 of Public Law 107-229 is amended by inserting before the colon at the end of the first proviso the following: “: *Provided further*, That section 3001 of the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) is amended by striking subsection (d), and such amendment shall take effect as if included in such Act on the date of its enactment”.

Ante, p. 1468.

SEC. 4. Section 117 of Public Law 107-229 is amended to read as follows:

“SEC. 117. (a) The Congress finds that section 501 of title 44, United States Code, and section 207(a) of the Legislative Branch Appropriations Act, 1993 (44 U.S.C. 501 note) require that (except as otherwise provided in such sections) all printing, binding, and blankbook work for Congress, the Executive Office, the Judiciary, other than the Supreme Court of the United States, and every executive department, independent office, and establishment of the Government, shall be done at the Government Printing Office.

“(b) No funds appropriated under this joint resolution or any other Act may be used—

“(1) to implement or comply with the Office of Management and Budget Memorandum M-02-07, ‘Procurement of Printing and Duplicating through the Government Printing Office’, issued May 3, 2002, or any other memorandum or similar opinion reaching the same, or substantially the same, result as such memorandum; or

“(2) to pay for the printing (other than by the Government Printing Office) of the budget of the United States Government submitted by the President of the United States under section 1105 of title 31, United States Code.”.

Ante, p. 1468.

SEC. 5. Public Law 107-229 is amended by adding at the end the following new sections:

“SEC. 120. For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2002, and for activities under the Food Stamp Act of 1977, activities shall be continued at a rate to maintain program

levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2002, to be continued through the date specified in section 107(c): *Provided*, That notwithstanding section 107, funds shall be available and obligations for mandatory payments due on or about November 1, and December 1, 2002, may continue to be made.

“SEC. 121. Notwithstanding any other provision of this joint resolution, the annual rate of operations for the Commodity Futures Trading Commission (CFTC) Salaries and Expenses Account shall not exceed \$71,960,000 and shall include the cost of lease of office space for the CFTC’s New York regional office at an annual rate not to exceed \$1,949,000.

“SEC. 122. In addition to funds made available in section 101, the Department of Justice may transfer to the Immigration User Fee Account established by section 286(h) of the Immigration and Nationality Act (8 U.S.C. 1356(h)) such sums as may be necessary from unobligated balances from funds appropriated to the Immigration and Naturalization Service by Public Law 107-77 and division B of Public Law 107-117, at a rate not to exceed \$90,000,000 for the first quarter, through the date specified in section 107(c): *Provided*, That the sums transferred under this section shall be reimbursed from the Immigration User Fee Account by not later than April 1, 2003.

Deadline.

“SEC. 123. Notwithstanding section 105(a)(2), in addition to amounts made available in section 101, and subject to sections 107(c) and 108, for purposes of calculating the rate of operations of General Legal Activities (GLA) in the Department of Justice, \$7,300,000 available during fiscal year 2002 from the Executive Office of the President shall be credited to GLA for purposes of administering the Victims Compensation Program.

“SEC. 124. Activities authorized by the Parole Commission and Reorganization Act, P.L. 94-233, as amended, may continue through the date specified in section 107(c).

“SEC. 125. Notwithstanding any other provision of this joint resolution, in addition to amounts made available in section 101, and subject to sections 107(c) and 108, such funds, from fee collections in fiscal year 2003, shall be available for the Securities and Exchange Commission to continue implementation of section 8 of Public Law 107-123.

“SEC. 126. Notwithstanding any other provision of this joint resolution, except section 107, the District of Columbia may expend local funds at a rate in excess of the rate under authority applicable prior to October 1, 2002 to cover payments that would be funded under the heading ‘Repayment of Loans and Interest’.

“SEC. 127. No funds appropriated in this joint resolution or any other Act may be used to implement any restructuring of the Civil Works Program of the US Army Corps of Engineers which would involve the transfer of Civil Works missions, functions, or responsibilities from the US Army Corps of Engineers to any other executive branch agency or department without explicit congressional authorization.

“SEC. 128. Notwithstanding any other provision of this joint resolution, during fiscal year 2003, direct loans under section 23 of the Arms Export Control Act may be made available for Poland, gross obligations for the principal amounts of which shall not exceed \$3,800,000,000: *Provided*, That such loans shall be repaid in not more than 15 years, including a grace period of up to 8 years

on repayment of principal: *Provided further*, That no funds are available for the subsidy costs of these loans: *Provided further*, That the Government of Poland shall pay the full cost, as defined in section 502 of the Federal Credit Reform Act of 1990, as amended, associated with the loans, including the cost of any defaults: *Provided further*, That any fees associated with these loans shall be paid by the Government of Poland prior to any disbursement of loan proceeds: *Provided further*, That no funds made available to Poland under this joint resolution or any other Act may be used for payment of any fees associated with these loans.

Expiration date.
12 USC 635 note.

“SEC. 129. Notwithstanding section 1(c) of Public Law 103-428, as amended, sections 1(a) and (b) of Public Law 103-428 shall remain in effect until the date specified in section 107(c).

John F. Mink.

“SEC. 130. Notwithstanding any other provision of this joint resolution, there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for payment to John F. Mink, widower of Patsy Mink, late a Representative from the State of Hawaii, \$150,000.

“SEC. 131. Notwithstanding section 105(a)(2), in addition to amounts made available in section 101, and subject to sections 107(c) and 108, for purposes of calculating the rate of operations for the Transportation Security Administration (TSA) and the Federal Emergency Management Agency (FEMA), the amount transferred by Public Law 107-206 from TSA to FEMA shall be credited to TSA, and such amount shall be deducted from FEMA.

“SEC. 132. Activities authorized by section 24 of the United States Housing Act of 1937 (42 U.S.C. 1437v) may continue through the date specified in section 107(c) of this joint resolution.

Deadline.
Reports.

“SEC. 133. (a) Each specified department or agency shall, by December 6, 2002, submit directly to the Committees on Appropriations a report containing an evaluation of the effect on the specified management areas of operating through September 30, 2003, under joint resolutions making continuing appropriations for fiscal year 2003 that fund programs and activities at not exceeding the current rate of operations.

“(b) For purposes of subsection (a):

“(1) The term ‘specified department or agency’ means a department or agency identified on page 49 or 50 of the Budget of the United States Government, Fiscal Year 2003 (H. Doc. 107-159, Vol. I), except for the Department of Defense.

“(2) The term ‘specified management areas’ means the following management priorities described in the President’s Management Agenda (August 2001): strategic management of human capital, competitive sourcing, improved financial performance, expanded electronic government, and budget and performance integration.

Reports.

“SEC. 134. (a) The Director of the Office of Management and Budget shall submit to the Committees on Appropriations a monthly report on all departmental and agency obligations made since the beginning of fiscal year 2003 while operating under joint resolutions making continuing appropriations for such fiscal year.

“(b) Each report required by subsection (a) shall set forth obligations by account, and shall contain a comparison of such obligations to the obligations incurred during the same period for fiscal year 2002.

“(c) Reports shall be submitted under subsection (a) beginning 1 month after the enactment of this section, and ending 1 month

after the expiration of the period covered by the final joint resolution making continuing appropriations for fiscal year 2003.

“(d)(1) Each report required by subsection (a) shall include a list of all executive branch accounts for which departments and agencies are operating under apportionments that provide for a rate of operations that is lower than the current rate, within the meaning of sections 101 and 105. For each such account, the report shall include an estimate of the current rate for the period covered by this joint resolution and the estimate of obligations during such period.” Records.

“(2) By December 6, 2002, the Comptroller General shall submit to the Committees on Appropriations a report identifying executive branch accounts for which apportionments made from funds appropriated or authority granted by this joint resolution provide for a rate of operations that differs from the current rate, within the meaning of sections 101 and 105.” Deadline.

“SEC. 135. Appropriations made by this joint resolution are hereby reduced, at an annual rate, by the amounts specified and in the accounts identified for one-time, non-recurring projects and activities in Attachment C of Office of Management and Budget Bulletin No. 02-06, Supplement No. 1, dated October 4, 2002.

“SEC. 136. Activities authorized for 2002 by sections 1902(a)(10)(E)(iv) and 1933 of the Social Security Act, as amended, with respect to individuals described in section 1902(a)(10)(E)(iv)(I) of such Act may continue through 60 days after the date specified in section 107(c) of Public Law 107-229, as amended.

“SEC. 137. Notwithstanding any other provision of this joint resolution, except sections 107(c) and 108, during fiscal year 2003, the annual rate of operations for the Federal-aid highways program for fiscal year 2003 shall be \$31,799,104,000: *Provided*, That total obligations for this program while operating under joint resolutions making continuing appropriations for fiscal year 2003 shall not exceed \$27,700,000,000, unless otherwise specified in a subsequent appropriations Act. This section shall not affect the availability of unobligated balances carried forward into fiscal year 2003 that would otherwise be available for obligation.”.

Approved October 11, 2002.

LEGISLATIVE HISTORY—H.J. Res. 122:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 10, considered and passed House and Senate.



Public Law 107-241
107th Congress

An Act

Oct. 16, 2002
[H.R. 3214]

To amend the charter of the AMVETS organization.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO AMVETS CHARTER.

(a) NAME OF ORGANIZATION.—(1) Sections 22701(a) and 22706 of title 36, United States Code, are amended by striking “AMVETS (American Veterans of World War II, Korea, and Vietnam)” and inserting “AMVETS (American Veterans)”.

(2)(A) The heading of chapter 227 of such title is amended to read as follows:

“CHAPTER 227—AMVETS (AMERICAN VETERANS)”.

(B) The item relating to such chapter in the table of chapters at the beginning of subtitle II of such title is amended to read as follows:

“227. AMVETS (AMERICAN VETERANS)22701”.

(b) GOVERNING BODY.—Section 22704(c)(1) of such title is amended by striking “seven national vice commanders” and all that follows through “a judge advocate,” and inserting “two national vice commanders, a finance officer, a judge advocate, a chaplain, six national district commanders,”.

(c) HEADQUARTERS AND PRINCIPAL PLACE OF BUSINESS.—Section 22708 of such title is amended—

(1) by striking “the District of Columbia” in the first sentence and inserting “Maryland”; and

(2) by striking “the District of Columbia” in the second sentence and inserting “Maryland”.

Approved October 16, 2002.

LEGISLATIVE HISTORY—H.R. 3214 (S. 1972):

HOUSE REPORTS: No. 107-569 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 15, considered and passed House.

Oct. 2, considered and passed Senate.



Public Law 107-242
107th Congress

An Act

To amend the charter of the Veterans of Foreign Wars of the United States organization to make members of the armed forces who receive special pay for duty subject to hostile fire or imminent danger eligible for membership in the organization, and for other purposes.

Oct. 16, 2002
[H.R. 3838]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO VETERANS OF FOREIGN WARS OF THE UNITED STATES CHARTER.

(a) ELIGIBILITY FOR MEMBERSHIP OF INDIVIDUALS RECEIVING SPECIAL PAY FOR DUTY SUBJECT TO HOSTILE FIRE OR IMMINENT DANGER.—Section 230103 of title 36, United States Code, is amended—

- (1) by striking “or” at the end of paragraph (1);
- (2) by striking the period at the end of paragraph (2) and inserting “; or”; and
- (3) by adding at the end the following new paragraph:
“(3) in an area which entitled the individual to receive special pay for duty subject to hostile fire or imminent danger under section 310 of title 37.”.

SEC. 2. CLARIFICATION OF PURPOSES OF THE CORPORATION.

Section 230102 of such title is amended in the matter preceding paragraph (1) by inserting “charitable,” before “and educational,”.

Approved October 16, 2002.

LEGISLATIVE HISTORY—H.R. 3838:

HOUSE REPORTS: No. 107-570 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 15, considered and passed House.

Oct. 2, considered and passed Senate.



Public Law 107-243
107th Congress

Joint Resolution

Oct. 16, 2002

[H.J. Res. 114]

To authorize the use of United States Armed Forces against Iraq.

Whereas in 1990 in response to Iraq's war of aggression against and illegal occupation of Kuwait, the United States forged a coalition of nations to liberate Kuwait and its people in order to defend the national security of the United States and enforce United Nations Security Council resolutions relating to Iraq;

Whereas after the liberation of Kuwait in 1991, Iraq entered into a United Nations sponsored cease-fire agreement pursuant to which Iraq unequivocally agreed, among other things, to eliminate its nuclear, biological, and chemical weapons programs and the means to deliver and develop them, and to end its support for international terrorism;

Whereas the efforts of international weapons inspectors, United States intelligence agencies, and Iraqi defectors led to the discovery that Iraq had large stockpiles of chemical weapons and a large scale biological weapons program, and that Iraq had an advanced nuclear weapons development program that was much closer to producing a nuclear weapon than intelligence reporting had previously indicated;

Whereas Iraq, in direct and flagrant violation of the cease-fire, attempted to thwart the efforts of weapons inspectors to identify and destroy Iraq's weapons of mass destruction stockpiles and development capabilities, which finally resulted in the withdrawal of inspectors from Iraq on October 31, 1998;

Whereas in Public Law 105-235 (August 14, 1998), Congress concluded that Iraq's continuing weapons of mass destruction programs threatened vital United States interests and international peace and security, declared Iraq to be in "material and unacceptable breach of its international obligations" and urged the President "to take appropriate action, in accordance with the Constitution and relevant laws of the United States, to bring Iraq into compliance with its international obligations";

Whereas Iraq both poses a continuing threat to the national security of the United States and international peace and security in the Persian Gulf region and remains in material and unacceptable breach of its international obligations by, among other things, continuing to possess and develop a significant chemical and biological weapons capability, actively seeking a nuclear weapons capability, and supporting and harboring terrorist organizations;

Whereas Iraq persists in violating resolution of the United Nations Security Council by continuing to engage in brutal repression of its civilian population thereby threatening international peace

and security in the region, by refusing to release, repatriate, or account for non-Iraqi citizens wrongfully detained by Iraq, including an American serviceman, and by failing to return property wrongfully seized by Iraq from Kuwait;

Whereas the current Iraqi regime has demonstrated its capability and willingness to use weapons of mass destruction against other nations and its own people;

Whereas the current Iraqi regime has demonstrated its continuing hostility toward, and willingness to attack, the United States, including by attempting in 1993 to assassinate former President Bush and by firing on many thousands of occasions on United States and Coalition Armed Forces engaged in enforcing the resolutions of the United Nations Security Council;

Whereas members of al Qaida, an organization bearing responsibility for attacks on the United States, its citizens, and interests, including the attacks that occurred on September 11, 2001, are known to be in Iraq;

Whereas Iraq continues to aid and harbor other international terrorist organizations, including organizations that threaten the lives and safety of United States citizens;

Whereas the attacks on the United States of September 11, 2001, underscored the gravity of the threat posed by the acquisition of weapons of mass destruction by international terrorist organizations;

Whereas Iraq's demonstrated capability and willingness to use weapons of mass destruction, the risk that the current Iraqi regime will either employ those weapons to launch a surprise attack against the United States or its Armed Forces or provide them to international terrorists who would do so, and the extreme magnitude of harm that would result to the United States and its citizens from such an attack, combine to justify action by the United States to defend itself;

Whereas United Nations Security Council Resolution 678 (1990) authorizes the use of all necessary means to enforce United Nations Security Council Resolution 660 (1990) and subsequent relevant resolutions and to compel Iraq to cease certain activities that threaten international peace and security, including the development of weapons of mass destruction and refusal or obstruction of United Nations weapons inspections in violation of United Nations Security Council Resolution 687 (1991), repression of its civilian population in violation of United Nations Security Council Resolution 688 (1991), and threatening its neighbors or United Nations operations in Iraq in violation of United Nations Security Council Resolution 949 (1994);

Whereas in the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1), Congress has authorized the President "to use United States Armed Forces pursuant to United Nations Security Council Resolution 678 (1990) in order to achieve implementation of Security Council Resolution 660, 661, 662, 664, 665, 666, 667, 669, 670, 674, and 677";

Whereas in December 1991, Congress expressed its sense that it "supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 687 as being consistent with the Authorization of Use of Military Force Against

Iraq Resolution (Public Law 102-1),” that Iraq’s repression of its civilian population violates United Nations Security Council Resolution 688 and “constitutes a continuing threat to the peace, security, and stability of the Persian Gulf region,” and that Congress, “supports the use of all necessary means to achieve the goals of United Nations Security Council Resolution 688”;

Whereas the Iraq Liberation Act of 1998 (Public Law 105-338) expressed the sense of Congress that it should be the policy of the United States to support efforts to remove from power the current Iraqi regime and promote the emergence of a democratic government to replace that regime;

Whereas on September 12, 2002, President Bush committed the United States to “work with the United Nations Security Council to meet our common challenge” posed by Iraq and to “work for the necessary resolutions,” while also making clear that “the Security Council resolutions will be enforced, and the just demands of peace and security will be met, or action will be unavoidable”;

Whereas the United States is determined to prosecute the war on terrorism and Iraq’s ongoing support for international terrorist groups combined with its development of weapons of mass destruction in direct violation of its obligations under the 1991 cease-fire and other United Nations Security Council resolutions make clear that it is in the national security interests of the United States and in furtherance of the war on terrorism that all relevant United Nations Security Council resolutions be enforced, including through the use of force if necessary;

Whereas Congress has taken steps to pursue vigorously the war on terrorism through the provision of authorities and funding requested by the President to take the necessary actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations;

Whereas the President and Congress are determined to continue to take all appropriate actions against international terrorists and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001, or harbored such persons or organizations;

Whereas the President has authority under the Constitution to take action in order to deter and prevent acts of international terrorism against the United States, as Congress recognized in the joint resolution on Authorization for Use of Military Force (Public Law 107-40); and

Whereas it is in the national security interests of the United States to restore international peace and security to the Persian Gulf region: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This joint resolution may be cited as the “Authorization for Use of Military Force Against Iraq Resolution of 2002”.

SEC. 2. SUPPORT FOR UNITED STATES DIPLOMATIC EFFORTS.

The Congress of the United States supports the efforts by the President to—

- (1) strictly enforce through the United Nations Security Council all relevant Security Council resolutions regarding Iraq and encourages him in those efforts; and
- (2) obtain prompt and decisive action by the Security Council to ensure that Iraq abandons its strategy of delay, evasion and noncompliance and promptly and strictly complies with all relevant Security Council resolutions regarding Iraq.

SEC. 3. AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES.

(a) **AUTHORIZATION.**—The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in order to—

- (1) defend the national security of the United States against the continuing threat posed by Iraq; and
- (2) enforce all relevant United Nations Security Council resolutions regarding Iraq.

(b) **PRESIDENTIAL DETERMINATION.**—In connection with the exercise of the authority granted in subsection (a) to use force the President shall, prior to such exercise or as soon thereafter as may be feasible, but no later than 48 hours after exercising such authority, make available to the Speaker of the House of Representatives and the President pro tempore of the Senate his determination that—

- (1) reliance by the United States on further diplomatic or other peaceful means alone either (A) will not adequately protect the national security of the United States against the continuing threat posed by Iraq or (B) is not likely to lead to enforcement of all relevant United Nations Security Council resolutions regarding Iraq; and

- (2) acting pursuant to this joint resolution is consistent with the United States and other countries continuing to take the necessary actions against international terrorist and terrorist organizations, including those nations, organizations, or persons who planned, authorized, committed or aided the terrorist attacks that occurred on September 11, 2001.

(c) **WAR POWERS RESOLUTION REQUIREMENTS.**—

- (1) **SPECIFIC STATUTORY AUTHORIZATION.**—Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization within the meaning of section 5(b) of the War Powers Resolution.

- (2) **APPLICABILITY OF OTHER REQUIREMENTS.**—Nothing in this joint resolution supersedes any requirement of the War Powers Resolution.

SEC. 4. REPORTS TO CONGRESS.

(a) **REPORTS.**—The President shall, at least once every 60 days, submit to the Congress a report on matters relevant to this joint resolution, including actions taken pursuant to the exercise of authority granted in section 3 and the status of planning for efforts that are expected to be required after such actions are completed, including those actions described in section 7 of the Iraq Liberation Act of 1998 (Public Law 105-338).

President.

(b) SINGLE CONSOLIDATED REPORT.—To the extent that the submission of any report described in subsection (a) coincides with the submission of any other report on matters relevant to this joint resolution otherwise required to be submitted to Congress pursuant to the reporting requirements of the War Powers Resolution (Public Law 93-148), all such reports may be submitted as a single consolidated report to the Congress.

(c) RULE OF CONSTRUCTION.—To the extent that the information required by section 3 of the Authorization for Use of Military Force Against Iraq Resolution (Public Law 102-1) is included in the report required by this section, such report shall be considered as meeting the requirements of section 3 of such resolution.

Approved October 16, 2002.

LEGISLATIVE HISTORY—H.J. Res. 114 (S.J. Res. 45) (S.J. Res. 46):

HOUSE REPORTS: No. 107-721 (Comm. on International Relations).
CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 8, 9, considered in House.

Oct. 10, considered and passed House and Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 16, Presidential remarks and statement.



Public Law 107-244
107th Congress

Joint Resolution

Making further continuing appropriations for the fiscal year 2003, and for other purposes.

Oct. 18, 2002
[H.J. Res. 123]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 107-229 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof “November 22, 2002”.

Ante, p. 1492.

Approved October 18, 2002.

LEGISLATIVE HISTORY—H.J. Res. 123:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 16, considered and passed House and Senate.



Public Law 107-245
107th Congress

An Act

Oct. 21, 2002
[H.R. 5531]

Sudan Peace Act.

50 USC 1701
note.

50 USC 1701
note.

To facilitate famine relief efforts and a comprehensive solution to the war in Sudan.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Sudan Peace Act”.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) The Government of Sudan has intensified its prosecution of the war against areas outside of its control, which has already cost more than 2,000,000 lives and has displaced more than 4,000,000 people.

(2) A viable, comprehensive, and internationally sponsored peace process, protected from manipulation, presents the best chance for a permanent resolution of the war, protection of human rights, and a self-sustaining Sudan.

(3) Continued strengthening and reform of humanitarian relief operations in Sudan is an essential element in the effort to bring an end to the war.

(4) Continued leadership by the United States is critical.

(5) Regardless of the future political status of the areas of Sudan outside of the control of the Government of Sudan, the absence of credible civil authority and institutions is a major impediment to achieving self-sustenance by the Sudanese people and to meaningful progress toward a viable peace process. It is critical that credible civil authority and institutions play an important role in the reconstruction of post-war Sudan.

(6) Through the manipulation of traditional rivalries among peoples in areas outside of its full control, the Government of Sudan has used divide-and-conquer techniques effectively to subjugate its population. However, internationally sponsored reconciliation efforts have played a critical role in reducing human suffering and the effectiveness of this tactic.

(7) The Government of Sudan utilizes and organizes militias, Popular Defense Forces, and other irregular units for raiding and enslaving parties in areas outside of the control of the Government of Sudan in an effort to disrupt severely the ability of the populations in those areas to sustain themselves. The tactic helps minimize the Government of Sudan’s accountability internationally.

(8) The Government of Sudan has repeatedly stated that it intends to use the expected proceeds from future oil sales

to increase the tempo and lethality of the war against the areas outside of its control.

(9) By regularly banning air transport relief flights by the United Nations relief operation OLS, the Government of Sudan has been able to manipulate the receipt of food aid by the Sudanese people from the United States and other donor countries as a devastating weapon of war in the ongoing effort by the Government of Sudan to starve targeted groups and subdue areas of Sudan outside of the Government's control.

(10) The acts of the Government of Sudan, including the acts described in this section, constitute genocide as defined by the Convention on the Prevention and Punishment of the Crime of Genocide (78 U.N.T.S. 277).

(11) The efforts of the United States and other donors in delivering relief and assistance through means outside of OLS have played a critical role in addressing the deficiencies in OLS and offset the Government of Sudan's manipulation of food donations to advantage in the civil war in Sudan.

(12) While the immediate needs of selected areas in Sudan facing starvation have been addressed in the near term, the population in areas of Sudan outside of the control of the Government of Sudan are still in danger of extreme disruption of their ability to sustain themselves.

(13) The Nuba Mountains and many areas in Bahr al Ghazal and the Upper Nile and the Blue Nile regions have been excluded completely from relief distribution by OLS, consequently placing their populations at increased risk of famine.

(14) At a cost which has sometimes exceeded \$1,000,000 per day, and with a primary focus on providing only for the immediate food needs of the recipients, the current international relief operations are neither sustainable nor desirable in the long term.

(15) The ability of populations to defend themselves against attack in areas outside of the control of the Government of Sudan has been severely compromised by the disengagement of the front-line states of Ethiopia, Eritrea, and Uganda, fostering the belief among officials of the Government of Sudan that success on the battlefield can be achieved.

(16) The United States should use all means of pressure available to facilitate a comprehensive solution to the war in Sudan, including—

(A) the multilateralization of economic and diplomatic tools to compel the Government of Sudan to enter into a good faith peace process;

(B) the support or creation of viable democratic civil authority and institutions in areas of Sudan outside of government control;

(C) continued active support of people-to-people reconciliation mechanisms and efforts in areas outside of government control;

(D) the strengthening of the mechanisms to provide humanitarian relief to those areas; and

(E) cooperation among the trading partners of the United States and within multilateral institutions toward those ends.

50 USC 1701
note.

SEC. 3. DEFINITIONS.

In this Act:

(1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) **GOVERNMENT OF SUDAN.**—The term “Government of Sudan” means the National Islamic Front government in Khartoum, Sudan.

(3) **OLS.**—The term “OLS” means the United Nations relief operation carried out by UNICEF, the World Food Program, and participating relief organizations known as “Operation Life-line Sudan”.

50 USC 1701
note.

SEC. 4. CONDEMNATION OF SLAVERY, OTHER HUMAN RIGHTS ABUSES, AND TACTICS OF THE GOVERNMENT OF SUDAN.

The Congress hereby—

(1) condemns—

(A) violations of human rights on all sides of the conflict in Sudan;

(B) the Government of Sudan’s overall human rights record, with regard to both the prosecution of the war and the denial of basic human and political rights to all Sudanese;

(C) the ongoing slave trade in Sudan and the role of the Government of Sudan in abetting and tolerating the practice;

(D) the Government of Sudan’s use and organization of “murahalliin” or “mujahadeen”, Popular Defense Forces, and regular Sudanese Army units into organized and coordinated raiding and slaving parties in Bahr al Ghazal, the Nuba Mountains, and the Upper Nile and the Blue Nile regions; and

(E) aerial bombardment of civilian targets that is sponsored by the Government of Sudan; and

(2) recognizes that, along with selective bans on air transport relief flights by the Government of Sudan, the use of raiding and slaving parties is a tool for creating food shortages and is used as a systematic means to destroy the societies, culture, and economies of the Dinka, Nuer, and Nuba peoples in a policy of low-intensity ethnic cleansing.

50 USC 1701
note.

SEC. 5. ASSISTANCE FOR PEACE AND DEMOCRATIC GOVERNANCE.

(a) **ASSISTANCE TO SUDAN.**—The President is authorized to provide increased assistance to the areas of Sudan that are not controlled by the Government of Sudan to prepare the population for peace and democratic governance, including support for civil administration, communications infrastructure, education, health, and agriculture.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated to the President to carry out the activities described in subsection (a) of this section \$100,000,000 for each of the fiscal years 2003, 2004, and 2005.

(2) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) of this subsection are authorized to remain available until expended.

SEC. 6. SUPPORT FOR AN INTERNATIONALLY SANCTIONED PEACE PROCESS.

President.
50 USC 1701
note.

(a) **FINDINGS.**—Congress hereby—

(1) recognizes that—

(A) a single, viable internationally and regionally sanctioned peace process holds the greatest opportunity to promote a negotiated, peaceful settlement to the war in Sudan; and

(B) resolution to the conflict in Sudan is best made through a peace process based on the Declaration of Principles reached in Nairobi, Kenya, on July 20, 1994, and on the Machakos Protocol in July 2002; and

(2) commends the efforts of Special Presidential Envoy, Senator Danforth and his team in working to assist the parties to the conflict in Sudan in finding a just, permanent peace to the conflict in Sudan.

John C.
Danforth.

(b) **MEASURES OF CERTAIN CONDITIONS NOT MET.**—

(1) **PRESIDENTIAL DETERMINATION.**—

(A) The President shall make a determination and certify in writing to the appropriate congressional committees within 6 months after the date of enactment of this Act, and each 6 months thereafter, that the Government of Sudan and the Sudan People's Liberation Movement are negotiating in good faith and that negotiations should continue.

Certification.
Deadlines.

(B) If, under subparagraph (A) the President determines and certifies in writing to the appropriate congressional committees that the Government of Sudan has not engaged in good faith negotiations to achieve a permanent, just, and equitable peace agreement, or has unreasonably interfered with humanitarian efforts, then the President, after consultation with the Congress, shall implement the measures set forth in paragraph (2).

(C) If, under paragraph (A) the President determines and certifies in writing to the appropriate congressional committees that the Sudan People's Liberation Movement has not engaged in good faith negotiations to achieve a permanent, just, and equitable peace agreement, then paragraph (2) shall not apply to the Government of Sudan.

(D) If the President certifies to the appropriate congressional committees that the Government of Sudan is not in compliance with the terms of a permanent peace agreement between the Government of Sudan and the Sudan People's Liberation Movement, then the President, after consultation with the Congress, shall implement the measures set forth in paragraph (2).

(E) If, at any time after the President has made a certification under subparagraph (B), the President makes a determination and certifies in writing to the appropriate congressional committees that the Government of Sudan has resumed good faith negotiations, or makes a determination and certifies in writing to the appropriate congressional committees that the Government of Sudan is in compliance with a peace agreement, then paragraph (2) shall not apply to the Government of Sudan.

(2) **MEASURES IN SUPPORT OF THE PEACE PROCESS.**—Subject to the provisions of paragraph (1), the President—

(A) shall, through the Secretary of the Treasury, instruct the United States executive directors to each international financial institution to continue to vote against and actively oppose any extension by the respective institution of any loan, credit, or guarantee to the Government of Sudan;

(B) should consider downgrading or suspending diplomatic relations between the United States and the Government of Sudan;

(C) shall take all necessary and appropriate steps, including through multilateral efforts, to deny the Government of Sudan access to oil revenues to ensure that the Government of Sudan neither directly nor indirectly utilizes any oil revenues to purchase or acquire military equipment or to finance any military activities; and

(D) shall seek a United Nations Security Council Resolution to impose an arms embargo on the Government of Sudan.

(c) **REPORT ON THE STATUS OF NEGOTIATIONS.**—If, at any time after the President has made a certification under subsection (b)(1)(A), the Government of Sudan discontinues negotiations with the Sudan People's Liberation Movement for a 14-day period, then the President shall submit a quarterly report to the appropriate congressional committees on the status of the peace process until negotiations resume.

(d) **REPORT ON UNITED STATES OPPOSITION TO FINANCING BY INTERNATIONAL FINANCIAL INSTITUTIONS.**—The Secretary of the Treasury shall submit a semiannual report to the appropriate congressional committees describing the steps taken by the United States to oppose the extension of a loan, credit, or guarantee if, after the Secretary of the Treasury gives the instructions described in subsection (b)(2)(A), such financing is extended.

Deadline.

(e) **REPORT ON EFFORTS TO DENY OIL REVENUES.**—Not later than 45 days after the President takes an action under subsection (b)(2)(C), the President shall submit to the appropriate congressional committees a comprehensive plan for implementing the actions described in such subsection.

(f) **DEFINITION.**—In this section, the term “international financial institution” means the International Bank for Reconstruction and Development, the International Development Association, the International Monetary Fund, the African Development Bank, and the African Development Fund.

50 USC 1701
note.

SEC. 7. MULTILATERAL PRESSURE ON COMBATANTS.

It is the sense of Congress that—

(1) the United Nations should help facilitate peace and recovery in Sudan;

(2) the President, acting through the United States Permanent Representative to the United Nations, should seek to end the veto power of the Government of Sudan over the plans by OLS for air transport relief flights and, by doing so, to end the manipulation of the delivery of relief supplies to the advantage of the Government of Sudan on the battlefield; and

(3) the President should take appropriate measures, including the implementation of recommendations of the International Eminent Persons Commission contained in the report

issued on May 22, 2002, to end slavery and aerial bombardment of civilians by the Government of Sudan.

SEC. 8. REPORTING REQUIREMENT.

Not later than 6 months after the date of the enactment of this Act, and annually thereafter, the Secretary of State shall prepare and submit to the appropriate congressional committees a report regarding the conflict in Sudan. Such report shall include—

Deadlines.
50 USC 1701
note.

(1) a description of the sources and current status of Sudan's financing and construction of infrastructure and pipelines for oil exploitation, the effects of such financing and construction on the inhabitants of the regions in which the oil fields are located, and the ability of the Government of Sudan to finance the war in Sudan with the proceeds of the oil exploitation;

(2) a description of the extent to which that financing was secured in the United States or with involvement of United States citizens;

(3) the best estimates of the extent of aerial bombardment by the Government of Sudan, including targets, frequency, and best estimates of damage; and

(4) a description of the extent to which humanitarian relief has been obstructed or manipulated by the Government of Sudan or other forces.

SEC. 9. CONTINUED USE OF NON-OLS ORGANIZATIONS FOR RELIEF EFFORTS.

50 USC 1701
note.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the President should continue to increase the use of non-OLS agencies in the distribution of relief supplies in southern Sudan.

(b) REPORT.—Not later than 90 days after the date of enactment of this Act, the President shall submit to the appropriate congressional committees a detailed report describing the progress made toward carrying out subsection (a).

Deadline.
President.

SEC. 10. CONTINGENCY PLAN FOR ANY BAN ON AIR TRANSPORT RELIEF FLIGHTS.

President.
50 USC 1701
note.

(a) PLAN.—The President shall develop a contingency plan to provide, outside the auspices of the United Nations if necessary, the greatest possible amount of United States Government and privately donated relief to all affected areas in Sudan, including the Nuba Mountains and the Upper Nile and the Blue Nile regions, in the event that the Government of Sudan imposes a total, partial, or incremental ban on OLS air transport relief flights.

(b) REPROGRAMMING AUTHORITY.—Notwithstanding any other provision of law, in carrying out the plan developed under subsection (a), the President may reprogram up to 100 percent of the funds available for support of OLS operations for the purposes of the plan.

SEC. 11. INVESTIGATION OF WAR CRIMES.

50 USC 1701
note.

(a) IN GENERAL.—The Secretary of State shall collect information about incidents which may constitute crimes against humanity, genocide, war crimes, and other violations of international humanitarian law by all parties to the conflict in Sudan, including slavery, rape, and aerial bombardment of civilian targets.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act and annually thereafter, the Secretary of

Deadline.

State shall prepare and submit to the appropriate congressional committees a detailed report on the information that the Secretary of State has collected under subsection (a) and any findings or determinations made by the Secretary on the basis of that information. The report under this subsection may be submitted as part of the report required under section 8.

(c) CONSULTATIONS WITH OTHER DEPARTMENTS.—In preparing the report required by this section, the Secretary of State shall consult and coordinate with all other Government officials who have information necessary to complete the report. Nothing contained in this section shall require the disclosure, on a classified or unclassified basis, of information that would jeopardize sensitive sources and methods or other vital national security interests.

Approved October 21, 2002.

LEGISLATIVE HISTORY—H.R. 5531:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 7, considered and passed House.

Oct. 9, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 21, Presidential statement.



Public Law 107–246
107th Congress

An Act

To make available funds under the Foreign Assistance Act of 1961 to expand democracy, good governance, and anti-corruption programs in the Russian Federation in order to promote and strengthen democratic government and civil society and independent media in that country.

Oct. 23, 2002
[H.R. 2121]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Russian Democracy Act of 2002”.

Russian
Democracy Act of
2002.
22 USC 2151
note.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Since the dissolution of the Soviet Union, the leadership of the Russian Federation has publicly committed itself to building—

(A) a society with democratic political institutions and practices, the observance of universally recognized standards of human rights, and religious and press freedom; and

(B) a market economy based on internationally accepted principles of transparency, accountability, and the rule of law.

(2) In order to facilitate this transition, the international community has provided multilateral and bilateral technical assistance, and the United States’ contribution to these efforts has played an important role in developing new institutions built on democratic and liberal economic foundations and the rule of law.

(3)(A) Since 1992, United States Government democratic reform programs and public diplomacy programs, including training, and small grants have provided access to and training in the use of the Internet, brought nearly 40,000 Russian citizens to the United States, and have led to the establishment of more than 65,000 nongovernmental organizations, thousands of independent local media outlets, despite governmental opposition, and numerous political parties.

(B) These efforts contributed to the substantially free and fair Russian parliamentary elections in 1995 and 1999.

(4) The United States has assisted Russian efforts to replace its centrally planned, state-controlled economy with a market economy and helped create institutions and infrastructure for a market economy. Approximately two-thirds of the Russian Federation’s gross domestic product is now generated

22 USC 2295
note.

by the private sector, and the United States recognized Russia as a market economy on June 7, 2002.

(5)(A) The United States has fostered grassroots entrepreneurship in the Russian Federation by focusing United States economic assistance on small- and medium-sized businesses and by providing training, consulting services, and small loans to more than 250,000 Russian entrepreneurs.

(B) There are now more than 900,000 small businesses in the Russian Federation, producing 12 to 15 percent, depending on the estimate, of the gross domestic product of the Russian Federation.

(C) United States-funded programs have contributed to fighting corruption and financial crime, such as money laundering, by helping to—

- (i) establish a commercial legal infrastructure;
- (ii) develop an independent judiciary;
- (iii) support the drafting of a new criminal code, civil code, and bankruptcy law;
- (iv) develop a legal and regulatory framework for the Russian Federation's equivalent of the United States Securities and Exchange Commission;
- (v) support Russian law schools;
- (vi) create legal aid clinics; and
- (vii) bolster law-related activities of nongovernmental organizations.

(6) Because the capability of Russian democratic forces and the civil society to organize and defend democratic gains without international support is uncertain, and because the gradual integration of the Russian Federation into the global order of free-market, democratic nations would enhance Russian cooperation with the United States on a wide range of political, economic, and security issues, the success of democracy in Russia is in the national security interest of the United States, and the United States Government should develop a far-reaching and flexible strategy aimed at strengthening Russian society's support for democracy and a market economy, particularly by enhancing Russian democratic institutions and education, promoting the rule of law, and supporting Russia's independent media.

(7) Since the tragic events of September 11, 2001, the Russian Federation has stood with the United States and the rest of the civilized world in the struggle against terrorism and has cooperated in the war in Afghanistan by sharing intelligence and through other means.

(8) United States-Russia relations have improved, leading to a successful summit between President Bush and President Putin in May 2002, resulting in a "Foundation for Cooperation".

(b) PURPOSES.—The purposes of this Act are—

(1) to strengthen and advance institutions of democratic government and of free and independent media, and to sustain the development of an independent civil society in the Russian Federation based on religious and ethnic tolerance, internationally recognized human rights, and an internationally recognized rule of law; and

(2) to focus United States foreign assistance programs on using local expertise and to give local organizations a greater

role in designing and implementing such programs, while maintaining appropriate oversight and monitoring.

SEC. 3. UNITED STATES POLICY TOWARD THE RUSSIAN FEDERATION.

22 USC 2295
note.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States Government should—

(1) recognize that a democratic and economically stable Russian Federation is inherently less confrontational and destabilizing in its foreign policy and therefore that the promotion of democracy in Russia is in the national security interests of the United States; and

(2) continue and increase assistance to the democratic forces in the Russian Federation, including the independent media, regional administrations, democratic political parties, and nongovernmental organizations.

(b) STATEMENT OF POLICY.—It shall be the policy of the United States—

(1) to facilitate Russia's integration into the Western community of nations, including supporting the establishment of a stable democracy and a market economy within the framework of the rule of law and respect for individual rights, including Russia's membership in the appropriate international institutions;

(2) to engage the Government of the Russian Federation and Russian society in order to strengthen democratic reform and institutions, and to promote transparency and good governance in all aspects of society, including fair and honest business practices, accessible and open legal systems, freedom of religion, and respect for human rights;

(3) to advance a dialogue among United States Government officials, private sector individuals, and representatives of the Government of the Russian Federation regarding Russia's integration into the Western community of nations;

(4) to encourage United States Government officials and private sector individuals to meet regularly with democratic activists, human rights activists, representatives of the independent media, representatives of nongovernmental organizations, civic organizers, church officials, and reform-minded politicians from Moscow and all other regions of the Russian Federation;

(5) to incorporate democratic reforms, the promotion of independent media, and economic reforms in a broader United States dialogue with the Government of the Russian Federation;

(6) to encourage the Government of the Russian Federation to address, in a cooperative and transparent manner consistent with internationally recognized and accepted principles, cross-border issues, including the nonproliferation of weapons of mass destruction, environmental degradation, crime, trafficking, and corruption;

(7) to consult with the Government of the Russian Federation and the Russian Parliament on the adoption of economic and social reforms necessary to sustain Russian economic growth and to ensure Russia's transition to a fully functioning market economy and membership in the World Trade Organization;

(8) to persuade the Government of the Russian Federation to honor its commitments made to the Organization for Security

and Cooperation in Europe (OSCE) at the November 1999 Istanbul Conference, and to conduct a genuine good neighbor policy toward the other independent states of the former Soviet Union in the spirit of internationally accepted principles of regional cooperation; and

(9) to encourage the G-8 partners and international financial institutions, including the World Bank, the International Monetary Fund, and the European Bank for Reconstruction and Development, to develop financial safeguards and transparency practices in lending to the Russian Federation.

SEC. 4. AMENDMENTS TO THE FOREIGN ASSISTANCE ACT OF 1961.

(a) IN GENERAL.—

(1) DEMOCRACY AND RULE OF LAW.—Section 498(2) of the Foreign Assistance Act of 1961 (22 U.S.C. 2295(2)) is amended—

(A) in the paragraph heading, by striking “DEMOCRACY” and inserting “DEMOCRACY AND RULE OF LAW”;

(B) by striking subparagraphs (E) and (G);

(C) by redesignating subparagraph (F) as subparagraph (I);

(D) by inserting after subparagraph (D) the following:

“(E) development and support of grass-roots and non-governmental organizations promoting democracy, the rule of law, transparency, and accountability in the political process, including grants in small amounts to such organizations;

“(F) international exchanges and other forms of public diplomacy to promote greater understanding on how democracy, the public policy process, market institutions, and an independent judiciary function in Western societies;

“(G) political parties and coalitions committed to promoting democracy, human rights, and economic reforms;

“(H) support for civic organizations committed to promoting human rights;”;

(E) by adding at the end the following:

“(J) strengthened administration of justice through programs and activities carried out in accordance with section 498B(e), including—

“(i) support for nongovernmental organizations, civic organizations, and political parties that favor a strong and independent judiciary;

“(ii) support for local organizations that work with judges and law enforcement officials in efforts to achieve a reduction in the number of pretrial detainees; and

“(iii) support for the creation of legal associations or groups that provide training in human rights and advocacy, public education with respect to human rights-related laws and proposed legislation, and legal assistance to persons subject to improper government interference.”.

(2) INDEPENDENT MEDIA.—Section 498 of the Foreign Assistance Act of 1961 (22 U.S.C. 2295) is amended—

(A) by redesignating paragraphs (3) through (13) as paragraphs (4) through (14), respectively; and

(B) by inserting after paragraph (2) the following:

“(3) INDEPENDENT MEDIA.—Developing free and independent media, including—

“(A) supporting all forms of independent media reporting, including print, radio, and television;

“(B) providing special support for, and unrestricted public access to, nongovernmental Internet-based sources of information, dissemination and reporting, including providing technical and other support for web radio services, providing computers and other necessary resources for Internet connectivity and training new Internet users in nongovernmental civic organizations on methods and uses of Internet-based media; and

“(C) training in journalism, including investigative journalism techniques that educate the public on the costs of corruption and act as a deterrent against corrupt officials.”.

(b) CONFORMING AMENDMENT.—Section 498B(e) of such Act is amended by striking “paragraph (2)(G)” and inserting “paragraph (2)(J)”. 22 USC 2295b.

SEC. 5. ACTIVITIES TO SUPPORT THE RUSSIAN FEDERATION.

22 USC 2295
note.

(a) ASSISTANCE PROGRAMS.—In providing assistance to the Russian Federation under chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.), the President is authorized to—

(1) work with the Government of the Russian Federation, the Duma, and representatives of the Russian Federation judiciary to help implement a revised and improved code of criminal procedure and other laws;

(2) establish civic education programs relating to democracy, public policy, the rule of law, and the importance of independent media, including the establishment of “American Centers” and public policy schools at Russian universities and encourage cooperative programs with universities in the United States to offer courses through Internet-based off-site learning centers at Russian universities; and

(3) support the Regional Initiatives (RI) program, which provides targeted assistance in those regions of the Russian Federation that have demonstrated a commitment to reform, democracy, and the rule of law, and which promotes the concept of such programs as a model for all regions of the Russian Federation.

(b) RADIO FREE EUROPE/RADIO LIBERTY AND VOICE OF AMERICA.—RFE/RL, Incorporated, and the Voice of America should use new and innovative techniques, in cooperation with local independent media sources and using local languages as appropriate and as possible, to disseminate throughout the Russian Federation information relating to democracy, free-market economics, the rule of law, and human rights.

SEC. 6. AUTHORIZATION OF ASSISTANCE FOR DEMOCRACY, INDEPENDENT MEDIA, AND THE RULE OF LAW.

Of the amounts made available to carry out the provision of chapter 11 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2295 et seq.) and the FREEDOM Support Act for fiscal year 2003, \$50,000,000 is authorized to be available for the activities authorized by paragraphs (2) and (3) of section 498 of the Foreign Assistance Act of 1961, as amended by section 4(a) of this Act.

Brandeis
University.

**SEC. 7. PRESERVING THE ARCHIVES OF HUMAN RIGHTS ACTIVIST AND
NOBEL PEACE PRIZE WINNER ANDREI SAKHAROV.**

(a) **AUTHORIZATION.**—The President is authorized, on such terms and conditions as the President determines to be appropriate, to make a grant to Brandeis University for an endowment for the Andrei Sakharov Archives and Human Rights Center for the purpose of collecting and preserving documents related to the life of Andrei Sakharov and the administration of such Center.

(b) **FUNDING.**—There is authorized to be appropriated to the President to carry out subsection (a) not more than \$1,500,000.

Applicability.

SEC. 8. EXTENSION OF LAW.

The provisions of section 108(c) of H.R. 3427, as enacted by section 1000(a)(7) of Public Law 106-113, shall apply to United States contributions for fiscal year 2003 to the organization described in section 108(c) of H.R. 3427.

Approved October 23, 2002.

LEGISLATIVE HISTORY—H.R. 2121:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 11, considered and passed House.

Vol. 148 (2002): Sept. 20, considered and passed Senate, amended.

Oct. 7, House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 23, Presidential statement.



Public Law 107–247
107th Congress

An Act

To increase, effective as of December 1, 2002, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

Oct. 23, 2002
[H.R. 4085]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans’ Compensation Cost-of-Living Adjustment Act of 2002”.

Veteran’s
Compensation
Cost-of-Living
Adjustment Act
of 2002.
38 USC 101 note.

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

38 USC 1114
note.

(a) **RATE ADJUSTMENT.**—The Secretary of Veterans Affairs shall, effective on December 1, 2002, increase the dollar amounts in effect for the payment of disability compensation and dependency and indemnity compensation by the Secretary, as specified in subsection (b).

(b) **AMOUNTS TO BE INCREASED.**—The dollar amounts to be increased pursuant to subsection (a) are the following:

(1) **COMPENSATION.**—Each of the dollar amounts in effect under section 1114 of title 38, United States Code.

(2) **ADDITIONAL COMPENSATION FOR DEPENDENTS.**—Each of the dollar amounts in effect under section 1115(1) of such title.

(3) **CLOTHING ALLOWANCE.**—The dollar amount in effect under section 1162 of such title.

(4) **NEW DIC RATES.**—The dollar amounts in effect under paragraphs (1) and (2) of section 1311(a) of such title.

(5) **OLD DIC RATES.**—Each of the dollar amounts in effect under section 1311(a)(3) of such title.

(6) **ADDITIONAL DIC FOR SURVIVING SPOUSES WITH MINOR CHILDREN.**—The dollar amount in effect under section 1311(b) of such title.

(7) **ADDITIONAL DIC FOR DISABILITY.**—The dollar amounts in effect under sections 1311(c) and 1311(d) of such title.

(8) **DIC FOR DEPENDENT CHILDREN.**—The dollar amounts in effect under sections 1313(a) and 1314 of such title.

(c) **DETERMINATION OF INCREASE.**—(1) The increase under subsection (a) shall be made in the dollar amounts specified in subsection (b) as in effect on November 30, 2002.

(2) Except as provided in paragraph (3), each such amount shall be increased by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1,

2002, as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(3) Each dollar amount increased pursuant to paragraph (2) shall, if not a whole dollar amount, be rounded down to the next lower whole dollar amount.

(d) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Federal Register,
publication.
38 USC 1114
note.

SEC. 3. PUBLICATION OF ADJUSTED RATES.

At the same time as the matters specified in section 215(i)(2)(D) of the Social Security Act (42 U.S.C. 415(i)(2)(D)) are required to be published by reason of a determination made under section 215(i) of such Act during fiscal year 2003, the Secretary of Veterans Affairs shall publish in the Federal Register the amounts specified in subsection (b) of section 2, as increased pursuant to that section.

Approved October 23, 2002.

LEGISLATIVE HISTORY—H.R. 4085 (S. 1090) (S. 2074):

HOUSE REPORTS: No. 107-472 (Comm. on Veterans' Affairs).

SENATE REPORTS: Nos. 107-87 accompanying S. 1090 and 107-215 accompanying S. 2074 (both from Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 20, 21, considered and passed House.

Sept. 26, considered and passed Senate, amended.

Oct. 7, House concurred in Senate amendments.



Public Law 107-248
107th Congress

An Act

Making appropriations for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

Oct. 23, 2002
[H.R. 5010]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2003, for military functions administered by the Department of Defense, and for other purposes, namely:

Department of
Defense
Appropriations
Act, 2003.

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$26,855,017,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$21,927,628,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except

members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$8,501,087,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and to the Department of Defense Military Retirement Fund, \$21,981,277,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 10211, 10302, and 3038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$3,374,355,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,907,552,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 10211 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$553,983,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 10211, 10305, and 8038 of title 10, United States Code, or while serving on active duty under section 12301(d) of title 10, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$1,236,904,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 10211, 10302, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$5,114,588,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 10211, 10305, or 12402 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 12301(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 12310(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 16131 of title 10, United States Code; and for payments to the Department of Defense Military Retirement Fund, \$2,125,161,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$10,818,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes, \$23,992,082,000: *Provided*, That of the funds appropriated in this

paragraph, not less than \$355,000,000 shall be made available only for conventional ammunition care and maintenance: *Provided further*, That of the funds made available under this heading, \$2,500,000 shall be available for Fort Baker, in accordance with the terms and conditions as provided under the heading “Operation and Maintenance, Army”, in Public Law 107-117.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$4,415,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes, \$29,331,526,000.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law, \$3,585,759,000.

OPERATION AND MAINTENANCE, AIR FORCE

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$7,902,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes, \$27,339,533,000: *Provided*, That notwithstanding any other provision of law, that of the funds available under this heading, \$750,000 shall only be available to the Secretary of the Air Force for a grant to Florida Memorial College for the purpose of funding minority aviation training: *Provided further*, That of the amount provided under this heading, \$2,000,000 may be obligated for the deployment of Air Force active and Reserve aircrews that perform combat search and rescue operations to operate and evaluate the United Kingdom’s Royal Air Force EH-101 helicopter, to receive training using that helicopter, and to exchange operational techniques and procedures regarding that helicopter.

Grants.
Florida Memorial
College.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law, \$14,773,506,000, of which not to exceed \$25,000,000 may be available for the CINC initiative fund account; and of which not to exceed \$34,500,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided*, That notwithstanding any other provision of law, of the funds provided in this Act for Civil Military programs under this heading,

Grants.

\$750,000 shall be available for a grant for Outdoor Odyssey, Roaring Run, Pennsylvania, to support the Youth Development and Leadership program and Department of Defense STARBASE program: *Provided further*, That none of the funds appropriated or otherwise made available by this Act may be used to plan or implement the consolidation of a budget or appropriations liaison office of the Office of the Secretary of Defense, the office of the Secretary of a military department, or the service headquarters of one of the Armed Forces into a legislative affairs or legislative liaison office: *Provided further*, That \$4,675,000, to remain available until expended, is available only for expenses relating to certain classified activities, and may be transferred as necessary by the Secretary to operation and maintenance appropriations or research, development, test and evaluation appropriations, to be merged with and to be available for the same time period as the appropriations to which transferred: *Provided further*, That any ceiling on the investment item unit cost of items that may be purchased with operation and maintenance funds shall not apply to the funds described in the preceding proviso: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority provided elsewhere in this Act.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,970,180,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$1,236,809,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$187,532,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications, \$2,163,104,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft), \$4,261,707,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things, hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau, \$4,117,585,000.

OVERSEAS CONTINGENCY OPERATIONS TRANSFER ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For expenses directly relating to Overseas Contingency Operations by United States military forces, \$5,000,000, to remain available until expended: *Provided*, That the Secretary of Defense may transfer these funds only to military personnel accounts; operation and maintenance accounts within this title; the Defense Health Program appropriation; procurement accounts; research, development, test and evaluation accounts; and to working capital funds: *Provided further*, That the funds transferred shall be merged with and shall be available for the same purposes and for the same time period, as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided in this paragraph is in addition to any other transfer authority contained elsewhere in this Act.

UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

For salaries and expenses necessary for the United States Court of Appeals for the Armed Forces, \$9,614,000, of which not to exceed \$2,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, ARMY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$395,900,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Army, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Navy, \$256,948,000, to remain available until transferred: *Provided*, That the Secretary of the Navy shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Navy, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Navy, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Air Force, \$389,773,000, to remain available until transferred: *Provided*, That the Secretary of the Air Force shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of the Air Force, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Air Force, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, \$23,498,000, to remain available until transferred: *Provided*, That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris of the Department of Defense, or for similar purposes, transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

ENVIRONMENTAL RESTORATION, FORMERLY USED DEFENSE SITES

(INCLUDING TRANSFER OF FUNDS)

For the Department of the Army, \$246,102,000, to remain available until transferred: *Provided*, That the Secretary of the Army shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, removal of unsafe buildings and debris at sites formerly used by the Department of Defense, transfer the funds made available by this appropriation to other appropriations made available to the Department of the Army, to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

OVERSEAS HUMANITARIAN, DISASTER, AND CIVIC AID

For expenses relating to the Overseas Humanitarian, Disaster, and Civic Aid programs of the Department of Defense (consisting of the programs provided under sections 401, 402, 404, 2547, and 2551 of title 10, United States Code), \$58,400,000, to remain available until September 30, 2004.

FORMER SOVIET UNION THREAT REDUCTION

For assistance to the republics of the former Soviet Union, including assistance provided by contract or by grants, for facilitating the elimination and the safe and secure transportation and storage of nuclear, chemical and other weapons; for establishing programs to prevent the proliferation of weapons, weapons components, and weapon-related technology and expertise; for programs relating to the training and support of defense and military personnel for demilitarization and protection of weapons, weapons components and weapons technology and expertise, and for defense and military contacts, \$416,700,000, to remain available until September 30, 2005: *Provided*, That of the amounts provided under this heading, \$10,000,000 shall be available only to support the

dismantling and disposal of nuclear submarines and submarine reactor components in the Russian Far East.

SUPPORT FOR INTERNATIONAL SPORTING COMPETITIONS, DEFENSE

For logistical and security support for international sporting competitions (including pay and non-travel related allowances only for members of the Reserve Components of the Armed Forces of the United States called or ordered to active duty in connection with providing such support), \$19,000,000, to remain available until expended.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,285,574,000, to remain available for obligation until September 30, 2005: *Provided*, That of the funds made available under this heading, \$39,100,000 shall be available only to support a restructured CH-47F helicopter upgrade program for the full fleet to facilitate increases in the planned production rate to an economically optimal rate by fiscal year 2005: *Provided further*, That funds in the immediately preceding proviso shall not be made available until the Secretary of the Army has certified to the congressional defense committees that the Army intends to budget for the upgrade of the entire CH-47 fleet required for the Objective Force at economically optimal production rates in order to complete this program within ten years after it is initiated.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,096,548,000, to remain available for obligation until September 30, 2005.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES,
ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$2,266,508,000, to remain available for obligation until September 30, 2005.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,253,099,000, to remain available for obligation until September 30, 2005.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and non-tracked combat vehicles; the purchase of passenger motor vehicles for replacement only; and the purchase of 6 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$180,000 per vehicle; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$5,874,674,000, to remain available for obligation until September 30, 2005.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and

construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$8,812,855,000, to remain available for obligation until September 30, 2005.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$1,868,517,000, to remain available for obligation until September 30, 2005.

PROCUREMENT OF AMMUNITION, NAVY AND MARINE CORPS

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,165,730,000, to remain available for obligation until September 30, 2005.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

- Carrier Replacement Program, \$90,000,000;
- Carrier Replacement Program (AP), \$403,703,000;
- NSSN, \$1,499,152,000;
- NSSN (AP), \$645,209,000;
- SSGN, \$404,305,000;
- SSGN (AP), \$421,000,000;
- CVN Refuelings (AP), \$221,781,000;
- Submarine Refuelings, \$435,792,000;
- Submarine Refuelings (AP), \$64,000,000;
- DDG-51 Destroyer, \$2,321,502,000;

LPD-17, \$596,492,000;
LHD-8, \$243,000,000;
LCAC Landing Craft Air Cushion, \$89,638,000;
Mine Hunter SWATH, \$7,000,000;
Prior year shipbuilding costs, \$1,279,899,000;
Service Craft, \$9,756,000; and

For outfitting, post delivery, conversions, and first destination transportation, \$300,608,000;

In all: \$9,032,837,000, to remain available for obligation until September 30, 2007: *Provided*, That additional obligations may be incurred after September 30, 2007, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further*, That none of the funds provided under this heading for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign facilities for the construction of major components of such vessel: *Provided further*, That none of the funds provided under this heading shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of passenger motor vehicles for replacement only, and the purchase of 3 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$240,000 per unit for one unit and not to exceed \$125,000 per unit for the remaining two units; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, \$4,612,910,000, to remain available for obligation until September 30, 2005.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including the purchase of passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, \$1,388,583,000, to remain available for obligation until September 30, 2005.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, lease, and modification of aircraft and equipment, including armor and armament, specialized

ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$13,137,255,000, to remain available for obligation until September 30, 2005: *Provided*, That amounts provided under this heading shall be used for the advance procurement of 15 C-17 aircraft.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things, \$3,174,739,000, to remain available for obligation until September 30, 2005.

PROCUREMENT OF AMMUNITION, AIR FORCE

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized by section 2854 of title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes, \$1,288,164,000, to remain available for obligation until September 30, 2005.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only, and the purchase of 2 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$232,000 per vehicle; lease of passenger motor vehicles; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and

Government and contractor-owned equipment layaway, \$10,672,712,000, to remain available for obligation until September 30, 2005.

PROCUREMENT, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of passenger motor vehicles for replacement only; the purchase of 4 vehicles required for physical security of personnel, notwithstanding price limitations applicable to passenger vehicles but not to exceed \$250,000 per vehicle; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway, \$3,444,455,000, to remain available for obligation until September 30, 2005.

NATIONAL GUARD AND RESERVE EQUIPMENT

Deadline.

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces, \$100,000,000, to remain available for obligation until September 30, 2005: *Provided*, That the Chiefs of the Reserve and National Guard components shall, not later than 30 days after the enactment of this Act, individually submit to the congressional defense committees the modernization priority assessment for their respective Reserve or National Guard component.

DEFENSE PRODUCTION ACT PURCHASES

For activities by the Department of Defense pursuant to sections 108, 301, 302, and 303 of the Defense Production Act of 1950 (50 U.S.C. App. 2078, 2091, 2092, and 2093), \$73,057,000, to remain available until expended, of which, \$5,000,000 may be used for a Processable Rigid-Rod Polymeric Material Supplier Initiative under title III of the Defense Production Act of 1950 (50 U.S.C. App. 2091 et seq.) to develop affordable production methods and a domestic supplier for military and commercial processable rigid-rod polymeric materials.

TITLE IV

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$7,669,656,000, to remain available for obligation until September 30, 2004.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$13,946,085,000, to remain available for obligation until September 30, 2004: *Provided*, That funds appropriated in this paragraph which are available for the V-22 may be used to meet unique operational requirements of the Special Operations Forces.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, \$18,822,569,000, to remain available for obligation until September 30, 2004.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE-WIDE

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, \$17,924,642,000, to remain available for obligation until September 30, 2004.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation, in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith, \$245,554,000, to remain available for obligation until September 30, 2004.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

DEFENSE WORKING CAPITAL FUNDS

For the Defense Working Capital Funds, \$1,784,956,000: *Provided*, That during fiscal year 2003, funds in the Defense Working Capital Funds may be used for the purchase of not to exceed 315 passenger carrying motor vehicles for replacement only for the Defense Security Service, and the purchase of not to exceed 7 vehicles for replacement only for the Defense Logistics Agency.

NATIONAL DEFENSE SEALIFT FUND

For National Defense Sealift Fund programs, projects, and activities, and for expenses of the National Defense Reserve Fleet, as established by section 11 of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744), and for the necessary expenses to

maintain and preserve a U.S.-flag merchant fleet to serve the national security needs of the United States, \$942,629,000, to remain available until expended: *Provided*, That none of the funds provided in this paragraph shall be used to award a new contract that provides for the acquisition of any of the following major components unless such components are manufactured in the United States: auxiliary equipment, including pumps, for all shipboard services; propulsion system components (that is; engines, reduction gears, and propellers); shipboard cranes; and spreaders for shipboard cranes: *Provided further*, That the exercise of an option in a contract awarded through the obligation of previously appropriated funds shall not be considered to be the award of a new contract: *Provided further*, That the Secretary of the military department responsible for such procurement may waive the restrictions in the first proviso on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That, notwithstanding any other provision of law, \$8,500,000 of the funds available under this heading shall be available in addition to other amounts otherwise available, only to finance the cost of constructing additional sealift capacity.

TITLE VI

OTHER DEPARTMENT OF DEFENSE PROGRAMS

DEFENSE HEALTH PROGRAM

For expenses, not otherwise provided for, for medical and health care programs of the Department of Defense, as authorized by law, \$14,843,542,000, of which \$14,100,386,000 shall be for Operation and maintenance, of which not to exceed 2 percent shall remain available until September 30, 2004; of which \$284,242,000, to remain available for obligation until September 30, 2005, shall be for Procurement; of which \$458,914,000, to remain available for obligation until September 30, 2004, shall be for Research, development, test and evaluation, and of which not less than \$7,000,000 shall be available for HIV prevention educational activities undertaken in connection with U.S. military training, exercises, and humanitarian assistance activities conducted primarily in African nations.

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, ARMY

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521), and for the destruction of other chemical warfare materials that are not in the chemical weapon stockpile, \$1,490,199,000, of which \$974,238,000 shall be for Operation and maintenance to remain available until September 30, 2004, \$213,278,000 shall be for Procurement to remain available until September 30, 2005, and \$302,683,000 shall be for Research, development, test and evaluation to remain available until September 30, 2004.

DRUG INTERDICTION AND COUNTER-DRUG ACTIVITIES, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For drug interdiction and counter-drug activities of the Department of Defense, for transfer to appropriations available to the Department of Defense for military personnel of the reserve components serving under the provisions of title 10 and title 32, United States Code; for Operation and maintenance; for Procurement; and for Research, development, test and evaluation, \$881,907,000: *Provided*, That the funds appropriated under this heading shall be available for obligation for the same time period and for the same purpose as the appropriation to which transferred: *Provided further*, That upon a determination that all or part of the funds transferred from this appropriation are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation: *Provided further*, That the transfer authority provided under this heading is in addition to any other transfer authority contained elsewhere in this Act.

OFFICE OF THE INSPECTOR GENERAL

For expenses and activities of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$157,165,000, of which \$155,165,000 shall be for Operation and maintenance, of which not to exceed \$700,000 is available for emergencies and extraordinary expenses to be expended on the approval or authority of the Inspector General, and payments may be made on the Inspector General's certificate of necessity for confidential military purposes; and of which \$2,000,000 to remain available until September 30, 2005, shall be for Procurement.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY
SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain the proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System, \$222,500,000.

INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Intelligence Community Management Account, \$163,479,000, of which \$24,252,000 for the Advanced Research and Development Committee shall remain available until September 30, 2004: *Provided*, That of the funds appropriated under this heading, \$34,100,000 shall be transferred to the Department of Justice for the National Drug Intelligence Center to support the Department of Defense's counter-drug intelligence responsibilities, and of the said amount, \$1,500,000 for Procurement shall remain available until September 30, 2005 and \$1,000,000 for Research, development, test and evaluation shall remain available

Records.

until September 30, 2004: *Provided further*, That the National Drug Intelligence Center shall maintain the personnel and technical resources to provide timely support to law enforcement authorities and the intelligence community by conducting document and computer exploitation of materials collected in Federal, State, and local law enforcement activity associated with counter-drug, counter-terrorism, and national security investigations and operations.

PAYMENT TO KAHO'OLAWA ISLAND CONVEYANCE, REMEDIATION, AND ENVIRONMENTAL RESTORATION FUND

For payment to Kaho'olawe Island Conveyance, Remediation, and Environmental Restoration Fund, as authorized by law, \$75,000,000, to remain available until expended.

NATIONAL SECURITY EDUCATION TRUST FUND

For the purposes of title VIII of Public Law 102-183, \$8,000,000, to be derived from the National Security Education Trust Fund, to remain available until expended.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

10 USC 1584
note.

SEC. 8002. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense: *Provided*, That salary increases granted to direct and indirect hire foreign national employees of the Department of Defense funded by this Act shall not be at a rate in excess of the percentage increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided by the appropriate host nation to its own employees, whichever is higher: *Provided further*, That this section shall not apply to Department of Defense foreign service national employees serving at United States diplomatic missions whose pay is set by the Department of State under the Foreign Service Act of 1980: *Provided further*, That the limitations of this provision shall not apply to foreign national employees of the Department of Defense in the Republic of Turkey.

SEC. 8003. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

SEC. 8004. No more than 20 percent of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of reserve components or summer camp training of the Reserve Officers' Training Corps.

(TRANSFER OF FUNDS)

SEC. 8005. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$2,000,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority or any other authority in this Act: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress: *Provided further*, That a request for multiple reprogrammings of funds using authority provided in this section must be made prior to May 31, 2003: *Provided further*, That section 8005 of the Department of Defense Appropriations Act, 2002 (Public Law 107-117) is amended by striking “\$2,000,000,000”, and inserting “\$2,500,000,000”.

Notification.

115 Stat. 2247.

(TRANSFER OF FUNDS)

SEC. 8006. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds: *Provided further*, That transfers may be made between working capital funds and the “Foreign Currency Fluctuations, Defense” appropriation and the “Operation and Maintenance” appropriation accounts in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that such transfers may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure or increase the value of war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8007. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 calendar days in session in advance to the congressional defense committees.

Notification.

SEC. 8008. None of the funds provided in this Act shall be available to initiate: (1) a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year

10 USC 2306b
note.

of the contract or that includes an unfunded contingent liability in excess of \$20,000,000; or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of \$20,000,000 in any 1 year, unless the congressional defense committees have been notified at least 30 days in advance of the proposed contract award: *Provided*, That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further*, That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed \$500,000,000 unless specifically provided in this Act: *Provided further*, That no multiyear procurement contract can be terminated without 10-day prior notification to the congressional defense committees: *Provided further*, That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procurement.

Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

C-130 aircraft;
FMTV; and
F/A-18E and F engine.

Reports.
Deadline.
10 USC 401 note.

SEC. 8009. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 401 of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humanitarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 401 of chapter 20 of title 10, United States Code, and these obligations shall be reported to the Congress as of September 30 of each year: *Provided*, That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239: *Provided further*, That upon a determination by the Secretary of the Army that such action is beneficial for graduate medical education programs conducted at Army medical facilities located in Hawaii, the Secretary of the Army may authorize the provision of medical services at such facilities and transportation to such facilities, on a nonreimbursable basis, for civilian patients from American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, Palau, and Guam.

SEC. 8010. (a) During fiscal year 2003, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(b) The fiscal year 2004 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2004 Department of Defense budget request shall be prepared and submitted to the Congress as if

subsections (a) and (b) of this provision were effective with regard to fiscal year 2004.

(c) Nothing in this section shall be construed to apply to military (civilian) technicians.

SEC. 8011. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the 50 United States, its territories, and the District of Columbia, 125,000 civilian workyears: *Provided*, That workyears shall be applied as defined in the Federal Personnel Manual: *Provided further*, That workyears expended in dependent student hiring programs for disadvantaged youths shall not be included in this workyear limitation.

Applicability.

SEC. 8012. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

Lobbying.

SEC. 8013. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Secretary of Veterans Affairs from the Department of Defense Education Benefits Fund when time spent as a full-time student is credited toward completion of a service commitment: *Provided*, That this subsection shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further*, That this subsection applies only to active components of the Army.

Applicability.

SEC. 8014. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of the enactment of this Act, is performed by more than 10 Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That this section and subsections (a), (b), and (c) of 10 U.S.C. 2461 shall not apply to a commercial or industrial type function of the Department of Defense that: (1) is included on the procurement list established pursuant to section 2 of the Act of June 25, 1938 (41 U.S.C. 47), popularly referred to as the Javits-Wagner-O'Day Act; (2) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act; or (3) is planned to be converted to performance by a qualified firm under 51 percent ownership by an Indian tribe, as defined in section 450b(e) of title 25, United States Code, or a Native Hawaiian organization, as defined in section 637(a)(15) of title 15, United States Code.

(TRANSFER OF FUNDS)

SEC. 8015. Funds appropriated in title III of this Act for the Department of Defense Pilot Mentor-Protege Program may be transferred to any other appropriation contained in this Act solely for the purpose of implementing a Mentor-Protege Program developmental assistance agreement pursuant to section 831 of the National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510; 10 U.S.C. 2301 note), as amended, under the

authority of this provision or any other transfer authority contained in this Act.

SEC. 8016. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under unless the anchor and mooring chain are manufactured in the United States from components which are substantially manufactured in the United States: *Provided*, That for the purpose of this section manufactured will include cutting, heat treating, quality control, testing of chain and welding (including the forging and shot blasting process): *Provided further*, That for the purpose of this section substantially all of the components of anchor and mooring chain shall be considered to be produced or manufactured in the United States if the aggregate cost of the components produced or manufactured in the United States exceeds the aggregate cost of the components produced or manufactured outside the United States: *Provided further*, That when adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis, the Secretary of the service responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations that such an acquisition must be made in order to acquire capability for national security purposes.

SEC. 8017. None of the funds appropriated by this Act available for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) or TRICARE shall be available for the reimbursement of any health care provider for inpatient mental health service for care received when a patient is referred to a provider of inpatient mental health care or residential treatment care by a medical or health care professional having an economic interest in the facility to which the patient is referred: *Provided*, That this limitation does not apply in the case of inpatient mental health services provided under the program for persons with disabilities under subsection (d) of section 1079 of title 10, United States Code, provided as partial hospital care, or provided pursuant to a waiver authorized by the Secretary of Defense because of medical or psychological circumstances of the patient that are confirmed by a health professional who is not a Federal employee after a review, pursuant to rules prescribed by the Secretary, which takes into account the appropriate level of care for the patient, the intensity of services required by the patient, and the availability of that care.

10 USC 2687
note.

SEC. 8018. Notwithstanding any other provision of law, during the current fiscal year, the Secretary of Defense may, by executive agreement, establish with host nation governments in NATO member states a separate account into which such residual value amounts negotiated in the return of United States military installations in NATO member states may be deposited, in the currency of the host nation, in lieu of direct monetary transfers to the United States Treasury: *Provided*, That such credits may be utilized only for the construction of facilities to support United States military forces in that host nation, or such real property maintenance and base operating costs that are currently executed through monetary transfers to such host nations: *Provided further*, That the Department of Defense's budget submission for fiscal year 2004 shall identify such sums anticipated in residual value settlements, and identify such construction, real property maintenance or base

operating costs that shall be funded by the host nation through such credits: *Provided further*, That all military construction projects to be executed from such accounts must be previously approved in a prior Act of Congress: *Provided further*, That each such executive agreement with a NATO member host nation shall be reported to the congressional defense committees, the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate 30 days prior to the conclusion and endorsement of any such agreement established under this provision.

Reports.

SEC. 8019. None of the funds available to the Department of Defense may be used to demilitarize or dispose of M-1 Carbines, M-1 Garand rifles, M-14 rifles, .22 caliber rifles, .30 caliber rifles, or M-1911 pistols.

SEC. 8020. No more than \$500,000 of the funds appropriated or made available in this Act shall be used during a single fiscal year for any single relocation of an organization, unit, activity or function of the Department of Defense into or within the National Capital Region: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the congressional defense committees that such a relocation is required in the best interest of the Government.

SEC. 8021. In addition to the funds provided elsewhere in this Act, \$8,000,000 is appropriated only for incentive payments authorized by Section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544): *Provided*, That a prime contractor or a subcontractor at any tier that makes a subcontract award to any subcontractor or supplier as defined in 25 U.S.C. 1544 or a small business owned and controlled by an individual defined under 25 U.S.C. 4221(9) shall be considered a contractor for the purposes of being allowed additional compensation under section 504 of the Indian Financing Act of 1974 (25 U.S.C. 1544) whenever the prime contract or subcontract amount is over \$500,000 and involves the expenditure of funds appropriated by an Act making Appropriations for the Department of Defense with respect to any fiscal year: *Provided further*, That notwithstanding 41 U.S.C. § 430, this section shall be applicable to any Department of Defense acquisition of supplies or services, including any contract and any subcontract at any tier for acquisition of commercial items produced or manufactured, in whole or in part by any subcontractor or supplier defined in 25 U.S.C. § 1544 or a small business owned and controlled by an individual defined under 25 U.S.C. 4221(9).

SEC. 8022. None of the funds appropriated by this Act shall be available to perform any cost study pursuant to the provisions of OMB Circular A-76 if the study being performed exceeds a period of 24 months after initiation of such study with respect to a single function activity or 48 months after initiation of such study for a multi-function activity.

SEC. 8023. Funds appropriated by this Act for the American Forces Information Service shall not be used for any national or international political or psychological activities.

SEC. 8024. Notwithstanding any other provision of law or regulation, the Secretary of Defense may adjust wage rates for civilian employees hired for certain health care occupations as authorized for the Secretary of Veterans Affairs by section 7455 of title 38, United States Code.

SEC. 8025. (a) Of the funds for the procurement of supplies or services appropriated by this Act, qualified nonprofit agencies for the blind or other severely handicapped shall be afforded the maximum practicable opportunity to participate as subcontractors and suppliers in the performance of contracts let by the Department of Defense.

(b) During the current fiscal year, a business concern which has negotiated with a military service or defense agency a subcontracting plan for the participation by small business concerns pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) shall be given credit toward meeting that subcontracting goal for any purchases made from qualified nonprofit agencies for the blind or other severely handicapped.

(c) For the purpose of this section, the phrase “qualified nonprofit agency for the blind or other severely handicapped” means a nonprofit agency for the blind or other severely handicapped that has been approved by the Committee for the Purchase from the Blind and Other Severely Handicapped under the Javits-Wagner-O’Day Act (41 U.S.C. 46–48).

SEC. 8026. During the current fiscal year, net receipts pursuant to collections from third party payers pursuant to section 1095 of title 10, United States Code, shall be made available to the local facility of the uniformed services responsible for the collections and shall be over and above the facility’s direct budget amount.

SEC. 8027. During the current fiscal year, the Department of Defense is authorized to incur obligations of not to exceed \$350,000,000 for purposes specified in section 2350j(c) of title 10, United States Code, in anticipation of receipt of contributions, only from the Government of Kuwait, under that section: *Provided*, That upon receipt, such contributions from the Government of Kuwait shall be credited to the appropriations or fund which incurred such obligations.

SEC. 8028. Of the funds made available in this Act, not less than \$21,188,000 shall be available for the Civil Air Patrol Corporation, of which \$19,688,000 shall be available for Civil Air Patrol Corporation operation and maintenance to support readiness activities which includes \$1,500,000 for the Civil Air Patrol counterdrug program: *Provided*, That funds identified for “Civil Air Patrol” under this section are intended for and shall be for the exclusive use of the Civil Air Patrol Corporation and not for the Air Force or any unit thereof.

SEC. 8029. (a) None of the funds appropriated in this Act are available to establish a new Department of Defense (department) federally funded research and development center (FFRDC), either as a new entity, or as a separate entity administrated by an organization managing another FFRDC, or as a nonprofit membership corporation consisting of a consortium of other FFRDCs and other non-profit entities.

(b) No member of a Board of Directors, Trustees, Overseers, Advisory Group, Special Issues Panel, Visiting Committee, or any similar entity of a defense FFRDC, and no paid consultant to any defense FFRDC, except when acting in a technical advisory capacity, may be compensated for his or her services as a member of such entity, or as a paid consultant by more than one FFRDC in a fiscal year: *Provided*, That a member of any such entity referred to previously in this subsection shall be allowed travel expenses and per diem as authorized under the Federal Joint Travel

Regulations, when engaged in the performance of membership duties.

(c) Notwithstanding any other provision of law, none of the funds available to the department from any source during fiscal year 2003 may be used by a defense FFRDC, through a fee or other payment mechanism, for construction of new buildings, for payment of cost sharing for projects funded by Government grants, for absorption of contract overruns, or for certain charitable contributions, not to include employee participation in community service and/or development.

(d) Notwithstanding any other provision of law, of the funds available to the department during fiscal year 2003, not more than 6,321 staff years of technical effort (staff years) may be funded for defense FFRDCs: *Provided*, That of the specific amount referred to previously in this subsection, not more than 1,050 staff years may be funded for the defense studies and analysis FFRDCs.

(e) The Secretary of Defense shall, with the submission of the department's fiscal year 2004 budget request, submit a report presenting the specific amounts of staff years of technical effort to be allocated for each defense FFRDC during that fiscal year.

Reports.

(f) Notwithstanding any other provision of this Act, the total amount appropriated in this Act for FFRDCs is hereby reduced by \$74,200,000.

SEC. 8030. None of the funds appropriated or made available in this Act shall be used to procure carbon, alloy or armor steel plate for use in any Government-owned facility or property under the control of the Department of Defense which were not melted and rolled in the United States or Canada: *Provided*, That these procurement restrictions shall apply to any and all Federal Supply Class 9515, American Society of Testing and Materials (ASTM) or American Iron and Steel Institute (AISI) specifications of carbon, alloy or armor steel plate: *Provided further*, That the Secretary of the military department responsible for the procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That these restrictions shall not apply to contracts which are in being as of the date of the enactment of this Act.

Applicability.

SEC. 8031. For the purposes of this Act, the term "congressional defense committees" means the Armed Services Committee of the House of Representatives, the Armed Services Committee of the Senate, the Subcommittee on Defense of the Committee on Appropriations of the Senate, and the Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

SEC. 8032. During the current fiscal year, the Department of Defense may acquire the modification, depot maintenance and repair of aircraft, vehicles and vessels as well as the production of components and other Defense-related articles, through competition between Department of Defense depot maintenance activities and private firms: *Provided*, That the Senior Acquisition Executive of the military department or defense agency concerned, with power of delegation, shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private bids: *Provided further*, That Office of Management and Budget

Certification.

Circular A-76 shall not apply to competitions conducted under this section.

41 USC 10b-2.

SEC. 8033. (a)(1) If the Secretary of Defense, after consultation with the United States Trade Representative, determines that a foreign country which is party to an agreement described in paragraph (2) has violated the terms of the agreement by discriminating against certain types of products produced in the United States that are covered by the agreement, the Secretary of Defense shall rescind the Secretary's blanket waiver of the Buy American Act with respect to such types of products produced in that foreign country.

(2) An agreement referred to in paragraph (1) is any reciprocal defense procurement memorandum of understanding, between the United States and a foreign country pursuant to which the Secretary of Defense has prospectively waived the Buy American Act for certain products in that country.

Reports.

(b) The Secretary of Defense shall submit to the Congress a report on the amount of Department of Defense purchases from foreign entities in fiscal year 2003. Such report shall separately indicate the dollar value of items for which the Buy American Act was waived pursuant to any agreement described in subsection (a)(2), the Trade Agreement Act of 1979 (19 U.S.C. 2501 et seq.), or any international agreement to which the United States is a party.

(c) For purposes of this section, the term "Buy American Act" means title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a et seq.).

SEC. 8034. Appropriations contained in this Act that remain available at the end of the current fiscal year as a result of energy cost savings realized by the Department of Defense shall remain available for obligation for the next fiscal year to the extent, and for the purposes, provided in section 2865 of title 10, United States Code.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8035. Amounts deposited during the current fiscal year to the special account established under 40 U.S.C. 485(h)(2) and to the special account established under 10 U.S.C. 2667(d)(1) are appropriated and shall be available until transferred by the Secretary of Defense to current applicable appropriations or funds of the Department of Defense under the terms and conditions specified by 40 U.S.C. 485(h)(2)(A) and (B) and 10 U.S.C. 2667(d)(1)(B), to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred.

President.
10 USC 221 note.

SEC. 8036. The President shall include with each budget for a fiscal year submitted to the Congress under section 1105 of title 31, United States Code, materials that shall identify clearly and separately the amounts requested in the budget for appropriation for that fiscal year for salaries and expenses related to administrative activities of the Department of Defense, the military departments, and the defense agencies.

SEC. 8037. Notwithstanding any other provision of law, funds available for "Drug Interdiction and Counter-Drug Activities, Defense" may be obligated for the Young Marines program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8038. During the current fiscal year, amounts contained in the Department of Defense Overseas Military Facility Investment Recovery Account established by section 2921(c)(1) of the National Defense Authorization Act of 1991 (Public Law 101-510; 10 U.S.C. 2687 note) shall be available until expended for the payments specified by section 2921(c)(2) of that Act.

SEC. 8039. (a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the Air Force may convey at no cost to the Air Force, without consideration, to Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota relocatable military housing units located at Grand Forks Air Force Base and Minot Air Force Base that are excess to the needs of the Air Force.

State listing.

(b) PROCESSING OF REQUESTS.—The Secretary of the Air Force shall convey, at no cost to the Air Force, military housing units under subsection (a) in accordance with the request for such units that are submitted to the Secretary by the Operation Walking Shield Program on behalf of Indian tribes located in the States of North Dakota, South Dakota, Montana, and Minnesota.

(c) RESOLUTION OF HOUSING UNIT CONFLICTS.—The Operation Walking Shield program shall resolve any conflicts among requests of Indian tribes for housing units under subsection (a) before submitting requests to the Secretary of the Air Force under subsection (b).

(d) INDIAN TRIBE DEFINED.—In this section, the term “Indian tribe” means any recognized Indian tribe included on the current list published by the Secretary of the Interior under section 104 of the Federally Recognized Indian Tribe Act of 1994 (Public Law 103-454; 108 Stat. 4792; 25 U.S.C. 479a-1).

SEC. 8040. During the current fiscal year, appropriations which are available to the Department of Defense for operation and maintenance may be used to purchase items having an investment item unit cost of not more than \$100,000.

SEC. 8041. (a) During the current fiscal year, none of the appropriations or funds available to the Department of Defense Working Capital Funds shall be used for the purchase of an investment item for the purpose of acquiring a new inventory item for sale or anticipated sale during the current fiscal year or a subsequent fiscal year to customers of the Department of Defense Working Capital Funds if such an item would not have been chargeable to the Department of Defense Business Operations Fund during fiscal year 1994 and if the purchase of such an investment item would be chargeable during the current fiscal year to appropriations made to the Department of Defense for procurement.

(b) The fiscal year 2004 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 2004 Department of Defense budget shall be prepared and submitted to the Congress on the basis that any equipment which was classified as an end item and funded in a procurement appropriation contained in this Act shall be budgeted for in a proposed fiscal year 2004 procurement appropriation and not in the supply management business area or any other area or category of the Department of Defense Working Capital Funds.

50 USC 403u
note.

SEC. 8042. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 2004: *Provided*, That funds appropriated, transferred, or otherwise credited to the Central Intelligence Agency Central Services Working Capital Fund during this or any prior or subsequent fiscal year shall remain available until expended: *Provided further*, That any funds appropriated or transferred to the Central Intelligence Agency for agent operations and for covert action programs authorized by the President under section 503 of the National Security Act of 1947, as amended, shall remain available until September 30, 2004.

SEC. 8043. Notwithstanding any other provision of law, funds made available in this Act for the Defense Intelligence Agency may be used for the design, development, and deployment of General Defense Intelligence Program intelligence communications and intelligence information systems for the Services, the Unified and Specified Commands, and the component commands.

SEC. 8044. Of the funds appropriated to the Department of Defense under the heading “Operation and Maintenance, Defense-Wide”, not less than \$10,000,000 shall be made available only for the mitigation of environmental impacts, including training and technical assistance to tribes, related administrative support, the gathering of information, documenting of environmental damage, and developing a system for prioritization of mitigation and cost to complete estimates for mitigation, on Indian lands resulting from Department of Defense activities.

SEC. 8045. Of the funds made available in this Act, not less than \$68,900,000 shall be available to maintain an attrition reserve force of 18 B-52 aircraft, of which \$3,700,000 shall be available from “Military Personnel, Air Force”, \$40,000,000 shall be available from “Operation and Maintenance, Air Force”, and \$25,200,000 shall be available from “Aircraft Procurement, Air Force”: *Provided*, That the Secretary of the Air Force shall maintain a total force of 94 B-52 aircraft, including 18 attrition reserve aircraft, during fiscal year 2003: *Provided further*, That the Secretary of Defense shall include in the Air Force budget request for fiscal year 2004 amounts sufficient to maintain a B-52 force totaling 94 aircraft.

SEC. 8046. (a) None of the funds appropriated in this Act may be expended by an entity of the Department of Defense unless the entity, in expending the funds, complies with the Buy American Act. For purposes of this subsection, the term “Buy American Act” means title III of the Act entitled “An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes”, approved March 3, 1933 (41 U.S.C. 10a et seq.).

(b) If the Secretary of Defense determines that a person has been convicted of intentionally affixing a label bearing a “Made in America” inscription to any product sold in or shipped to the United States that is not made in America, the Secretary shall determine, in accordance with section 2410f of title 10, United States Code, whether the person should be debarred from contracting with the Department of Defense.

(c) In the case of any equipment or products purchased with appropriations provided under this Act, it is the sense of the Congress that any entity of the Department of Defense, in expending

the appropriation, purchase only American-made equipment and products, provided that American-made equipment and products are cost-competitive, quality-competitive, and available in a timely fashion.

SEC. 8047. None of the funds appropriated by this Act shall be available for a contract for studies, analysis, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines—

(1) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work;

(2) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source; or

(3) the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 8048. (a) Except as provided in subsections (b) and (c), none of the funds made available by this Act may be used—

(1) to establish a field operating agency; or

(2) to pay the basic pay of a member of the Armed Forces or civilian employee of the department who is transferred or reassigned from a headquarters activity if the member or employee's place of duty remains at the location of that headquarters.

(b) The Secretary of Defense or Secretary of a military department may waive the limitations in subsection (a), on a case-by-case basis, if the Secretary determines, and certifies to the Committees on Appropriations of the House of Representatives and Senate that the granting of the waiver will reduce the personnel requirements or the financial requirements of the department.

(c) This section does not apply to field operating agencies funded within the National Foreign Intelligence Program.

SEC. 8049. Notwithstanding section 303 of Public Law 96-487 or any other provision of law, the Secretary of the Navy is authorized to lease real and personal property at Naval Air Facility, Adak, Alaska, pursuant to 10 U.S.C. 2667(f), for commercial, industrial or other purposes: *Provided*, That notwithstanding any other provision of law, the Secretary of the Navy may remove hazardous materials from facilities, buildings, and structures at Adak, Alaska, and may demolish or otherwise dispose of such facilities, buildings, and structures.

(RESCISSIONS)

SEC. 8050. Of the funds appropriated in Department of Defense Appropriations Acts, the following funds are hereby rescinded from the following accounts and programs in the specified amounts:

“Procurement of Weapons and Tracked Combat Vehicles, Army, 2001/2003”, \$9,500,000;

“Procurement of Ammunition, Army, 2001/2003”, \$4,000,000;
“Other Procurement, Army, 2001/2003”, \$8,000,000;
“Other Procurement, Navy, 2001/2003”, \$5,000,000;
“Missile Procurement, Air Force, 2001/2003”, \$93,600,000;
“Missile Procurement, Army, 2002/2004”, \$37,650,000;
“Procurement of Ammunition, Army, 2002/2004”, \$19,000,000;
“Other Procurement, Army, 2002/2004”, \$21,200,000;
“Missile Procurement, Air Force, 2002/2004”, \$114,600,000;
“Research, Development, Test and Evaluation, Navy, 2002/2003”, \$1,700,000;
“Research, Development, Test and Evaluation, Air Force, 2002/2003”, \$69,000,000; and
“Research, Development, Test and Evaluation, Defense-Wide, 2002/2003”, \$19,500,000.

SEC. 8051. None of the funds available in this Act may be used to reduce the authorized positions for military (civilian) technicians of the Army National Guard, the Air National Guard, Army Reserve and Air Force Reserve for the purpose of applying any administratively imposed civilian personnel ceiling, freeze, or reduction on military (civilian) technicians, unless such reductions are a direct result of a reduction in military force structure.

SEC. 8052. None of the funds appropriated or otherwise made available in this Act may be obligated or expended for assistance to the Democratic People’s Republic of North Korea unless specifically appropriated for that purpose.

SEC. 8053. During the current fiscal year, funds appropriated in this Act are available to compensate members of the National Guard for duty performed pursuant to a plan submitted by a Governor of a State and approved by the Secretary of Defense under section 112 of title 32, United States Code: *Provided*, That during the performance of such duty, the members of the National Guard shall be under State command and control: *Provided further*, That such duty shall be treated as full-time National Guard duty for purposes of sections 12602(a)(2) and (b)(2) of title 10, United States Code.

SEC. 8054. Funds appropriated in this Act for operation and maintenance of the Military Departments, Combatant Commands and Defense Agencies shall be available for reimbursement of pay, allowances and other expenses which would otherwise be incurred against appropriations for the National Guard and Reserve when members of the National Guard and Reserve provide intelligence or counterintelligence support to Combatant Commands, Defense Agencies and Joint Intelligence Activities, including the activities and programs included within the National Foreign Intelligence Program (NFIP), the Joint Military Intelligence Program (JMIP), and the Tactical Intelligence and Related Activities (TIARA) aggregate: *Provided*, That nothing in this section authorizes deviation from established Reserve and National Guard personnel and training procedures.

SEC. 8055. During the current fiscal year, none of the funds appropriated in this Act may be used to reduce the civilian medical and medical support personnel assigned to military treatment facilities below the September 30, 2002 level: *Provided*, That the Service Surgeons General may waive this section by certifying to the congressional defense committees that the beneficiary population

is declining in some catchment areas and civilian strength reductions may be consistent with responsible resource stewardship and capitation-based budgeting.

SEC. 8056. (a) LIMITATION ON PENTAGON RENOVATION COSTS.—Not later than the date each year on which the President submits to Congress the budget under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress a certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of wedges 2 through 5 of the Pentagon Reservation, cumulatively, will not exceed four times the total cost for the planning, design, construction, and installation of equipment for the renovation of wedge 1.

Deadline.
Notification.
10 USC 2674
note.

(b) ANNUAL ADJUSTMENT.—For purposes of applying the limitation in subsection (a), the Secretary shall adjust the cost for the renovation of wedge 1 by any increase or decrease in costs attributable to economic inflation, based on the most recent economic assumptions issued by the Office of Management and Budget for use in preparation of the budget of the United States under section 1104 of title 31, United States Code.

(c) EXCLUSION OF CERTAIN COSTS.—For purposes of calculating the limitation in subsection (a), the total cost for wedges 2 through 5 shall not include—

(1) any repair or reconstruction cost incurred as a result of the terrorist attack on the Pentagon that occurred on September 11, 2001;

(2) any increase in costs for wedges 2 through 5 attributable to compliance with new requirements of Federal, State, or local laws; and

(3) any increase in costs attributable to additional security requirements that the Secretary of Defense considers essential to provide a safe and secure working environment.

(d) CERTIFICATION COST REPORTS.—As part of the annual certification under subsection (a), the Secretary shall report the projected cost (as of the time of the certification) for—

(1) the renovation of each wedge, including the amount adjusted or otherwise excluded for such wedge under the authority of paragraphs (2) and (3) of subsection (c) for the period covered by the certification; and

(2) the repair and reconstruction of wedges 1 and 2 in response to the terrorist attack on the Pentagon that occurred on September 11, 2001.

(e) DURATION OF CERTIFICATION REQUIREMENT.—The requirement to make an annual certification under subsection (a) shall apply until the Secretary certifies to Congress that the renovation of the Pentagon Reservation is completed.

Applicability.

SEC. 8057. Notwithstanding any other provision of law, that not more than 35 percent of funds provided in this Act for environmental remediation may be obligated under indefinite delivery/indefinite quantity contracts with a total contract value of \$130,000,000 or higher.

SEC. 8058. (a) None of the funds available to the Department of Defense for any fiscal year for drug interdiction or counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

10 USC 374 note.

50 USC 403f
note.

(b) None of the funds available to the Central Intelligence Agency for any fiscal year for drug interdiction and counter-drug activities may be transferred to any other department or agency of the United States except as specifically provided in an appropriations law.

(TRANSFER OF FUNDS)

SEC. 8059. Appropriations available in this Act under the heading “Operation and Maintenance, Defense-Wide” for increasing energy and water efficiency in Federal buildings may, during their period of availability, be transferred to other appropriations or funds of the Department of Defense for projects related to increasing energy and water efficiency, to be merged with and to be available for the same general purposes, and for the same time period, as the appropriation or fund to which transferred.

Applicability.

SEC. 8060. None of the funds appropriated by this Act may be used for the procurement of ball and roller bearings other than those produced by a domestic source and of domestic origin: *Provided*, That the Secretary of the military department responsible for such procurement may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate, that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes: *Provided further*, That this restriction shall not apply to the purchase of “commercial items”, as defined by section 4(12) of the Office of Federal Procurement Policy Act, except that the restriction shall apply to ball or roller bearings purchased as end items.

SEC. 8061. Notwithstanding any other provision of law, funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to American Samoa, and funds available to the Department of Defense shall be made available to provide transportation of medical supplies and equipment, on a nonreimbursable basis, to the Indian Health Service when it is in conjunction with a civil-military project.

SEC. 8062. None of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the congressional defense committees that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers.

SEC. 8063. Notwithstanding any other provision of law, the Naval shipyards of the United States shall be eligible to participate in any manufacturing extension program financed by funds appropriated in this or any other Act.

SEC. 8064. Notwithstanding any other provision of law, each contract awarded by the Department of Defense during the current fiscal year for construction or service performed in whole or in part in a State (as defined in section 381(d) of title 10, United States Code) which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor, shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State

that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided*, That the Secretary of Defense may waive the requirements of this section, on a case-by-case basis, in the interest of national security.

SEC. 8065. (a) None of the funds made available in this or any other Act may be used to pay the salary of any officer or employee of the Department of Defense who approves or implements the transfer of administrative responsibilities or budgetary resources of any program, project, or activity financed by this Act to the jurisdiction of another Federal agency not financed by this Act without the express authorization of Congress: *Provided*, That this limitation shall not apply to transfers of funds expressly provided for in Defense Appropriations Acts, or provisions of Acts providing supplemental appropriations for the Department of Defense.

(b) None of the funds in this or any other Act may be used to dismantle national memorials commemorating United States participation in World War I.

SEC. 8066. (a) LIMITATION ON TRANSFER OF DEFENSE ARTICLES AND SERVICES.—Notwithstanding any other provision of law, none of the funds available to the Department of Defense for the current fiscal year may be obligated or expended to transfer to another nation or an international organization any defense articles or services (other than intelligence services) for use in the activities described in subsection (b) unless the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate are notified 15 days in advance of such transfer.

Notice.

(b) COVERED ACTIVITIES.—This section applies to—

Applicability.

(1) any international peacekeeping or peace-enforcement operation under the authority of chapter VI or chapter VII of the United Nations Charter under the authority of a United Nations Security Council resolution; and

(2) any other international peacekeeping, peace-enforcement, or humanitarian assistance operation.

(c) REQUIRED NOTICE.—A notice under subsection (a) shall include the following:

(1) A description of the equipment, supplies, or services to be transferred.

(2) A statement of the value of the equipment, supplies, or services to be transferred.

(3) In the case of a proposed transfer of equipment or supplies—

(A) a statement of whether the inventory requirements of all elements of the Armed Forces (including the reserve components) for the type of equipment or supplies to be transferred have been met; and

(B) a statement of whether the items proposed to be transferred will have to be replaced and, if so, how the President proposes to provide funds for such replacement.

SEC. 8067. To the extent authorized by subchapter VI of chapter 148 of title 10, United States Code, the Secretary of Defense may issue loan guarantees in support of United States defense exports not otherwise provided for: *Provided*, That the total contingent liability of the United States for guarantees issued under the

Reports.

authority of this section may not exceed \$15,000,000,000: *Provided further*, That the exposure fees charged and collected by the Secretary for each guarantee shall be paid by the country involved and shall not be financed as part of a loan guaranteed by the United States: *Provided further*, That the Secretary shall provide quarterly reports to the Committees on Appropriations, Armed Services, and Foreign Relations of the Senate and the Committees on Appropriations, Armed Services, and International Relations in the House of Representatives on the implementation of this program: *Provided further*, That amounts charged for administrative fees and deposited to the special account provided for under section 2540c(d) of title 10, shall be available for paying the costs of administrative expenses of the Department of Defense that are attributable to the loan guarantee program under subchapter VI of chapter 148 of title 10, United States Code.

SEC. 8068. None of the funds available to the Department of Defense under this Act shall be obligated or expended to pay a contractor under a contract with the Department of Defense for costs of any amount paid by the contractor to an employee when—

(1) such costs are for a bonus or otherwise in excess of the normal salary paid by the contractor to the employee; and

(2) such bonus is part of restructuring costs associated with a business combination.

SEC. 8069. (a) None of the funds appropriated or otherwise made available in this Act may be used to transport or provide for the transportation of chemical munitions or agents to the Johnston Atoll for the purpose of storing or demilitarizing such munitions or agents.

(b) The prohibition in subsection (a) shall not apply to any obsolete World War II chemical munition or agent of the United States found in the World War II Pacific Theater of Operations.

(c) The President may suspend the application of subsection (a) during a period of war in which the United States is a party.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8070. During the current fiscal year, no more than \$30,000,000 of appropriations made in this Act under the heading “Operation and Maintenance, Defense-Wide” may be transferred to appropriations available for the pay of military personnel, to be merged with, and to be available for the same time period as the appropriations to which transferred, to be used in support of such personnel in connection with support and services for eligible organizations and activities outside the Department of Defense pursuant to section 2012 of title 10, United States Code.

SEC. 8071. During the current fiscal year, in the case of an appropriation account of the Department of Defense for which the period of availability for obligation has expired or which has closed under the provisions of section 1552 of title 31, United States Code, and which has a negative unliquidated or unexpended balance, an obligation or an adjustment of an obligation may be charged to any current appropriation account for the same purpose as the expired or closed account if—

(1) the obligation would have been properly chargeable (except as to amount) to the expired or closed account before the end of the period of availability or closing of that account;

(2) the obligation is not otherwise properly chargeable to any current appropriation account of the Department of Defense; and

(3) in the case of an expired account, the obligation is not chargeable to a current appropriation of the Department of Defense under the provisions of section 1405(b)(8) of the National Defense Authorization Act for Fiscal Year 1991, Public Law 101-510, as amended (31 U.S.C. 1551 note): *Provided*, That in the case of an expired account, if subsequent review or investigation discloses that there was not in fact a negative unliquidated or unexpended balance in the account, any charge to a current account under the authority of this section shall be reversed and recorded against the expired account: *Provided further*, That the total amount charged to a current appropriation under this section may not exceed an amount equal to 1 percent of the total appropriation for that account.

SEC. 8072. Funds appropriated in title II of this Act and for the Defense Health Program in title VI of this Act for supervision and administration costs for facilities maintenance and repair, minor construction, or design projects may be obligated at the time the reimbursable order is accepted by the performing activity: *Provided*, That for the purpose of this section, supervision and administration costs includes all in-house Government cost.

SEC. 8073. During the current fiscal year and hereafter, the Secretary of Defense may waive reimbursement of the cost of conferences, seminars, courses of instruction, or similar educational activities of the Asia-Pacific Center for Security Studies for military officers and civilian officials of foreign nations if the Secretary determines that attendance by such personnel, without reimbursement, is in the national security interest of the United States: *Provided*, That costs for which reimbursement is waived pursuant to this section shall be paid from appropriations available for the Asia-Pacific Center.

10 USC note
prec. 2161.

SEC. 8074. (a) Notwithstanding any other provision of law, the Chief of the National Guard Bureau may permit the use of equipment of the National Guard Distance Learning Project by any person or entity on a space-available, reimbursable basis. The Chief of the National Guard Bureau shall establish the amount of reimbursement for such use on a case-by-case basis.

(b) Amounts collected under subsection (a) shall be credited to funds available for the National Guard Distance Learning Project and be available to defray the costs associated with the use of equipment of the project under that subsection. Such funds shall be available for such purposes without fiscal year limitation.

SEC. 8075. Using funds available by this Act or any other Act, the Secretary of the Air Force, pursuant to a determination under section 2690 of title 10, United States Code, may implement cost-effective agreements for required heating facility modernization in the Kaiserslautern Military Community in the Federal Republic of Germany: *Provided*, That in the City of Kaiserslautern such agreements will include the use of United States anthracite as the base load energy for municipal district heat to the United States Defense installations: *Provided further*, That at Landstuhl Army Regional Medical Center and Ramstein Air Base, furnished heat may be obtained from private, regional or municipal services, if provisions are included for the consideration of United States coal as an energy source.

SEC. 8076. None of the funds appropriated in title IV of this Act may be used to procure end-items for delivery to military forces for operational training, operational use or inventory requirements: *Provided*, That this restriction does not apply to end-items used in development, prototyping, and test activities preceding and leading to acceptance for operational use: *Provided further*, That this restriction does not apply to programs funded within the National Foreign Intelligence Program: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8077. None of the funds made available in this Act may be used to approve or license the sale of the F-22 advanced tactical fighter to any foreign government.

SEC. 8078. (a) The Secretary of Defense may, on a case-by-case basis, waive with respect to a foreign country each limitation on the procurement of defense items from foreign sources provided in law if the Secretary determines that the application of the limitation with respect to that country would invalidate cooperative programs entered into between the Department of Defense and the foreign country, or would invalidate reciprocal trade agreements for the procurement of defense items entered into under section 2531 of title 10, United States Code, and the country does not discriminate against the same or similar defense items produced in the United States for that country.

Applicability.

(b) Subsection (a) applies with respect to—

(1) contracts and subcontracts entered into on or after the date of the enactment of this Act; and

(2) options for the procurement of items that are exercised after such date under contracts that are entered into before such date if the option prices are adjusted for any reason other than the application of a waiver granted under subsection (a).

(c) Subsection (a) does not apply to a limitation regarding construction of public vessels, ball and roller bearings, food, and clothing or textile materials as defined by section 11 (chapters 50–65) of the Harmonized Tariff Schedule and products classified under headings 4010, 4202, 4203, 6401 through 6406, 6505, 7019, 7218 through 7229, 7304.41 through 7304.49, 7306.40, 7502 through 7508, 8105, 8108, 8109, 8211, 8215, and 9404.

SEC. 8079. Funds made available to the Civil Air Patrol in this Act under the heading “Drug Interdiction and Counter-Drug Activities, Defense” may be used for the Civil Air Patrol Corporation’s counterdrug program, including its demand reduction program involving youth programs, as well as operational and training drug reconnaissance missions for Federal, State, and local government agencies; and for equipment needed for mission support or performance: *Provided*, That the Department of the Air Force should waive reimbursement from the Federal, State, and local government agencies for the use of these funds.

SEC. 8080. (a) PROHIBITION.—None of the funds made available by this Act may be used to support any training program involving a unit of the security forces of a foreign country if the Secretary of Defense has received credible information from the Department of State that the unit has committed a gross violation of human rights, unless all necessary corrective steps have been taken.

(b) **MONITORING.**—The Secretary of Defense, in consultation with the Secretary of State, shall ensure that prior to a decision to conduct any training program referred to in subsection (a), full consideration is given to all credible information available to the Department of State relating to human rights violations by foreign security forces.

(c) **WAIVER.**—The Secretary of Defense, after consultation with the Secretary of State, may waive the prohibition in subsection (a) if he determines that such waiver is required by extraordinary circumstances.

(d) **REPORT.**—Not more than 15 days after the exercise of any waiver under subsection (c), the Secretary of Defense shall submit a report to the congressional defense committees describing the extraordinary circumstances, the purpose and duration of the training program, the United States forces and the foreign security forces involved in the training program, and the information relating to human rights violations that necessitates the waiver.

Deadline.

SEC. 8081. The Secretary of Defense, in coordination with the Secretary of Health and Human Services, may carry out a program to distribute surplus dental equipment of the Department of Defense, at no cost to the Department of Defense, to Indian Health Service facilities and to federally-qualified health centers (within the meaning of section 1905(l)(2)(B) of the Social Security Act (42 U.S.C. 1396d(l)(2)(B))).

SEC. 8082. The total amount appropriated in this Act is hereby reduced by \$338,000,000 to reflect savings from favorable foreign currency fluctuations, to be derived as follows:

“Military Personnel, Army”, \$80,000,000;

“Military Personnel, Navy”, \$6,500,000;

“Military Personnel, Marine Corps”, \$11,000,000;

“Military Personnel, Air Force”, \$29,000,000;

“Operation and Maintenance, Army”, \$102,000,000;

“Operation and Maintenance, Navy”, \$21,500,000;

“Operation and Maintenance, Marine Corps”, \$2,000,000;

“Operation and Maintenance, Air Force”, \$46,000,000; and

“Operation and Maintenance, Defense-Wide”, \$40,000,000.

SEC. 8083. None of the funds appropriated or made available in this Act to the Department of the Navy shall be used to develop, lease or procure the T-AKE class of ships unless the main propulsion diesel engines and propulsors are manufactured in the United States by a domestically operated entity: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that adequate domestic supplies are not available to meet Department of Defense requirements on a timely basis and that such an acquisition must be made in order to acquire capability for national security purposes or there exists a significant cost or quality difference.

SEC. 8084. None of the funds appropriated or otherwise made available by this or other Department of Defense Appropriations Acts may be obligated or expended for the purpose of performing repairs or maintenance to military family housing units of the Department of Defense, including areas in such military family housing units that may be used for the purpose of conducting official Department of Defense business.

SEC. 8085. Notwithstanding any other provision of law, funds appropriated in this Act under the heading “Research, Development,

Test and Evaluation, Defense-Wide” for any advanced concept technology demonstration project may only be obligated 30 days after a report, including a description of the project and its estimated annual and total cost, has been provided in writing to the congressional defense committees: *Provided*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying to the congressional defense committees that it is in the national interest to do so.

SEC. 8086. Notwithstanding any other provision of law, for the purpose of establishing all Department of Defense policies governing the provision of care provided by and financed under the military health care system’s case management program under 10 U.S.C. 1079(a)(17), the term “custodial care” shall be defined as care designed essentially to assist an individual in meeting the activities of daily living and which does not require the supervision of trained medical, nursing, paramedical or other specially trained individuals: *Provided*, That the case management program shall provide that members and retired members of the military services, and their dependents and survivors, have access to all medically necessary health care through the health care delivery system of the military services regardless of the health care status of the person seeking the health care: *Provided further*, That the case management program shall be the primary obligor for payment of medically necessary services and shall not be considered as secondarily liable to title XIX of the Social Security Act, other welfare programs or charity based care.

SEC. 8087. During the current fiscal year, refunds attributable to the use of the Government travel card, refunds attributable to the use of the Government Purchase Card and refunds attributable to official Government travel arranged by Government Contracted Travel Management Centers may be credited to operation and maintenance accounts of the Department of Defense which are current when the refunds are received.

SEC. 8088. (a) REGISTERING FINANCIAL MANAGEMENT INFORMATION TECHNOLOGY SYSTEMS WITH DOD CHIEF INFORMATION OFFICER.—None of the funds appropriated in this Act may be used for a mission critical or mission essential financial management information technology system (including a system funded by the defense working capital fund) that is not registered with the Chief Information Officer of the Department of Defense. A system shall be considered to be registered with that officer upon the furnishing to that officer of notice of the system, together with such information concerning the system as the Secretary of Defense may prescribe. A financial management information technology system shall be considered a mission critical or mission essential information technology system as defined by the Under Secretary of Defense (Comptroller).

(b) CERTIFICATIONS AS TO COMPLIANCE WITH FINANCIAL MANAGEMENT MODERNIZATION PLAN.—

(1) During the current fiscal year, a financial management major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production, or their equivalent, within the Department of Defense until the Under Secretary of Defense (Comptroller) certifies, with respect to that milestone, that the system is being developed and managed in accordance with the Department’s Financial Management Modernization Plan. The Under Secretary of

Defense (Comptroller) may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1).

Notification.

(c) CERTIFICATIONS AS TO COMPLIANCE WITH CLINGER-COHEN ACT.—(1) During the current fiscal year, a major automated information system may not receive Milestone A approval, Milestone B approval, or full rate production approval, or their equivalent, within the Department of Defense until the Chief Information Officer certifies, with respect to that milestone, that the system is being developed in accordance with the Clinger-Cohen Act of 1996 (40 U.S.C. 1401 et seq.). The Chief Information Officer may require additional certifications, as appropriate, with respect to any such system.

(2) The Chief Information Officer shall provide the congressional defense committees timely notification of certifications under paragraph (1). Each such notification shall include, at a minimum, the funding baseline and milestone schedule for each system covered by such a certification and confirmation that the following steps have been taken with respect to the system:

Notification.

(A) Business process reengineering.

(B) An analysis of alternatives.

(C) An economic analysis that includes a calculation of the return on investment.

(D) Performance measures.

(E) An information assurance strategy consistent with the Department's Global Information Grid.

(d) DEFINITIONS.—For purposes of this section:

(1) The term “Chief Information Officer” means the senior official of the Department of Defense designated by the Secretary of Defense pursuant to section 3506 of title 44, United States Code.

(2) The term “information technology system” has the meaning given the term “information technology” in section 5002 of the Clinger-Cohen Act of 1996 (40 U.S.C. 1401).

(3) The term “major automated information system” has the meaning given that term in Department of Defense Directive 5000.1.

SEC. 8089. During the current fiscal year, none of the funds available to the Department of Defense may be used to provide support to another department or agency of the United States if such department or agency is more than 90 days in arrears in making payment to the Department of Defense for goods or services previously provided to such department or agency on a reimbursable basis: *Provided*, That this restriction shall not apply if the department is authorized by law to provide support to such department or agency on a nonreimbursable basis, and is providing the requested support pursuant to such authority: *Provided further*, That the Secretary of Defense may waive this restriction on a case-by-case basis by certifying in writing to the Committees on Appropriations of the House of Representatives and the Senate that it is in the national security interest to do so.

SEC. 8090. None of the funds provided in this Act may be used to transfer to any nongovernmental entity ammunition held by the Department of Defense that has a center-fire cartridge and a United States military nomenclature designation of “armor

penetrator”, “armor piercing (AP)”, “armor piercing incendiary (API)”, or “armor-piercing incendiary-tracer (API-T)”, except to an entity performing demilitarization services for the Department of Defense under a contract that requires the entity to demonstrate to the satisfaction of the Department of Defense that armor piercing projectiles are either: (1) rendered incapable of reuse by the demilitarization process; or (2) used to manufacture ammunition pursuant to a contract with the Department of Defense or the manufacture of ammunition for export pursuant to a License for Permanent Export of Unclassified Military Articles issued by the Department of State.

SEC. 8091. Notwithstanding any other provision of law, the Chief of the National Guard Bureau, or his designee, may waive payment of all or part of the consideration that otherwise would be required under 10 U.S.C. 2667, in the case of a lease of personal property for a period not in excess of 1 year to any organization specified in 32 U.S.C. 508(d), or any other youth, social, or fraternal non-profit organization as may be approved by the Chief of the National Guard Bureau, or his designee, on a case-by-case basis.

Alcohol and
alcoholic
beverages.
10 USC 2488
note.

SEC. 8092. None of the funds appropriated by this Act shall be used for the support of any nonappropriated funds activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States unless such malt beverages and wine are procured within that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided*, That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further*, That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages only for military installations in States which are not contiguous with another State: *Provided further*, That alcoholic beverages other than wine and malt beverages, in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Applicability.

Regulations.
10 USC 182 note.

SEC. 8093. During the current fiscal year and hereafter, under regulations prescribed by the Secretary of Defense, the Center of Excellence for Disaster Management and Humanitarian Assistance may also pay, or authorize payment for, the expenses of providing or facilitating education and training for appropriate military and civilian personnel of foreign countries in disaster management, peace operations, and humanitarian assistance.

SEC. 8094. (a) The Department of Defense is authorized to enter into agreements with the Department of Veterans Affairs and federally-funded health agencies providing services to Native Hawaiians for the purpose of establishing a partnership similar to the Alaska Federal Health Care Partnership, in order to maximize Federal resources in the provision of health care services by federally-funded health agencies, applying telemedicine technologies. For the purpose of this partnership, Native Hawaiians shall have the same status as other Native Americans who are eligible for the health care services provided by the Indian Health Service.

(b) The Department of Defense is authorized to develop a consultation policy, consistent with Executive Order No. 13084 (issued

May 14, 1998), with Native Hawaiians for the purpose of assuring maximum Native Hawaiian participation in the direction and administration of governmental services so as to render those services more responsive to the needs of the Native Hawaiian community.

(c) For purposes of this section, the term “Native Hawaiian” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8095. Of the amounts appropriated in this Act under the heading “Research, Development, Test and Evaluation, Defense-Wide”, \$136,000,000 shall be made available for the Arrow missile defense program: *Provided*, That of this amount, \$66,000,000 shall be available for the purpose of continuing the Arrow System Improvement Program (ASIP), and \$70,000,000 shall be available for the purpose of producing Arrow missile components in the United States and Arrow missile components and missiles in Israel to meet Israel’s defense requirements, consistent with each nation’s laws, regulations and procedures: *Provided further*, That funds made available under this provision for production of missiles and missile components may be transferred to appropriations available for the procurement of weapons and equipment, to be merged with and to be available for the same time period and the same purposes as the appropriation to which transferred: *Provided further*, That the transfer authority provided under this provision is in addition to any other transfer authority contained in this Act.

SEC. 8096. Funds available to the Department of Defense for the Global Positioning System during the current fiscal year may be used to fund civil requirements associated with the satellite and ground control segments of such system’s modernization program.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8097. Of the amounts appropriated in this Act under the heading, “Operation and Maintenance, Defense-Wide”, \$68,000,000 shall remain available until expended: *Provided*, That notwithstanding any other provision of law, the Secretary of Defense is authorized to transfer such funds to other activities of the Federal Government.

SEC. 8098. Section 8106 of the Department of Defense Appropriations Act, 1997 (titles I through VIII of the matter under subsection 101(b) of Public Law 104-208; 110 Stat. 3009-111; 10 U.S.C. 113 note) shall continue in effect to apply to disbursements that are made by the Department of Defense in fiscal year 2003.

SEC. 8099. In addition to amounts provided in this Act, \$1,700,000 is hereby appropriated for “Defense Health Program”, to remain available for obligation until expended: *Provided*, That notwithstanding any other provision of law, these funds shall be available only for a grant to the Fisher House Foundation, Inc., only for the construction and furnishing of additional Fisher Houses to meet the needs of military family members when confronted with the illness or hospitalization of an eligible military beneficiary.

SEC. 8100. Notwithstanding any other provision of this Act, the total amount appropriated in this Act is hereby reduced by

Applicability.
10 USC 113 note.

\$850,000,000, to reflect savings to be achieved from business process reforms, management efficiencies, and procurement of administrative and management support, to be distributed as follows:

“Operation and Maintenance, Army”, \$26,000,000;
 “Operation and Maintenance, Navy”, \$60,300,000;
 “Operation and Maintenance, Marine Corps”, \$8,400,000;
 “Operation and Maintenance, Air Force”, \$91,200,000;
 “Operation and Maintenance, Defense-Wide”, \$199,000,000;
 “Operation and Maintenance, Army Reserve”, \$5,900,000;
 “Operation and Maintenance, Marine Corps Reserve”,
 \$900,000;
 “Operation and Maintenance, Air Force Reserve”,
 \$1,000,000;
 “Operation and Maintenance, Army National Guard”,
 \$4,300,000;
 “Operation and Maintenance, Air National Guard”,
 \$2,600,000;
 “Aircraft Procurement, Army”, \$3,700,000;
 “Missile Procurement, Army”, \$1,100,000;
 “Procurement of Weapons and Tracked Combat Vehicles,
 Army”, \$3,100,000;
 “Other Procurement, Army”, \$17,700,000;
 “Aircraft Procurement, Navy”, \$22,800,000;
 “Weapons Procurement, Navy”, \$4,800,000;
 “Procurement of Ammunition, Navy and Marine Corps”,
 \$1,000,000;
 “Shipbuilding and Conversion, Navy”, \$15,700,000;
 “Other Procurement, Navy”, \$7,200,000;
 “Procurement, Marine Corps”, \$2,600,000;
 “Aircraft Procurement, Air Force”, \$9,700,000;
 “Missile Procurement, Air Force”, \$6,200,000;
 “Other Procurement, Air Force”, \$6,200,000;
 “Procurement, Defense-Wide”, \$1,200,000;
 “Research, Development, Test and Evaluation, Army”,
 \$23,500,000;
 “Research, Development, Test and Evaluation, Navy”,
 \$55,700,000;
 “Research, Development, Test and Evaluation, Air Force”,
 \$66,200,000;
 “Research, Development, Test and Evaluation, Defense-
 Wide”, \$154,000,000;
 “Operational Test and Evaluation, Defense”, \$5,000,000;
 “National Defense Sealift Fund”, \$1,000,000;
 “Defense Health Program”, \$12,000,000;
 “Chemical Agents and Munitions Destruction, Army”,
 \$20,000,000; and
 “Drug Interdiction and Counter-Drug Activities, Defense”,
 \$10,000,000:

Applicability.

Provided, That these reductions shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within each appropriation account: *Provided further*, That none of the funds provided in this Act may be used for consulting and advisory services for legislative affairs and legislative liaison functions.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8101. Of the amounts appropriated in this Act under the heading “Shipbuilding and Conversion, Navy”, \$1,279,899,000 shall be available until September 30, 2003, to fund prior year shipbuilding cost increases: *Provided*, That upon enactment of this Act, the Secretary of the Navy shall transfer such funds to the following appropriations in the amounts specified: *Provided further*, That the amounts transferred shall be merged with and be available for the same purposes as the appropriations to which transferred:

To:

Under the heading, “Shipbuilding and Conversion, Navy, 1996/03”:

LPD-17 Amphibious Transport Dock Ship Program, \$300,681,000;

Under the heading, “Shipbuilding and Conversion, Navy, 1998/03”:

DDG-51 Destroyer Program, \$76,100,000;

New SSN, \$190,882,000;

Under the heading, “Shipbuilding and Conversion, Navy, 1999/03”:

DDG-51 Destroyer Program, \$93,736,000;

LPD-17 Amphibious Transport Dock Ship Program, \$82,000,000;

New SSN, \$135,800,000;

Under the heading, “Shipbuilding and Conversion, Navy, 2000/03”:

DDG-51 Destroyer Program, \$51,724,000;

LPD-17 Amphibious Transport Dock Ship Program, \$187,000,000;

Under the heading, “Shipbuilding and Conversion, Navy, 2001/03”:

DDG-51 Destroyer Program, \$63,976,000; and

Under the heading, “Shipbuilding and Conversion, Navy, 2002/03”:

DDG-51 Destroyer Program, \$98,000,000.

SEC. 8102. The Secretary of the Navy may settle, or compromise, and pay any and all admiralty claims under 10 U.S.C. 7622 arising out of the collision involving the U.S.S. GREENEVILLE and the EHIME MARU, in any amount and without regard to the monetary limitations in subsections (a) and (b) of that section: *Provided*, That such payments shall be made from funds available to the Department of the Navy for operation and maintenance.

SEC. 8103. The total amount appropriated in title II of this Act is hereby reduced by \$97,000,000, to reflect savings attributable to improved supervision in determining appropriate purchases to be made using the Government purchase card, to be derived as follows:

“Operation and Maintenance, Army”, \$24,000,000;

“Operation and Maintenance, Navy”, \$29,000,000;

“Operation and Maintenance, Marine Corps”, \$3,000,000;

“Operation and Maintenance, Air Force”, \$27,000,000; and

“Operation and Maintenance, Defense-Wide”, \$14,000,000.

SEC. 8104. Funds provided for the current fiscal year or hereafter for Operation and maintenance for the Armed Forces may

be used, notwithstanding any other provision of law, for the purchase of ultralightweight camouflage net systems as unit spares.

(INCLUDING TRANSFER OF FUNDS)

Deadline.

Reports.
Deadline.

SEC. 8105. During the current fiscal year and for fiscal years 2004 and 2005, notwithstanding any other provision of law, the Secretary of Defense may transfer not more than \$20,000,000 of unobligated balances remaining in a Research, Development, Test and Evaluation, Army appropriation account during the last fiscal year before the account closes under section 1552 of title 31 United States Code, to a current Research, Development, Test and Evaluation, Army appropriation account to be used only for the continuation of the Venture Capital Fund demonstration, as originally approved in Section 8150 of Public Law 107-117, to pursue high payoff technology and innovations in science and technology: *Provided*, That any such transfer shall be made not later than July 31 of each year: *Provided further*, That funds so transferred shall be merged with and shall be available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That no funds for programs, projects, or activities designated as special congressional interest items in DD Form 1414 shall be eligible for transfer under the authority of this section: *Provided further*, That any unobligated balances transferred under this authority may be restored to the original appropriation if required to cover unexpected upward adjustments: *Provided further*, That the Secretary of the Army shall provide an annual report to the House and Senate Appropriations Committees no later than 15 days prior to the annual transfer of funds under authority of this section describing the sources and amounts of funds proposed to be transferred, summarizing the projects funded under this demonstration program (including the name and location of project sponsors) to date, a description of the major program accomplishments to date, and an overall assessment of the benefits of this demonstration program compared to the goals expressed in the legislative history accompanying Section 8150 of Public Law 107-117.

SEC. 8106. Notwithstanding any other provision of law or regulation, the Secretary of Defense may exercise the provisions of 38 U.S.C. 7403(g) for occupations listed in 38 U.S.C. 7403(a)(2) as well as the following:

Pharmacists, Audiologists, and Dental Hygienists.

(A) The requirements of 38 U.S.C. 7403(g)(1)(A) shall apply.

(B) The limitations of 38 U.S.C. 7403(g)(1)(B) shall not apply.

SEC. 8107. Funds appropriated by this Act, or made available by the transfer of funds in this Act, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414) during fiscal year 2003 until the enactment of the Intelligence Authorization Act for fiscal year 2003.

SEC. 8108. In addition to funds made available elsewhere in this Act \$7,750,000 is hereby appropriated and shall remain available until expended to provide assistance, by grant or otherwise (such as, but not limited to, the provision of funds for repairs,

maintenance, construction, and/or for the purchase of information technology, text books, teaching resources), to public schools that have unusually high concentrations of special needs military dependents enrolled: *Provided*, That in selecting school systems to receive such assistance, special consideration shall be given to school systems in States that are considered overseas assignments, and all schools within these school systems shall be eligible for assistance: *Provided further*, That up to \$2,000,000 shall be available for the Department of Defense to establish a non-profit trust fund to assist in the public-private funding of public school repair and maintenance projects, or provide directly to non-profit organizations who in return will use these monies to provide assistance in the form of repair, maintenance, or renovation to public school systems that have high concentrations of special needs military dependents and are located in States that are considered overseas assignments, and of which 2 percent shall be available to support the administration and execution of the funds: *Provided further*, That to the extent a federal agency provides this assistance, by contract, grant, or otherwise, it may accept and expend non-federal funds in combination with these federal funds to provide assistance for the authorized purpose, if the non-federal entity requests such assistance and the non-federal funds are provided on a reimbursable basis: *Provided further*, That \$2,750,000 shall be available for a grant to the Central Kitsap School District, Washington.

Grants.
Washington.

SEC. 8109. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$400,000,000, to reduce cost growth in information technology development, to be distributed as follows:

- “Operation and Maintenance, Defense-Wide”, \$19,500,000;
- “Other Procurement, Army”, \$53,200,000;
- “Other Procurement, Navy”, \$20,600,000;
- “Procurement, Marine Corps”, \$3,400,000;
- “Other Procurement, Air Force”, \$12,000,000;
- “Procurement, Defense-Wide”, \$3,500,000;
- “Research, Development, Test and Evaluation, Army”, \$17,700,000;
- “Research, Development, Test and Evaluation, Navy”, \$25,600,000;
- “Research, Development, Test and Evaluation, Air Force”, \$27,200,000;
- “Research, Development, Test and Evaluation, Defense-Wide”, \$36,600,000;
- “Defense Working Capital Funds”, \$148,600,000; and
- “Defense Health Program”, \$32,100,000:

Provided, That these reductions shall be applied proportionally to each budget activity, activity group and subactivity group and each program, project, and activity within each appropriation account.

Applicability.

SEC. 8110. Notwithstanding section 1116(c) of title 10, United States Code, payments into the Department of Defense Medicare-Eligible Retiree Health Care Fund for fiscal year 2003 under section 1116(a) of such title shall be made from funds available in this Act for the pay of military personnel.

SEC. 8111. None of the funds in this Act may be used to initiate a new start program without prior notification to the Office of Secretary of Defense and the congressional defense committees.

SEC. 8112. The amount appropriated in title II of this Act is hereby reduced by \$120,000,000, to reflect Working Capital Fund cash balance and rate stabilization adjustments, to be derived as follows:

“Operation and Maintenance, Navy”, \$120,000,000.

SEC. 8113. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$48,000,000, to reduce excess funded carryover, to be derived as follows:

“Operation and Maintenance, Army”, \$48,000,000.

SEC. 8114. Of the amounts appropriated in title II of this Act, not less than \$1,000,000,000 is available for operations of the Department of Defense to prosecute the war on terrorism.

Grants.

SEC. 8115. (a) In addition to the amounts provided elsewhere in this Act, the amount of \$3,400,000 is hereby appropriated to the Department of Defense for “Operation and Maintenance, Army National Guard”. Such amount shall be made available to the Secretary of the Army only to make a grant in the amount of \$3,400,000 to the entity specified in subsection (b) to facilitate access by veterans to opportunities for skilled employment in the construction industry.

(b) The entity referred to in subsection (a) is the Center for Military Recruitment, Assessment and Veterans Employment, a nonprofit labor-management co-operation committee provided for by section 302(c)(9) of the Labor-Management Relations Act, 1947 (29 U.S.C. 186(c)(9)), for the purposes set forth in section 6(b) of the Labor Management Cooperation Act of 1978 (29 U.S.C. 175a note).

SEC. 8116. (a) During the current fiscal year, funds available to the Secretary of a military department for Operation and Maintenance may be used for the purposes stated in subsection (b) to support chaplain-led programs to assist members of the Armed Forces and their immediate family members in building and maintaining a strong family structure.

(b) The purposes referred to in subsection (a) are costs of transportation, food, lodging, supplies, fees, and training materials for members of the Armed Forces and their family members while participating in such programs, including participation at retreats and conferences.

10 USC 2401a
note.

SEC. 8117. Section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107-117; 115 Stat. 2284), is revised as follows:

(1) in subsection (c) by inserting at the end of paragraph (1) the following new sentence: “Notwithstanding the provisions of Section 3324 of Title 31, United States Code, payment for the acquisition of leasehold interests under this section may be made for each annual term up to one year in advance.”.

(2) by adding the following paragraph (g):

“(g) Notwithstanding any other provision of law, any payments required for a lease entered into under this Section, or any payments made pursuant to subsection (c)(3) above, may be made from appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the lease takes effect; appropriations available for operation and maintenance or for lease or procurement of aircraft at the time that the payment is due; or funds appropriated for those payments.”.

SEC. 8118. (a) LIMITATION ON ADDITIONAL NMCI CONTRACT WORK STATIONS.—Notwithstanding section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-215) or any other provision of law, the total number of work stations provided under the Navy-Marine Corps Intranet contract (as defined in subsection (i) of such section 814) may not exceed 160,000 work stations until the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense certify to the congressional defense committees that all of the conditions specified in subsection (b) have been satisfied.

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) The Commander of the Navy Operational Test and Evaluation Force conducts an operational assessment of the work stations that have been fully transitioned to the Navy-Marine Corps Intranet, as defined in the Test and Evaluation Strategy Plan for the Navy-Marine Corps Intranet approved on September 4, 2002.

(2) The results of the assessment are submitted to the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Chief Information Officer of the Department of Defense, and they determine that the results of the assessment are acceptable.

SEC. 8119. None of the funds in this Act, excluding funds provided for advance procurement of fiscal year 2004 aircraft, may be obligated for acquisition of more than 16 F-22 aircraft until the Under Secretary of Defense for Acquisition, Technology, and Logistics has provided to the congressional defense committees:

(a) A formal risk assessment which identifies and characterizes the potential cost, technical, schedule or other significant risks resulting from increasing the F-22 procurement quantities prior to the conclusion of Dedicated Initial Operational Test and Evaluation (DIOT&E) of the aircraft: *Provided*, That such risk assessment shall evaluate, based on the best available current information: (1) the range of potential additional program costs (compared to the program costs assumed in the President's fiscal year 2003 budget) that could result from retrofit modifications to F-22 production aircraft that are placed under contract or delivered to the government prior to the conclusion of DIOT&E; and (2) a cost-benefit analysis comparing, in terms of unit cost and total program cost, the cost advantages of increasing aircraft production at this time to the potential cost of retrofitting production aircraft once DIOT&E has been completed; and

(b) Certification that increasing the F-22 production quantity for fiscal year 2003 beyond 16 airplanes involves lower risk and lower total program cost than staying at that quantity, or he submits a revised production plan, funding plan and test schedule.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8120. Section 305(a) of the Emergency Supplemental Act, 2002 (division B of Public Law 107-117; 115 Stat. 2300), is amended by adding at the end the following new sentences: "From amounts transferred to the Pentagon Reservation Maintenance Revolving Fund pursuant to the preceding sentence, not to exceed \$305,000,000 may be transferred to the Defense Emergency

Response Fund, but only in amounts necessary to reimburse that fund (and the category of that fund designated as ‘Pentagon Repair/Upgrade’) for expenses charged to that fund (and that category) between September 11, 2001, and February 19, 2002, for reconstruction costs of the Pentagon Reservation. Funds transferred to the Defense Emergency Response Fund pursuant to this section shall be available only for reconstruction, recovery, force protection, or security enhancements for the Pentagon Reservation.”.

SEC. 8121. FINANCING AND FIELDING OF KEY ARMY CAPABILITIES. The Department of Defense and the Department of the Army shall make future budgetary and programming plans to fully finance the Non-Line of Sight (NLOS) Objective Force cannon and resupply vehicle program in order to field this system in the 2008 timeframe. As an interim capability to enhance Army lethality, survivability, and mobility for light and medium forces before complete fielding of the Objective Force, the Army shall ensure that budgetary and programmatic plans will provide for no fewer than six Stryker Brigade Combat Teams to be fielded between 2003 and 2008.

50 USC 1521
note.

SEC. 8122. (a) MANAGEMENT OF CHEMICAL DEMILITARIZATION ACTIVITIES AT BLUEGRASS ARMY DEPOT, KENTUCKY.—If a technology other than the baseline incineration program is selected for the destruction of lethal chemical munitions pursuant to section 142 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 50 U.S.C. 1521 note), the program manager for the Assembled Chemical Weapons Assessment shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Bluegrass Army Depot, Kentucky, including management of the pilot-scale facility phase of the alternative technology.

(b) MANAGEMENT OF CHEMICAL DEMILITARIZATION ACTIVITIES AT PUEBLO DEPOT, COLORADO.—The program manager for the Assembled Chemical Weapons Assessment shall be responsible for management of the construction, operation, and closure, and any contracting relating thereto, of chemical demilitarization activities at Pueblo Army Depot, Colorado, including management of the pilot-scale facility phase of the alternative technology selected for the destruction of lethal chemical munitions.

SEC. 8123. Of the total amount appropriated pursuant to this Act for any selected component of the Department of Defense that the Director of the Office of Management and Budget determines shall require audited financial statements under subsection (c) of section 3515 of title 31, United States Code, not more than 99 percent may be expended until the Inspector General of the Department of Defense certifies to the Congress of the United States that the head of the affected agency has made a formal decision as to whether to audit vouchers of the agency pursuant to section 3521(b) of title 31, United States Code: *Provided*, That such certification shall include a written assessment of the agency head’s decision by the Inspector General.

SEC. 8124. Of the funds made available under the heading “Operation and Maintenance, Air Force”, \$8,000,000 shall be available to realign railroad track on Elmendorf Air Force Base and Fort Richardson.

(TRANSFER OF FUNDS)

SEC. 8125. Upon enactment of this Act, the Secretary of the Navy shall make the following transfers of funds: *Provided*, That the amounts transferred shall be available for the same purpose as the appropriations to which transferred, and for the same time period as the appropriation from which transferred: *Provided further*, That the amounts shall be transferred between the following appropriations in the amount specified:

From:

Under the heading, “Shipbuilding and Conversion, Navy, 1994/2003”:

DDG-51 Destroyer program, \$7,900,000;
LHD-1 Amphibious Assault Ship program,
\$6,500,000;
Oceanographic Ship program, \$3,416,000;
Craft, outfitting, post delivery, first destination
transportation, \$1,800,000;
Mine warfare command and control ship, \$604,000;

To:

Under the heading, “Shipbuilding and Conversion, Navy, 1999/2003”:

LPD-17 Amphibious Transport Dock Ship program, \$20,220,000.

SEC. 8126. Of the amounts appropriated in Public Law 107-206 under the heading “Defense Emergency Response Fund”, an amount up to the fair market value of the leasehold interest in adjacent properties necessary for the force protection requirements of Tooele Army Depot, Utah, may be made available to resolve any property disputes associated with Tooele Army Depot, Utah, and to acquire such leasehold interest as required: *Provided*, That none of these funds may be used to acquire fee title to the properties.

SEC. 8127. Up to \$3,000,000 of the funds appropriated under the heading “Operation and Maintenance, Navy” in this Act for the Pacific Missile Range Facility may be made available to contract for the repair, maintenance, and operation of adjacent off-base water, drainage, and flood control systems critical to base operations.

SEC. 8128. Of the total amount appropriated by this Act under the heading “Operation and Maintenance, Defense-Wide”, \$3,000,000 may be available for payments under section 363 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-77).

SEC. 8129. In addition to the amounts appropriated or otherwise made available in this Act, \$8,100,000, to remain available until September 30, 2003, is hereby appropriated to the Department of Defense: *Provided*, That the Secretary of Defense shall make grants in the amount of \$2,800,000 to the American Red Cross for Armed Forces Emergency Services; \$2,800,000 to the United Service Organizations, Incorporated; and \$2,500,000 to the Intrepid Sea-Air-Space Foundation.

Grants.

SEC. 8130. None of the funds appropriated in this Act under the heading “Overseas Contingency Operations Transfer Fund” may be transferred or obligated for Department of Defense expenses not directly related to the conduct of overseas contingencies: *Provided*, That the Secretary of Defense shall submit a report no

Reports.
Deadline.

later than 30 days after the end of each fiscal quarter to the Committees on Appropriations of the Senate and House of Representatives that details any transfer of funds from the “Overseas Contingency Operations Transfer Fund”: *Provided further*, That the report shall explain any transfer for the maintenance of real property, pay of civilian personnel, base operations support, and weapon, vehicle or equipment maintenance.

Applicability.

SEC. 8131. For purposes of section 1553(b) of title 31, United States Code, any subdivision of appropriations made in this Act under the heading “Shipbuilding and Conversion, Navy” shall be considered to be for the same purpose as any subdivision under the heading “Shipbuilding and Conversion, Navy” appropriations in any prior year, and the 1 percent limitation shall apply to the total amount of the appropriation.

Budget.
10 USC 221 note.

SEC. 8132. The budget of the President for fiscal year 2004 submitted to the Congress pursuant to section 1105 of title 31, United States Code, and each annual budget request thereafter, shall include separate budget justification documents for costs of United States Armed Forces’ participation in contingency operations for the Military Personnel accounts, the Overseas Contingency Operations Transfer Fund, the Operation and Maintenance accounts, and the Procurement accounts: *Provided*, That these budget justification documents shall include a description of the funding requested for each anticipated contingency operation, for each military service, to include active duty and Guard and Reserve components, and for each appropriation account: *Provided further*, That these documents shall include estimated costs for each element of expense or object class, a reconciliation of increases and decreases for ongoing contingency operations, and programmatic data including, but not limited to troop strength for each active duty and Guard and Reserve component, and estimates of the major weapons systems deployed in support of each contingency: *Provided further*, That these documents shall include budget exhibits OP-5 and OP-32, as defined in the Department of Defense Financial Management Regulation, for the Overseas Contingency Operations Transfer Fund for fiscal years 2002 and 2003.

SEC. 8133. Notwithstanding any other provision in this Act, the total amount appropriated in this Act is hereby reduced by \$59,260,000, to reduce cost growth in travel, to be distributed as follows:

“Operation and Maintenance, Army”, \$14,000,000;
“Operation and Maintenance, Navy”, \$9,000,000;
“Operation and Maintenance, Marine Corps”, \$10,000,000;
“Operation and Maintenance, Air Force”, \$15,000,000; and
“Operation and Maintenance, Defense-Wide”, \$11,260,000.

SEC. 8134. None of the funds in this Act may be used for research, development, test, evaluation, procurement or deployment of nuclear armed interceptors of a missile defense system.

(INCLUDING RESCISSIONS)

SEC. 8135. (a) The total amount appropriated or otherwise made available in titles II, III, and IV of this Act is hereby reduced by \$1,374,000,000 to reflect revised economic assumptions: *Provided*, That the Secretary of Defense shall allocate this reduction proportionately to each budget activity, activity group, subactivity group, and each program, project, and activity within each

applicable appropriation account: *Provided further*, That appropriations made available in this Act for the pay and benefits of military personnel are exempt from reductions under this provision.

(b) Of the funds provided in the Department of Defense Appropriations Act, 2002, (division A of Public Law 107-117), \$300,000,000 are rescinded from amounts made available under titles III and IV of that Act: *Provided*, That the Secretary of Defense shall allocate this rescission proportionately by program, project, and activity.

SEC. 8136. During the current fiscal year, section 2533a(f) of Title 10, United States Code, shall not apply to any fish, shellfish, or seafood product. This section is applicable to contracts and subcontracts for the procurement of commercial items notwithstanding section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430).

Applicability.

SEC. 8137. None of the funds appropriated by this Act may be used to convert the 939th Combat Search and Rescue Wing of the Air Force Reserve until the Secretary of the Air Force certifies to the Congress the following: (a) that a functionally comparable search and rescue capability is available in the 939th Search and Rescue Wing's area of responsibility; (b) that any new aircraft assigned to the unit will comply with local environmental and noise standards; and (c) that the Air Force has developed a plan for the transition of personnel and manpower billets currently assigned to this unit.

SEC. 8138. NAVY DRY-DOCK AFDL-47 (a) REQUIREMENT FOR SALE.—Notwithstanding any other provision of law, the Secretary of the Navy shall sell the Navy Dry-dock AFDL-47, located in Charleston, South Carolina, to Detyens Shipyards, Inc., the current lessee of the dry-dock from the Navy.

(b) CONSIDERATION.—As consideration for the sale of the dry-dock under subsection (a), the Secretary shall receive an amount equal to the fair market value of the dry-dock at the time of the sale, as determined by the Secretary, taking into account amounts paid by, or due and owing from, the lessee.

SEC. 8139. From funds made available in this Act for the Office of Economic Adjustment under the heading "Operation and Maintenance, Defense-Wide", \$100,000 shall be available for the elimination of asbestos at former Battery 204, Odiorne Point, New Hampshire.

SEC. 8140. The Secretary of Defense may, using amounts appropriated or otherwise made available by this Act, make a grant to the National D-Day Museum in the amount of \$3,000,000.

SEC. 8141. (a) PRELIMINARY STUDY AND ANALYSIS REQUIRED.—The Secretary of the Army shall carry out a preliminary engineering study and environmental analysis regarding the establishment of a connector road between United States Route 1 and Telegraph Road in the vicinity of Fort Belvoir, Virginia.

(b) FUNDING.—Of the amount appropriated by title II under the heading "OPERATION AND MAINTENANCE, ARMY", up to \$5,000,000 may be available for the preliminary study and analysis required by subsection (a).

SEC. 8142. Of the amount appropriated by title V under the heading "NATIONAL DEFENSE SEALIFT FUND", up to \$10,000,000 may be available for implementing the recommendations resulting from the Navy's Non-Self Deployable Watercraft (NDSW) Study and the Joint Chiefs of Staff Focused Logistics Study, which are

to determine the requirements of the Navy for providing lift support for mine warfare ships and other vessels.

36 USC 903 note.

SEC. 8143. (a) Congress finds that—

(1) the Medal of Honor is the highest award for valor in action against an enemy force which can be bestowed upon an individual serving in the Armed Forces of the United States;

(2) the Medal of Honor was established by Congress during the Civil War to recognize soldiers who had distinguished themselves by gallantry in action;

(3) the Medal of Honor was conceived by Senator James Grimes of the State of Iowa in 1861; and

(4) the Medal of Honor is the Nation's highest military honor, awarded for acts of personal bravery or self-sacrifice above and beyond the call of duty.

(b)(1) Chapter 9 of title 36, United States Code, is amended by adding at the end the following new section:

“§ 903. Designation of Medal of Honor Flag

“(a) DESIGNATION.—The Secretary of Defense shall design and designate a flag as the Medal of Honor Flag. In selecting the design for the flag, the Secretary shall consider designs submitted by the general public.

“(b) PRESENTATION.—The Medal of Honor Flag shall be presented as specified in sections 3755, 6257, and 8755 of title 10 and section 505 of title 14.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“903. Designation of Medal of Honor Flag.”.

President.

(c)(1)(A) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 3755. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 3741 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 3741 or 3752(a) of this title.”.

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3755. Medal of honor: presentation of Medal of Honor Flag.”.

(2)(A) Chapter 567 of such title is amended by adding at the end the following new section:

“§ 6257. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 6241 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 6241 or 6250 of this title.”.

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“6257. Medal of honor: presentation of Medal of Honor Flag.”.

(3)(A) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 8755. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 8741 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 8741 or 8752(a) of this title.”.

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“8755. Medal of honor: presentation of Medal of Honor Flag.”.

(4)(A) Chapter 13 of title 14, United States Code, is amended by inserting after section 504 the following new section:

“§ 505. Medal of honor: presentation of Medal of Honor Flag

“The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36 to each person to whom a medal of honor is awarded under section 491 of this title after the date of the enactment of this section. Presentation of the flag shall be made at the same time as the presentation of the medal under section 491 or 498 of this title.”.

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 504 the following new item:

“505. Medal of honor: presentation of Medal of Honor Flag.”.

(d) The President shall provide for the presentation of the Medal of Honor Flag designated under section 903 of title 36, United States Code, as added by subsection (b), to each person awarded the Medal of Honor before the date of enactment of this Act who is living as of that date. Such presentation shall be made as expeditiously as possible after the date of the designation of the Medal of Honor Flag by the Secretary of Defense under such section.

36 USC 903 note.

SEC. 8144. (a) The conditions described in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 22 U.S.C. 5952 note) shall not apply to the obligation and expenditure of funds for fiscal years 2000, 2001, 2002 and 2003 for the planning, design, or construction of a chemical weapons destruction facility in Russia if the President submits to Congress a written certification that includes—

(1) a statement as to why waiving the conditions is important to the national security interests of the United States;

(2) a full and complete justification for exercising this waiver; and

(3) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

(b) EXPIRATION OF AUTHORITY.—The authority under paragraph (a) shall expire on September 30, 2003.

SEC. 8145. Effective as of August 2, 2002, the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107-206) is amended—

Effective date.

(1) in section 305(a) (116 Stat. 840), by striking “fiscal year 2002” and inserting “fiscal years 2002 and 2003”; and

(2) in section 309 (116 Stat. 841), by striking “of” after “instead”.

SEC. 8146. The Secretary of Defense may modify the grant made to the State of Maine pursuant to section 310 of the 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107-206) such that the modified grant is for purposes of supporting community adjustment activities relating to the closure of the Naval Security Group Activity, Winter Harbor, Maine (the naval base on Schoodic Point, within Acadia National Park), and the reuse of such Activity, including reuse as a research and education center the activities of which may be consistent with the purposes of Acadia National Park, as determined by the Secretary of the Interior. The grant may be so modified not later than 60 days after the date of the enactment of this Act.

Deadline.

SEC. 8147. None of the funds appropriated by this Act may be used for leasing of transport/VIP aircraft under any contract entered into under any procurement procedures other than pursuant to the Competition and Contracting Act.

SEC. 8148. (a) Funds appropriated by title II under the heading “Operation and Maintenance, Defense-Wide” may be used by the Military Community and Family Policy Office of the Department of Defense for the operation of multidisciplinary, impartial domestic violence fatality review teams of the Department of Defense that operate on a confidential basis.

(b) Of the total amount appropriated by title II under the heading “Operation and Maintenance, Defense-Wide”, \$5,000,000 may be used for an advocate of victims of domestic violence to provide confidential assistance to victims of domestic violence at military installations.

Deadline.
Reports.

(c) Not later than June 30, 2003, the Secretary of Defense shall submit to the Congress a report on the implementation of the recommendations included in the reports submitted to the Secretary by the Defense Task Force on Domestic Violence.

10 USC 2784
note.

SEC. 8149. (a) LIMITATION ON NUMBER OF GOVERNMENT CHARGE CARD ACCOUNTS DURING FISCAL YEAR 2003.—The total number of accounts for government purchase charge cards and government travel charge cards for Department of Defense personnel during fiscal year 2003 may not exceed 1,500,000 accounts.

(b) REQUIREMENT FOR CREDITWORTHINESS FOR ISSUANCE OF GOVERNMENT CHARGE CARD.—(1) The Secretary of Defense shall evaluate the creditworthiness of an individual before issuing the individual a government purchase charge card or government travel charge card.

(2) An individual may not be issued a government purchase charge card or government travel charge card if the individual is found not credit worthy as a result of the evaluation under paragraph (1).

Guidelines.
Procedures.

(c) DISCIPLINARY ACTION FOR MISUSE OF GOVERNMENT CHARGE CARD.—(1) The Secretary shall establish guidelines and procedures for disciplinary actions to be taken against Department personnel for improper, fraudulent, or abusive use of government purchase charge cards and government travel charge cards.

(2) The guidelines and procedures under this subsection shall include appropriate disciplinary actions for use of charge cards for purposes, and at establishments, that are inconsistent with the official business of the Department or with applicable standards of conduct.

(3) The disciplinary actions under this subsection may include—

(A) the review of the security clearance of the individual involved; and

(B) the modification or revocation of such security clearance in light of the review.

(4) The guidelines and procedures under this subsection shall apply uniformly among the Armed Forces and among the elements of the Department. Applicability.

(d) REPORT.—Not later than June 30, 2003, the Secretary shall submit to the congressional defense committees a report on the implementation of the requirements and limitations in this section, including the guidelines and procedures established under subsection (c). Deadline.

SEC. 8150. Notwithstanding any provision of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) or any other provision of law, the Secretary of the Navy shall transfer administrative jurisdiction of the portion of the former Charleston Naval Base, South Carolina, comprising a law enforcement training facility of the Department of Justice, together with any improvements thereon, to the head of the department of the Federal Government having jurisdiction of the Border Patrol as of the date of the transfer under this section. Government organization.

TITLE IX—COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION

Commercial
Reusable
In-Space
Transportation
Act of 2000.
42 USC 14701
note.

SEC. 901. SHORT TITLE.

This title may be cited as the “Commercial Reusable In-Space Transportation Act of 2002”.

SEC. 902. FINDINGS.

42 USC 14751.

Congress makes the following findings:

(1) It is in the national interest to encourage the production of cost-effective, in-space transportation systems, which would be built and operated by the private sector on a commercial basis.

(2) The use of reusable in-space transportation systems will enhance performance levels of in-space operations, enhance efficient and safe disposal of satellites at the end of their useful lives, and increase the capability and reliability of existing ground-to-space launch vehicles.

(3) Commercial reusable in-space transportation systems will enhance the economic well-being and national security of the United States by reducing space operations costs for commercial and national space programs and by adding new space capabilities to space operations.

(4) Commercial reusable in-space transportation systems will provide new cost-effective space capabilities (including orbital transfers from low altitude orbits to high altitude orbits and return, the correction of erroneous satellite orbits, and the recovery, refurbishment, and refueling of satellites) and the provision of upper stage functions to increase ground-to-orbit launch vehicle payloads to geostationary and other high energy orbits.

(5) Commercial reusable in-space transportation systems can enhance and enable the space exploration of the United States by providing lower cost trajectory injection from earth

orbit, transit trajectory control, and planet arrival deceleration to support potential National Aeronautics and Space Administration missions to Mars, Pluto, and other planets.

(6) Satellites stranded in erroneous earth orbit due to deficiencies in their launch represent substantial economic loss to the United States and present substantial concerns for the current backlog of national space assets.

(7) Commercial reusable in-space transportation systems can provide new options for alternative planning approaches and risk management to enhance the mission assurance of national space assets.

(8) Commercial reusable in-space transportation systems developed by the private sector can provide in-space transportation services to the National Aeronautics and Space Administration, the Department of Defense, the National Reconnaissance Office, and other agencies without the need for the United States to bear the cost of production of such systems.

(9) The availability of loan guarantees, with the cost of credit risk to the United States paid by the private-sector, is an effective means by which the United States can help qualifying private-sector companies secure otherwise unattainable private financing for the production of commercial reusable in-space transportation systems, while at the same time minimizing Government commitment and involvement in the development of such systems.

42 USC 14752.

SEC. 903. LOAN GUARANTEES FOR PRODUCTION OF COMMERCIAL REUSABLE IN-SPACE TRANSPORTATION.

(a) **AUTHORITY TO MAKE LOAN GUARANTEES.**—The Secretary may guarantee loans made to eligible United States commercial providers for purposes of producing commercial reusable in-space transportation services or systems.

Requirements.

(b) **ELIGIBLE UNITED STATES COMMERCIAL PROVIDERS.**—The Secretary shall prescribe requirements for the eligibility of United States commercial providers for loan guarantees under this section. Such requirements shall ensure that eligible providers are financially capable of undertaking a loan guaranteed under this section.

(c) **LIMITATION ON LOANS GUARANTEED.**—The Secretary may not guarantee a loan for a United States commercial provider under this section unless the Secretary determines that credit would not otherwise be reasonably available at the time of the guarantee for the commercial reusable in-space transportation service or system to be produced utilizing the proceeds of the loan.

(d) **CREDIT SUBSIDY.**—

(1) **COLLECTION REQUIRED.**—The Secretary shall collect from each United States commercial provider receiving a loan guarantee under this section an amount equal to the amount, as determined by the Secretary, to cover the cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, of the loan guarantee.

(2) **PERIODIC DISBURSEMENTS.**—In the case of a loan guarantee in which proceeds of the loan are disbursed over time, the Secretary shall collect the amount required under this subsection on a pro rata basis, as determined by the Secretary, at the time of each disbursement.

(e) **OTHER TERMS AND CONDITIONS.**—

(1) PROHIBITION ON SUBORDINATION.—A loan guaranteed under this section may not be subordinated to another debt contracted by the United States commercial provider concerned, or to any other claims against such provider.

(2) RESTRICTION ON INCOME.—A loan guaranteed under this section may not—

(A) provide income which is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1986; or

(B) provide significant collateral or security, as determined by the Secretary, for other obligations the income from which is so excluded.

(3) TREATMENT OF GUARANTEE.—The guarantee of a loan under this section shall be conclusive evidence of the following:

(A) That the guarantee has been properly obtained.

(B) That the loan qualifies for the guarantee.

(C) That, but for fraud or material misrepresentation by the holder of the loan, the guarantee is valid, legal, and enforceable.

(4) OTHER TERMS AND CONDITIONS.—The Secretary may establish any other terms and conditions for a guarantee of a loan under this section, as the Secretary considers appropriate to protect the financial interests of the United States.

(f) ENFORCEMENT OF RIGHTS.—

(1) IN GENERAL.—The Attorney General may take any action the Attorney General considers appropriate to enforce any right accruing to the United States under a loan guarantee under this section.

(2) FORBEARANCE.—The Attorney General may, with the approval of the parties concerned, forbear from enforcing any right of the United States under a loan guaranteed under this section for the benefit of a United States commercial provider if such forbearance will not result in any cost, as defined in section 502(5) of the Federal Credit Reform Act of 1990, to the United States.

(3) UTILIZATION OF PROPERTY.—Notwithstanding any other provision of law and subject to the terms of a loan guaranteed under this section, upon the default of a United States commercial provider under the loan, the Secretary may, at the election of the Secretary—

(A) assume control of the physical asset financed by the loan; and

(B) complete, recondition, reconstruct, renovate, repair, maintain, operate, or sell the physical asset.

(g) CREDIT INSTRUMENTS.—

(1) AUTHORITY TO ISSUE INSTRUMENTS.—Notwithstanding any other provision of law, the Secretary may, subject to such terms and conditions as the Secretary considers appropriate, issue credit instruments to United States commercial providers of in-space transportation services or system, with the aggregate cost (as determined under the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.)) of such instruments not to exceed \$1,500,000,000, but only to the extent that new budget authority to cover such costs is provided in subsequent appropriations Acts or authority is otherwise provided in subsequent appropriations Acts.

(2) CREDIT SUBSIDY.—The Secretary shall provide a credit subsidy for any credit instrument issued under this subsection in accordance with the provisions of the Federal Credit Reform Act of 1990.

(3) CONSTRUCTION.—The eligibility of a United States commercial provider of in-space transportation services or systems for a credit instrument under this subsection is in addition to any eligibility of such provider for a loan guarantee under other provisions of this section.

42 USC 14753.

SEC. 904. DEFINITIONS.

In this title:

(1) SECRETARY.—The term “Secretary” means the Secretary of Defense.

(2) COMMERCIAL PROVIDER.—The term “commercial provider” means any person or entity providing commercial reusable in-orbit space transportation services or systems, primary control of which is held by persons other than the Federal Government, a State or local government, or a foreign government.

(3) IN-SPACE TRANSPORTATION SERVICES.—The term “in-space transportation services” means operations and activities involved in the direct transportation or attempted transportation of a payload or object from one orbit to another by means of an in-space transportation vehicle.

(4) IN-SPACE TRANSPORTATION SYSTEM.—The term “in-space transportation system” means the space and ground elements, including in-space transportation vehicles and support space systems, and ground administration and control facilities and associated equipment, necessary for the provision of in-space transportation services.

(5) IN-SPACE TRANSPORTATION VEHICLE.—The term “in-space transportation vehicle” means a vehicle designed—

(A) to be based and operated in space;

(B) to transport various payloads or objects from one orbit to another orbit; and

(C) to be reusable and refueled in space.

(6) UNITED STATES COMMERCIAL PROVIDER.—The term “United States commercial provider” means any commercial provider organized under the laws of the United States that is more than 50 percent owned by United States nationals.

This Act may be cited as the “Department of Defense Appropriations Act, 2003”.

Approved October 23, 2002.

LEGISLATIVE HISTORY—H.R. 5010:

HOUSE REPORTS: Nos. 107–532 (Comm. on Appropriations) and 107–732 (Comm. of Conference).

SENATE REPORTS: No. 107–213 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 27, considered and passed House.

July 31, Aug. 1, considered and passed Senate, amended.

Oct. 10, House agreed to conference report.

Oct. 16, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 23, Presidential remarks and statement.



Public Law 107-249
107th Congress

An Act

Oct. 23, 2002
[H.R. 5011]

Military
Construction
Appropriation
Act, 2003.

Making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, for the fiscal year ending September 30, 2003, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, \$1,683,710,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed \$163,135,000 shall be available for study, planning, design, architect and engineer services, and host nation support, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Army” in previous Military Construction Appropriation Acts, \$49,376,000 are rescinded.

MILITARY CONSTRUCTION, NAVY

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, \$1,305,128,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed \$87,043,000 shall be available for study, planning, design, architect and engineer

services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Navy” in previous Military Construction Appropriation Acts, \$1,340,000 are rescinded.

MILITARY CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, \$1,080,247,000, to remain available until September 30, 2007: *Provided*, That of this amount, not to exceed \$72,283,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Air Force” in previous Military Construction Appropriation Acts, \$13,281,000 are rescinded.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER AND RESCISSION OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, \$874,645,000, to remain available until September 30, 2007: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed \$50,432,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further*, That of the funds appropriated for “Military Construction, Defense-wide” in previous Military Construction Appropriation Acts, \$2,976,000 are rescinded.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military

Construction Authorization Acts, \$241,377,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$203,813,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$100,554,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$74,921,000, to remain available until September 30, 2007.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 1803 of title 10, United States Code, and Military Construction Authorization Acts, \$67,226,000, to remain available until September 30, 2007.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT
PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in Military Construction Authorization Acts and section 2806 of title 10, United States Code, \$167,200,000, to remain available until expended.

FAMILY HOUSING CONSTRUCTION, ARMY

(INCLUDING RESCISSION)

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$280,356,000, to remain available until September 30, 2007: *Provided*, That of the funds appropriated for “Family Housing Construction, Army” in previous Military Construction Appropriation Acts, \$4,920,000 are rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, ARMY

For expenses of family housing for the Army for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$1,106,007,000.

FAMILY HOUSING CONSTRUCTION, NAVY AND MARINE CORPS

(INCLUDING RESCISSION)

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$376,468,000, to remain available until September 30, 2007: *Provided*, That of the funds appropriated for “Family Housing Construction, Navy and Marine Corps” in previous Military Construction Appropriation Acts, \$2,652,000 are rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, NAVY AND
MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$861,788,000.

FAMILY HOUSING CONSTRUCTION, AIR FORCE

(INCLUDING RESCISSION)

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$684,824,000, to remain available until September 30, 2007: *Provided*, That of the funds appropriated for “Family Housing Construction, Air Force” in previous Military Construction Appropriation Acts, \$8,782,000 are rescinded.

FAMILY HOUSING OPERATION AND MAINTENANCE, AIR FORCE

For expenses of family housing for the Air Force for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, \$863,050,000.

FAMILY HOUSING CONSTRUCTION, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration, as authorized by law, \$5,480,000, to remain available until September 30, 2007.

FAMILY HOUSING OPERATION AND MAINTENANCE, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments)

for operation and maintenance, leasing, and minor construction, as authorized by law, \$42,395,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

For the Department of Defense Family Housing Improvement Fund, \$2,000,000, to remain available until expended, for family housing initiatives undertaken pursuant to section 2883 of title 10, United States Code, providing alternative means of acquiring and improving military family housing, and supporting facilities.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101-510), \$561,138,000, to remain available until expended.

GENERAL PROVISIONS

Contracts.

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for construction, where cost estimates exceed \$25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 percent of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except: (1) where there is a determination of value by a Federal court; (2) purchases negotiated by the Attorney General or his designee; (3) where the estimated value is less than \$25,000; or (4) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to: (1) acquire land; (2) provide for site preparation; or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed \$500,000 for projects to be accomplished in Japan, in any NATO member country, or in countries bordering the Arabian Sea, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in countries bordering the Arabian Sea, may be used to award any contract estimated by the Government to exceed \$1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 percent: *Provided further*, That this section shall not apply to contract awards for military construction on Kwajalein Atoll for which the lowest responsive and responsible bid is submitted by a Marshallese contractor.

SEC. 113. The Secretary of Defense is to inform the appropriate committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed \$100,000.

Notification.

SEC. 114. Not more than 20 percent of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last 2 months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a

10 USC 2860
note.

military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project: (1) are obligated from funds available for military construction projects; and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

(TRANSFER OF FUNDS)

10 USC 2860
note.

SEC. 118. During the 5-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation “Foreign Currency Fluctuations, Construction, Defense” to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

Reports.
Deadline.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies bordering the Arabian Sea to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. (a) No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the “Buy American Act”).

(b) No funds made available under this Act shall be made available to any person or entity who has been convicted of violating the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the “Buy American Act”).

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities

receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress. Notice.

(TRANSFER OF FUNDS)

SEC. 123. Subject to 30 days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to the Department of Defense Family Housing Improvement Fund from amounts appropriated for construction in “Family Housing” accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund: *Provided*, That appropriations made available to the Fund shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of subchapter IV of chapter 169, title 10, United States Code, pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

SEC. 124. None of the funds appropriated or made available by this Act may be obligated for Partnership for Peace Programs in the New Independent States of the former Soviet Union.

SEC. 125. (a) Not later than 60 days before issuing any solicitation for a contract with the private sector for military family housing the Secretary of the military department concerned shall submit to the congressional defense committees the notice described in subsection (b). Deadline.
Notice.

(b)(1) A notice referred to in subsection (a) is a notice of any guarantee (including the making of mortgage or rental payments) proposed to be made by the Secretary to the private party under the contract involved in the event of—

(A) the closure or realignment of the installation for which housing is provided under the contract;

(B) a reduction in force of units stationed at such installation; or

(C) the extended deployment overseas of units stationed at such installation.

(2) Each notice under this subsection shall specify the nature of the guarantee involved and assess the extent and likelihood, if any, of the liability of the Federal Government with respect to the guarantee.

(c) In this section, the term “congressional defense committees” means the following:

(1) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the Senate.

(2) The Committee on Armed Services and the Military Construction Subcommittee, Committee on Appropriations of the House of Representatives.

(TRANSFER OF FUNDS)

SEC. 126. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense,

amounts may be transferred from the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to the fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374) to pay for expenses associated with the Homeowners Assistance Program. Any amounts transferred shall be merged with and be available for the same purposes and for the same time period as the fund to which transferred.

10 USC 2821
note.

SEC. 127. Notwithstanding this or any other provision of law, funds appropriated in Military Construction Appropriations Acts for operations and maintenance of family housing shall be the exclusive source of funds for repair and maintenance of all family housing units, including general or flag officer quarters: *Provided*, That not more than \$35,000 per unit may be spent annually for the maintenance and repair of any general or flag officer quarters without 30 days advance prior notification to the appropriate committees of Congress, except that an after-the-fact notification shall be submitted if the limitation is exceeded solely due to costs associated with environmental remediation that could not be reasonably anticipated at the time of the budget submission: *Provided further*, That the Under Secretary of Defense (Comptroller) is to report annually to the Committees on Appropriations all operations and maintenance expenditures for each individual general or flag officer quarters for the prior fiscal year.

Reports.

SEC. 128. Notwithstanding any other provision of law, the Secretary of the Navy is authorized to use funds received pursuant to section 2601 of title 10, United States Code, for the construction, improvement, repair, and maintenance of the historic residences located at Marine Corps Barracks, 8th and I Streets, Washington, D.C.: *Provided*, That the Secretary notifies the appropriate committees of Congress 30 days in advance of the intended use of such funds: *Provided further*, That this section remains effective until September 30, 2004.

Notification.

Expiration date.

SEC. 129. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 130. Amounts appropriated for a military construction project at Camp Kyle, Korea, relating to construction of a physical fitness center, as authorized by section 8160 of the Department of Defense Appropriations Act, 2000 (Public Law 106-79; 113 Stat. 1274), shall be available instead for a similar project at Camp Bonifas, Korea.

10 USC 221 note.

SEC. 131. (a) REQUESTS FOR FUNDS FOR ENVIRONMENTAL RESTORATION AT BRAC SITES IN FUTURE FISCAL YEARS.—In the budget justification materials submitted to Congress in support of the Department of Defense budget for any fiscal year after fiscal year 2003, the amount requested for environmental restoration, waste management, and environmental compliance activities in such fiscal year with respect to military installations approved for closure or realignment under the base closure laws shall accurately reflect the anticipated cost of such activities in such fiscal year.

(b) BASE CLOSURE LAWS DEFINED.—In this section, the term “base closure laws” means the following:

(1) Section 2687 of title 10, United States Code.

(2) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

(3) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note).

This Act may be cited as the “Military Construction Appropriation Act, 2003”.

Approved October 23, 2002.

LEGISLATIVE HISTORY—H.R. 5011 (S. 2709):

HOUSE REPORTS: Nos. 107–533 (Comm. on Appropriations) and 107–731 (Comm. of Conference).

SENATE REPORTS: No. 107–202 accompanying S. 2709 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 27, considered and passed House.

July 17, 18, considered and passed Senate, amended.

Oct. 10, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 23, Presidential remarks and statement.



Public Law 107–250
107th Congress

An Act

Oct. 26, 2002
[H.R. 5651]

To amend the Federal Food, Drug, and Cosmetic Act to make improvements in the regulation of medical devices, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medical Device
User Fee and
Modernization
Act of 2002.
21 USC 301 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Medical Device User Fee and Modernization Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FEES RELATED TO MEDICAL DEVICES

- Sec. 101. Findings.
- Sec. 102. Establishment of program.
- Sec. 103. Annual reports.
- Sec. 104. Postmarket surveillance.
- Sec. 105. Consultation.
- Sec. 106. Effective date.
- Sec. 107. Sunset clause.

TITLE II—AMENDMENTS REGARDING REGULATION OF MEDICAL DEVICES

- Sec. 201. Inspections by accredited persons.
- Sec. 202. Third party review of premarket notification.
- Sec. 203. Debarment of accredited persons.
- Sec. 204. Designation and regulation of combination products.
- Sec. 205. Report on certain devices.
- Sec. 206. Electronic labeling.
- Sec. 207. Electronic registration.
- Sec. 208. Intended use.
- Sec. 209. Modular review.
- Sec. 210. Pediatric expertise regarding classification-panel review of premarket applications.
- Sec. 211. Internet list of class II devices exempted from requirement of premarket notification.
- Sec. 212. Study by Institute of Medicine of postmarket surveillance regarding pediatric populations.
- Sec. 213. Guidance regarding pediatric devices.
- Sec. 214. Breast implants; study by Comptroller General.
- Sec. 215. Breast implants; research through National Institutes of Health.

TITLE III—ADDITIONAL AMENDMENTS

- Sec. 301. Identification of manufacturer of medical devices.
- Sec. 302. Single-use medical devices.
- Sec. 303. MedWatch.

TITLE I—FEES RELATED TO MEDICAL DEVICES

SEC. 101. FINDINGS.

21 USC 379i
note.

The Congress finds that—

(1) prompt approval and clearance of safe and effective devices is critical to the improvement of the public health so that patients may enjoy the benefits of devices to diagnose, treat, and prevent disease;

(2) the public health will be served by making additional funds available for the purpose of augmenting the resources of the Food and Drug Administration that are devoted to the process for the review of devices and the assurance of device safety and effectiveness so that statutorily mandated deadlines may be met; and

(3) the fees authorized by this title will be dedicated to meeting the goals identified in the letters from the Secretary of Health and Human Services to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, as set forth in the Congressional Record.

SEC. 102. ESTABLISHMENT OF PROGRAM.

(a) IN GENERAL.—Subchapter C of chapter VII of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379F et seq.) is amended by adding at the end the following part:

“PART 3—FEES RELATING TO DEVICES

“SEC. 737. DEFINITIONS.

21 USC 379i.

“For purposes of this subchapter:

“(1) The term ‘premarket application’ means—

“(A) an application for approval of a device submitted under section 515(c) or section 351 of the Public Health Service Act; or

“(B) a product development protocol described in section 515(f).

Such term does not include a supplement, a premarket report, or a premarket notification submission.

“(2) The term ‘premarket report’ means a report submitted under section 515(c)(2).

“(3) The term ‘premarket notification submission’ means a report submitted under section 510(k).

“(4)(A) The term ‘supplement’, with respect to a panel-track supplement, a 180-day supplement, a real-time supplement, or an efficacy supplement, means a request to the Secretary to approve a change in a device for which—

“(i) an application or report has been approved under section 515(d), or an application has been approved under section 351 of the Public Health Service Act; or

“(ii) a notice of completion has become effective under section 515(f).

“(B) The term ‘panel-track supplement’ means a supplement to an approved premarket application or premarket report under section 515 that requests a significant change in design or performance of the device, or a new indication for use of

the device, and for which clinical data are generally necessary to provide a reasonable assurance of safety and effectiveness.

“(C) The term ‘180-day supplement’ means a supplement to an approved premarket application or premarket report under section 515 that is not a panel-track supplement and requests a significant change in components, materials, design, specification, software, color additives, or labeling.

“(D) The term ‘real-time supplement’ means a supplement to an approved premarket application or premarket report under section 515 that requests a minor change to the device, such as a minor change to the design of the device, software, manufacturing, sterilization, or labeling, and for which the applicant has requested and the agency has granted a meeting or similar forum to jointly review and determine the status of the supplement.

“(E) The term ‘efficacy supplement’ means a supplement to an approved premarket application under section 351 of the Public Health Service Act that requires substantive clinical data.

“(5) The term ‘process for the review of device applications’ means the following activities of the Secretary with respect to the review of premarket applications, premarket reports, supplements, and premarket notification submissions:

“(A) The activities necessary for the review of premarket applications, premarket reports, supplements, and premarket notification submissions.

“(B) The issuance of action letters that allow the marketing of devices or which set forth in detail the specific deficiencies in such applications, reports, supplements, or submissions and, where appropriate, the actions necessary to place them in condition for approval.

“(C) The inspection of manufacturing establishments and other facilities undertaken as part of the Secretary’s review of pending premarket applications, premarket reports, and supplements.

“(D) Monitoring of research conducted in connection with the review of such applications, reports, supplements, and submissions.

“(E) Review of device applications subject to section 351 of the Public Health Service Act for an investigational new drug application under section 505(i) or for an investigational device exemption under section 520(g) and activities conducted in anticipation of the submission of such applications under section 505(i) or 520(g).

“(F) The development of guidance, policy documents, or regulations to improve the process for the review of premarket applications, premarket reports, supplements, and premarket notification submissions.

“(G) The development of voluntary test methods, consensus standards, or mandatory performance standards under section 514 in connection with the review of such applications, reports, supplements, or submissions and related activities.

“(H) The provision of technical assistance to device manufacturers in connection with the submission of such applications, reports, supplements, or submissions.

“(I) Any activity undertaken under section 513 or 515(i) in connection with the initial classification or reclassification of a device or under section 515(b) in connection with any requirement for approval of a device.

“(J) Evaluation of postmarket studies required as a condition of an approval of a premarket application under section 515 or section 351 of the Public Health Service Act.

“(K) Compiling, developing, and reviewing information on relevant devices to identify safety and effectiveness issues for devices subject to premarket applications, premarket reports, supplements, or premarket notification submissions.

“(6) The term ‘costs of resources allocated for the process for the review of device applications’ means the expenses incurred in connection with the process for the review of device applications for—

“(A) officers and employees of the Food and Drug Administration, contractors of the Food and Drug Administration, advisory committees, and costs related to such officers, employees, and committees and to contracts with such contractors;

“(B) management of information, and the acquisition, maintenance, and repair of computer resources;

“(C) leasing, maintenance, renovation, and repair of facilities and acquisition, maintenance, and repair of fixtures, furniture, scientific equipment, and other necessary materials and supplies; and

“(D) collecting fees and accounting for resources allocated for the review of premarket applications, premarket reports, supplements, and submissions.

“(7) The term ‘adjustment factor’ applicable to a fiscal year is the Consumer Price Index for all urban consumers (all items; United States city average) for April of the preceding fiscal year divided by such Index for April 2002.

“(8) The term ‘affiliate’ means a business entity that has a relationship with a second business entity if, directly or indirectly—

“(A) one business entity controls, or has the power to control, the other business entity; or

“(B) a third party controls, or has power to control, both of the business entities.

“SEC. 738. AUTHORITY TO ASSESS AND USE DEVICE FEES.

21 USC 379j.

“(a) TYPES OF FEES.—Beginning on the date of the enactment of the Medical Device User Fee and Modernization Act of 2002, the Secretary shall assess and collect fees in accordance with this section as follows:

“(1) PREMARKET APPLICATION, PREMARKET REPORT, SUPPLEMENT, AND SUBMISSION FEE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B) and subsection (d), each person who submits any of the following, on or after October 1, 2002, shall be subject to a fee established under subsection (c)(5) for the fiscal year involved in accordance with the following:

“(i) A premarket application.

“(ii) For a premarket report, a fee equal to the fee that applies under clause (i).

“(iii) For a panel track supplement, a fee equal to the fee that applies under clause (i).

“(iv) For a 180-day supplement, a fee equal to 21.5 percent of the fee that applies under clause (i), subject to any adjustment under subsection (c)(3).

“(v) For a real-time supplement, a fee equal to 7.2 percent of the fee that applies under clause (i).

“(vi) For an efficacy supplement, a fee equal to the fee that applies under clause (i).

“(vii) For a premarket notification submission, a fee equal to 1.42 percent of the fee that applies under clause (i), subject to any adjustment under subsection (c)(3) and any adjustment under subsection (e)(2)(C)(ii).

“(B) EXCEPTIONS.—

“(i) HUMANITARIAN DEVICE EXEMPTION.—An application under section 520(m) is not subject to any fee under subparagraph (A).

“(ii) FURTHER MANUFACTURING USE.—No fee shall be required under subparagraph (A) for the submission of a premarket application under section 351 of the Public Health Service Act for a product licensed for further manufacturing use only.

“(iii) STATE OR FEDERAL GOVERNMENT SPONSORS.—No fee shall be required under subparagraph (A) for a premarket application, premarket report, supplement, or premarket notification submission submitted by a State or Federal Government entity unless the device involved is to be distributed commercially.

“(iv) PREMARKET NOTIFICATIONS BY THIRD PARTIES.—No fee shall be required under subparagraph (A) for a premarket notification submission reviewed by an accredited person pursuant to section 523.

“(v) PEDIATRIC CONDITIONS OF USE.—

“(I) IN GENERAL.—No fee shall be required under subparagraph (A) for a premarket application, premarket report, or premarket notification submission if the proposed conditions of use for the device involved are solely for a pediatric population. No fee shall be required under such subparagraph for a supplement if the sole purpose of the supplement is to propose conditions of use for a pediatric population.

“(II) SUBSEQUENT PROPOSAL OF ADULT CONDITIONS OF USE.—In the case of a person who submits a premarket application or premarket report for which, under subclause (I), a fee under subparagraph (A) is not required, any supplement to such application that proposes conditions of use for any adult population is subject to the fee that applies under such subparagraph for a premarket application.

“(C) PAYMENT.—The fee required by subparagraph (A) shall be due upon submission of the premarket application, premarket report, supplement, or premarket notification submission except that invoices for applications submitted

between October 1, 2002, and the date of the enactment of the Medical Device User Fee and Modernization Act of 2002 shall be payable on October 30, 2002. Applicants submitting portions of applications pursuant to section 515(c)(3) shall pay such fees upon submission of the first portion of such applications. The fees credited to fiscal year 2003 under this section shall include all fees payable from October 1, 2002, through September 30, 2003.

“(D) REFUNDS.—

“(i) APPLICATION REFUSED FOR FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (A) for any application or supplement that is refused for filing.

“(ii) APPLICATION WITHDRAWN BEFORE FILING.—The Secretary shall refund 75 percent of the fee paid under subparagraph (A) for any application or supplement that is withdrawn prior to the filing decision of the Secretary.

“(iii) APPLICATION WITHDRAWN BEFORE FIRST ACTION.—After receipt of a request for a refund of the fee paid under subparagraph (A) for a premarket application, premarket report, or supplement that is withdrawn after filing but before a first action, the Secretary may return some or all of the fee. The amount of refund, if any, shall be based on the level of effort already expended on the review of such application, report, or supplement. The Secretary shall have sole discretion to refund a fee or portion of the fee under this subparagraph. A determination by the Secretary concerning a refund under this paragraph shall not be reviewable.

“(b) FEE REVENUE AMOUNTS.—Except as provided in subsections (c), (d), (e), (g), and (h), the fees under subsection (a) shall be established to generate the following revenue amounts: \$25,125,000 in fiscal year 2003; \$27,255,000 in fiscal year 2004; \$29,785,000 in fiscal year 2005; \$32,615,000 in fiscal year 2006, and \$35,000,000 in fiscal year 2007. If legislation is enacted after the date of the enactment of the Medical Device User Fee and Modernization Act of 2002 requiring the Secretary to fund additional costs of the retirement of Federal personnel, fee revenue amounts under this subsection shall be increased in each year by the amount necessary to fully fund the portion of such additional costs that are attributable to the process for the review of device applications.

“(c) ADJUSTMENTS.—

“(1) INFLATION ADJUSTMENT.—The revenues established in subsection (b) shall be adjusted by the Secretary by notice, published in the Federal Register, for a fiscal year to reflect the greater of—

Federal Register,
publication.

“(A) the total percentage change that occurred in the Consumer Price Index for all urban consumers (all items; U.S. city average) for the 12 month period ending June 30 preceding the fiscal year for which fees are being established, or

“(B) the total percentage change for the previous fiscal year in basic pay under the General Schedule in accordance with section 5332 of title 5, United States Code, as adjusted

by any locality-based comparability payment pursuant to section 5304 of such title for Federal employees stationed in the District of Columbia.

The adjustment made each fiscal year by this subsection shall be added on a compounded basis to the sum of all adjustments made each fiscal year after fiscal year 2003 under this subsection.

“(2) WORKLOAD ADJUSTMENT.—After the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), the fee revenues shall, beginning with fiscal year 2004, be adjusted further each fiscal year to reflect changes in the workload of the Secretary for the process for the review of device applications. With respect to such adjustment:

“(A) The adjustment shall be determined by the Secretary based on a weighted average of the change in the total number of premarket applications, investigational new device applications, premarket reports, supplements, and premarket notification submissions submitted to the Secretary. The Secretary shall publish in the Federal Register the fee revenues and fees resulting from the adjustment and the supporting methodologies.

“(B) Under no circumstances shall the adjustment result in fee revenues for a fiscal year that are less than the fee revenues for the fiscal year established in subsection (b), as adjusted for inflation under paragraph (1).

“(3) COMPENSATING ADJUSTMENT.—After the fee revenues established in subsection (b) are adjusted for a fiscal year for inflation in accordance with paragraph (1), and for workload in accordance with paragraph (2), the fee revenues shall, beginning with fiscal year 2004, be adjusted further each fiscal year, if necessary, to reflect the cumulative amount by which collections for previous fiscal years, beginning with fiscal year 2003, fell below the cumulative revenue amounts for such fiscal years specified in subsection (b), adjusted for such fiscal years for inflation in accordance with paragraph (1), and for workload in accordance with paragraph (2).

“(4) FINAL YEAR ADJUSTMENT.—For fiscal year 2007, the Secretary may, in addition to adjustments under paragraphs (1) and (2), further increase the fees and fee revenues established in subsection (b) if such adjustment is necessary to provide for not more than three months of operating reserves of carryover user fees for the process for the review of device applications for the first three months of fiscal year 2008. If such an adjustment is necessary, the rationale for the amount of the increase shall be contained in the annual notice establishing fee revenues and fees for fiscal year 2007. If the Secretary has carryover user fee balances for such process in excess of three months of such operating reserves, the adjustment under this paragraph shall not be made.

“(5) ANNUAL FEE SETTING.—The Secretary shall, 60 days before the start of each fiscal year after September 30, 2002, establish, for the next fiscal year, and publish in the Federal Register, fees under subsection (a), based on the revenue amounts established under subsection (b) and the adjustment provided under this subsection and subsection (e)(2)(C)(ii),

Federal Register,
publication.

Federal Register,
publication.

except that the fees established for fiscal year 2003 shall be based on a premarket application fee of \$154,000.

“(6) LIMIT.—The total amount of fees charged, as adjusted under this subsection, for a fiscal year may not exceed the total costs for such fiscal year for the resources allocated for the process for the review of device applications.

“(d) SMALL BUSINESSES; FEE WAIVER AND FEE REDUCTION REGARDING PREMARKET APPROVAL FEES.—

“(1) IN GENERAL.—The Secretary shall grant a waiver of the fee required under subsection (a) for one premarket application, or one premarket report, where the Secretary finds that the applicant involved is a small business submitting its first premarket application to the Secretary, or its first premarket report, respectively, for review. In addition, for subsequent premarket applications, premarket reports, and supplements where the Secretary finds that the applicant involved is a small business, the fees specified in clauses (i) through (vi) of subsection (a)(1)(A) may be paid at a reduced rate in accordance with paragraph (2)(C).

“(2) RULES RELATING TO PREMARKET APPROVAL FEES.—

“(A) DEFINITION.—

“(i) IN GENERAL.—For purposes of this subsection, the term ‘small business’ means an entity that reported \$30,000,000 or less of gross receipts or sales in its most recent Federal income tax return for a taxable year, including such returns of all of its affiliates, partners, and parent firms.

“(ii) ADJUSTMENT.—The Secretary may adjust the \$30,000,000 threshold established in clause (i) if the Secretary has evidence from actual experience that this threshold results in a reduction in revenues from premarket applications, premarket reports, and supplements that is 16 percent or more than would occur without small business exemptions and lower fee rates. To adjust this threshold, the Secretary shall publish a notice in the Federal Register setting out the rationale for the adjustment, and the new threshold.

Federal Register,
publication.
Notice.

“(B) EVIDENCE OF QUALIFICATION.—An applicant shall pay the higher fees established by the Secretary each year unless the applicant submits evidence that it qualifies for a waiver of the fee or the lower fee rate. The applicant shall support its claim that it meets the definition under subparagraph (A) by submission of a copy of its most recent Federal income tax return for a taxable year, and a copy of such returns of its affiliates, partners, and parent firms, which show an amount of gross sales or receipts that is less than the maximum established in subparagraph (A). The applicant, and each of such affiliates, partners, and parent firms, shall certify that the information provided is a true and accurate copy of the actual tax forms they submitted to the Internal Revenue Service. If no tax forms are submitted for affiliates, partners, or parent firms, the applicant shall certify that the applicant has no affiliates, partners, or parent firms, respectively.

“(C) REDUCED FEES.—Where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fees established under subsection (c)(5) may

be paid at a reduced rate of 38 percent of the fee established under such subsection for a premarket application, a premarket report, or a supplement.

“(D) REQUEST FOR FEE WAIVER OR REDUCTION.—An applicant seeking a fee waiver or reduction under this subsection shall submit supporting information to the Secretary at least 60 days before the fee is required pursuant to subsection (a). The decision of the Secretary regarding whether an entity qualifies for such a waiver or reduction is not reviewable.

“(e) SMALL BUSINESSES; FEE REDUCTION REGARDING PREMARKET NOTIFICATION SUBMISSIONS.—

“(1) IN GENERAL.—Where the Secretary finds that the applicant involved is a small business, the fee specified in subsection (a)(1)(A)(vii) may be paid at a reduced rate in accordance with paragraph (2)(C).

“(2) RULES RELATING TO PREMARKET NOTIFICATION SUBMISSIONS.—

“(A) DEFINITION.—For purposes of this subsection, the term ‘small business’ means an entity that reported \$30,000,000 or less of gross receipts or sales in its most recent Federal income tax return for a taxable year, including such returns of all of its affiliates, partners, and parent firms.

“(B) EVIDENCE OF QUALIFICATION.—An applicant shall pay the higher fees established by the Secretary each year unless the applicant submits evidence that it qualifies for the lower fee rate. The applicant shall support its claim that it meets the definition under subparagraph (A) by submission of a copy of its most recent Federal income tax return for a taxable year, and a copy of such returns of its affiliates, partners, and parent firms, which show an amount of gross sales or receipts that is less than the maximum established in subparagraph (A). The applicant, and each of such affiliates, partners, and parent firms, shall certify that the information provided is a true and accurate copy of the actual tax forms they submitted to the Internal Revenue Service. If no tax forms are submitted for affiliates, partners, or parent firms, the applicant shall certify that the applicant has no affiliates, partners, or parent firms, respectively.

“(C) REDUCED FEES.—

“(i) IN GENERAL.—Where the Secretary finds that the applicant involved meets the definition under subparagraph (A), the fee for a premarket notification submission may be paid at 80 percent of the fee that applies under subsection (a)(1)(A)(vii), as adjusted under clause (ii) and as established under subsection (c)(5).

“(ii) ADJUSTMENT PER FEE REVENUE AMOUNT.—For fiscal year 2004 and each subsequent fiscal year, the Secretary, in setting the revenue amount under subsection (c)(5) for premarket notification submissions, shall determine the revenue amount that would apply if all such submissions for the fiscal year involved paid a fee equal to 1.42 percent of the amount that applies under subsection (a)(1)(A)(i) for premarket

applications, and shall adjust the fee under subsection (a)(1)(A)(vii) for premarket notification submissions such that the reduced fees collected under clause (i) of this subparagraph, when added to fees for such submissions that are not paid at the reduced rate, will equal such revenue amount for the fiscal year.

“(D) REQUEST FOR REDUCTION.—An applicant seeking a fee reduction under this subsection shall submit supporting information to the Secretary at least 60 days before the fee is required pursuant to subsection (a). The decision of the Secretary regarding whether an entity qualifies for such a reduction is not reviewable.

“(f) EFFECT OF FAILURE TO PAY FEES.—A premarket application, premarket report, supplement, or premarket notification submission submitted by a person subject to fees under subsection (a) shall be considered incomplete and shall not be accepted for filing by the Secretary until all fees owed by such person have been paid.

“(g) CONDITIONS.—

“(1) PERFORMANCE GOALS THROUGH FISCAL YEAR 2005; TERMINATION OF PROGRAM AFTER FISCAL YEAR 2005.—With respect to the amount that, under the salaries and expenses account of the Food and Drug Administration, is appropriated for a fiscal year for devices and radiological products:

“(A)(i) For each of the fiscal years 2003 and 2004, the Secretary is expected to meet all of the goals identified for the fiscal year involved in any letter referred to in section 101(3) of the Medical Device User Fee and Modernization Act of 2002 (referred to in this paragraph as ‘performance goals’) if the amount so appropriated for such fiscal year, excluding the amount of fees appropriated for such fiscal year, is equal to or greater than \$205,720,000 multiplied by the adjustment factor applicable to the fiscal year.

“(ii) For each of the fiscal years 2003 and 2004, if the amount so appropriated for the fiscal year involved, excluding the amount of fees appropriated for such fiscal year, is less than the amount that applies under clause (i) for such fiscal year, the following applies:

“(I) The Secretary is expected to meet such goals to the extent practicable, taking into account the amounts that are available to the Secretary for such purpose, whether from fees under subsection (a) or otherwise.

“(II) The Comptroller General of the United States shall submit to the Congress a report describing whether and to what extent the Secretary is meeting the performance goals identified for such fiscal year, and whether the Secretary will be able to meet all performance goals identified for fiscal year 2005. A report under the preceding sentence shall be submitted to the Congress not later than July 1 of the fiscal year with which the report is concerned.

Reports.

Deadline.

“(B)(i) For fiscal year 2005, the Secretary is expected to meet all of the performance goals identified for the fiscal year if the total of the amounts so appropriated for fiscal years 2003 through 2005, excluding the amount

of fees appropriated for such fiscal years, is equal to or greater than the sum of—

“(I) \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2003;

“(II) \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2004; and

“(III) \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2005.

“(ii) For fiscal year 2005, if the total of the amounts so appropriated for fiscal years 2003 through 2005, excluding the amount of fees appropriated for such fiscal years, is less than the sum that applies under clause (i) for fiscal year 2005, the following applies:

“(I) The Secretary is expected to meet such goals to the extent practicable, taking into account the amounts that are available to the Secretary for such purpose, whether from fees under subsection (a) or otherwise.

Reports.

“(II) The Comptroller General of the United States shall submit to the Congress a report describing whether and to what extent the Secretary is meeting the performance goals identified for such fiscal year, and whether the Secretary will be able to meet all performance goals identified for fiscal year 2006. The report under the preceding sentence shall be submitted to the Congress not later than July 1, 2005.

Deadline.

“(C) For fiscal year 2006, fees may not be assessed under subsection (a) for the fiscal year, and the Secretary is not expected to meet any performance goals identified for the fiscal year, if the total of the amounts so appropriated for fiscal years 2003 through 2006, excluding the amount of fees appropriated for such fiscal years, is less than the sum of—

“(i) \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2006; and

“(ii) an amount equal to the sum that applies for purposes of subparagraph (B)(i).

“(D) For fiscal year 2007, fees may not be assessed under subsection (a) for the fiscal year, and the Secretary is not expected to meet any performance goals identified for the fiscal year, if—

“(i) the amount so appropriated for the fiscal year, excluding the amount of fees appropriated for the fiscal year, is less than \$205,720,000 multiplied by the adjustment factor applicable to fiscal year 2007; or

“(ii) pursuant to subparagraph (C), fees were not assessed under subsection (a) for fiscal year 2006.

“(2) AUTHORITY.—If the Secretary does not assess fees under subsection (a) during any portion of a fiscal year because of subparagraph (C) or (D) of paragraph (1) and if at a later date in such fiscal year the Secretary may assess such fees, the Secretary may assess and collect such fees, without any modification in the rate for premarket applications, supplements, premarket reports, and premarket notification submissions, and at any time in such fiscal year, notwithstanding the provisions of subsection (a) relating to the date fees are to be paid.

“(h) CREDITING AND AVAILABILITY OF FEES.—

“(1) IN GENERAL.—Fees authorized under subsection (a) shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriation Acts. Such fees are authorized to be appropriated to remain available until expended. Such sums as may be necessary may be transferred from the Food and Drug Administration salaries and expenses appropriation account without fiscal year limitation to such appropriation account for salaries and expenses with such fiscal year limitation. The sums transferred shall be available solely for the process for the review of device applications.

“(2) COLLECTIONS AND APPROPRIATION ACTS.—

“(A) IN GENERAL.—The fees authorized by this section—

“(i) shall be retained in each fiscal year in an amount not to exceed the amount specified in appropriation Acts, or otherwise made available for obligation, for such fiscal year, and

“(ii) shall only be collected and available to defray increases in the costs of the resources allocated for the process for the review of device applications (including increases in such costs for an additional number of full-time equivalent positions in the Department of Health and Human Services to be engaged in such process) over such costs, excluding costs paid from fees collected under this section, for fiscal year 2002 multiplied by the adjustment factor.

“(B) COMPLIANCE.—The Secretary shall be considered to have met the requirements of subparagraph (A)(ii) in any fiscal year if the costs funded by appropriations and allocated for the process for the review of device applications—

“(i) are not more than 3 percent below the level specified in subparagraph (A)(ii); or

“(ii)(I) are more than 3 percent below the level specified in subparagraph (A)(ii), and fees assessed for a subsequent fiscal year are decreased by the amount in excess of 3 percent by which such costs fell below the level specified in such subparagraph; and

“(II) such costs are not more than 5 percent below the level specified in such subparagraph.

“(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fees under this section—

“(A) \$25,125,000 for fiscal year 2003;

“(B) \$27,255,000 for fiscal year 2004;

“(C) \$29,785,000 for fiscal year 2005;

“(D) \$32,615,000 for fiscal year 2006; and

“(E) \$35,000,000 for fiscal year 2007,

as adjusted to reflect adjustments in the total fee revenues made under this section and changes in the total amounts collected by application fees.

“(4) OFFSET.—Any amount of fees collected for a fiscal year under this section that exceeds the amount of fees specified in appropriation Acts for such fiscal year shall be credited to the appropriation account of the Food and Drug Administration as provided in paragraph (1), and shall be subtracted

from the amount of fees that would otherwise be authorized to be collected under this section pursuant to appropriation Acts for a subsequent fiscal year.

Deadline.

“(i) **COLLECTION OF UNPAID FEES.**—In any case where the Secretary does not receive payment of a fee assessed under subsection (a) within 30 days after it is due, such fee shall be treated as a claim of the United States Government subject to subchapter II of chapter 37 of title 31, United States Code.

Deadline.

“(j) **WRITTEN REQUESTS FOR REFUNDS.**—To qualify for consideration for a refund under subsection (a)(1)(D), a person shall submit to the Secretary a written request for such refund not later than 180 days after such fee is due.

“(k) **CONSTRUCTION.**—This section may not be construed to require that the number of full-time equivalent positions in the Department of Health and Human Services, for officers, employees, and advisory committees not engaged in the process of the review of device applications, be reduced to offset the number of officers, employees, and advisory committees so engaged.”.

21 USC 379j
note.

(b) **FEE EXEMPTION FOR CERTAIN ENTITIES SUBMITTING PRE-MARKET REPORTS.**—

(1) **IN GENERAL.**—A person submitting a premarket report to the Secretary of Health and Human Services is exempt from the fee under section 738(a)(1)(A)(ii) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section) if—

(A) the premarket report is the first such report submitted to the Secretary by the person; and

(B) before October 1, 2002, the person submitted a premarket application to the Secretary for the same device as the device for which the person is submitting the premarket report.

(2) **DEFINITIONS.**—For purposes of paragraph (1), the terms “device”, “premarket application”, and “premarket report” have the same meanings as apply to such terms for purposes of section 738 of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section).

21 USC 379i
note.

SEC. 103. ANNUAL REPORTS.

Beginning with fiscal year 2003, the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate a report concerning—

(1) the progress of the Food and Drug Administration in achieving the goals identified in the letters described in section 101(3) during such fiscal year and the future plans of the Food and Drug Administration for meeting the goals, not later than 60 days after the end of each fiscal year during which fees are collected under this part; and

Deadline.

(2) the implementation of the authority for such fees during such fiscal year, and the use, by the Food and Drug Administration, of the fees collected during such fiscal year, not later than 120 days after the end of each fiscal year during which fees are collected under the medical device user-fee program established under the amendment made by section 102.

SEC. 104. POSTMARKET SURVEILLANCE.

(a) **ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.**—For the purpose of carrying out postmarket surveillance of medical devices,

there are authorized to be appropriated to the Food and Drug Administration the following amounts, stated as increases above the amount obligated for such purpose by such Administration for fiscal year 2002:

(1) For fiscal year 2003, an increase of \$3,000,000.

(2) For fiscal year 2004, an increase of \$6,000,000.

(3) For fiscal year 2005 and each subsequent fiscal year, an increase of such sums as may be necessary.

(b) STUDY.—

21 USC 379i
note.

(1) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall conduct a study for the purpose of determining the following with respect to the medical device user-fee program established under the amendment made by section 102:

(A) The impact of such program on the ability of the Food and Drug Administration to conduct postmarket surveillance on medical devices.

(B) The programmatic improvements, if any, needed for adequate postmarket surveillance of medical devices.

(C) The amount of funds needed to conduct adequate postmarket surveillance of medical devices.

(D) The extent to which device companies comply with the postmarket surveillance requirements, including postmarket study commitments.

(E) The recommendations of the Secretary as to whether, and in what amounts, user fees collected under such user-fee program should be dedicated to postmarket surveillance if the program is extended beyond fiscal year 2007.

(2) REPORT.—Not later than January 10, 2007, the Secretary shall submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report that describes the findings of the study under paragraph (1).

Deadline.

SEC. 105. CONSULTATION.

21 USC 379i
note.

(a) IN GENERAL.—In developing recommendations to the Congress for the goals and plans for meeting the goals for the process for the review of medical device applications for fiscal years after fiscal year 2007, and for the reauthorization of sections 737 and 738 of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall consult with the Committee on Energy and Commerce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, appropriate scientific and academic experts, health care professionals, representatives of patient and consumer advocacy groups, and the regulated industry.

(b) RECOMMENDATIONS.—The Secretary shall publish in the Federal Register recommendations under subsection (a), after negotiations with the regulated industry; shall present such recommendations to the congressional committees specified in such paragraph; shall hold a meeting at which the public may present its views on such recommendations; and shall provide for a period of 30 days for the public to provide written comments on such recommendations.

Federal Register,
publication.

21 USC 379i
note.

SEC. 106. EFFECTIVE DATE.

The amendments made by this title shall take effect on the date of the enactment of this Act, except that fees shall be assessed for all premarket applications, premarket reports, supplements, and premarket notification submissions received on or after October 1, 2002, regardless of the date of enactment.

21 USC 379i
note.

SEC. 107. SUNSET CLAUSE.

The amendments made by this title cease to be effective October 1, 2007, except that section 103 with respect to annual reports ceases to be effective January 31, 2008.

TITLE II—AMENDMENTS REGARDING REGULATION OF MEDICAL DEVICES

SEC. 201. INSPECTIONS BY ACCREDITED PERSONS.

(a) IN GENERAL.—Section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374) is amended by adding at the end the following subsection:

Deadline.

“(g)(1) Not later than one year after the date of the enactment of this subsection, the Secretary shall, subject to the provisions of this subsection, accredit persons for the purpose of conducting inspections of establishments that manufacture, prepare, propagate, compound, or process class II or class III devices that are required in section 510(h), or inspections of such establishments required to register pursuant to section 510(i). The owner or operator of such an establishment that is eligible under paragraph (6) may, from the list published under paragraph (4), select an accredited person to conduct such inspections.

Deadline.
Federal Register,
publication.

“(2) Not later than 180 days after the date of enactment of this subsection, the Secretary shall publish in the Federal Register criteria to accredit or deny accreditation to persons who request to perform the duties specified in paragraph (1). Thereafter, the Secretary shall inform those requesting accreditation, within 60 days after the receipt of such request, whether the request for accreditation is adequate for review, and the Secretary shall promptly act on the request for accreditation. Any resulting accreditation shall state that such person is accredited to conduct inspections at device establishments identified in paragraph (1). The accreditation of such person shall specify the particular activities under this subsection for which such person is accredited. In the first year following the publication in the Federal Register of criteria to accredit or deny accreditation to persons who request to perform the duties specified in paragraph (1), the Secretary shall accredit no more than 15 persons who request to perform duties specified in paragraph (1).

“(3) An accredited person shall, at a minimum, meet the following requirements:

“(A) Such person may not be an employee of the Federal Government.

“(B) Such person shall be an independent organization which is not owned or controlled by a manufacturer, supplier, or vendor of articles regulated under this Act and which has no organizational, material, or financial affiliation (including a consultative affiliation) with such a manufacturer, supplier, or vendor.

“(C) Such person shall be a legally constituted entity permitted to conduct the activities for which it seeks accreditation.

“(D) Such person shall not engage in the design, manufacture, promotion, or sale of articles regulated under this Act.

“(E) The operations of such person shall be in accordance with generally accepted professional and ethical business practices, and such person shall agree in writing that at a minimum the person will—

“(i) certify that reported information accurately reflects data reviewed, inspection observations made, other matters that relate to or may influence compliance with this Act, and recommendations made during an inspection or at an inspection’s closing meeting;

“(ii) limit work to that for which competence and capacity are available;

“(iii) treat information received, records, reports, and recommendations as confidential commercial or financial information or trade secret information, except such information may be made available to the Secretary;

“(iv) promptly respond and attempt to resolve complaints regarding its activities for which it is accredited; and

“(v) protect against the use, in carrying out paragraph (1), of any officer or employee of the accredited person who has a financial conflict of interest regarding any product regulated under this Act, and annually make available to the public disclosures of the extent to which the accredited person, and the officers and employees of the person, have maintained compliance with requirements under this clause relating to financial conflicts of interest.

“(4) The Secretary shall publish on the Internet site of the Food and Drug Administration a list of persons who are accredited under paragraph (2). Such list shall be updated to ensure that the identity of each accredited person, and the particular activities for which the person is accredited, is known to the public. The updating of such list shall be no later than one month after the accreditation of a person under this subsection or the suspension or withdrawal of accreditation, or the modification of the particular activities for which the person is accredited.

Publication.

Deadline.

“(5)(A) To ensure that persons accredited under this subsection continue to meet the standards of accreditation, the Secretary shall (i) audit the performance of such persons on a periodic basis through the review of inspection reports and inspections by persons designated by the Secretary to evaluate the compliance status of a device establishment and the performance of accredited persons, and (ii) take such additional measures as the Secretary determines to be appropriate.

“(B) The Secretary may withdraw accreditation of any person accredited under paragraph (2), after providing notice and an opportunity for an informal hearing, when such person is substantially not in compliance with the standards of accreditation, or poses a threat to public health or fails to act in a manner that is consistent with the purposes of this subsection. The Secretary may suspend the accreditation of such person during the pendency of the process under the preceding sentence.

“(6)(A) Subject to subparagraphs (B) and (C), a device establishment is eligible for inspections by persons accredited under paragraph (2) if the following conditions are met:

“(i) The Secretary classified the results of the most recent inspection of the establishment pursuant to subsection (h) or (i) of section 510 as ‘no action indicated’ or ‘voluntary action indicated’.

“(ii) With respect to each inspection to be conducted by an accredited person—

“(I) the owner or operator of the establishment submits to the Secretary a notice requesting clearance to use such a person to conduct the inspection, and the Secretary provides such clearance; and

“(II) such notice identifies the accredited person whom the establishment has selected to conduct the inspection, and the Secretary agrees to the selected accredited person.

“(iii) With respect to the devices that are manufactured, prepared, propagated, compounded, or processed by the establishment, at least one of such devices is marketed in the United States, and the following additional conditions are met:

“(I) At least one of such devices is marketed, or is intended to be marketed, in one or more foreign countries, one of which countries certifies, accredits, or otherwise recognizes the person accredited under paragraph (2) and identified under subclause (II) of this clause.

“(II) The owner or operator of the establishment submits to the Secretary a statement that the law of a country in which such a device is marketed, or is intended to be marketed, recognizes an inspection of the establishment by the Secretary, and not later than 30 days after receiving such statement, the Secretary informs the owner or operator of the establishment that the owner or operator may submit a notice requesting clearance under clause (ii).

“(iv)(I) In the case of an inspection to be conducted pursuant to 510(h), persons accredited under paragraph (2) did not conduct the two immediately preceding inspections of the establishment, except that the establishment may petition the Secretary for a waiver of such condition. Such a waiver may be granted only if the petition states a commercial reason for the waiver; the Secretary determines that the public health would be served by granting the waiver; and the Secretary has conducted an inspection of the establishment during the four-year period preceding the date on which the notice under clause (ii) is submitted to the Secretary. Such a waiver is deemed to be granted only if the petition states a commercial reason for the waiver; the Secretary has not determined that the public health would be served by granting the waiver; and the owner or operator of the device establishment has requested in writing, not later than 18 months following the most recent inspection of such establishment by a person accredited under paragraph (2), that the Secretary inspect the establishment and the Secretary has not conducted an inspection within 30 months after the most recent inspection. With respect to such a waiver that is granted or deemed to be granted, no additional such waiver may be granted until after the Secretary has conducted an inspection of the establishment.

Deadline.

“(II) In the case of an inspection to be conducted pursuant to 510(i), the Secretary periodically conducts inspections of the establishment.

“(B)(i) The Secretary shall respond to a notice under subparagraph (A) from a device establishment not later than 30 days after the Secretary receives the notice. Through such response, the Secretary shall (I) provide clearance under such subparagraph, and agree to the selection of an accredited person, or (II) make a request under clause (ii). If the Secretary fails to respond to the notice within such 30-day period, the establishment is deemed to have such clearance, and to have the agreement of the Secretary for such selection. Deadline.

“(ii) The request referred to in clause (i)(II) is—

“(I) a request to the device establishment involved to submit to the Secretary compliance data in accordance with clause (iii); or

“(II) a request to the establishment, or to the accredited person identified in the notice under subparagraph (A), for information concerning the relationship between the establishment and such accredited person, including information about the number of inspections of the establishment, or other establishments owned or operated by the owner or operator of the establishment, that have been conducted by the accredited person.

The Secretary may make both such requests.

“(iii) The compliance data to be submitted by a device establishment under clause (ii) are data describing whether the quality controls of the establishment have been sufficient for ensuring consistent compliance with current good manufacturing practice within the meaning of section 501(h), and data otherwise describing whether the establishment has consistently been in compliance with sections 501 and 502 and other applicable provisions of this Act. Such data shall include complete reports of inspections regarding good manufacturing practice or other quality control audits that, during the preceding two-year period, were conducted at the establishment by persons other than the owner or operator of the establishment, together with all other compliance data the Secretary deems necessary. Data under the preceding sentence shall demonstrate to the Secretary whether the establishment has facilitated consistent compliance by promptly correcting any compliance problems identified in such inspections.

“(iv) Not later than 60 days after receiving compliance data under clause (iii) from a device establishment, the Secretary shall provide or deny clearance under subparagraph (A). The Secretary may deny clearance if the Secretary determines that the establishment has failed to demonstrate consistent compliance for purposes of clause (iii). The Secretary shall provide to the establishment a statement of such reasons for such determination. If the Secretary fails to provide such statement to the establishment within such 60-day period, the establishment is deemed to have such clearance. Deadline.

“(v)(I) A request to an accredited person under clause (ii)(II) may not seek any information that is not required to be maintained by such person in records under subsection (f)(1). Not later than 60 days after receiving the information sought by the request, the Secretary shall agree to, or reject, the selection of such person by the device establishment involved. The Secretary may reject

the selection if the Secretary provides to the establishment a statement of the reasons for such rejection. Reasons for the rejection may include that the establishment or the accredited person, as the case may be, has failed to fully respond to the request, or that the Secretary has concerns regarding the relationship between the establishment and such accredited person. If within such 60-day period the Secretary fails to agree to or reject the selection in accordance with this subclause, the Secretary is deemed to have agreed to the selection.

“(II) If the Secretary rejects the selection of an accredited person by a device establishment, the establishment may make an additional selection of an accredited person by submitting to the Secretary a notice that identifies the additional selection. Clauses (i) and (ii), and subclause (I) of this clause, apply to the selection of an accredited person through a notice under the preceding sentence in the same manner and to the same extent as such provisions apply to a selection of an accredited person through a notice under subparagraph (A).

“(vi) In the case of a device establishment that under clause (iv) is denied clearance under subparagraph (A), or whose selection of an accredited person is rejected under clause (v), the Secretary shall designate a person to review the findings of the Secretary under such clause if, during the 30-day period beginning on the date on which the establishment receives the findings, the establishment requests the review. The review shall commence not later than 30 days after the establishment requests the review, unless the Secretary and the establishment otherwise agree.

“(C)(i) In the case of a device establishment for which the Secretary classified the results of the most recent inspection of the establishment by a person accredited under paragraph (2) as ‘official action indicated’, the establishment, if otherwise eligible under subparagraph (A), is eligible for further inspections by persons accredited under such paragraph if (I) the Secretary issues a written statement to the owner or operator of the establishment that the violations leading to such classification have been resolved, and (II) the Secretary, either upon the Secretary’s own initiative or a petition of the owner or operator of the establishment, notifies the establishment that it has clearance to use an accredited person for the inspections. The Secretary shall respond to such petition within 30 days after the receipt of the petition.

“(ii) If the Secretary denies a petition under clause (i), the device establishment involved may, after the expiration of one year after such denial, again petition the Secretary for a determination of eligibility for inspection by persons accredited by the Secretary under paragraph (2). If the Secretary denies such petition, the Secretary shall provide the establishment with such reasons for such denial within 60 days after the denial. If, as of the expiration of 48 months after the receipt of the first petition, the establishment has not been inspected by the Secretary in accordance with section 510(h), or has not during such period been inspected pursuant to section 510(i), as applicable, the establishment is eligible for further inspections by accredited persons.

“(7)(A) Persons accredited under paragraph (2) to conduct inspections shall record in writing their inspection observations and shall present the observations to the device establishment’s designated representative and describe each observation. Additionally, such accredited person shall prepare an inspection report

Deadline.

(including for inspections classified as ‘no action indicated’) in a form and manner consistent with such reports prepared by employees and officials designated by the Secretary to conduct inspections.

“(B) At a minimum, an inspection report under subparagraph (A) shall identify the persons responsible for good manufacturing practice compliance at the inspected device establishment, the dates of the inspection, the scope of the inspection, and shall describe in detail each observation identified by the accredited person, identify other matters that relate to or may influence compliance with this Act, and describe any recommendations during the inspection or at the inspection’s closing meeting.

“(C) An inspection report under subparagraph (A) shall be sent to the Secretary and to the designated representative of the inspected device establishment at the same time, but under no circumstances later than three weeks after the last day of the inspection. The report to the Secretary shall be accompanied by all written inspection observations previously provided to the designated representative of the establishment.

Deadline.

“(D) Any statement or representation made by an employee or agent of a device establishment to a person accredited under paragraph (2) to conduct inspections shall be subject to section 1001 of title 18, United States Code.

“(E) If at any time during an inspection by an accredited person the accredited person discovers a condition that could cause or contribute to an unreasonable risk to the public health, the accredited person shall immediately notify the Secretary of the identification of the device establishment subject to inspection and such condition.

“(8) Compensation for an accredited person shall be determined by agreement between the accredited person and the person who engages the services of the accredited person, and shall be paid by the person who engages such services.

“(9) Nothing in this subsection affects the authority of the Secretary to inspect any device establishment pursuant to this Act.

“(10)(A) For fiscal year 2005 and each subsequent fiscal year, no device establishment may be inspected during the fiscal year involved by a person accredited under paragraph (2) if—

“(i) of the amounts appropriated for salaries and expenses of the Food and Drug Administration for the preceding fiscal year (referred to in this subparagraph as the ‘first prior fiscal year’), the amount obligated by the Secretary for inspections of device establishments by the Secretary was less than the adjusted base amount applicable to such first prior fiscal year; and

“(ii) of the amounts appropriated for salaries and expenses of the Food and Drug Administration for the fiscal year preceding the first prior fiscal year (referred to in this subparagraph as the ‘second prior fiscal year’), the amount obligated by the Secretary for inspections of device establishments by the Secretary was less than the adjusted base amount applicable to such second prior fiscal year.

“(B)(i) Subject to clause (ii), the Comptroller General of the United States shall determine the amount that was obligated by the Secretary for fiscal year 2002 for compliance activities of the Food and Drug Administration with respect to devices (referred

to in this subparagraph as the ‘compliance budget’), and of such amount, the amount that was obligated for inspections by the Secretary of device establishments (referred to in this subparagraph as the ‘inspection budget’).

“(ii) For purposes of determinations under clause (i), the Comptroller General shall not include in the compliance budget or the inspection budget any amounts obligated for inspections of device establishments conducted as part of the process of reviewing applications under section 515.

“(iii) Not later than March 31, 2003, the Comptroller General shall complete the determinations required in this subparagraph and submit to the Secretary and the Congress a reporting describing the findings made through such determinations.

“(C) For purposes of this paragraph:

“(i) The term ‘base amount’ means the inspection budget determined under subparagraph (B) for fiscal year 2002.

“(ii) The term ‘adjusted base amount’, in the case of applicability to fiscal year 2003, means an amount equal to the base amount increased by 5 percent.

“(iii) The term ‘adjusted base amount’, with respect to applicability to fiscal year 2004 or any subsequent fiscal year, means the adjusted based amount applicable to the preceding year increased by 5 percent.

“(11) The authority provided by this subsection terminates on October 1, 2012.

“(12) No later than four years after the enactment of this subsection the Comptroller General shall report to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor and Pensions of the Senate—

“(A) the number of inspections pursuant to subsections (h) and (i) of section 510 conducted by accredited persons and the number of inspections pursuant to such subsections conducted by Federal employees;

“(B) the number of persons who sought accreditation under this subsection, as well as the number of persons who were accredited under this subsection;

“(C) the reasons why persons who sought accreditation, but were denied accreditation, were denied;

“(D) the number of audits conducted by the Secretary of accredited persons, the quality of inspections conducted by accredited persons, whether accredited persons are meeting their obligations under this Act, and whether the number of audits conducted is sufficient to permit these assessments;

“(E) whether this subsection is achieving the goal of ensuring more information about device establishment compliance is being presented to the Secretary, and whether that information is of a quality consistent with information obtained by the Secretary pursuant to subsection (h) or (i) of section 510;

“(F) whether this subsection is advancing efforts to allow device establishments to rely upon third-party inspections for purposes of compliance with the laws of foreign governments; and

“(G) whether the Congress should continue, modify, or terminate the program under this subsection.

Deadline.
Reports.

“(13) The Secretary shall include in the annual report required under section 903(g) the names of all accredited persons and the particular activities under this subsection for which each such person is accredited and the name of each accredited person whose accreditation has been withdrawn during the year.

“(14) Notwithstanding any provision of this subsection, this subsection does not have any legal effect on any agreement described in section 803(b) between the Secretary and a foreign country.”

(b) MAINTENANCE OF RECORDS.—Section 704(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374(f)) is amended—

(1) in paragraph (1), in the first sentence, by striking “A person accredited” and all that follows through “shall maintain records” and inserting the following: “An accredited person described in paragraph (3) shall maintain records”;

(2) in paragraph (2), by striking “a person accredited under section 523” and inserting “an accredited person described in paragraph (3)”; and

(3) by adding at the end the following paragraph:

“(3) For purposes of paragraphs (1) and (2), an accredited person described in this paragraph is a person who—

“(A) is accredited under subsection (g); or

“(B) is accredited under section 523.”.

(c) CIVIL MONEY PENALTY.—Section 303(g)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(g)(1)(A)) is amended by adding at the end the following: “For purposes of the preceding sentence, a person accredited under paragraph (2) of section 704(g) who is substantially not in compliance with the standards of accreditation under such section, or who poses a threat to public health or fails to act in a manner that is consistent with the purposes of such section, shall be considered to have violated a requirement of this Act that relates to devices.”.

(d) PROHIBITED ACTS.—Section 301 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331) is amended by adding at the end the following:

“(gg) The knowing failure of a person accredited under paragraph (2) of section 704(g) to comply with paragraph (7)(E) of such section; the knowing inclusion by such a person of false information in an inspection report under paragraph (7)(A) of such section; or the knowing failure of such a person to include material facts in such a report.”.

(e) CONFORMING AMENDMENT.—Section 510(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(h)) is amended by inserting after “duly designated by the Secretary” the following: “, or by persons accredited to conduct inspections under section 704(g),”.

SEC. 202. THIRD PARTY REVIEW OF PREMARKET NOTIFICATION.

Section 523 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360m) is amended—

(1) in subsection (c), by striking “The authority” and all that follows and inserting the following: “The authority provided by this section terminates October 1, 2007.”; and

(2) by adding at the end the following subsection:

“(d) REPORT.—Not later than January 10, 2007, the Secretary shall conduct a study based on the experience under the program under this section and submit to the Committee on Energy and

Deadline.

Commerce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate, a report describing the findings of the study. The objectives of the study shall include determining—

- “(1) the number of devices reviewed under this section;
- “(2) the number of devices reviewed under this section that were ultimately cleared by the Secretary;
- “(3) the number of devices reviewed under this section that were ultimately not cleared by the Secretary;
- “(4) the average time period for a review under this section (including the time it takes for the Secretary to review a recommendation of an accredited person under subsection (a) and determine the initial device classification);
- “(5) the average time period identified in paragraph (4) compared to the average time period for review of devices solely by the Secretary pursuant to section 510(k);
- “(6) if there is a difference in the average time period under paragraph (4) and the average time period under paragraph (5), the reasons for such difference;
- “(7) whether the quality of reviews under this section for devices for which no guidance has been issued is qualitatively inferior to reviews by the Secretary for devices for which no guidance has been issued;
- “(8) whether the quality of reviews under this section of devices for which no guidance has been issued is qualitatively inferior to reviews under this section of devices for which guidance has been issued;
- “(9) whether this section has in any way jeopardized or improved the public health;
- “(10) any impact of this section on resources available to the Secretary to review reports under section 510(k); and
- “(11) any suggestions for continuation, modification (including contraction or expansion of device eligibility), or termination of this section that the Secretary determines to be appropriate.”.

SEC. 203. DEBARMENT OF ACCREDITED PERSONS.

Section 306 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 335a) is amended by adding at the end the following subsection:

“(m) DEVICES; MANDATORY DEBARMENT REGARDING THIRD-PARTY INSPECTIONS AND REVIEWS.—

“(1) IN GENERAL.—If the Secretary finds that a person has been convicted of a felony under section 301(gg), the Secretary shall debar such person from being accredited under section 523(b) or 704(g)(2) and from carrying out activities under an agreement described in section 803(b).

“(2) DEBARMENT PERIOD.—The Secretary shall debar a person under paragraph (1) for the following periods:

“(A) The period of debarment of a person (other than an individual) shall not be less than 1 year or more than 10 years, but if an act leading to a subsequent debarment under such paragraph occurs within 10 years after such person has been debarred under such paragraph, the period of debarment shall be permanent.

“(B) The debarment of an individual shall be permanent.

“(3) TERMINATION OF DEBARMENT; JUDICIAL REVIEW; OTHER MATTERS.—Subsections (c)(3), (d), (e), (i), (j), and (l)(1) apply with respect to a person (other than an individual) or an individual who is debarred under paragraph (1) to the same extent and in the same manner as such subsections apply with respect to a person who is debarred under subsection (a)(1), or an individual who is debarred under subsection (a)(2), respectively.”.

SEC. 204. DESIGNATION AND REGULATION OF COMBINATION PRODUCTS.

Section 503(g) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 353(g)) is amended—

(1) in paragraph (1)—

(A) in the first sentence, by striking “shall designate a component of the Food and Drug Administration” and inserting “shall in accordance with this subsection assign an agency center”; and

(B) in each of subparagraphs (A) through (C), by striking “the persons charged” and inserting “the agency center charged”;

(2) by redesignating paragraph (4) as paragraph (5);

(3) by inserting after paragraph (3) the following paragraph:

“(4)(A) Not later than 60 days after the date of the enactment of this paragraph, the Secretary shall establish within the Office of the Commissioner of Food and Drugs an office to ensure the prompt assignment of combination products to agency centers, the timely and effective premarket review of such products, and consistent and appropriate postmarket regulation of like products subject to the same statutory requirements to the extent permitted by law. Additionally, the office shall, in determining whether a product is to be designated a combination product, consult with the component within the Office of the Commissioner of Food and Drugs that is responsible for such determinations. Such office (referred to in this paragraph as the ‘Office’) shall have appropriate scientific and medical expertise, and shall be headed by a director.

Deadline.

“(B) In carrying out this subsection, the Office shall, for each combination product, promptly assign an agency center with primary jurisdiction in accordance with paragraph (1) for the premarket review of such product.

“(C)(i) In carrying out this subsection, the Office shall ensure timely and effective premarket reviews by overseeing the timeliness of and coordinating reviews involving more than one agency center.

“(ii) In order to ensure the timeliness of the premarket review of a combination product, the agency center with primary jurisdiction for the product, and the consulting agency center, shall be responsible to the Office with respect to the timeliness of the premarket review.

“(D) In carrying out this subsection, the Office shall ensure the consistency and appropriateness of postmarket regulation of like products subject to the same statutory requirements to the extent permitted by law.

“(E)(i) Any dispute regarding the timeliness of the premarket review of a combination product may be presented to the Office for resolution, unless the dispute is clearly premature.

“(ii) During the review process, any dispute regarding the substance of the premarket review may be presented to the Commissioner of Food and Drugs after first being considered by the agency center with primary jurisdiction of the premarket review, under the scientific dispute resolution procedures for such center. The Commissioner of Food and Drugs shall consult with the Director of the Office in resolving the substantive dispute.

Federal Register,
publication.
Notice.

“(F) The Secretary, acting through the Office, shall review each agreement, guidance, or practice of the Secretary that is specific to the assignment of combination products to agency centers and shall determine whether the agreement, guidance, or practice is consistent with the requirements of this subsection. In carrying out such review, the Secretary shall consult with stakeholders and the directors of the agency centers. After such consultation, the Secretary shall determine whether to continue in effect, modify, revise, or eliminate such agreement, guidance, or practice, and shall publish in the Federal Register a notice of the availability of such modified or revised agreement, guidance or practice. Nothing in this paragraph shall be construed as preventing the Secretary from following each agreement, guidance, or practice until continued, modified, revised, or eliminated.

Deadline.
Reports.

“(G) Not later than one year after the date of the enactment of this paragraph and annually thereafter, the Secretary shall report to the appropriate committees of Congress on the activities and impact of the Office. The report shall include provisions—

“(i) describing the numbers and types of combination products under review and the timeliness in days of such assignments, reviews, and dispute resolutions;

“(ii) identifying the number of premarket reviews of such products that involved a consulting agency center; and

“(iii) describing improvements in the consistency of postmarket regulation of combination products.

“(H) Nothing in this paragraph shall be construed to limit the regulatory authority of any agency center.”; and

(4) in paragraph (5) (as redesignated by paragraph (2) of this section)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before subparagraph (B) the following subparagraph:

“(A) The term ‘agency center’ means a center or alternative organizational component of the Food and Drug Administration.”.

21 USC 360e
note.
Deadline.

SEC. 205. REPORT ON CERTAIN DEVICES.

Not later than one year after the date of enactment of this Act, the Secretary of Health and Human Services shall report to the appropriate committees of Congress on the timeliness and effectiveness of device premarket reviews by centers other than the Center for Devices and Radiological Health. Such report shall include information on the times required to log in and review original submissions and supplements, times required to review manufacturers’ replies to submissions, and times to approve or clear such devices. Such report shall contain the Secretary’s recommendations on any measures needed to improve performance including, but not limited to, the allocation of additional resources.

Such report also shall include the Secretary's specific recommendation on whether responsibility for regulating such devices should be reassigned to those persons within the Food and Drug Administration who are primarily charged with regulating other types of devices, and whether such a transfer could have a deleterious impact on the public health and on the safety of such devices.

SEC. 206. ELECTRONIC LABELING.

Section 502(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(f)) is amended by adding at the end the following: "Required labeling for prescription devices intended for use in health care facilities may be made available solely by electronic means provided that the labeling complies with all applicable requirements of law and, that the manufacturer affords health care facilities the opportunity to request the labeling in paper form, and after such request, promptly provides the health care facility the requested information without additional cost."

SEC. 207. ELECTRONIC REGISTRATION.

Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended by adding at the end the following:

"(p) Registrations under subsections (b), (c), (d), and (i) (including the submission of updated information) shall be submitted to the Secretary by electronic means, upon a finding by the Secretary that the electronic receipt of such registrations is feasible, unless the Secretary grants a request for waiver of such requirement because use of electronic means is not reasonable for the person requesting such waiver."

SEC. 208. INTENDED USE.

Section 513(i)(1)(E) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(i)(1)(E)) is amended by striking clause (iv).

SEC. 209. MODULAR REVIEW.

Section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)) is amended by adding at the end the following:

"(3)(A) Prior to the submission of an application under this subsection, the Secretary shall accept and review any portion of the application that the applicant and the Secretary agree is complete, ready, and appropriate for review, except that such requirement does not apply, and the Secretary has discretion whether to accept and review such portion, during any period in which, under section 738(g), the Secretary does not have the authority to collect fees under section 738(a).

"(B) Each portion of a submission reviewed under subparagraph (A) and found acceptable by the Secretary shall not be further reviewed after receipt of an application that satisfies the requirements of paragraph (1), unless an issue of safety or effectiveness provides the Secretary reason to review such accepted portion.

"(C) Whenever the Secretary determines that a portion of a submission under subparagraph (A) is unacceptable, the Secretary shall, in writing, provide to the applicant a description of any deficiencies in such portion and identify the information that is required to correct these deficiencies, unless the applicant is no longer pursuing the application."

SEC. 210. PEDIATRIC EXPERTISE REGARDING CLASSIFICATION-PANEL REVIEW OF PREMARKET APPLICATIONS.

Section 515(c) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(c)), as amended by section 302(c)(2)(A) of this Act, is amended in paragraph (3) by adding at the end the following: “Where appropriate, the Secretary shall ensure that such panel includes, or consults with, one or more pediatric experts.”.

SEC. 211. INTERNET LIST OF CLASS II DEVICES EXEMPTED FROM REQUIREMENT OF PREMARKET NOTIFICATION.

Section 510(m)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360(m)(1)) is amended by adding at the end the following: “The Secretary shall publish such list on the Internet site of the Food and Drug Administration. The list so published shall be updated not later than 30 days after each revision of the list by the Secretary.”.

21 USC 360/
note.

SEC. 212. STUDY BY INSTITUTE OF MEDICINE OF POSTMARKET SURVEILLANCE REGARDING PEDIATRIC POPULATIONS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this section as the “Secretary”) shall request the Institute of Medicine to enter into an agreement with the Secretary under which such Institute conducts a study for the purpose of determining whether the system under the Federal Food, Drug, and Cosmetic Act for the postmarket surveillance of medical devices provides adequate safeguards regarding the use of devices in pediatric populations.

(b) CERTAIN MATTERS.—The Secretary shall ensure that determinations made in the study under subsection (a) include determinations of—

(1) whether postmarket surveillance studies of implanted medical devices are of long enough duration to evaluate the impact of growth and development for the number of years that the child will have the implant, and whether the studies are adequate to evaluate how children’s active lifestyles may affect the failure rate and longevity of the implant; and

(2) whether the postmarket surveillance by the Food and Drug Administration of medical devices used in pediatric populations is sufficient to provide adequate safeguards for such populations, taking into account the Secretary’s monitoring of commitments made at the time of approval of medical devices, such as phase IV trials, and the Secretary’s monitoring and use of adverse reaction reports, registries, and other postmarket surveillance activities.

Deadline.

(c) REPORT TO CONGRESS.—The Secretary shall ensure that, not later than four years after the date of the enactment of this Act, a report describing the findings of the study under subsection (a) is submitted to the Congress. The report shall include any recommendations of the Secretary for administrative or legislative changes to the system of postmarket surveillance referred to in such subsection.

21 USC 360j
note.
Deadline.

SEC. 213. GUIDANCE REGARDING PEDIATRIC DEVICES.

Not later than 270 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue guidance on the following:

(1) The type of information necessary to provide reasonable assurance of the safety and effectiveness of medical devices intended for use in pediatric populations.

(2) Protections for pediatric subjects in clinical investigations of the safety or effectiveness of such devices.

SEC. 214. BREAST IMPLANTS; STUDY BY COMPTROLLER GENERAL.

42 USC 289g-3
note.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the following with respect to breast implants:

(1) The content of information typically provided by health professionals to women who consult with such professionals on the issue of whether to undergo breast implant surgery.

(2) Whether such information is provided by physicians or other health professionals, and whether the information is provided verbally or in writing, and at what point in the process of determining whether to undergo surgery is such information provided.

(3) Whether the information presented, as a whole, provides a complete and accurate discussion of the risks and benefits of breast implants, and the extent to which women who receive such information understand the risks and benefits.

(4) The number of adverse events that have been reported, and whether such events have been adequately investigated.

(5) With respect to women who participate as subjects in research being carried out regarding the safety and effectiveness of breast implants:

(A) The content of information provided to the women during the process of obtaining the informed consent of the women to be subjects, and the extent to which such information is updated.

(B) Whether such process provides written explanations of the criteria for being subjects in the research.

(C) The point at which, in the planning or conduct of the research, the women are provided information regarding the provision of informed consent to be subjects.

(b) REPORT.—The Comptroller General shall submit to the Congress a report describing the findings of the study.

(c) DEFINITION.—For purposes of this section, the term “breast implant” means a breast prosthesis that is implanted to augment or reconstruct the female breast.

SEC. 215. BREAST IMPLANTS; RESEARCH THROUGH NATIONAL INSTITUTES OF HEALTH.

(a) REPORT ON STATUS OF CURRENT RESEARCH.—Not later than 180 days after the date of the enactment of this Act, the Director of the National Institutes of Health shall submit to the Congress a report describing the status of research on breast implants (as defined in section 213(c)) being conducted or supported by such Institutes.

Deadline.
Reports.

(b) RESEARCH ON LONG-TERM IMPLICATIONS.—Part H of title IV of the Public Health Service Act (42 U.S.C. 289 et seq.) is amended by adding at the end of the following section:

“SEC. 498C. BREAST IMPLANT RESEARCH.

42 USC 289g-3.

“(a) IN GENERAL.—The Director of NIH may conduct or support research to examine the long-term health implications of silicone

breast implants, both gel and saline filled. Such research studies may include the following:

“(1) Developing and examining techniques to measure concentrations of silicone in body fluids and tissues.

“(2) Surveillance of recipients of silicone breast implants, including long-term outcomes and local complications.

“(b) DEFINITION.—For purposes of this section, the term ‘breast implant’ means a breast prosthesis that is implanted to augment or reconstruct the female breast.”.

TITLE III—ADDITIONAL AMENDMENTS

SEC. 301. IDENTIFICATION OF MANUFACTURER OF MEDICAL DEVICES.

(a) IN GENERAL.—Section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352) is amended by adding at the end the following:

“(u) If it is a device, unless it, or an attachment thereto, prominently and conspicuously bears the name of the manufacturer of the device, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying such manufacturer, except that the Secretary may waive any requirement under this paragraph for the device if the Secretary determines that compliance with the requirement is not feasible for the device or would compromise the provision of reasonable assurance of the safety or effectiveness of the device.”.

21 USC 352 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect 18 months after the date of the enactment of this Act, and only applies to devices introduced or delivered for introduction into interstate commerce after such effective date.

SEC. 302. SINGLE-USE MEDICAL DEVICES.

(a) REQUIRED STATEMENTS ON LABELING.—

(1) IN GENERAL.—Section 502 of the Federal Food, Drug, and Cosmetic Act, as amended by section 301 of this Act, is amended by adding at the end the following:

“(v) If it is a reprocessed single-use device, unless all labeling of the device prominently and conspicuously bears the statement ‘Reprocessed device for single use. Reprocessed by ____.’ The name of the manufacturer of the reprocessed device shall be placed in the space identifying the person responsible for reprocessing.”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) takes effect 15 months after the date of the enactment of this Act, and only applies to devices introduced or delivered for introduction into interstate commerce after such effective date.

21 USC 352 note.

(b) PREMARKET NOTIFICATION.—Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360) is amended by inserting after subsection (n) the following:

“(o)(1) With respect to reprocessed single-use devices for which reports are required under subsection (k):

“(A) The Secretary shall identify such devices or types of devices for which reports under such subsection must, in order to ensure that the device is substantially equivalent to a predicate device, include validation data, the types of which shall be specified by the Secretary, regarding cleaning and sterilization, and functional performance demonstrating

that the single-use device will remain substantially equivalent to its predicate device after the maximum number of times the device is reprocessed as intended by the person submitting the premarket notification. Within six months after enactment of this subsection, the Secretary shall publish in the Federal Register a list of the types so identified, and shall revise the list as appropriate. Reports under subsection (k) for devices or types of devices within a type included on the list are, upon publication of the list, required to include such validation data.

Federal Register,
publication.

“(B) In the case of each report under subsection (k) that was submitted to the Secretary before the publication of the initial list under subparagraph (A), or any revision thereof, and was for a device or type of device included on such list, the person who submitted the report under subsection (k) shall submit validation data as described in subparagraph (A) to the Secretary not later than nine months after the publication of the list. During such nine-month period, the Secretary may not take any action under this Act against such device solely on the basis that the validation data for the device have not been submitted to the Secretary. After the submission of the validation data to the Secretary, the Secretary may not determine that the device is misbranded under section 502(o), adulterated under section 501(f)(1)(B), or take action against the device under section 301(p) for failure to provide any information required by subsection (k) until (i) the review is terminated by withdrawal of the submission of the report under subsection (k); (ii) the Secretary finds the data to be acceptable and issues a letter; or (iii) the Secretary determines that the device is not substantially equivalent to a predicate device. Upon a determination that a device is not substantially equivalent to a predicate device, or if such submission is withdrawn, the device can no longer be legally marketed.

Deadline.

“(C) In the case of a report under subsection (k) for a device identified under subparagraph (A) that is of a type for which the Secretary has not previously received a report under such subsection, the Secretary may, in advance of revising the list under subparagraph (A) to include such type, require that the report include the validation data specified in subparagraph (A).

“(D) Section 502(o) applies with respect to the failure of a report under subsection (k) to include validation data required under subparagraph (A).

“(2) With respect to critical or semi-critical reprocessed single-use devices that, under subsection (l) or (m), are exempt from the requirement of submitting reports under subsection (k):

“(A) The Secretary shall identify such devices or types of devices for which such exemptions should be terminated in order to provide a reasonable assurance of the safety and effectiveness of the devices. The Secretary shall publish in the Federal Register a list of the devices or types of devices so identified, and shall revise the list as appropriate. The exemption for each device or type included on the list is terminated upon the publication of the list. For each report under subsection (k) submitted pursuant to this subparagraph the Secretary shall require the validation data described in paragraph (1)(A).

Federal Register,
publication.

“(B) For each device or type of device included on the list under subparagraph (A), a report under subsection (k) shall be submitted to the Secretary not later than 15 months after the publication of the initial list, or a revision of the list, whichever terminates the exemption for the device. During such 15-month period, the Secretary may not take any action under this Act against such device solely on the basis that such report has not been submitted to the Secretary. After the submission of the report to the Secretary the Secretary may not determine that the device is misbranded under section 502(o), adulterated under section 501(f)(1)(B), or take action against the device under section 301(p) for failure to provide any information required by subsection (k) until (i) the review is terminated by withdrawal of the submission; (ii) the Secretary determines by order that the device is substantially equivalent to a predicate device; or (iii) the Secretary determines by order that the device is not substantially equivalent to a predicate device. Upon a determination that a device is not substantially equivalent to a predicate device, the device can no longer be legally marketed.

Deadlines.

“(C) In the case of semi-critical devices, the initial list under subparagraph (A) shall be published not later than 18 months after the effective date of this subsection. In the case of critical devices, the initial list under such subparagraph shall be published not later than six months after such effective date.

“(D) Section 502(o) applies with respect to the failure to submit a report under subsection (k) that is required pursuant to subparagraph (A), including a failure of the report to include validation data required in such subparagraph.

“(E) The termination under subparagraph (A) of an exemption under subsection (l) or (m) for a critical or semicritical reprocessed single-use device does not terminate the exemption under subsection (l) or (m) for the original device.”

(c) PREMARKET REPORT.—Section 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e) is amended—

(1) in subsection (a), in the matter after and below paragraph (2), by inserting before the period the following: “or, as applicable, an approval under subsection (c)(2) of a report seeking premarket approval”; and

(2) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following paragraph:

“(2)(A) Any person may file with the Secretary a report seeking premarket approval for a class III device referred to in subsection (a) that is a reprocessed single-use device. Such a report shall contain the following:

“(i) The device name, including both the trade or proprietary name and the common or usual name.

“(ii) The establishment registration number of the owner or operator submitting the report.

“(iii) Actions taken to comply with performance standards under section 514.

“(iv) Proposed labels, labeling, and advertising sufficient to describe the device, its intended use, and directions for use.

“(v) Full reports of all information, published or known to or which should be reasonably known to the applicant, concerning investigations which have been made to show whether or not the device is safe or effective.

“(vi) A description of the device’s components, ingredients, and properties.

“(vii) A full description of the methods used in, and the facilities and controls used for, the reprocessing and packing of the device.

“(viii) Such samples of the device that the Secretary may reasonably require.

“(ix) A financial certification or disclosure statement or both, as required by part 54 of title 21, Code of Federal Regulations.

“(x) A statement that the applicant believes to the best of the applicant’s knowledge that all data and information submitted to the Secretary are truthful and accurate and that no material fact has been omitted in the report.

“(xi) Any additional data and information, including information of the type required in paragraph (1) for an application under such paragraph, that the Secretary determines is necessary to determine whether there is reasonable assurance of safety and effectiveness for the reprocessed device.

“(xii) Validation data described in section 510(o)(1)(A) that demonstrates that the reasonable assurance of the safety or effectiveness of the device will remain after the maximum number of times the device is reprocessed as intended by the person submitting such report.

“(B) In the case of a class III device referred to in subsection (a) that is a reprocessed single-use device:

“(i) Subparagraph (A) of this paragraph applies in lieu of paragraph (1).

“(ii) Subject to clause (i), the provisions of this section apply to a report under subparagraph (A) to the same extent and in the same manner as such provisions apply to an application under paragraph (1).

“(iii) Each reference in other sections of this Act to an application under this section, other than such a reference in section 737 or 738, shall be considered to be a reference to a report under subparagraph (A).

“(iv) Each reference in other sections of this Act to a device for which an application under this section has been approved, or has been denied, suspended, or withdrawn, other than such a reference in section 737 or 738, shall be considered to be a reference to a device for which a report under subparagraph (A) has been approved, or has been denied, suspended, or withdrawn, respectively.”.

(d) DEFINITIONS.—Section 201 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321) is amended by adding at the end the following:

“(11)(1) The term ‘single-use device’ means a device that is intended for one use, or on a single patient during a single procedure.

“(2)(A) The term ‘reprocessed’, with respect to a single-use device, means an original device that has previously been used on a patient and has been subjected to additional processing and manufacturing for the purpose of an additional single use on a patient. The subsequent processing and manufacture of a reprocessed single-use device shall result in a device that is reprocessed within the meaning of this definition.

“(B) A single-use device that meets the definition under clause (A) shall be considered a reprocessed device without regard to any description of the device used by the manufacturer of the device or other persons, including a description that uses the term ‘recycled’ rather than the term ‘reprocessed’.

“(3) The term ‘original device’ means a new, unused single-use device.

“(mm)(1) The term ‘critical reprocessed single-use device’ means a reprocessed single-use device that is intended to contact normally sterile tissue or body spaces during use.

“(2) The term ‘semi-critical reprocessed single-use device’ means a reprocessed single-use device that is intended to contact intact mucous membranes and not penetrate normally sterile areas of the body.”.

SEC. 303. MEDWATCH.

Deadline.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall modify the MedWatch mandatory and voluntary forms to facilitate the reporting of information by user facilities or distributors as appropriate relating to reprocessed single-use devices, including the name of the reprocessor and whether the device has been reused.

Approved October 26, 2002.

LEGISLATIVE HISTORY—H.R. 5651:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 16, considered and passed House.

Oct. 17, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 26, 28, Presidential remarks and statement.



Public Law 107–251
107th Congress

An Act

To amend the Public Health Service Act to reauthorize and strengthen the health centers program and the National Health Service Corps, and to establish the Healthy Communities Access Program, which will help coordinate services for the uninsured and underinsured, and for other purposes.

Oct. 26, 2002
[S. 1533]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Health Care Safety Net Amendments of 2002”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Health Care
Safety Net
Amendments of
2002.
42 USC 201 note.

Sec. 1. Short title; table of contents.

TITLE I—CONSOLIDATED HEALTH CENTER PROGRAM AMENDMENTS

Sec. 101. Health centers.

Sec. 102. Telemedicine; incentive grants regarding coordination among States.

TITLE II—RURAL HEALTH

Subtitle A—Rural Health Care Services Outreach, Rural Health Network Development, and Small Health Care Provider Quality Improvement Grant Programs

Sec. 201. Grant programs.

Subtitle B—Telehealth Grant Consolidation

Sec. 211. Short title.

Sec. 212. Consolidation and reauthorization of provisions.

Subtitle C—Mental Health Services Telehealth Program and Rural Emergency Medical Service Training and Equipment Assistance Program

Sec. 221. Programs.

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

Sec. 301. National Health Service Corps.

Sec. 302. Designation of health professional shortage areas.

Sec. 303. Assignment of Corps personnel.

Sec. 304. Priorities in assignment of Corps personnel.

Sec. 305. Cost-sharing.

Sec. 306. Eligibility for Federal funds.

Sec. 307. Facilitation of effective provision of Corps services.

Sec. 308. Authorization of appropriations.

Sec. 309. National Health Service Corps Scholarship Program.

Sec. 310. National Health Service Corps Loan Repayment Program.

Sec. 311. Obligated service.

Sec. 312. Private practice.

Sec. 313. Breach of scholarship contract or loan repayment contract.

Sec. 314. Authorization of appropriations.

Sec. 315. Grants to States for loan repayment programs.

Sec. 316. Demonstration grants to States for community scholarship programs.

Sec. 317. Demonstration project.

TITLE IV—HEALTHY COMMUNITIES ACCESS PROGRAM

- Sec. 401. Purpose.
- Sec. 402. Creation of Healthy Communities Access Program.
- Sec. 403. Expanding availability of dental services.
- Sec. 404. Study regarding barriers to participation of farmworkers in health programs.

TITLE V—STUDY AND MISCELLANEOUS PROVISIONS

- Sec. 501. Guarantee study.
- Sec. 502. Graduate medical education.

TITLE VI—CONFORMING AMENDMENTS

- Sec. 601. Conforming amendments.

TITLE I—CONSOLIDATED HEALTH CENTER PROGRAM AMENDMENTS

SEC. 101. HEALTH CENTERS.

Section 330 of the Public Health Service Act (42 U.S.C. 254b) is amended—

(1) in subsection (b)(1)(A)—

(A) in clause (i)(III)(bb), by striking “screening for breast and cervical cancer” and inserting “appropriate cancer screening”;

(B) in clause (ii), by inserting “(including specialty referral when medically indicated)” after “medical services”; and

(C) in clause (iii), by inserting “housing,” after “social,”;

(2) in subsection (b)(2)—

(A) in subparagraph (A)(i), by striking “associated with water supply,” and inserting the following: “associated with—

“(I) water supply;

“(II) chemical and pesticide exposures;

“(III) air quality; or

“(IV) exposure to lead;”;

(B) by redesignating subparagraphs (A) and (B) as subparagraphs (C) and (D), respectively; and

(C) by inserting before subparagraph (C) (as so redesignated by subparagraph (B)) the following:

“(A) behavioral and mental health and substance abuse services;

“(B) recuperative care services;”;

(3) in subsection (c)(1)—

(A) in subparagraph (B)—

(i) in the heading, by striking “COMPREHENSIVE SERVICE DELIVERY” and inserting “MANAGED CARE”;

(ii) in the matter preceding clause (i), by striking “network or plan” and all that follows to the period and inserting “managed care network or plan.”; and

(iii) in the matter following clause (ii), by striking “Any such grant may include” and all that follows through the period; and

(B) by adding at the end the following:

“(C) PRACTICE MANAGEMENT NETWORKS.—The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan

and develop practice management networks that will enable the centers to—

“(i) reduce costs associated with the provision of health care services;

“(ii) improve access to, and availability of, health care services provided to individuals served by the centers;

“(iii) enhance the quality and coordination of health care services; or

“(iv) improve the health status of communities.

“(D) USE OF FUNDS.—The activities for which a grant may be made under subparagraph (B) or (C) may include the purchase or lease of equipment, which may include data and information systems (including paying for the costs of amortizing the principal of, and paying the interest on, loans for equipment), the provision of training and technical assistance related to the provision of health care services on a prepaid basis or under another managed care arrangement, and other activities that promote the development of practice management or managed care networks and plans.”;

(4) in subsection (d)—

(A) by striking the subsection heading and inserting “LOAN GUARANTEE PROGRAM.—”;

(B) in paragraph (1)—

(i) in subparagraph (A), by striking “the principal and interest on loans” and all that follows through the period and inserting “up to 90 percent of the principal and interest on loans made by non-Federal lenders to health centers, funded under this section, for the costs of developing and operating managed care networks or plans described in subsection (c)(1)(B), or practice management networks described in subsection (c)(1)(C).”;

(ii) in subparagraph (B)—

(I) in clause (i), by striking “or”;

(II) in clause (ii), by striking the period and inserting “; or”; and

(III) by adding at the end the following:

“(iii) to refinance an existing loan (as of the date of refinancing) to the center or centers, if the Secretary determines—

“(I) that such refinancing will be beneficial to the health center and the Federal Government;

“(II) that the center (or centers) can demonstrate an ability to repay the refinanced loan equal to or greater than the ability of the center (or centers) to repay the original loan on the date the original loan was made.”; and

(iii) by adding at the end the following:

“(D) PROVISION DIRECTLY TO NETWORKS OR PLANS.—

At the request of health centers receiving assistance under this section, loan guarantees provided under this paragraph may be made directly to networks or plans that are at least majority controlled and, as applicable, at least majority owned by those health centers.

“(E) FEDERAL CREDIT REFORM.—The requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) shall apply with respect to loans refinanced under subparagraph (B)(iii).”; and

(C)(i) by striking paragraphs (6) and (7); and

(ii) by redesignating paragraph (8) as paragraph (6);

(4) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (B), by striking “subsection (j)(3)” and inserting “subsection (k)(3)”; and

(ii) by adding at the end the following:

“(C) OPERATION OF NETWORKS AND PLANS.—The Secretary may make grants to health centers that receive assistance under this section, or at the request of the health centers, directly to a network or plan (as described in subparagraphs (B) and (C) of subsection (c)(1)) that is at least majority controlled and, as applicable, at least majority owned by such health centers receiving assistance under this section, for the costs associated with the operation of such network or plan, including the purchase or lease of equipment (including the costs of amortizing the principal of, and paying the interest on, loans for equipment).”;

(B) in paragraph (5)—

(i) in subparagraph (A), by inserting “subparagraphs (A) and (B) of” after “any fiscal year under”;

(ii) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(iii) by inserting after subparagraph (A) the following:

“(B) NETWORKS AND PLANS.—The total amount of grant funds made available for any fiscal year under paragraph (1)(C) and subparagraphs (B) and (C) of subsection (c)(1) to a health center or to a network or plan shall be determined by the Secretary, but may not exceed 2 percent of the total amount appropriated under this section for such fiscal year.”; and

(C) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(5) in subsection (g)—

(A) in paragraph (2)—

(i) in subparagraph (A), by inserting “and seasonal agricultural worker” after “agricultural worker”; and

(ii) in subparagraph (B), by striking “and members of their families” and inserting “and seasonal agricultural workers, and members of their families,”; and

(B) in paragraph (3)(A), by striking “on a seasonal basis”;

(6) in subsection (h)—

(A) in paragraph (1), by striking “homeless children and children at risk of homelessness” and inserting “homeless children and youth and children and youth at risk of homelessness”;

(B)(i) by redesignating paragraph (4) as paragraph (5); and

(ii) by inserting after paragraph (3) the following:

“(4) TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.—If any grantee under this subsection has provided services described in this section under the grant to a homeless individual, such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months.”; and

(C) in paragraph (5)(C) (as redesignated by subparagraph (B)), by striking “and residential treatment” and inserting “, risk reduction, outpatient treatment, residential treatment, and rehabilitation”;

(7) in subsection (j)(3)—

(A) in subparagraph (E)—

(i) in clause (i)—

(I) by striking “(i)” and inserting “(i)(I)”;

(II) by striking “plan; or” and inserting “plan; and”; and

(III) by adding at the end the following:

“(II) has or will have a contractual or other arrangement with the State agency administering the program under title XXI of such Act (42 U.S.C. 1397aa et seq.) with respect to individuals who are State children’s health insurance program beneficiaries; or”; and

(ii) by striking clause (ii) and inserting the following:

“(ii) has made or will make every reasonable effort to enter into arrangements described in subclauses (I) and (II) of clause (i);”;

(B) in subparagraph (G)—

(i) in clause (ii)(II), by striking “; and” and inserting “;”;

(ii) by redesignating clause (iii) as clause (iv); and

(iii) by inserting after clause (ii) the following:

“(iii)(I) will assure that no patient will be denied health care services due to an individual’s inability to pay for such services; and

“(II) will assure that any fees or payments required by the center for such services will be reduced or waived to enable the center to fulfill the assurance described in subclause (I); and”;

(C) in subparagraph (H), in the matter following clause (iii), by striking “or (p)” and inserting “or (q)”;

(D) in subparagraph (K)(ii), by striking “and” at the end;

(E) in subparagraph (L), by striking the period and inserting “; and”; and

(F) by inserting after subparagraph (L), the following:

“(M) the center encourages persons receiving or seeking health services from the center to participate in any public or private (including employer-offered) health programs or plans for which the persons are eligible, so long as the center, in complying with this subparagraph, does not violate the requirements of subparagraph (G)(iii)(I).”;

(8)(A) by redesignating subsection (l) as subsection (s) and moving that subsection (s) to the end of the section;

(B) by redesignating subsections (j), (k), and (m) through (q) as subsections (n), (o), and (p) through (s), respectively; and

(C) by inserting after subsection (i) the following:

“(j) ACCESS GRANTS.—

“(1) IN GENERAL.—The Secretary may award grants to eligible health centers with a substantial number of clients with limited English speaking proficiency to provide translation, interpretation, and other such services for such clients with limited English speaking proficiency.

“(2) ELIGIBLE HEALTH CENTER.—In this subsection, the term ‘eligible health center’ means an entity that—

“(A) is a health center as defined under subsection (a);

“(B) provides health care services for clients for whom English is a second language; and

“(C) has exceptional needs with respect to linguistic access or faces exceptional challenges with respect to linguistic access.

“(3) GRANT AMOUNT.—The amount of a grant awarded to a center under this subsection shall be determined by the Administrator. Such determination of such amount shall be based on the number of clients for whom English is a second language that is served by such center, and larger grant amounts shall be awarded to centers serving larger numbers of such clients.

“(4) USE OF FUNDS.—An eligible health center that receives a grant under this subsection may use funds received through such grant to—

“(A) provide translation, interpretation, and other such services for clients for whom English is a second language, including hiring professional translation and interpretation services; and

“(B) compensate bilingual or multilingual staff for language assistance services provided by the staff for such clients.

“(5) APPLICATION.—An eligible health center desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including—

“(A) an estimate of the number of clients that the center serves for whom English is a second language;

“(B) the ratio of the number of clients for whom English is a second language to the total number of clients served by the center;

“(C) a description of any language assistance services that the center proposes to provide to aid clients for whom English is a second language; and

“(D) a description of the exceptional needs of such center with respect to linguistic access or a description of the exceptional challenges faced by such center with respect to linguistic access.

“(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, in addition to any funds authorized to be appropriated or appropriated for health centers under any other subsection of this

section, such sums as may be necessary for each of fiscal years 2002 through 2006.”;

(9) by striking subsection (m) (as redesignated by paragraph (9)(B)) and inserting the following:

“(m) TECHNICAL ASSISTANCE.—The Secretary shall establish a program through which the Secretary shall provide technical and other assistance to eligible entities to assist such entities to meet the requirements of subsection (l)(3). Services provided through the program may include necessary technical and non-financial assistance, including fiscal and program management assistance, training in fiscal and program management, operational and administrative support, and the provision of information to the entities of the variety of resources available under this title and how those resources can be best used to meet the health needs of the communities served by the entities.”;

(10) in subsection (q) (as redesignated by paragraph (9)(B)), by striking “(j)(3)(G)” and inserting “(l)(3)(G)”;

(11) in subsection (s) (as redesignated by paragraph (9)(A))—

(A) in paragraph (1), by striking “\$802,124,000” and all that follows through the period and inserting “\$1,340,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.”;

(B) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking “(j)(3))” and inserting “(l)(3))”; and

(II) by striking “(j)(3)(G)(ii)” and inserting “(l)(3)(H)”;

(ii) by striking subparagraph (B) and inserting the following:

“(B) DISTRIBUTION OF GRANTS.—For fiscal year 2002 and each of the following fiscal years, the Secretary, in awarding grants under this section, shall ensure that the proportion of the amount made available under each of subsections (g), (h), and (i), relative to the total amount appropriated to carry out this section for that fiscal year, is equal to the proportion of the amount made available under that subsection for fiscal year 2001, relative to the total amount appropriated to carry out this section for fiscal year 2001.”.

SEC. 102. TELEMEDICINE; INCENTIVE GRANTS REGARDING COORDINATION AMONG STATES.

42 USC 254c-17.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to State professional licensing boards to carry out programs under which such licensing boards of various States cooperate to develop and implement State policies that will reduce statutory and regulatory barriers to telemedicine.

(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.

TITLE II—RURAL HEALTH**Subtitle A—Rural Health Care Services
Outreach, Rural Health Network Development,
and Small Health Care Provider
Quality Improvement Grant Programs****SEC. 201. GRANT PROGRAMS.**

Section 330A of the Public Health Service Act (42 U.S.C. 254c) is amended to read as follows:

**“SEC. 330A. RURAL HEALTH CARE SERVICES OUTREACH, RURAL
HEALTH NETWORK DEVELOPMENT, AND SMALL HEALTH
CARE PROVIDER QUALITY IMPROVEMENT GRANT PRO-
GRAMS.**

“(a) **PURPOSE.**—The purpose of this section is to provide grants for expanded delivery of health care services in rural areas, for the planning and implementation of integrated health care networks in rural areas, and for the planning and implementation of small health care provider quality improvement activities.

“(b) **DEFINITIONS.**—

“(1) **DIRECTOR.**—The term ‘Director’ means the Director specified in subsection (d).

“(2) **FEDERALLY QUALIFIED HEALTH CENTER; RURAL HEALTH CLINIC.**—The terms ‘Federally qualified health center’ and ‘rural health clinic’ have the meanings given the terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

“(3) **HEALTH PROFESSIONAL SHORTAGE AREA.**—The term ‘health professional shortage area’ means a health professional shortage area designated under section 332.

“(4) **MEDICALLY UNDERSERVED COMMUNITY.**—The term ‘medically underserved community’ has the meaning given the term in section 799B.

“(5) **MEDICALLY UNDERSERVED POPULATION.**—The term ‘medically underserved population’ has the meaning given the term in section 330(b)(3).

“(c) **PROGRAM.**—The Secretary shall establish, under section 301, a small health care provider quality improvement grant program.

“(d) **ADMINISTRATION.**—

“(1) **PROGRAMS.**—The rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs established under section 301 shall be administered by the Director of the Office of Rural Health Policy of the Health Resources and Services Administration, in consultation with State offices of rural health or other appropriate State government entities.

“(2) **GRANTS.**—

“(A) **IN GENERAL.**—In carrying out the programs described in paragraph (1), the Director may award grants under subsections (e), (f), and (g) to expand access to, coordinate, and improve the quality of essential health care services, and enhance the delivery of health care, in rural areas.

“(B) TYPES OF GRANTS.—The Director may award the grants—

“(i) to promote expanded delivery of health care services in rural areas under subsection (e);

“(ii) to provide for the planning and implementation of integrated health care networks in rural areas under subsection (f); and

“(iii) to provide for the planning and implementation of small health care provider quality improvement activities under subsection (g).

“(e) RURAL HEALTH CARE SERVICES OUTREACH GRANTS.—

“(1) GRANTS.—The Director may award grants to eligible entities to promote rural health care services outreach by expanding the delivery of health care services to include new and enhanced services in rural areas. The Director may award the grants for periods of not more than 3 years.

“(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection for a project, an entity—

“(A) shall be a rural public or rural nonprofit private entity;

“(B) shall represent a consortium composed of members—

“(i) that include 3 or more health care providers;

and

“(ii) that may be nonprofit or for-profit entities;

and

“(C) shall not previously have received a grant under this subsection for the same or a similar project, unless the entity is proposing to expand the scope of the project or the area that will be served through the project.

“(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

“(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

“(B) a description of the manner in which the project funded under the grant will meet the health care needs of rural underserved populations in the local community or region to be served;

“(C) a description of how the local community or region to be served will be involved in the development and ongoing operations of the project;

“(D) a plan for sustaining the project after Federal support for the project has ended;

“(E) a description of how the project will be evaluated; and

“(F) other such information as the Secretary determines to be appropriate.

“(f) RURAL HEALTH NETWORK DEVELOPMENT GRANTS.—

“(1) GRANTS.—

“(A) IN GENERAL.—The Director may award rural health network development grants to eligible entities to promote, through planning and implementation, the development of integrated health care networks that have

combined the functions of the entities participating in the networks in order to—

- “(i) achieve efficiencies;
- “(ii) expand access to, coordinate, and improve the quality of essential health care services; and
- “(iii) strengthen the rural health care system as a whole.

“(B) GRANT PERIODS.—The Director may award such a rural health network development grant for implementation activities for a period of 3 years. The Director may also award such a rural health network development grant for planning activities for a period of 1 year, to assist in the development of an integrated health care network, if the proposed participants in the network do not have a history of collaborative efforts and a 3-year grant would be inappropriate.

“(2) ELIGIBILITY.—To be eligible to receive a grant under this subsection, an entity—

“(A) shall be a rural public or rural nonprofit private entity;

“(B) shall represent a network composed of participants—

“(i) that include 3 or more health care providers; and

“(ii) that may be nonprofit or for-profit entities; and

“(C) shall not previously have received a grant under this subsection (other than a grant for planning activities) for the same or a similar project.

“(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

“(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

“(B) an explanation of the reasons why Federal assistance is required to carry out the project;

“(C) a description of—

“(i) the history of collaborative activities carried out by the participants in the network;

“(ii) the degree to which the participants are ready to integrate their functions; and

“(iii) how the local community or region to be served will benefit from and be involved in the activities carried out by the network;

“(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the integration activities carried out by the network;

“(E) a plan for sustaining the project after Federal support for the project has ended;

“(F) a description of how the project will be evaluated; and

“(G) other such information as the Secretary determines to be appropriate.

“(g) SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANTS.—

“(1) GRANTS.—The Director may award grants to provide for the planning and implementation of small health care provider quality improvement activities. The Director may award the grants for periods of 1 to 3 years.

“(2) ELIGIBILITY.—To be eligible for a grant under this subsection, an entity—

“(A)(i) shall be a rural public or rural nonprofit private health care provider or provider of health care services, such as a critical access hospital or a rural health clinic; or

“(ii) shall be another rural provider or network of small rural providers identified by the Secretary as a key source of local care; and

“(B) shall not previously have received a grant under this subsection for the same or a similar project.

“(3) APPLICATIONS.—To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

“(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

“(B) an explanation of the reasons why Federal assistance is required to carry out the project;

“(C) a description of the manner in which the project funded under the grant will assure continuous quality improvement in the provision of services by the entity;

“(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the activities carried out by the entity;

“(E) a plan for sustaining the project after Federal support for the project has ended;

“(F) a description of how the project will be evaluated; and

“(G) other such information as the Secretary determines to be appropriate.

“(4) EXPENDITURES FOR SMALL HEALTH CARE PROVIDER QUALITY IMPROVEMENT GRANTS.—In awarding a grant under this subsection, the Director shall ensure that the funds made available through the grant will be used to provide services to residents of rural areas. The Director shall award not less than 50 percent of the funds made available under this subsection to providers located in and serving rural areas.

“(h) GENERAL REQUIREMENTS.—

“(1) PROHIBITED USES OF FUNDS.—An entity that receives a grant under this section may not use funds provided through the grant—

“(A) to build or acquire real property; or

“(B) for construction.

“(2) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate activities carried out under grant programs

described in this section, to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar grant programs, to maximize the effect of public dollars in funding meritorious proposals.

“(3) PREFERENCE.—In awarding grants under this section, the Secretary shall give preference to entities that—

“(A) are located in health professional shortage areas or medically underserved communities, or serve medically underserved populations; or

“(B) propose to develop projects with a focus on primary care, and wellness and prevention strategies.

Deadline.

“(i) REPORT.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsections (e), (f), and (g).

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.”.

Telehealth Grant
Consolidation Act
of 2002.

Subtitle B—Telehealth Grant Consolidation

42 USC 201 note. **SEC. 211. SHORT TITLE.**

This subtitle may be cited as the “Telehealth Grant Consolidation Act of 2002”.

SEC. 212. CONSOLIDATION AND REAUTHORIZATION OF PROVISIONS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq) is amended by adding at the end the following:

42 USC 254c–14. **“SEC. 330I. TELEHEALTH NETWORK AND TELEHEALTH RESOURCE CENTERS GRANT PROGRAMS.**

“(a) DEFINITIONS.—In this section:

“(1) DIRECTOR; OFFICE.—The terms ‘Director’ and ‘Office’ mean the Director and Office specified in subsection (c).

“(2) FEDERALLY QUALIFIED HEALTH CENTER AND RURAL HEALTH CLINIC.—The term ‘Federally qualified health center’ and ‘rural health clinic’ have the meanings given the terms in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)).

“(3) FRONTIER COMMUNITY.—The term ‘frontier community’ shall have the meaning given the term in regulations issued under subsection (r).

“(4) MEDICALLY UNDERSERVED AREA.—The term ‘medically underserved area’ has the meaning given the term ‘medically underserved community’ in section 799B.

“(5) MEDICALLY UNDERSERVED POPULATION.—The term ‘medically underserved population’ has the meaning given the term in section 330(b)(3).

“(6) TELEHEALTH SERVICES.—The term ‘telehealth services’ means services provided through telehealth technologies.

“(7) TELEHEALTH TECHNOLOGIES.—The term ‘telehealth technologies’ means technologies relating to the use of electronic information, and telecommunications technologies, to support

and promote, at a distance, health care, patient and professional health-related education, health administration, and public health.

“(b) PROGRAMS.—The Secretary shall establish, under section 301, telehealth network and telehealth resource centers grant programs.

“(c) ADMINISTRATION.—

“(1) ESTABLISHMENT.—There is established in the Health and Resources and Services Administration an Office for the Advancement of Telehealth. The Office shall be headed by a Director.

“(2) DUTIES.—The telehealth network and telehealth resource centers grant programs established under section 301 shall be administered by the Director, in consultation with the State offices of rural health, State offices concerning primary care, or other appropriate State government entities.

“(d) GRANTS.—

“(1) TELEHEALTH NETWORK GRANTS.—The Director may, in carrying out the telehealth network grant program referred to in subsection (b), award grants to eligible entities for projects to demonstrate how telehealth technologies can be used through telehealth networks in rural areas, frontier communities, and medically underserved areas, and for medically underserved populations, to—

“(A) expand access to, coordinate, and improve the quality of health care services;

“(B) improve and expand the training of health care providers; and

“(C) expand and improve the quality of health information available to health care providers, and patients and their families, for decisionmaking.

“(2) TELEHEALTH RESOURCE CENTERS GRANTS.—The Director may, in carrying out the telehealth resource centers grant program referred to in subsection (b), award grants to eligible entities for projects to demonstrate how telehealth technologies can be used in the areas and communities, and for the populations, described in paragraph (1), to establish telehealth resource centers.

“(e) GRANT PERIODS.—The Director may award grants under this section for periods of not more than 4 years.

“(f) ELIGIBLE ENTITIES.—

“(1) TELEHEALTH NETWORK GRANTS.—

“(A) GRANT RECIPIENT.—To be eligible to receive a grant under subsection (d)(1), an entity shall be a nonprofit entity.

“(B) TELEHEALTH NETWORKS.—

“(i) IN GENERAL.—To be eligible to receive a grant under subsection (d)(1), an entity shall demonstrate that the entity will provide services through a telehealth network.

“(ii) NATURE OF ENTITIES.—Each entity participating in the telehealth network may be a nonprofit or for-profit entity.

“(iii) COMPOSITION OF NETWORK.—The telehealth network shall include at least 2 of the following entities (at least 1 of which shall be a community-based health care provider):

“(I) Community or migrant health centers or other Federally qualified health centers.

“(II) Health care providers, including pharmacists, in private practice.

“(III) Entities operating clinics, including rural health clinics.

“(IV) Local health departments.

“(V) Nonprofit hospitals, including community access hospitals.

“(VI) Other publicly funded health or social service agencies.

“(VII) Long-term care providers.

“(VIII) Providers of health care services in the home.

“(IX) Providers of outpatient mental health services and entities operating outpatient mental health facilities.

“(X) Local or regional emergency health care providers.

“(XI) Institutions of higher education.

“(XII) Entities operating dental clinics.

“(2) TELEHEALTH RESOURCE CENTERS GRANTS.—To be eligible to receive a grant under subsection (d)(2), an entity shall be a nonprofit entity.

“(g) APPLICATIONS.—To be eligible to receive a grant under subsection (d), an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

“(1) a description of the project that the eligible entity will carry out using the funds provided under the grant;

“(2) a description of the manner in which the project funded under the grant will meet the health care needs of rural or other populations to be served through the project, or improve the access to services of, and the quality of the services received by, those populations;

“(3) evidence of local support for the project, and a description of how the areas, communities, or populations to be served will be involved in the development and ongoing operations of the project;

“(4) a plan for sustaining the project after Federal support for the project has ended;

“(5) information on the source and amount of non-Federal funds that the entity will provide for the project;

“(6) information demonstrating the long-term viability of the project, and other evidence of institutional commitment of the entity to the project;

“(7) in the case of an application for a project involving a telehealth network, information demonstrating how the project will promote the integration of telehealth technologies into the operations of health care providers, to avoid redundancy, and improve access to and the quality of care; and

“(8) other such information as the Secretary determines to be appropriate.

“(h) TERMS; CONDITIONS; MAXIMUM AMOUNT OF ASSISTANCE.—The Secretary shall establish the terms and conditions of each

grant program described in subsection (b) and the maximum amount of a grant to be awarded to an individual recipient for each fiscal year under this section. The Secretary shall publish, in a publication of the Health Resources and Services Administration, notice of the application requirements for each grant program described in subsection (b) for each fiscal year.

Publication.
Notice.

“(i) PREFERENCES.—

“(1) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for projects involving telehealth networks, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

“(A) ORGANIZATION.—The eligible entity is a rural community-based organization or another community-based organization.

“(B) SERVICES.—The eligible entity proposes to use Federal funds made available through such a grant to develop plans for, or to establish, telehealth networks that provide mental health, public health, long-term care, home care, preventive, or case management services.

“(C) COORDINATION.—The eligible entity demonstrates how the project to be carried out under the grant will be coordinated with other relevant federally funded projects in the areas, communities, and populations to be served through the grant.

“(D) NETWORK.—The eligible entity demonstrates that the project involves a telehealth network that includes an entity that—

“(i) provides clinical health care services, or educational services for health care providers and for patients or their families; and

“(ii) is—

“(I) a public library;

“(II) an institution of higher education; or

“(III) a local government entity.

“(E) CONNECTIVITY.—The eligible entity proposes a project that promotes local connectivity within areas, communities, or populations to be served through the project.

“(F) INTEGRATION.—The eligible entity demonstrates that health care information has been integrated into the project.

“(2) TELEHEALTH RESOURCE CENTERS.—In awarding grants under subsection (d)(2) for projects involving telehealth resource centers, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

“(A) PROVISION OF SERVICES.—The eligible entity has a record of success in the provision of telehealth services to medically underserved areas or medically underserved populations.

“(B) COLLABORATION AND SHARING OF EXPERTISE.—The eligible entity has a demonstrated record of collaborating and sharing expertise with providers of telehealth services at the national, regional, State, and local levels.

“(C) BROAD RANGE OF TELEHEALTH SERVICES.—The eligible entity has a record of providing a broad range of telehealth services, which may include—

“(i) a variety of clinical specialty services;

- “(ii) patient or family education;
- “(iii) health care professional education; and
- “(iv) rural residency support programs.

“(j) DISTRIBUTION OF FUNDS.—

“(1) IN GENERAL.—In awarding grants under this section, the Director shall ensure, to the greatest extent possible, that such grants are equitably distributed among the geographical regions of the United States.

“(2) TELEHEALTH NETWORKS.—In awarding grants under subsection (d)(1) for a fiscal year, the Director shall ensure that—

“(A) not less than 50 percent of the funds awarded shall be awarded for projects in rural areas; and

“(B) the total amount of funds awarded for such projects for that fiscal year shall be not less than the total amount of funds awarded for such projects for fiscal year 2001 under section 330A (as in effect on the day before the date of enactment of the Health Care Safety Net Amendments of 2002).

“(k) USE OF FUNDS.—

“(1) TELEHEALTH NETWORK PROGRAM.—The recipient of a grant under subsection (d)(1) may use funds received through such grant for salaries, equipment, and operating or other costs, including the cost of—

“(A) developing and delivering clinical telehealth services that enhance access to community-based health care services in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations;

“(B) developing and acquiring, through lease or purchase, computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other equipment that furthers the objectives of the telehealth network grant program;

“(C)(i) developing and providing distance education, in a manner that enhances access to care in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations; or

“(ii) mentoring, precepting, or supervising health care providers and students seeking to become health care providers, in a manner that enhances access to care in the areas and communities, or for the populations, described in clause (i);

“(D) developing and acquiring instructional programming;

“(E)(i) providing for transmission of medical data, and maintenance of equipment; and

“(ii) providing for compensation (including travel expenses) of specialists, and referring health care providers, who are providing telehealth services through the telehealth network, if no third party payment is available for the telehealth services delivered through the telehealth network;

“(F) developing projects to use telehealth technology to facilitate collaboration between health care providers;

“(G) collecting and analyzing usage statistics and data to document the cost-effectiveness of the telehealth services; and

“(H) carrying out such other activities as are consistent with achieving the objectives of this section, as determined by the Secretary.

“(2) TELEHEALTH RESOURCE CENTERS.—The recipient of a grant under subsection (d)(2) may use funds received through such grant for salaries, equipment, and operating or other costs for—

“(A) providing technical assistance, training, and support, and providing for travel expenses, for health care providers and a range of health care entities that provide or will provide telehealth services;

“(B) disseminating information and research findings related to telehealth services;

“(C) promoting effective collaboration among telehealth resource centers and the Office;

“(D) conducting evaluations to determine the best utilization of telehealth technologies to meet health care needs;

“(E) promoting the integration of the technologies used in clinical information systems with other telehealth technologies;

“(F) fostering the use of telehealth technologies to provide health care information and education for health care providers and consumers in a more effective manner; and

“(G) implementing special projects or studies under the direction of the Office.

“(I) PROHIBITED USES OF FUNDS.—An entity that receives a grant under this section may not use funds made available through the grant—

“(1) to acquire real property;

“(2) for expenditures to purchase or lease equipment, to the extent that the expenditures would exceed 40 percent of the total grant funds;

“(3) in the case of a project involving a telehealth network, to purchase or install transmission equipment (such as laying cable or telephone lines, or purchasing or installing microwave towers, satellite dishes, amplifiers, or digital switching equipment);

“(4) to pay for any equipment or transmission costs not directly related to the purposes for which the grant is awarded;

“(5) to purchase or install general purpose voice telephone systems;

“(6) for construction; or

“(7) for expenditures for indirect costs (as determined by the Secretary), to the extent that the expenditures would exceed 15 percent of the total grant funds.

“(m) COLLABORATION.—In providing services under this section, an eligible entity shall collaborate, if feasible, with entities that—

“(1)(A) are private or public organizations, that receive Federal or State assistance; or

“(B) are public or private entities that operate centers, or carry out programs, that receive Federal or State assistance; and

“(2) provide telehealth services or related activities.

“(n) COORDINATION WITH OTHER AGENCIES.—The Secretary shall coordinate activities carried out under grant programs described in subsection (b), to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar programs, to maximize the effect of public dollars in funding meritorious proposals.

“(o) OUTREACH ACTIVITIES.—The Secretary shall establish and implement procedures to carry out outreach activities to advise potential end users of telehealth services in rural areas, frontier communities, medically underserved areas, and medically underserved populations in each State about the grant programs described in subsection (b).

“(p) TELEHEALTH.—It is the sense of Congress that, for purposes of this section, States should develop reciprocity agreements so that a provider of services under this section who is a licensed or otherwise authorized health care provider under the law of 1 or more States, and who, through telehealth technology, consults with a licensed or otherwise authorized health care provider in another State, is exempt, with respect to such consultation, from any State law of the other State that prohibits such consultation on the basis that the first health care provider is not a licensed or authorized health care provider under the law of that State.

Deadline.

“(q) REPORT.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsection (b).

“(r) REGULATIONS.—The Secretary shall issue regulations specifying, for purposes of this section, a definition of the term ‘frontier area’. The definition shall be based on factors that include population density, travel distance in miles to the nearest medical facility, travel time in minutes to the nearest medical facility, and such other factors as the Secretary determines to be appropriate. The Secretary shall develop the definition in consultation with the Director of the Bureau of the Census and the Administrator of the Economic Research Service of the Department of Agriculture.

“(s) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

“(1) for grants under subsection (d)(1), \$40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006; and

“(2) for grants under subsection (d)(2), \$20,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.”.

Subtitle C—Mental Health Services Telehealth Program and Rural Emergency Medical Service Training and Equipment Assistance Program

SEC. 221. PROGRAMS.

Subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as amended by section 212) is further amended by adding at the end the following:

“SEC. 330J. RURAL EMERGENCY MEDICAL SERVICE TRAINING AND EQUIPMENT ASSISTANCE PROGRAM. 42 USC 254c-15.

“(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the ‘Secretary’) shall award grants to eligible entities to enable such entities to provide for improved emergency medical services in rural areas.

“(b) ELIGIBILITY.—To be eligible to receive a grant under this section, an entity shall—

“(1) be—

“(A) a State emergency medical services office;

“(B) a State emergency medical services association;

“(C) a State office of rural health;

“(D) a local government entity;

“(E) a State or local ambulance provider; or

“(F) any other entity determined appropriate by the Secretary; and

“(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—

“(A) a description of the activities to be carried out under the grant; and

“(B) an assurance that the eligible entity will comply with the matching requirement of subsection (e).

“(c) USE OF FUNDS.—An entity shall use amounts received under a grant made under subsection (a), either directly or through grants to emergency medical service squads that are located in, or that serve residents of, a nonmetropolitan statistical area, an area designated as a rural area by any law or regulation of a State, or a rural census tract of a metropolitan statistical area (as determined under the most recent Goldsmith Modification, originally published in a notice of availability of funds in the Federal Register on February 27, 1992, 57 Fed. Reg. 6725), to—

“(1) recruit emergency medical service personnel;

“(2) recruit volunteer emergency medical service personnel;

“(3) train emergency medical service personnel in emergency response, injury prevention, safety awareness, and other topics relevant to the delivery of emergency medical services;

“(4) fund specific training to meet Federal or State certification requirements;

“(5) develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);

“(6) acquire emergency medical services equipment, including cardiac defibrillators;

“(7) acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; and

“(8) educate the public concerning cardiopulmonary resuscitation, first aid, injury prevention, safety awareness, illness prevention, and other related emergency preparedness topics.

“(d) PREFERENCE.—In awarding grants under this section the Secretary shall give preference to—

“(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (F) of subsection (b)(1); and

“(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (c).

“(e) MATCHING REQUIREMENT.—The Secretary may not award a grant under this section to an entity unless the entity agrees that the entity will make available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to 25 percent of the amount received under the grant.

“(f) EMERGENCY MEDICAL SERVICES.—In this section, the term ‘emergency medical services’—

“(1) means resources used by a qualified public or private nonprofit entity, or by any other entity recognized as qualified by the State involved, to deliver medical care outside of a medical facility under emergency conditions that occur—

“(A) as a result of the condition of the patient; or

“(B) as a result of a natural disaster or similar situation; and

“(2) includes services delivered by an emergency medical services provider (either compensated or volunteer) or other provider recognized by the State involved that is licensed or certified by the State as an emergency medical technician or its equivalent (as determined by the State), a registered nurse, a physician assistant, or a physician that provides services similar to services provided by such an emergency medical services provider.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

“(2) ADMINISTRATIVE COSTS.—The Secretary may use not more than 10 percent of the amount appropriated under paragraph (1) for a fiscal year for the administrative expenses of carrying out this section.

42 USC 254c-16. **“SEC. 330K. MENTAL HEALTH SERVICES DELIVERED VIA TELEHEALTH.**

“(a) DEFINITIONS.—In this section:

“(1) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a public or nonprofit private telehealth provider network that offers services that include mental health services provided by qualified mental health providers.

“(2) QUALIFIED MENTAL HEALTH PROFESSIONALS.—The term ‘qualified mental health professionals’ refers to providers of mental health services reimbursed under the medicare program carried out under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who have additional training in the treatment of mental illness in children and adolescents or who have additional training in the treatment of mental illness in the elderly.

“(3) SPECIAL POPULATIONS.—The term ‘special populations’ refers to the following 2 distinct groups:

“(A) Children and adolescents in mental health underserved rural areas or in mental health underserved urban areas.

“(B) Elderly individuals located in long-term care facilities in mental health underserved rural or urban areas.

“(4) TELEHEALTH.—The term ‘telehealth’ means the use of electronic information and telecommunications technologies to support long distance clinical health care, patient and professional health-related education, public health, and health administration.

“(b) PROGRAM AUTHORIZED.—

“(1) IN GENERAL.—The Secretary, acting through the Director of the Office for the Advancement of Telehealth of the Health Resources and Services Administration, shall award grants to eligible entities to establish demonstration projects for the provision of mental health services to special populations as delivered remotely by qualified mental health professionals using telehealth and for the provision of education regarding mental illness as delivered remotely by qualified mental health professionals using telehealth.

“(2) POPULATIONS SERVED.—The Secretary shall award the grants under paragraph (1) in a manner that distributes the grants so as to serve equitably the populations described in subparagraphs (A) and (B) of subsection (a)(4).

“(c) USE OF FUNDS.—

“(1) IN GENERAL.—An eligible entity that receives a grant under this section shall use the grant funds—

“(A) for the populations described in subsection

(a)(4)(A)—

“(i) to provide mental health services, including diagnosis and treatment of mental illness, as delivered remotely by qualified mental health professionals using telehealth; and

“(ii) to collaborate with local public health entities to provide the mental health services; and

“(B) for the populations described in subsection

(a)(4)(B)—

“(i) to provide mental health services, including diagnosis and treatment of mental illness, in long-term care facilities as delivered remotely by qualified mental health professionals using telehealth; and

“(ii) to collaborate with local public health entities to provide the mental health services.

“(2) OTHER USES.—An eligible entity that receives a grant under this section may also use the grant funds to—

“(A) pay telecommunications costs; and

“(B) pay qualified mental health professionals on a reasonable cost basis as determined by the Secretary for services rendered.

“(3) PROHIBITED USES.—An eligible entity that receives a grant under this section shall not use the grant funds to—

“(A) purchase or install transmission equipment (other than such equipment used by qualified mental health professionals to deliver mental health services using telehealth under the project involved); or

“(B) build upon or acquire real property.

“(d) EQUITABLE DISTRIBUTION.—In awarding grants under this section, the Secretary shall ensure, to the greatest extent possible, that such grants are equitably distributed among geographical regions of the United States.

“(e) APPLICATION.—An entity that desires a grant under this section shall submit an application to the Secretary at such time,

Deadline.

in such manner, and containing such information as the Secretary determines to be reasonable.

“(f) REPORT.—Not later than 4 years after the date of enactment of the Health Care Safety Net Amendments of 2002, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate activities funded with grants under this section.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, \$20,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006.”.

TITLE III—NATIONAL HEALTH SERVICE CORPS PROGRAM

SEC. 301. NATIONAL HEALTH SERVICE CORPS.

(a) IN GENERAL.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by adding at the end of subsection (a)(3) the following:

“(E)(i) The term ‘behavioral and mental health professionals’ means health service psychologists, licensed clinical social workers, licensed professional counselors, marriage and family therapists, psychiatric nurse specialists, and psychiatrists.

“(ii) The term ‘graduate program of behavioral and mental health’ means a program that trains behavioral and mental health professionals.”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “health professions” and inserting “health professions, including schools at which graduate programs of behavioral and mental health are offered,”; and

(B) in paragraph (2), by inserting “behavioral and mental health professionals,” after “dentists,”; and

(3) by striking subsection (c) and inserting the following:

“(c)(1) The Secretary may reimburse an applicant for a position in the Corps (including an individual considering entering into a written agreement pursuant to section 338D) for the actual and reasonable expenses incurred in traveling to and from the applicant’s place of residence to an eligible site to which the applicant may be assigned under section 333 for the purpose of evaluating such site with regard to being assigned at such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

“(2) The Secretary may also reimburse the applicant for the actual and reasonable expenses incurred for the travel of 1 family member to accompany the applicant to such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

“(3) In the case of an individual who has entered into a contract for obligated service under the Scholarship Program or under the Loan Repayment Program, the Secretary may reimburse such individual for all or part of the actual and reasonable expenses incurred in transporting the individual, the individual’s family, and the family’s possessions to the site of the individual’s assignment under section 333. The Secretary may establish a maximum total amount

that may be paid to an individual as reimbursement for such expenses.”.

(b) DEMONSTRATION PROJECTS.—Section 331 of the Public Health Service Act (42 U.S.C. 254d) is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following:

“(i)(1) In carrying out subpart III, the Secretary may, in accordance with this subsection, carry out demonstration projects in which individuals who have entered into a contract for obligated service under the Loan Repayment Program receive waivers under which the individuals are authorized to satisfy the requirement of obligated service through providing clinical service that is not full-time.

“(2) A waiver described in paragraph (1) may be provided by the Secretary only if—

“(A) the entity for which the service is to be performed—

“(i) has been approved under section 333A for assignment of a Corps member; and

“(ii) has requested in writing assignment of a health professional who would serve less than full time;

“(B) the Secretary has determined that assignment of a health professional who would serve less than full time would be appropriate for the area where the entity is located;

“(C) a Corps member who is required to perform obligated service has agreed in writing to be assigned for less than full-time service to an entity described in subparagraph (A);

“(D) the entity and the Corps member agree in writing that the less than full-time service provided by the Corps member will not be less than 16 hours of clinical service per week;

“(E) the Corps member agrees in writing that the period of obligated service pursuant to section 338B will be extended so that the aggregate amount of less than full-time service performed will equal the amount of service that would be performed through full-time service under section 338C; and

“(F) the Corps member agrees in writing that if the Corps member begins providing less than full-time service but fails to begin or complete the period of obligated service, the method stated in 338E(c) for determining the damages for breach of the individual’s written contract will be used after converting periods of obligated service or of service performed into their full-time equivalents.

“(3) In evaluating a demonstration project described in paragraph (1), the Secretary shall examine the effect of multidisciplinary teams.”.

SEC. 302. DESIGNATION OF HEALTH PROFESSIONAL SHORTAGE AREAS.

(a) IN GENERAL.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting after the first sentence the following: “All Federally qualified health centers and rural health clinics, as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), that meet the requirements of section 334 shall be automatically designated as having such a shortage. Not earlier than 6 years after such date of enactment, and every 6 years

thereafter, each such center or clinic shall demonstrate that the center or clinic meets the applicable requirements of the Federal regulations, issued after the date of enactment of this Act, that revise the definition of a health professional shortage area for purposes of this section.”; and

(B) in paragraph (3), by striking “340(r) may be a population group” and inserting “330(h)(4)), seasonal agricultural workers (as defined in section 330(g)(3)) and migratory agricultural workers (as so defined)), and residents of public housing (as defined in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1))) may be population groups”;

(2) in subsection (b)(2), by striking “with special consideration to the indicators of” and all that follows through “services.” and inserting a period; and

(3) in subsection (c)(2)(B), by striking “XVIII or XIX” and inserting “XVIII, XIX, or XXI”.

(b) REGULATIONS.—

(1) REPORT.—

(A) IN GENERAL.—The Secretary shall submit the report described in subparagraph (B) if the Secretary, acting through the Administrator of the Health Resources and Services Administration, issues—

(i) a regulation that revises the definition of a health professional shortage area for purposes of section 332 of the Public Health Service Act (42 U.S.C. 254e); or

(ii) a regulation that revises the standards concerning priority of such an area under section 333A of that Act (42 U.S.C. 254f-1).

(B) REPORT.—On issuing a regulation described in subparagraph (A), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that describes the regulation.

(2) EFFECTIVE DATE.—Each regulation described in paragraph (1)(A) shall take effect 180 days after the committees described in paragraph (1)(B) receive a report referred to in paragraph (1)(B) describing the regulation.

(c) SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS.—The Secretary of Health and Human Services, in consultation with organizations representing individuals in the dental field and organizations representing publicly funded health care providers, shall develop and implement a plan for increasing the participation of dentists and dental hygienists in the National Health Service Corps Scholarship Program under section 338A of the Public Health Service Act (42 U.S.C. 254l) and the Loan Repayment Program under section 338B of such Act (42 U.S.C. 254l-1).

(d) SITE DESIGNATION PROCESS.—

(1) IMPROVEMENT OF DESIGNATION PROCESS.—The Administrator of the Health Resources and Services Administration, in consultation with the Association of State and Territorial Dental Directors, dental societies, and other interested parties, shall revise the criteria on which the designations of dental

42 USC 254e
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health professional shortage areas are based so that such criteria provide a more accurate reflection of oral health care need, particularly in rural areas.

(2) PUBLIC HEALTH SERVICE ACT.—Section 332 of the Public Health Service Act (42 U.S.C. 254e) is amended by adding at the end the following:

“(i) DISSEMINATION.—The Administrator of the Health Resources and Services Administration shall disseminate information concerning the designation criteria described in subsection (b) to—

“(1) the Governor of each State;

“(2) the representative of any area, population group, or facility selected by any such Governor to receive such information;

“(3) the representative of any area, population group, or facility that requests such information; and

“(4) the representative of any area, population group, or facility determined by the Administrator to be likely to meet the criteria described in subsection (b).”.

(e) GAO STUDY.—Not later than February 1, 2005, the Comptroller General of the United States shall submit to the Congress a report on the appropriateness of the criteria, including but not limited to infant mortality rates, access to health services taking into account the distance to primary health services, the rate of poverty and ability to pay for health services, and low birth rates, established by the Secretary of Health and Human Services for the designation of health professional shortage areas and whether the deeming of federally qualified health centers and rural health clinics as such areas is appropriate and necessary.

Deadline.
42 USC 254e
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SEC. 303. ASSIGNMENT OF CORPS PERSONNEL.

Section 333 of the Public Health Service Act (42 U.S.C. 254f) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) in the matter before subparagraph (A), by striking “(specified in the agreement described in section 334)”;

(ii) in subparagraph (A), by striking “nonprofit”; and

(iii) by striking subparagraph (C) and inserting the following:

“(C) the entity agrees to comply with the requirements of section 334; and”; and

(B) in paragraph (3), by adding at the end “In approving such applications, the Secretary shall give preference to applications in which a nonprofit entity or public entity shall provide a site to which Corps members may be assigned.”; and

(2) in subsection (d)—

(A) in paragraphs (1), (2), and (4), by striking “nonprofit” each place it appears; and

(B) in paragraph (1)—

(i) in the second sentence—

(I) in subparagraph (C), by striking “and” at the end; and

(II) by striking the period and inserting “, and (E) developing long-term plans for addressing health professional shortages and improving access to health care.”; and
(ii) by adding at the end the following: “The Secretary shall encourage entities that receive technical assistance under this paragraph to communicate with other communities, State Offices of Rural Health, State Primary Care Associations and Offices, and other entities concerned with site development and community needs assessment.”.

SEC. 304. PRIORITIES IN ASSIGNMENT OF CORPS PERSONNEL.

Section 333A of the Public Health Service Act (42 U.S.C. 254f-1) is amended—

(1) in subsection (a)(1)(A), by striking “, as determined in accordance with subsection (b)”;

(2) by striking subsection (b);

(3) in subsection (c), by striking the second sentence;

(4) in subsection (d)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2) (as redesignated by subparagraph (A)) the following:

Publication.

“(1) PROPOSED LIST.—The Secretary shall prepare and publish a proposed list of health professional shortage areas and entities that would receive priority under subsection (a)(1) in the assignment of Corps members. The list shall contain the information described in paragraph (2), and the relative scores and relative priorities of the entities submitting applications under section 333, in a proposed format. All such entities shall have 30 days after the date of publication of the list to provide additional data and information in support of inclusion on the list or in support of a higher priority determination and the Secretary shall reasonably consider such data and information in preparing the final list under paragraph (2).”;

(C) in paragraph (2) (as redesignated by subparagraph (A)), in the matter before subparagraph (A)—

(i) by striking “paragraph (2)” and inserting “paragraph (3)”;

(ii) by striking “prepare a list of health professional shortage areas” and inserting “prepare and, as appropriate, update a list of health professional shortage areas and entities”; and

(iii) by striking “for the period applicable under subsection (f)”;

(D) by striking paragraph (3) (as redesignated by subparagraph (A)) and inserting the following:

“(3) NOTIFICATION OF AFFECTED PARTIES.—

Deadline.

“(A) ENTITIES.—Not later than 30 days after the Secretary has added to a list under paragraph (2) an entity specified as described in subparagraph (A) of such paragraph, the Secretary shall notify such entity that the entity has been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

“(B) INDIVIDUALS.—In the case of an individual obligated to provide service under the Scholarship Program, not later than 3 months before the date described in section 338C(b)(5), the Secretary shall provide to such individual the names of each of the entities specified as described in paragraph (2)(B)(i) that is appropriate for the individual’s medical specialty and discipline.”; and

(E) by striking paragraph (4) (as redesignated by subparagraph (A)) and inserting the following:

“(4) REVISIONS.—If the Secretary proposes to make a revision in the list under paragraph (2), and the revision would adversely alter the status of an entity with respect to the list, the Secretary shall notify the entity of the revision. Any entity adversely affected by such a revision shall be notified in writing by the Secretary of the reasons for the revision and shall have 30 days to file a written appeal of the determination involved which shall be reasonably considered by the Secretary before the revision to the list becomes final. The revision to the list shall be effective with respect to assignment of Corps members beginning on the date that the revision becomes final.”;

Notification.

(5) by striking subsection (e) and inserting the following:

“(e) LIMITATION ON NUMBER OF ENTITIES OFFERED AS ASSIGNMENT CHOICES IN SCHOLARSHIP PROGRAM.—

“(1) DETERMINATION OF AVAILABLE CORPS MEMBERS.—By April 1 of each calendar year, the Secretary shall determine the number of participants in the Scholarship Program who will be available for assignments under section 333 during the program year beginning on July 1 of that calendar year.

Deadline.

“(2) DETERMINATION OF NUMBER OF ENTITIES.—At all times during a program year, the number of entities specified under subsection (c)(2)(B)(i) shall be—

“(A) not less than the number of participants determined with respect to that program year under paragraph (1); and

“(B) not greater than twice the number of participants determined with respect to that program year under paragraph (1).”;

(6) by striking subsection (f); and

(7) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d) respectively.

SEC. 305. COST-SHARING.

Subpart II of part D of title III of the Public Health Service Act (42 U.S.C. 254d et seq.) is amended by striking section 334 and inserting the following:

“SEC. 334. CHARGES FOR SERVICES BY ENTITIES USING CORPS MEMBERS.

42 USC 254g.

“(a) AVAILABILITY OF SERVICES REGARDLESS OF ABILITY TO PAY OR PAYMENT SOURCE.—An entity to which a Corps member is assigned shall not deny requested health care services, and shall not discriminate in the provision of services to an individual—

“(1) because the individual is unable to pay for the services;

or

“(2) because payment for the services would be made under—

“(A) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

“(B) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.); or

“(C) the State children’s health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.).

“(b) CHARGES FOR SERVICES.—The following rules shall apply to charges for health care services provided by an entity to which a Corps member is assigned:

“(1) IN GENERAL.—

“(A) SCHEDULE OF FEES OR PAYMENTS.—Except as provided in paragraph (2), the entity shall prepare a schedule of fees or payments for the entity’s services, consistent with locally prevailing rates or charges and designed to cover the entity’s reasonable cost of operation.

“(B) SCHEDULE OF DISCOUNTS.—Except as provided in paragraph (2), the entity shall prepare a corresponding schedule of discounts (including, in appropriate cases, waivers) to be applied to such fees or payments. In preparing the schedule, the entity shall adjust the discounts on the basis of a patient’s ability to pay.

“(C) USE OF SCHEDULES.—The entity shall make every reasonable effort to secure from patients fees and payments for services in accordance with such schedules, and fees or payments shall be sufficiently discounted in accordance with the schedule described in subparagraph (B).

“(2) SERVICES TO BENEFICIARIES OF FEDERAL AND FEDERALLY ASSISTED PROGRAMS.—In the case of health care services furnished to an individual who is a beneficiary of a program listed in subsection (a)(2), the entity—

“(A) shall accept an assignment pursuant to section 1842(b)(3)(B)(ii) of the Social Security Act (42 U.S.C. 1395u(b)(3)(B)(ii)) with respect to an individual who is a beneficiary under the medicare program; and

“(B) shall enter into an appropriate agreement with—

“(i) the State agency administering the program under title XIX of such Act with respect to an individual who is a beneficiary under the medicaid program; and

“(ii) the State agency administering the program under title XXI of such Act with respect to an individual who is a beneficiary under the State children’s health insurance program.

“(3) COLLECTION OF PAYMENTS.—The entity shall take reasonable and appropriate steps to collect all payments due for health care services provided by the entity, including payments from any third party (including a Federal, State, or local government agency and any other third party) that is responsible for part or all of the charge for such services.”.

SEC. 306. ELIGIBILITY FOR FEDERAL FUNDS.

Section 335(e)(1)(B) of the Public Health Service Act (42 U.S.C. 254h(e)(1)(B)) is amended by striking “XVIII or XIX” and inserting “XVIII, XIX, or XXI”.

SEC. 307. FACILITATION OF EFFECTIVE PROVISION OF CORPS SERVICES.

(a) **HEALTH PROFESSIONAL SHORTAGE AREAS.**—Section 336 of the Public Health Service Act (42 U.S.C. 254h-1) is amended—

(1) in subsection (c), by striking “health manpower” and inserting “health professional”; and

(2) in subsection (f)(1), by striking “health manpower” and inserting “health professional”.

(b) **TECHNICAL AMENDMENT.**—Section 336A(8) of the Public Health Service Act (42 U.S.C. 254i(8)) is amended by striking “agreements under”.

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

Section 338(a) of the Public Health Service Act (42 U.S.C. 254k(a)) is amended—

(1) by striking “(1) For” and inserting “For”;

(2) by striking “1991 through 2000” and inserting “2002 through 2006”; and

(3) by striking paragraph (2).

SEC. 309. NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP PROGRAM.

Section 338A of the Public Health Service Act (42 U.S.C. 254l) is amended—

(1) in subsection (a)(1), by inserting “behavioral and mental health professionals,” after “dentists,”;

(2) in subsection (b)(1)(B), by inserting “, or an appropriate degree from a graduate program of behavioral and mental health” after “other health profession”;

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking “338D” and inserting “338E”; and

(B) in subparagraph (B), by striking “338C” and inserting “338D”;

(4) in subsection (d)(1)—

(A) in subparagraph (A), by striking “and” at the end;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

“(B) the Secretary, in considering applications from individuals accepted for enrollment or enrolled in dental school, shall consider applications from all individuals accepted for enrollment or enrolled in any accredited dental school in a State; and”;

(5) in subsection (f)—

(A) in paragraph (1)(B)—

(i) in clause (iii), by striking “and” after the semicolon;

(ii) by redesignating clause (iv) as clause (v); and

(iii) by inserting after clause (iii) the following new clause:

“(iv) if pursuing a degree from a school of medicine or osteopathic medicine, to complete a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and”;

(B) in paragraph (3), by striking “338D” and inserting “338E”; and

(6) by striking subsection (i).

SEC. 310. NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM.

Section 338B of the Public Health Service Act (42 U.S.C. 254l-1) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting “behavioral and mental health professionals,” after “dentists,”; and

(B) in paragraph (2), by striking “(including mental health professionals)”;

(2) in subsection (b)(1), by striking subparagraph (A) and inserting the following:

“(A) have a degree in medicine, osteopathic medicine, dentistry, or another health profession, or an appropriate degree from a graduate program of behavioral and mental health, or be certified as a nurse midwife, nurse practitioner, or physician assistant;”;

(3) in subsection (e), by striking “(1) IN GENERAL.—”; and

(4) by striking subsection (i).

SEC. 311. OBLIGATED SERVICE.

Section 338C of the Public Health Service Act (42 U.S.C. 254m) is amended—

(1) in subsection (b)—

(A) in paragraph (1), in the matter preceding subparagraph (A), by striking “section 338A(f)(1)(B)(iv)” and inserting “section 338A(f)(1)(B)(v)”;

(B) in paragraph (5)—

(i) by striking all that precedes subparagraph (C) and inserting the following:

“(5)(A) In the case of the Scholarship Program, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for the degree for which the individual receives the scholarship, except that—

“(i) for an individual receiving such a degree after September 30, 2000, from a school of medicine or osteopathic medicine, such date shall be the date the individual completes a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and

“(ii) at the request of an individual, the Secretary may, consistent with the needs of the Corps, defer such date until the end of a period of time required for the individual to complete advanced training (including an internship or residency).”;

(ii) by striking subparagraph (D);

(iii) by redesignating subparagraphs (C) and (E) as subparagraphs (B) and (C), respectively; and

(iv) in clause (i) of subparagraph (C) (as redesignated by clause (iii)) by striking “subparagraph (A), (B), or (D)” and inserting “subparagraph (A)”;

(2) by striking subsection (e).

SEC. 312. PRIVATE PRACTICE.

Section 338D of the Public Health Service Act (42 U.S.C. 254n) is amended by striking subsection (b) and inserting the following:

“(b)(1) The written agreement described in subsection (a) shall—

“(A) provide that, during the period of private practice by an individual pursuant to the agreement, the individual shall comply with the requirements of section 334 that apply to entities; and

“(B) contain such additional provisions as the Secretary may require to carry out the objectives of this section.

“(2) The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.”.

SEC. 313. BREACH OF SCHOLARSHIP CONTRACT OR LOAN REPAYMENT CONTRACT.

(a) IN GENERAL.—Section 338E of the Public Health Service Act (42 U.S.C. 254o) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A), by striking the comma and inserting a semicolon;

(B) in subparagraph (B), by striking the comma and inserting “; or”;

(C) in subparagraph (C), by striking “or” at the end; and

(D) by striking subparagraph (D);

(2) in subsection (b)—

(A) in paragraph (1)(A)—

(i) by striking “338F(d)” and inserting “338G(d)”;

(ii) by striking “either”;

(iii) by striking “338D or” and inserting “338D,”;

and

(iv) by inserting “or to complete a required residency as specified in section 338A(f)(1)(B)(iv),” before “the United States”; and

(B) by adding at the end the following new paragraph:

“(3) The Secretary may terminate a contract with an individual under section 338A if, not later than 30 days before the end of the school year to which the contract pertains, the individual—

“(A) submits a written request for such termination; and

“(B) repays all amounts paid to, or on behalf of, the individual under section 338A(g).”;

(3) in subsection (c)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking “338F(d)” and inserting “338G(d)”; and

(ii) by striking subparagraphs (A) through (C) and inserting the following:

“(A) the total of the amounts paid by the United States under section 338B(g) on behalf of the individual for any period of obligated service not served;

“(B) an amount equal to the product of the number of months of obligated service that were not completed by the individual, multiplied by \$7,500; and

“(C) the interest on the amounts described in subparagraphs (A) and (B), at the maximum legal prevailing rate, as determined by the Treasurer of the United States, from the date of the breach;

except that the amount the United States is entitled to recover under this paragraph shall not be less than \$31,000.”;

Deadline. (B) by striking paragraphs (2) and (3) and inserting the following:

“(2) The Secretary may terminate a contract with an individual under section 338B if, not later than 45 days before the end of the fiscal year in which the contract was entered into, the individual—

“(A) submits a written request for such termination; and

“(B) repays all amounts paid on behalf of the individual under section 338B(g).”; and

(C) by redesignating paragraph (4) as paragraph (3);

(4) in subsection (d)(3)(A), by striking “only if such discharge is granted after the expiration of the five-year period” and inserting “only if such discharge is granted after the expiration of the 7-year period”; and

(5) by adding at the end the following new subsection:

“(e) Notwithstanding any other provision of Federal or State law, there shall be no limitation on the period within which suit may be filed, a judgment may be enforced, or an action relating to an offset or garnishment, or other action, may be initiated or taken by the Secretary, the Attorney General, or the head of another Federal agency, as the case may be, for the repayment of the amount due from an individual under this section.”.

42 USC 254o note. (b) EFFECTIVE DATE.—The amendment made by subsection (a)(4) shall apply to any obligation for which a discharge in bankruptcy has not been granted before the date that is 31 days after the date of enactment of this Act.

SEC. 314. AUTHORIZATION OF APPROPRIATIONS.

Section 338H of the Public Health Service Act (42 U.S.C. 254q) is amended to read as follows:

“SEC. 338H. AUTHORIZATION OF APPROPRIATIONS.

“(a) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of carrying out this subpart, there are authorized to be appropriated \$146,250,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

“(b) SCHOLARSHIPS FOR NEW PARTICIPANTS.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall obligate not less than 10 percent for the purpose of providing contracts for—

“(1) scholarships under this subpart to individuals who have not previously received such scholarships; or

“(2) scholarships or loan repayments under the Loan Repayment Program under section 338B to individuals from disadvantaged backgrounds.

“(c) SCHOLARSHIPS AND LOAN REPAYMENTS.—With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, from amounts appropriated under subsection (a) for a fiscal year, obligate not less than a total of 10 percent for contracts for both scholarships under the Scholarship Program under section 338A and loan repayments under the Loan Repayment Program under section 338B to individuals who are entering the first year of a course of study or program described in section 338A(b)(1)(B) that leads to such a certification or individuals who are eligible for the loan repayment program as specified in section 338B(b) for a loan related to such certification.”.

SEC. 315. GRANTS TO STATES FOR LOAN REPAYMENT PROGRAMS.

Section 338I of the Public Health Service Act (42 U.S.C. 254q-1) is amended—

(1) in subsection (a), by striking paragraph (1) and inserting the following:

“(1) **AUTHORITY FOR GRANTS.**—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health care services in health professional shortage areas. The National Advisory Council established under section 337 shall advise the Administrator regarding the program under this section.”;

(2) in subsection (e), by striking paragraph (1) and inserting the following:

“(1) to submit to the Secretary such reports regarding the States loan repayment program, as are determined to be appropriate by the Secretary; and”;

(3) in subsection (i), by striking paragraph (1) and inserting the following:

“(1) **IN GENERAL.**—For the purpose of making grants under subsection (a), there are authorized to be appropriated \$12,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.”.

SEC. 316. DEMONSTRATION GRANTS TO STATES FOR COMMUNITY SCHOLARSHIP PROGRAMS.

Section 338L of the Public Health Service Act (42 U.S.C. 254t) is repealed.

SEC. 317. DEMONSTRATION PROJECT.

Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254l et seq.) is amended by adding at the end the following:

“SEC. 338L. DEMONSTRATION PROJECT.

42 USC 254t.

“(a) **PROGRAM AUTHORIZED.**—The Secretary shall establish a demonstration project to provide for the participation of individuals who are chiropractic doctors or pharmacists in the Loan Repayment Program described in section 338B.

“(b) **PROCEDURE.**—An individual that receives assistance under this section with regard to the program described in section 338B shall comply with all rules and requirements described in such section (other than subparagraphs (A) and (B) of section 338B(b)(1)) in order to receive assistance under this section.

“(c) **LIMITATIONS.**—

“(1) **IN GENERAL.**—The demonstration project described in this section shall provide for the participation of individuals who shall provide services in rural and urban areas.

“(2) **AVAILABILITY OF OTHER HEALTH PROFESSIONALS.**—The Secretary may not assign an individual receiving assistance under this section to provide obligated service at a site unless—

“(A) the Secretary has assigned a physician (as defined in section 1861(r) of the Social Security Act) or other health professional licensed to prescribe drugs to provide obligated service at such site under section 338C or 338D; and

“(B) such physician or other health professional will provide obligated service at such site concurrently with the individual receiving assistance under this section.

“(3) RULES OF CONSTRUCTION.—

“(A) SUPERVISION OF INDIVIDUALS.—Nothing in this section shall be construed to require or imply that a physician or other health professional licensed to prescribe drugs must supervise an individual receiving assistance under the demonstration project under this section, with respect to such project.

“(B) LICENSURE OF HEALTH PROFESSIONALS.—Nothing in this section shall be construed to supersede State law regarding licensure of health professionals.

“(d) DESIGNATIONS.—The demonstration project described in this section, and any providers who are selected to participate in such project, shall not be considered by the Secretary in the designation of a health professional shortage area under section 332 during fiscal years 2002 through 2004.

“(e) RULE OF CONSTRUCTION.—This section shall not be construed to require any State to participate in the project described in this section.

“(f) REPORT.—

“(1) IN GENERAL.—The Secretary shall evaluate the participation of individuals in the demonstration projects under this section and prepare and submit a report containing the information described in paragraph (2) to—

“(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

“(B) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;

“(C) the Committee on Energy and Commerce of the House of Representatives; and

“(D) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives.

“(2) CONTENT.—The report described in paragraph (1) shall detail—

“(A) the manner in which the demonstration project described in this section has affected access to primary care services, patient satisfaction, quality of care, and health care services provided for traditionally underserved populations;

“(B) how the participation of chiropractic doctors and pharmacists in the Loan Repayment Program might affect the designation of health professional shortage areas; and

“(C) whether adding chiropractic doctors and pharmacists as permanent members of the National Health Service Corps would be feasible and would enhance the effectiveness of the National Health Service Corps.

“(g) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal years 2002 through 2004.

“(2) FISCAL YEAR 2005.—If the Secretary determines and certifies to Congress by not later than September 30, 2004,

Deadline.

that the number of individuals participating in the demonstration project established under this section is insufficient for purposes of performing the evaluation described in subsection (f)(1), the authorization of appropriations under paragraph (1) shall be extended to include fiscal year 2005.”.

TITLE IV—HEALTHY COMMUNITIES ACCESS PROGRAM

SEC. 401. PURPOSE.

42 USC 256 note.

The purpose of this title is to provide assistance to communities and consortia of health care providers and others, to develop or strengthen integrated community health care delivery systems that coordinate health care services for individuals who are uninsured or underinsured and to develop or strengthen activities related to providing coordinated care for individuals with chronic conditions who are uninsured or underinsured, through the—

(1) coordination of services to allow individuals to receive efficient and higher quality care and to gain entry into and receive services from a comprehensive system of care;

(2) development of the infrastructure for a health care delivery system characterized by effective collaboration, information sharing, and clinical and financial coordination among all providers of care in the community; and

(3) provision of new Federal resources that do not supplant funding for existing Federal categorical programs that support entities providing services to low-income populations.

SEC. 402. CREATION OF HEALTHY COMMUNITIES ACCESS PROGRAM.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by inserting after subpart IV the following new subpart:

“Subpart V—Healthy Communities Access Program

“SEC. 340. GRANTS TO STRENGTHEN THE EFFECTIVENESS, EFFICIENCY, AND COORDINATION OF SERVICES FOR THE UNINSURED AND UNDERINSURED.

42 USC 256.

“(a) IN GENERAL.—The Secretary may award grants to eligible entities to assist in the development of integrated health care delivery systems to serve communities of individuals who are uninsured and individuals who are underinsured—

“(1) to improve the efficiency of, and coordination among, the providers providing services through such systems;

“(2) to assist communities in developing programs targeted toward preventing and managing chronic diseases; and

“(3) to expand and enhance the services provided through such systems.

“(b) ELIGIBLE ENTITIES.—To be eligible to receive a grant under this section, an entity shall be an entity that—

“(1) represents a consortium—

“(A) whose principal purpose is to provide a broad range of coordinated health care services for a community

defined in the entity's grant application as described in paragraph (2); and

“(B) that includes at least one of each of the following providers that serve the community (unless such provider does not exist within the community, declines or refuses to participate, or places unreasonable conditions on their participation)—

“(i) a Federally qualified health center (as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)));

“(ii) a hospital with a low-income utilization rate (as defined in section 1923(b)(3) of the Social Security Act (42 U.S.C. 1396r-4(b)(3)), that is greater than 25 percent;

“(iii) a public health department; and

“(iv) an interested public or private sector health care provider or an organization that has traditionally served the medically uninsured and underserved; and

“(2) submits to the Secretary an application, in such form and manner as the Secretary shall prescribe, that—

“(A) defines a community or geographic area of uninsured and underinsured individuals;

“(B) identifies the providers who will participate in the consortium's program under the grant, and specifies each provider's contribution to the care of uninsured and underinsured individuals in the community, including the volume of care the provider provides to beneficiaries under the medicare, medicaid, and State child health insurance programs and to patients who pay privately for services;

“(C) describes the activities that the applicant and the consortium propose to perform under the grant to further the objectives of this section;

“(D) demonstrates the consortium's ability to build on the current system (as of the date of submission of the application) for serving a community or geographic area of uninsured and underinsured individuals by involving providers who have traditionally provided a significant volume of care for that community;

“(E) demonstrates the consortium's ability to develop coordinated systems of care that either directly provide or ensure the prompt provision of a broad range of high-quality, accessible services, including, as appropriate, primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services in a manner that assures continuity of care in the community or geographic area;

“(F) provides evidence of community involvement in the development, implementation, and direction of the program that the entity proposes to operate;

“(G) demonstrates the consortium's ability to ensure that individuals participating in the program are enrolled in public insurance programs for which the individuals are eligible or know of private insurance programs where available;

“(H) presents a plan for leveraging other sources of revenue, which may include State and local sources and private grant funds, and integrating current and proposed

new funding sources in a way to assure long-term sustainability of the program;

“(I) describes a plan for evaluation of the activities carried out under the grant, including measurement of progress toward the goals and objectives of the program and the use of evaluation findings to improve program performance;

“(J) demonstrates fiscal responsibility through the use of appropriate accounting procedures and appropriate management systems;

“(K) demonstrates the consortium’s commitment to serve the community without regard to the ability of an individual or family to pay by arranging for or providing free or reduced charge care for the poor; and

“(L) includes such other information as the Secretary may prescribe.

“(c) LIMITATIONS.—

“(1) NUMBER OF AWARDS.—

“(A) IN GENERAL.—For each of fiscal years 2003, 2004, 2005, and 2006, the Secretary may not make more than 35 new awards under subsection (a) (excluding renewals of such awards).

“(B) RULE OF CONSTRUCTION.—This paragraph shall not be construed to affect awards made before fiscal year 2003.

“(2) IN GENERAL.—An eligible entity may not receive a grant under this section (including with respect to any such grant made before fiscal year 2003) for more than 3 consecutive fiscal years, except that such entity may receive such a grant award for not more than 1 additional fiscal year if—

“(A) the eligible entity submits to the Secretary a request for a grant for such an additional fiscal year;

“(B) the Secretary determines that extraordinary circumstances (as defined in paragraph (3)) justify the granting of such request; and

“(C) the Secretary determines that granting such request is necessary to further the objectives described in subsection (a).

“(3) EXTRAORDINARY CIRCUMSTANCES.—

“(A) IN GENERAL.—In paragraph (2), the term ‘extraordinary circumstances’ means an event (or events) that is outside of the control of the eligible entity that has prevented the eligible entity from fulfilling the objectives described by such entity in the application submitted under subsection (b)(2).

“(B) EXAMPLES.—Extraordinary circumstances include—

“(i) natural disasters or other major disruptions to the security or health of the community or geographic area served by the eligible entity; or

“(ii) a significant economic deterioration in the community or geographic area served by such eligible entity, that directly and adversely affects the entity receiving an award under subsection (a).

“(d) PRIORITIES.—In awarding grants under this section, the Secretary—

“(1) shall accord priority to applicants that demonstrate the extent of unmet need in the community involved for a more coordinated system of care; and

“(2) may accord priority to applicants that best promote the objectives of this section, taking into consideration the extent to which the application involved—

“(A) identifies a community whose geographical area has a high or increasing percentage of individuals who are uninsured;

“(B) demonstrates that the applicant has included in its consortium providers, support systems, and programs that have a tradition of serving uninsured individuals and underinsured individuals in the community;

“(C) shows evidence that the program would expand utilization of preventive and primary care services for uninsured and underinsured individuals and families in the community, including behavioral and mental health services, oral health services, or substance abuse services;

“(D) proposes a program that would improve coordination between health care providers and appropriate social service providers;

“(E) demonstrates collaboration with State and local governments;

“(F) demonstrates that the applicant makes use of non-Federal contributions to the greatest extent possible; or

“(G) demonstrates a likelihood that the proposed program will continue after support under this section ceases.

“(e) USE OF FUNDS.—

“(1) USE BY GRANTEEES.—

“(A) IN GENERAL.—Except as provided in paragraphs (2) and (3), a grantee may use amounts provided under this section only for—

“(i) direct expenses associated with achieving the greater integration of a health care delivery system so that the system either directly provides or ensures the provision of a broad range of culturally competent services, as appropriate, including primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services; and

“(ii) direct patient care and service expansions to fill identified or documented gaps within an integrated delivery system.

“(B) SPECIFIC USES.—The following are examples of purposes for which a grantee may use grant funds under this section, when such use meets the conditions stated in subparagraph (A):

“(i) Increases in outreach activities and closing gaps in health care service.

“(ii) Improvements to case management.

“(iii) Improvements to coordination of transportation to health care facilities.

“(iv) Development of provider networks and other innovative models to engage physicians in voluntary efforts to serve the medically underserved within a community.

“(v) Recruitment, training, and compensation of necessary personnel.

“(vi) Acquisition of technology for the purpose of coordinating care.

“(vii) Improvements to provider communication, including implementation of shared information systems or shared clinical systems.

“(viii) Development of common processes for determining eligibility for the programs provided through the system, including creating common identification cards and single sliding scale discounts.

“(ix) Development of specific prevention and disease management tools and processes.

“(x) Translation services.

“(xi) Carrying out other activities that may be appropriate to a community and that would increase access by the uninsured to health care, such as access initiatives for which private entities provide non-Federal contributions to supplement the Federal funds provided through the grants for the initiatives.

“(2) DIRECT PATIENT CARE LIMITATION.—Not more than 15 percent of the funds provided under a grant awarded under this section may be used for providing direct patient care and services.

“(3) RESERVATION OF FUNDS FOR NATIONAL PROGRAM PURPOSES.—The Secretary may use not more than 3 percent of funds appropriated to carry out this section for providing technical assistance to grantees, obtaining assistance of experts and consultants, holding meetings, developing of tools, disseminating of information, evaluation, and carrying out activities that will extend the benefits of programs funded under this section to communities other than the community served by the program funded.

“(f) GRANTEE REQUIREMENTS.—

“(1) EVALUATION OF EFFECTIVENESS.—A grantee under this section shall—

“(A) report to the Secretary annually regarding—

“(i) progress in meeting the goals and measurable objectives set forth in the grant application submitted by the grantee under subsection (b); and

“(ii) the extent to which activities conducted by such grantee have—

“(I) improved the effectiveness, efficiency, and coordination of services for uninsured and underinsured individuals in the communities or geographic areas served by such grantee;

“(II) resulted in the provision of better quality health care for such individuals; and

“(III) resulted in the provision of health care to such individuals at lower cost than would have been possible in the absence of the activities conducted by such grantee; and

“(B) provide for an independent annual financial audit of all records that relate to the disposition of funds received through the grant.

“(2) PROGRESS.—The Secretary may not renew an annual grant under this section for an entity for a fiscal year unless

the Secretary is satisfied that the consortium represented by the entity has made reasonable and demonstrable progress in meeting the goals and measurable objectives set forth in the entity's grant application for the preceding fiscal year.

“(g) MAINTENANCE OF EFFORT.—With respect to activities for which a grant under this section is authorized, the Secretary may award such a grant only if the applicant for the grant, and each of the participating providers, agree that the grantee and each such provider will maintain its expenditures of non-Federal funds for such activities at a level that is not less than the level of such expenditures during the fiscal year immediately preceding the fiscal year for which the applicant is applying to receive such grant.

“(h) TECHNICAL ASSISTANCE.—The Secretary may, either directly or by grant or contract, provide any entity that receives a grant under this section with technical and other nonfinancial assistance necessary to meet the requirements of this section.

Deadline.

“(i) EVALUATION OF PROGRAM.—Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the extent to which projects funded under this section have been successful in improving the effectiveness, efficiency, and coordination of services for uninsured and underinsured individuals in the communities or geographic areas served by such projects, including whether the projects resulted in the provision of better quality health care for such individuals, and whether such care was provided at lower costs, than would have been provided in the absence of such projects.

“(j) DEMONSTRATION AUTHORITY.—The Secretary may make demonstration awards under this section to historically black health professions schools for the purposes of—

“(1) developing patient-based research infrastructure at historically black health professions schools, which have an affiliation, or affiliations, with any of the providers identified in subsection (b)(1)(B);

“(2) establishment of joint and collaborative programs of medical research and data collection between historically black health professions schools and such providers, whose goal is to improve the health status of medically underserved populations; or

“(3) supporting the research-related costs of patient care, data collection, and academic training resulting from such affiliations.

“(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

“(l) DATE CERTAIN FOR TERMINATION OF PROGRAM.—Funds may not be appropriated to carry out this section after September 30, 2006.”.

SEC. 403. EXPANDING AVAILABILITY OF DENTAL SERVICES.

Part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) is amended by adding at the end the following:

“Subpart X—Primary Dental Programs**“SEC. 340F. DESIGNATED DENTAL HEALTH PROFESSIONAL SHORT-AGE AREA.** 42 USC 256f.

“In this subpart, the term ‘designated dental health professional shortage area’ means an area, population group, or facility that is designated by the Secretary as a dental health professional shortage area under section 332 or designated by the applicable State as having a dental health professional shortage.

“SEC. 340G. GRANTS FOR INNOVATIVE PROGRAMS.

42 USC 256g.

“(a) GRANT PROGRAM AUTHORIZED.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, is authorized to award grants to States for the purpose of helping States develop and implement innovative programs to address the dental workforce needs of designated dental health professional shortage areas in a manner that is appropriate to the States’ individual needs.

“(b) STATE ACTIVITIES.—A State receiving a grant under subsection (a) may use funds received under the grant for—

“(1) loan forgiveness and repayment programs for dentists who—

“(A) agree to practice in designated dental health professional shortage areas;

“(B) are dental school graduates who agree to serve as public health dentists for the Federal, State, or local government; and

“(C) agree to—

“(i) provide services to patients regardless of such patients’ ability to pay; and

“(ii) use a sliding payment scale for patients who are unable to pay the total cost of services;

“(2) dental recruitment and retention efforts;

“(3) grants and low-interest or no-interest loans to help dentists who participate in the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to establish or expand practices in designated dental health professional shortage areas by equipping dental offices or sharing in the overhead costs of such practices;

“(4) the establishment or expansion of dental residency programs in coordination with accredited dental training institutions in States without dental schools;

“(5) programs developed in consultation with State and local dental societies to expand or establish oral health services and facilities in designated dental health professional shortage areas, including services and facilities for children with special needs, such as—

“(A) the expansion or establishment of a community-based dental facility, free-standing dental clinic, consolidated health center dental facility, school-linked dental facility, or United States dental school-based facility;

“(B) the establishment of a mobile or portable dental clinic; and

“(C) the establishment or expansion of private dental services to enhance capacity through additional equipment or additional hours of operation;

“(6) placement and support of dental students, dental residents, and advanced dentistry trainees;

“(7) continuing dental education, including distance-based education;

“(8) practice support through teledentistry conducted in accordance with State laws;

“(9) community-based prevention services such as water fluoridation and dental sealant programs;

“(10) coordination with local educational agencies within the State to foster programs that promote children going into oral health or science professions;

“(11) the establishment of faculty recruitment programs at accredited dental training institutions whose mission includes community outreach and service and that have a demonstrated record of serving underserved States;

“(12) the development of a State dental officer position or the augmentation of a State dental office to coordinate oral health and access issues in the State; and

“(13) any other activities determined to be appropriate by the Secretary.

“(c) APPLICATION.—

“(1) IN GENERAL.—Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

“(2) ASSURANCES.—The application shall include assurances that the State will meet the requirements of subsection (d) and that the State possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate and report on the outcomes resulting from such activities.

“(d) MATCHING REQUIREMENT.—The Secretary may not make a grant to a State under this section unless that State agrees that, with respect to the costs to be incurred by the State in carrying out the activities for which the grant was awarded, the State will provide non-Federal contributions in an amount equal to not less than 40 percent of Federal funds provided under the grant. The State may provide the contributions in cash or in kind, fairly evaluated, including plant, equipment, and services and may provide the contributions from State, local, or private sources.

Deadline.

“(e) REPORT.—Not later than 5 years after the date of enactment of the Health Care Safety Net Amendments of 2002, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to dental services in designated dental health professional shortage areas.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, \$50,000,000 for the 5-fiscal year period beginning with fiscal year 2002.”.

42 USC 1396a
note.

SEC. 404. STUDY REGARDING BARRIERS TO PARTICIPATION OF FARMWORKERS IN HEALTH PROGRAMS.

(a) IN GENERAL.—The Secretary shall conduct a study of the problems experienced by farmworkers (including their families) under Medicaid and SCHIP. Specifically, the Secretary shall examine the following:

(1) BARRIERS TO ENROLLMENT.—Barriers to their enrollment, including a lack of outreach and outstationed eligibility

workers, complicated applications and eligibility determination procedures, and linguistic and cultural barriers.

(2) LACK OF PORTABILITY.—The lack of portability of Medicaid and SCHIP coverage for farmworkers who are determined eligible in one State but who move to other States on a seasonal or other periodic basis.

(3) POSSIBLE SOLUTIONS.—The development of possible solutions to increase enrollment and access to benefits for farmworkers, because, in part, of the problems identified in paragraphs (1) and (2), and the associated costs of each of the possible solutions described in subsection (b).

(b) POSSIBLE SOLUTIONS.—Possible solutions to be examined shall include each of the following:

(1) INTERSTATE COMPACTS.—The use of interstate compacts among States that establish portability and reciprocity for eligibility for farmworkers under the Medicaid and SCHIP and potential financial incentives for States to enter into such compacts.

(2) DEMONSTRATION PROJECTS.—The use of multi-state demonstration waiver projects under section 1115 of the Social Security Act (42 U.S.C. 1315) to develop comprehensive migrant coverage demonstration projects.

(3) USE OF CURRENT LAW FLEXIBILITY.—Use of current law Medicaid and SCHIP State plan provisions relating to coverage of residents and out-of-State coverage.

(4) NATIONAL MIGRANT FAMILY COVERAGE.—The development of programs of national migrant family coverage in which States could participate.

(5) PUBLIC-PRIVATE PARTNERSHIPS.—The provision of incentives for development of public-private partnerships to develop private coverage alternatives for farmworkers.

(6) OTHER POSSIBLE SOLUTIONS.—Such other solutions as the Secretary deems appropriate.

(c) CONSULTATIONS.—In conducting the study, the Secretary shall consult with the following:

(1) Farmworkers affected by the lack of portability of coverage under the Medicaid program or the State children's health insurance program (under titles XIX and XXI of the Social Security Act).

(2) Individuals with expertise in providing health care to farmworkers, including designees of national and local organizations representing migrant health centers and other providers.

(3) Resources with expertise in health care financing.

(4) Representatives of foundations and other nonprofit entities that have conducted or supported research on farmworker health care financial issues.

(5) Representatives of Federal agencies which are involved in the provision or financing of health care to farmworkers, including the Health Care Financing Administration and the Health Research and Services Administration.

(6) Representatives of State governments.

(7) Representatives from the farm and agricultural industries.

(8) Designees of labor organizations representing farmworkers.

(d) DEFINITIONS.—For purposes of this section:

(1) **FARMWORKER.**—The term “farmworker” means a migratory agricultural worker or seasonal agricultural worker, as such terms are defined in section 330(g)(3) of the Public Health Service Act (42 U.S.C. 254c(g)(3)), and includes a family member of such a worker.

(2) **MEDICAID.**—The term “Medicaid” means the program under title XIX of the Social Security Act.

(3) **SCHIP.**—The term “SCHIP” means the State children’s health insurance program under title XXI of the Social Security Act.

Deadline.

(e) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Secretary shall transmit a report to the President and the Congress on the study conducted under this section. The report shall contain a detailed statement of findings and conclusions of the study, together with its recommendations for such legislation and administrative actions as the Secretary considers appropriate.

TITLE V—STUDY AND MISCELLANEOUS PROVISIONS

42 USC 254b
note.

SEC. 501. GUARANTEE STUDY.

The Secretary of Health and Human Services shall conduct a study regarding the ability of the Department of Health and Human Services to provide for solvency for managed care networks involving health centers receiving funding under section 330 of the Public Health Service Act. The Secretary shall prepare and submit a report to the appropriate Committees of Congress regarding such ability not later than 2 years after the date of enactment of the Health Care Safety Net Amendments of 2002.

SEC. 502. GRADUATE MEDICAL EDUCATION.

Section 762(k) of the Public Health Service Act (42 U.S.C. 294o(k)) is amended by striking “2002” and inserting “2003”.

TITLE VI—CONFORMING AMENDMENTS

SEC. 601. CONFORMING AMENDMENTS.

(a) **HOMELESS PROGRAMS.**—Subsections (g)(1)(G)(ii), (k)(2), and (n)(1)(C) of section 224, and sections 317A(a)(2), 317E(c), 318A(e), 332(a)(2)(C), 340D(c)(5), 799B(6)(B), 1313, and 2652(2) of the Public Health Service Act (42 U.S.C. 233, 247b-1(a)(2), 247b-6(c), 247c-1(e), 254e(a)(2)(C), 256d(c)(5), 295p(6)(B), 300e-12, and 300ff-52(2)) are amended by striking “340” and inserting “330(h)”.

(b) HOMELESS INDIVIDUAL.—Section 534(2) of the Public Health Service Act (42 U.S.C. 290cc-34(2)) is amended by striking “340(r)” and inserting “330(h)(5)”.

Approved October 26, 2002.

LEGISLATIVE HISTORY—S. 1533 (H.R. 3450):

SENATE REPORTS: No. 107-83 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 16, considered and passed Senate.

Oct. 16, considered and passed House, amended.

Oct. 17, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 26, Presidential remarks.



Public Law 107–252
107th Congress

An Act

Oct. 29, 2002
[H.R. 3295]

To establish a program to provide funds to States to replace punch card voting systems, to establish the Election Assistance Commission to assist in the administration of Federal elections and to otherwise provide assistance with the administration of certain Federal election laws and programs, to establish minimum election administration standards for States and units of local government with responsibility for the administration of Federal elections, and for other purposes.

Help America
Vote Act of 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

42 USC 15301
note.

(a) **SHORT TITLE.**—This Act may be cited as the “Help America Vote Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—PAYMENTS TO STATES FOR ELECTION ADMINISTRATION IMPROVEMENTS AND REPLACEMENT OF PUNCH CARD AND LEVER VOTING MACHINES

- Sec. 101. Payments to States for activities to improve administration of elections.
- Sec. 102. Replacement of punch card or lever voting machines.
- Sec. 103. Guaranteed minimum payment amount.
- Sec. 104. Authorization of appropriations.
- Sec. 105. Administration of programs.
- Sec. 106. Effective date.

TITLE II—COMMISSION

Subtitle A—Establishment and General Organization

PART 1—ELECTION ASSISTANCE COMMISSION

- Sec. 201. Establishment.
- Sec. 202. Duties.
- Sec. 203. Membership and appointment.
- Sec. 204. Staff.
- Sec. 205. Powers.
- Sec. 206. Dissemination of information.
- Sec. 207. Annual report.
- Sec. 208. Requiring majority approval for actions.
- Sec. 209. Limitation on rulemaking authority.
- Sec. 210. Authorization of appropriations.

PART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

- Sec. 211. Establishment.
- Sec. 212. Duties.
- Sec. 213. Membership of Standards Board.
- Sec. 214. Membership of Board of Advisors.
- Sec. 215. Powers of Boards; no compensation for service.
- Sec. 216. Status of Boards and members for purposes of claims against Board.

PART 3—TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE

- Sec. 221. Technical Guidelines Development Committee.
- Sec. 222. Process for adoption.

Subtitle B—Testing, Certification, Decertification, and Recertification of Voting System Hardware and Software

- Sec. 231. Certification and testing of voting systems.

Subtitle C—Studies and Other Activities To Promote Effective Administration of Federal Elections

- Sec. 241. Periodic studies of election administration issues.
- Sec. 242. Study, report, and recommendations on best practices for facilitating military and overseas voting.
- Sec. 243. Report on human factor research.
- Sec. 244. Study and report on voters who register by mail and use of social security information.
- Sec. 245. Study and report on electronic voting and the electoral process.
- Sec. 246. Study and report on free absentee ballot postage.
- Sec. 247. Consultation with Standards Board and Board of Advisors.

Subtitle D—Election Assistance

PART 1—REQUIREMENTS PAYMENTS

- Sec. 251. Requirements payments.
- Sec. 252. Allocation of funds.
- Sec. 253. Condition for receipt of funds.
- Sec. 254. State plan.
- Sec. 255. Process for development and filing of plan; publication by Commission.
- Sec. 256. Requirement for public notice and comment.
- Sec. 257. Authorization of appropriations.
- Sec. 258. Reports.

PART 2—PAYMENTS TO STATES AND UNITS OF LOCAL GOVERNMENT TO ASSURE ACCESS FOR INDIVIDUALS WITH DISABILITIES

- Sec. 261. Payments to States and units of local government to assure access for individuals with disabilities.
- Sec. 262. Amount of payment.
- Sec. 263. Requirements for eligibility.
- Sec. 264. Authorization of appropriations.
- Sec. 265. Reports.

PART 3—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

- Sec. 271. Grants for research on voting technology improvements.
- Sec. 272. Report.
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PART 4—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY

- Sec. 281. Pilot program.
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PART 5—PROTECTION AND ADVOCACY SYSTEMS

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- Sec. 295. National Student and Parent Mock Election.
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TITLE III—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

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- Sec. 301. Voting systems standards.
- Sec. 302. Provisional voting and voting information requirements.
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Sec. 501. Establishment of program.

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Sec. 601. Help America Vote Foundation.

TITLE VII—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

Sec. 701. Voting assistance programs.

Sec. 702. Designation of single State office to provide information on registration and absentee ballots for all voters in State.

Sec. 703. Report on absentee ballots transmitted and received after general elections.

Sec. 704. Extension of period covered by single absentee ballot application.

Sec. 705. Additional duties of Presidential designee under Uniformed and Overseas Citizens Absentee Voting Act.

Sec. 706. Prohibition of refusal of voter registration and absentee ballot applications on grounds of early submission.

Sec. 707. Other requirements to promote participation of overseas and absent uniformed services voters.

TITLE VIII—TRANSITION PROVISIONS

Subtitle A—Transfer to Commission of Functions Under Certain Laws

Sec. 801. Federal Election Campaign Act of 1971.

Sec. 802. National Voter Registration Act of 1993.

Sec. 803. Transfer of property, records, and personnel.

Sec. 804. Effective date; transition.

Subtitle B—Coverage of Commission Under Certain Laws and Programs

Sec. 811. Treatment of Commission personnel under certain civil service laws.

Sec. 812. Coverage under Inspector General Act of 1978.

TITLE IX—MISCELLANEOUS PROVISIONS

Sec. 901. State defined.

Sec. 902. Audits and repayment of funds.

Sec. 903. Clarification of ability of election officials to remove registrants from official list of voters on grounds of change of residence.

Sec. 904. Review and report on adequacy of existing electoral fraud statutes and penalties.

Sec. 905. Other criminal penalties.

Sec. 906. No effect on other laws.

TITLE I—PAYMENTS TO STATES FOR ELECTION ADMINISTRATION IMPROVEMENTS AND REPLACEMENT OF PUNCH CARD AND LEVER VOTING MACHINES

42 USC 15301.

SEC. 101. PAYMENTS TO STATES FOR ACTIVITIES TO IMPROVE ADMINISTRATION OF ELECTIONS.

Deadlines.
Notification.

(a) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Administrator of General Services

(in this title referred to as the “Administrator”) shall establish a program under which the Administrator shall make a payment to each State in which the chief executive officer of the State, or designee, in consultation and coordination with the chief State election official, notifies the Administrator not later than 6 months after the date of the enactment of this Act that the State intends to use the payment in accordance with this section.

(b) USE OF PAYMENT.—

(1) IN GENERAL.—A State shall use the funds provided under a payment made under this section to carry out one or more of the following activities:

(A) Complying with the requirements under title III.

(B) Improving the administration of elections for Federal office.

(C) Educating voters concerning voting procedures, voting rights, and voting technology.

(D) Training election officials, poll workers, and election volunteers.

(E) Developing the State plan for requirements payments to be submitted under part 1 of subtitle D of title II.

(F) Improving, acquiring, leasing, modifying, or replacing voting systems and technology and methods for casting and counting votes.

(G) Improving the accessibility and quantity of polling places, including providing physical access for individuals with disabilities, providing nonvisual access for individuals with visual impairments, and providing assistance to Native Americans, Alaska Native citizens, and to individuals with limited proficiency in the English language.

(H) Establishing toll-free telephone hotlines that voters may use to report possible voting fraud and voting rights violations, to obtain general election information, and to access detailed automated information on their own voter registration status, specific polling place locations, and other relevant information.

(2) LIMITATION.—A State may not use the funds provided under a payment made under this section—

(A) to pay costs associated with any litigation, except to the extent that such costs otherwise constitute permitted uses of a payment under this section; or

(B) for the payment of any judgment.

(c) USE OF FUNDS TO BE CONSISTENT WITH OTHER LAWS AND REQUIREMENTS.—In order to receive a payment under the program under this section, the State shall provide the Administrator with certifications that—

(1) the State will use the funds provided under the payment in a manner that is consistent with each of the laws described in section 906, as such laws relate to the provisions of this Act; and

(2) the proposed uses of the funds are not inconsistent with the requirements of title III.

(d) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Subject to section 103(b), the amount of payment made to a State under this section shall be the minimum payment amount described in paragraph (2) plus

the voting age population proportion amount described in paragraph (3).

(2) MINIMUM PAYMENT AMOUNT.—The minimum payment amount described in this paragraph is—

(A) in the case of any of the several States or the District of Columbia, one-half of 1 percent of the aggregate amount made available for payments under this section; and

(B) in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, or the United States Virgin Islands, one-tenth of 1 percent of such aggregate amount.

(3) VOTING AGE POPULATION PROPORTION AMOUNT.—The voting age population proportion amount described in this paragraph is the product of—

(A) the aggregate amount made available for payments under this section minus the total of all of the minimum payment amounts determined under paragraph (2); and

(B) the voting age population proportion for the State (as defined in paragraph (4)).

(4) VOTING AGE POPULATION PROPORTION DEFINED.—The term “voting age population proportion” means, with respect to a State, the amount equal to the quotient of—

(A) the voting age population of the State (as reported in the most recent decennial census); and

(B) the total voting age population of all States (as reported in the most recent decennial census).

42 USC 15302.

SEC. 102. REPLACEMENT OF PUNCH CARD OR LEVER VOTING MACHINES.

(a) ESTABLISHMENT OF PROGRAM.—

Deadline.

(1) IN GENERAL.—Not later than 45 days after the date of the enactment of this Act, the Administrator shall establish a program under which the Administrator shall make a payment to each State eligible under subsection (b) in which a precinct within that State used a punch card voting system or a lever voting system to administer the regularly scheduled general election for Federal office held in November 2000 (in this section referred to as a “qualifying precinct”).

(2) USE OF FUNDS.—A State shall use the funds provided under a payment under this section (either directly or as reimbursement, including as reimbursement for costs incurred on or after January 1, 2001, under multiyear contracts) to replace punch card voting systems or lever voting systems (as the case may be) in qualifying precincts within that State with a voting system (by purchase, lease, or such other arrangement as may be appropriate) that—

(A) does not use punch cards or levers;

(B) is not inconsistent with the requirements of the laws described in section 906; and

(C) meets the requirements of section 301.

(3) DEADLINE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State receiving a payment under the program under this section shall ensure that all of the punch card voting systems or lever voting systems in the qualifying precincts

within that State have been replaced in time for the regularly scheduled general election for Federal office to be held in November 2004.

(B) WAIVER.—If a State certifies to the Administrator not later than January 1, 2004, that the State will not meet the deadline described in subparagraph (A) for good cause and includes in the certification the reasons for the failure to meet such deadline, the State shall ensure that all of the punch card voting systems or lever voting systems in the qualifying precincts within that State will be replaced in time for the first election for Federal office held after January 1, 2006.

(b) ELIGIBILITY.—

(1) IN GENERAL.—A State is eligible to receive a payment under the program under this section if it submits to the Administrator a notice not later than the date that is 6 months after the date of the enactment of this Act (in such form as the Administrator may require) that contains—

(A) certifications that the State will use the payment (either directly or as reimbursement, including as reimbursement for costs incurred on or after January 1, 2001, under multiyear contracts) to replace punch card voting systems or lever voting systems (as the case may be) in the qualifying precincts within the State by the deadline described in subsection (a)(3);

(B) certifications that the State will continue to comply with the laws described in section 906;

(C) certifications that the replacement voting systems will meet the requirements of section 301; and

(D) such other information and certifications as the Administrator may require which are necessary for the administration of the program.

(2) COMPLIANCE OF STATES THAT REQUIRE CHANGES TO STATE LAW.—In the case of a State that requires State legislation to carry out an activity covered by any certification submitted under this subsection, the State shall be permitted to make the certification notwithstanding that the legislation has not been enacted at the time the certification is submitted and such State shall submit an additional certification once such legislation is enacted.

(c) AMOUNT OF PAYMENT.—

(1) IN GENERAL.—Subject to paragraph (2) and section 103(b), the amount of payment made to a State under the program under this section shall be equal to the product of—

(A) the number of the qualifying precincts within the State; and

(B) \$4,000.

(2) REDUCTION.—If the amount of funds appropriated pursuant to the authority of section 104(a)(2) is insufficient to ensure that each State receives the amount of payment calculated under paragraph (1), the Administrator shall reduce the amount specified in paragraph (1)(B) to ensure that the entire amount appropriated under such section is distributed to the States.

(d) REPAYMENT OF FUNDS FOR FAILURE TO MEET DEADLINES.—

(1) IN GENERAL.—If a State receiving funds under the program under this section fails to meet the deadline applicable

to the State under subsection (a)(3), the State shall pay to the Administrator an amount equal to the noncompliant precinct percentage of the amount of the funds provided to the State under the program.

(2) NONCOMPLIANT PRECINCT PERCENTAGE DEFINED.—In this subsection, the term “noncompliant precinct percentage” means, with respect to a State, the amount (expressed as a percentage) equal to the quotient of—

(A) the number of qualifying precincts within the State for which the State failed to meet the applicable deadline; and

(B) the total number of qualifying precincts in the State.

(e) PUNCH CARD VOTING SYSTEM DEFINED.—For purposes of this section, a “punch card voting system” includes any of the following voting systems:

- (1) C.E.S.
- (2) Datavote.
- (3) PBC Counter.
- (4) Pollstar.
- (5) Punch Card.
- (6) Vote Recorder.
- (7) Votomatic.

42 USC 15303.

SEC. 103. GUARANTEED MINIMUM PAYMENT AMOUNT.

(a) IN GENERAL.—In addition to any other payments made under this title, the Administrator shall make a payment to each State to which a payment is made under either section 101 or 102 and with respect to which the aggregate amount paid under such sections is less than \$5,000,000 in an amount equal to the difference between the aggregate amount paid to the State under sections 101 and 102 and \$5,000,000. In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands, the previous sentence shall be applied as if each reference to “\$5,000,000” were a reference to “\$1,000,000”.

(b) PRO RATA REDUCTIONS.—The Administrator shall make such pro rata reductions to the amounts described in sections 101(d) and 102(c) as are necessary to comply with the requirements of subsection (a).

42 USC 15304.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated for payments under this title \$650,000,000, of which—

(1) 50 percent shall be for payments under section 101; and

(2) 50 percent shall be for payments under section 102.

(b) CONTINUING AVAILABILITY OF FUNDS AFTER APPROPRIATION.—Any payment made to a State under this title shall be available to the State without fiscal year limitation (subject to subsection (c)(2)(B)).

(c) USE OF RETURNED FUNDS AND FUNDS REMAINING UNEXPENDED FOR REQUIREMENTS PAYMENTS.—

(1) IN GENERAL.—The amounts described in paragraph (2) shall be transferred to the Election Assistance Commission (established under title II) and used by the Commission to make requirements payments under part 1 of subtitle D of title II.

(2) AMOUNTS DESCRIBED.—The amounts referred to in this paragraph are as follows:

(A) Any amounts paid to the Administrator by a State under section 102(d)(1).

(B) Any amounts appropriated for payments under this title which remain unobligated as of September 1, 2003.

(d) DEPOSIT OF AMOUNTS IN STATE ELECTION FUND.—When a State has established an election fund described in section 254(b), the State shall ensure that any funds provided to the State under this title are deposited and maintained in such fund.

(e) AUTHORIZATION OF APPROPRIATIONS FOR ADMINISTRATOR.—In addition to the amounts authorized under subsection (a), there are authorized to be appropriated to the Administrator such sums as may be necessary to administer the programs under this title.

SEC. 105. ADMINISTRATION OF PROGRAMS.

42 USC 15305.

In administering the programs under this title, the Administrator shall take such actions as the Administrator considers appropriate to expedite the payment of funds to States.

SEC. 106. EFFECTIVE DATE.

Deadline.
42 USC 15306.

The Administrator shall implement the programs established under this title in a manner that ensures that the Administrator is able to make payments under the program not later than the expiration of the 45-day period which begins on the date of the enactment of this Act.

TITLE II—COMMISSION

Subtitle A—Establishment and General Organization

PART 1—ELECTION ASSISTANCE COMMISSION

SEC. 201. ESTABLISHMENT.

42 USC 15321.

There is hereby established as an independent entity the Election Assistance Commission (hereafter in this title referred to as the “Commission”), consisting of the members appointed under this part. Additionally, there is established the Election Assistance Commission Standards Board (including the Executive Board of such Board) and the Election Assistance Commission Board of Advisors under part 2 (hereafter in this part referred to as the “Standards Board” and the “Board of Advisors”, respectively) and the Technical Guidelines Development Committee under part 3.

SEC. 202. DUTIES.

42 USC 15322.

The Commission shall serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal elections by—

(1) carrying out the duties described in part 3 (relating to the adoption of voluntary voting system guidelines), including the maintenance of a clearinghouse of information on the experiences of State and local governments in implementing the guidelines and in operating voting systems in general;

(2) carrying out the duties described in subtitle B (relating to the testing, certification, decertification, and recertification of voting system hardware and software);

(3) carrying out the duties described in subtitle C (relating to conducting studies and carrying out other activities to promote the effective administration of Federal elections);

(4) carrying out the duties described in subtitle D (relating to election assistance), and providing information and training on the management of the payments and grants provided under such subtitle;

(5) carrying out the duties described in subtitle B of title III (relating to the adoption of voluntary guidance); and

(6) developing and carrying out the Help America Vote College Program under title V.

42 USC 15323.

SEC. 203. MEMBERSHIP AND APPOINTMENT.**(a) MEMBERSHIP.—**

President.

(1) **IN GENERAL.**—The Commission shall have four members appointed by the President, by and with the advice and consent of the Senate.

(2) **RECOMMENDATIONS.**—Before the initial appointment of the members of the Commission and before the appointment of any individual to fill a vacancy on the Commission, the Majority Leader of the Senate, the Speaker of the House of Representatives, the Minority Leader of the Senate, and the Minority Leader of the House of Representatives shall each submit to the President a candidate recommendation with respect to each vacancy on the Commission affiliated with the political party of the Member of Congress involved.

(3) **QUALIFICATIONS.**—Each member of the Commission shall have experience with or expertise in election administration or the study of elections.

Deadline.

(4) **DATE OF APPOINTMENT.**—The appointments of the members of the Commission shall be made not later than 120 days after the date of the enactment of this Act.

(b) TERM OF SERVICE.—

(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), members shall serve for a term of 4 years and may be reappointed for not more than one additional term.

(2) **TERMS OF INITIAL APPOINTEES.**—As designated by the President at the time of nomination, of the members first appointed—

(A) two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 2 years; and

(B) two of the members (not more than one of whom may be affiliated with the same political party) shall be appointed for a term of 4 years.

(3) VACANCIES.—

(A) **IN GENERAL.**—A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall be subject to any conditions which applied with respect to the original appointment.

(B) **EXPIRED TERMS.**—A member of the Commission shall serve on the Commission after the expiration of the member's term until the successor of such member has taken office as a member of the Commission.

(C) UNEXPIRED TERMS.—An individual appointed to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(c) CHAIR AND VICE CHAIR.—

(1) IN GENERAL.—The Commission shall select a chair and vice chair from among its members for a term of 1 year, except that the chair and vice chair may not be affiliated with the same political party.

(2) NUMBER OF TERMS.—A member of the Commission may serve as the chairperson and vice chairperson for only 1 term each during the term of office to which such member is appointed.

(d) COMPENSATION.—

(1) IN GENERAL.—Each member of the Commission shall be compensated at the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) OTHER ACTIVITIES.—No member appointed to the Commission under subsection (a) may engage in any other business, vocation, or employment while serving as a member of the Commission and shall terminate or liquidate such business, vocation, or employment before sitting as a member of the Commission.

SEC. 204. STAFF.

42 USC 15324.

(a) EXECUTIVE DIRECTOR, GENERAL COUNSEL, AND OTHER STAFF.—

(1) EXECUTIVE DIRECTOR.—The Commission shall have an Executive Director, who shall be paid at a rate not to exceed the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) TERM OF SERVICE FOR EXECUTIVE DIRECTOR.—The Executive Director shall serve for a term of 4 years. An Executive Director may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.

(3) PROCEDURE FOR APPOINTMENT.—

(A) IN GENERAL.—When a vacancy exists in the position of the Executive Director, the Standards Board and the Board of Advisors shall each appoint a search committee to recommend at least three nominees for the position.

(B) REQUIRING CONSIDERATION OF NOMINEES.—Except as provided in subparagraph (C), the Commission shall consider the nominees recommended by the Standards Board and the Board of Advisors in appointing the Executive Director.

(C) INTERIM SERVICE OF GENERAL COUNSEL.—If a vacancy exists in the position of the Executive Director, the General Counsel of the Commission shall serve as the acting Executive Director until the Commission appoints a new Executive Director in accordance with this paragraph.

(D) SPECIAL RULES FOR INTERIM EXECUTIVE DIRECTOR.—

(i) CONVENING OF SEARCH COMMITTEES.—The Standards Board and the Board of Advisors shall each appoint a search committee and recommend nominees for the position of Executive Director in accordance

with subparagraph (A) as soon as practicable after the appointment of their members.

(ii) INTERIM INITIAL APPOINTMENT.—Notwithstanding subparagraph (B), the Commission may appoint an individual to serve as an interim Executive Director prior to the recommendation of nominees for the position by the Standards Board or the Board of Advisors, except that such individual's term of service may not exceed 6 months. Nothing in the previous sentence may be construed to prohibit the individual serving as the interim Executive Director from serving any additional term.

(4) GENERAL COUNSEL.—The Commission shall have a General Counsel, who shall be appointed by the Commission and who shall serve under the Executive Director. The General Counsel shall serve for a term of 4 years, and may serve for a longer period only if reappointed for an additional term or terms by a vote of the Commission.

(5) OTHER STAFF.—Subject to rules prescribed by the Commission, the Executive Director may appoint and fix the pay of such additional personnel as the Executive Director considers appropriate.

(6) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Executive Director, General Counsel, and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, except that an individual so appointed may not receive pay in excess of the annual rate of basic pay for level V of the Executive Schedule under section 5316 of that title.

(b) EXPERTS AND CONSULTANTS.—Subject to rules prescribed by the Commission, the Executive Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, by a vote of the Commission.

(c) STAFF OF FEDERAL AGENCIES.—Upon request of the Commission, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Commission to assist it in carrying out its duties under this Act.

(d) ARRANGING FOR ASSISTANCE FOR BOARD OF ADVISORS AND STANDARDS BOARD.—At the request of the Board of Advisors or the Standards Board, the Commission may enter into such arrangements as the Commission considers appropriate to make personnel available to assist the Boards with carrying out their duties under this title (including contracts with private individuals for providing temporary personnel services or the temporary detailing of personnel of the Commission).

(e) CONSULTATION WITH BOARD OF ADVISORS AND STANDARDS BOARD ON CERTAIN MATTERS.—In preparing the program goals, long-term plans, mission statements, and related matters for the Commission, the Executive Director and staff of the Commission shall consult with the Board of Advisors and the Standards Board.

SEC. 205. POWERS.

42 USC 15325.

(a) **HEARINGS AND SESSIONS.**—The Commission may hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out this Act. The Commission may administer oaths and affirmations to witnesses appearing before the Commission.

(b) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out this Act. Upon request of the Commission, the head of such department or agency shall furnish such information to the Commission.

(c) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(d) **ADMINISTRATIVE SUPPORT SERVICES.**—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission, on a reimbursable basis, the administrative support services that are necessary to enable the Commission to carry out its duties under this Act.

(e) **CONTRACTS.**—The Commission may contract with and compensate persons and Federal agencies for supplies and services without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5).

SEC. 206. DISSEMINATION OF INFORMATION.

42 USC 15326.

In carrying out its duties, the Commission shall, on an ongoing basis, disseminate to the public (through the Internet, published reports, and such other methods as the Commission considers appropriate) in a manner that is consistent with the requirements of chapter 19 of title 44, United States Code, information on the activities carried out under this Act.

SEC. 207. ANNUAL REPORT.

42 USC 15327.

Not later than January 31 of each year (beginning with 2004), the Commission shall submit a report to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate detailing its activities during the fiscal year which ended on September 30 of the previous calendar year, and shall include in the report the following information:

Deadline.

(1) A detailed description of activities conducted with respect to each program carried out by the Commission under this Act, including information on each grant or other payment made under such programs.

(2) A copy of each report submitted to the Commission by a recipient of such grants or payments which is required under such a program, including reports submitted by States receiving requirements payments under part 1 of subtitle D, and each other report submitted to the Commission under this Act.

(3) Information on the voluntary voting system guidelines adopted or modified by the Commission under part 3 and information on the voluntary guidance adopted under subtitle B of title III.

(4) All votes taken by the Commission.

(5) Such other information and recommendations as the Commission considers appropriate.

42 USC 15328. **SEC. 208. REQUIRING MAJORITY APPROVAL FOR ACTIONS.**

Any action which the Commission is authorized to carry out under this Act may be carried out only with the approval of at least three of its members.

42 USC 15329. **SEC. 209. LIMITATION ON RULEMAKING AUTHORITY.**

The Commission shall not have any authority to issue any rule, promulgate any regulation, or take any other action which imposes any requirement on any State or unit of local government, except to the extent permitted under section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7(a)).

42 USC 15330. **SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

In addition to the amounts authorized for payments and grants under this title and the amounts authorized to be appropriated for the program under section 503, there are authorized to be appropriated for each of the fiscal years 2003 through 2005 such sums as may be necessary (but not to exceed \$10,000,000 for each such year) for the Commission to carry out this title.

PART 2—ELECTION ASSISTANCE COMMISSION STANDARDS BOARD AND BOARD OF ADVISORS

42 USC 15341. **SEC. 211. ESTABLISHMENT.**

There are hereby established the Election Assistance Commission Standards Board (hereafter in this title referred to as the “Standards Board”) and the Election Assistance Commission Board of Advisors (hereafter in this title referred to as the “Board of Advisors”).

42 USC 15342. **SEC. 212. DUTIES.**

The Standards Board and the Board of Advisors shall each, in accordance with the procedures described in part 3, review the voluntary voting system guidelines under such part, the voluntary guidance under title III, and the best practices recommendations contained in the report submitted under section 242(b).

42 USC 15343. **SEC. 213. MEMBERSHIP OF STANDARDS BOARD.**

(a) COMPOSITION.—

(1) IN GENERAL.—Subject to certification by the chair of the Federal Election Commission under subsection (b), the Standards Board shall be composed of 110 members as follows:

(A) Fifty-five shall be State election officials selected by the chief State election official of each State.

(B) Fifty-five shall be local election officials selected in accordance with paragraph (2).

(2) LIST OF LOCAL ELECTION OFFICIALS.—Each State’s local election officials, including the local election officials of Puerto Rico and the United States Virgin Islands, shall select (under a process supervised by the chief election official of the State) a representative local election official from the State for purposes of paragraph (1)(B). In the case of the District of Columbia, Guam, and American Samoa, the chief election official shall establish a procedure for selecting an individual to serve as a local election official for purposes of such paragraph,

except that under such a procedure the individual selected may not be a member of the same political party as the chief election official.

(3) REQUIRING MIX OF POLITICAL PARTIES REPRESENTED.—

The two members of the Standards Board who represent the same State may not be members of the same political party.

(b) PROCEDURES FOR NOTICE AND CERTIFICATION OF APPOINTMENT.—

(1) NOTICE TO CHAIR OF FEDERAL ELECTION COMMISSION.—

Deadline.

Not later than 90 days after the date of the enactment of this Act, the chief State election official of the State shall transmit a notice to the chair of the Federal Election Commission containing—

(A) the name of the State election official who agrees to serve on the Standards Board under this title; and

(B) the name of the representative local election official from the State selected under subsection (a)(2) who agrees to serve on the Standards Board under this title.

(2) CERTIFICATION.—Upon receiving a notice from a State under paragraph (1), the chair of the Federal Election Commission shall publish a certification that the selected State election official and the representative local election official are appointed as members of the Standards Board under this title.

Publication.

(3) EFFECT OF FAILURE TO PROVIDE NOTICE.—If a State does not transmit a notice to the chair of the Federal Election Commission under paragraph (1) within the deadline described in such paragraph, no representative from the State may participate in the selection of the initial Executive Board under subsection (c).

(4) ROLE OF COMMISSION.—Upon the appointment of the members of the Election Assistance Commission, the Election Assistance Commission shall carry out the duties of the Federal Election Commission under this subsection.

(c) EXECUTIVE BOARD.—

(1) IN GENERAL.—Not later than 60 days after the last day on which the appointment of any of its members may be certified under subsection (b), the Standards Board shall select nine of its members to serve as the Executive Board of the Standards Board, of whom—

Deadline.

(A) not more than five may be State election officials;

(B) not more than five may be local election officials;

and

(C) not more than five may be members of the same political party.

(2) TERMS.—Except as provided in paragraph (3), members of the Executive Board of the Standards Board shall serve for a term of 2 years and may not serve for more than 3 consecutive terms.

(3) STAGGERING OF INITIAL TERMS.—Of the members first selected to serve on the Executive Board of the Standards Board—

(A) three shall serve for 1 term;

(B) three shall serve for 2 consecutive terms; and

(C) three shall serve for 3 consecutive terms,

as determined by lot at the time the members are first appointed.

(4) DUTIES.—In addition to any other duties assigned under this title, the Executive Board of the Standards Board may carry out such duties of the Standards Board as the Standards Board may delegate.

42 USC 15344.

SEC. 214. MEMBERSHIP OF BOARD OF ADVISORS.

(a) IN GENERAL.—The Board of Advisors shall be composed of 37 members appointed as follows:

(1) Two members appointed by the National Governors Association.

(2) Two members appointed by the National Conference of State Legislatures.

(3) Two members appointed by the National Association of Secretaries of State.

(4) Two members appointed by the National Association of State Election Directors.

(5) Two members appointed by the National Association of Counties.

(6) Two members appointed by the National Association of County Recorders, Election Administrators, and Clerks.

(7) Two members appointed by the United States Conference of Mayors.

(8) Two members appointed by the Election Center.

(9) Two members appointed by the International Association of County Recorders, Election Officials, and Treasurers.

(10) Two members appointed by the United States Commission on Civil Rights.

(11) Two members appointed by the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).

(12) The chief of the Office of Public Integrity of the Department of Justice, or the chief's designee.

(13) The chief of the Voting Section of the Civil Rights Division of the Department of Justice or the chief's designee.

(14) The director of the Federal Voting Assistance Program of the Department of Defense.

(15) Four members representing professionals in the field of science and technology, of whom—

(A) one each shall be appointed by the Speaker and the Minority Leader of the House of Representatives; and

(B) one each shall be appointed by the Majority Leader and the Minority Leader of the Senate.

(16) Eight members representing voter interests, of whom—

(A) four members shall be appointed by the Committee on House Administration of the House of Representatives, of whom two shall be appointed by the chair and two shall be appointed by the ranking minority member; and

(B) four members shall be appointed by the Committee on Rules and Administration of the Senate, of whom two shall be appointed by the chair and two shall be appointed by the ranking minority member.

(b) MANNER OF APPOINTMENTS.—Appointments shall be made to the Board of Advisors under subsection (a) in a manner which ensures that the Board of Advisors will be bipartisan in nature and will reflect the various geographic regions of the United States.

(c) TERM OF SERVICE; VACANCY.—Members of the Board of Advisors shall serve for a term of 2 years, and may be reappointed.

Any vacancy in the Board of Advisors shall be filled in the manner in which the original appointment was made.

(d) CHAIR.—The Board of Advisors shall elect a Chair from among its members.

SEC. 215. POWERS OF BOARDS; NO COMPENSATION FOR SERVICE.

42 USC 15345.

(a) HEARINGS AND SESSIONS.—

(1) IN GENERAL.—To the extent that funds are made available by the Commission, the Standards Board (acting through the Executive Board) and the Board of Advisors may each hold such hearings for the purpose of carrying out this Act, sit and act at such times and places, take such testimony, and receive such evidence as each such Board considers advisable to carry out this title, except that the Boards may not issue subpoenas requiring the attendance and testimony of witnesses or the production of any evidence.

(2) MEETINGS.—The Standards Board and the Board of Advisors shall each hold a meeting of its members—

(A) not less frequently than once every year for purposes of voting on the voluntary voting system guidelines referred to it under section 222;

(B) in the case of the Standards Board, not less frequently than once every 2 years for purposes of selecting the Executive Board; and

(C) at such other times as it considers appropriate for purposes of conducting such other business as it considers appropriate consistent with this title.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Standards Board and the Board of Advisors may each secure directly from any Federal department or agency such information as the Board considers necessary to carry out this Act. Upon request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the head of such department or agency shall furnish such information to the Board.

(c) POSTAL SERVICES.—The Standards Board and the Board of Advisors may use the United States mails in the same manner and under the same conditions as a department or agency of the Federal Government.

(d) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Executive Board (in the case of the Standards Board) or the Chair (in the case of the Board of Advisors), the Administrator of the General Services Administration shall provide to the Board, on a reimbursable basis, the administrative support services that are necessary to enable the Board to carry out its duties under this title.

(e) NO COMPENSATION FOR SERVICE.—Members of the Standards Board and members of the Board of Advisors shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

SEC. 216. STATUS OF BOARDS AND MEMBERS FOR PURPOSES OF CLAIMS AGAINST BOARD.

42 USC 15346.

(a) IN GENERAL.—The provisions of chapters 161 and 171 of title 28, United States Code, shall apply with respect to the liability

Applicability.

of the Standards Board, the Board of Advisors, and their members for acts or omissions performed pursuant to and in the course of the duties and responsibilities of the Board.

(b) **EXCEPTION FOR CRIMINAL ACTS AND OTHER WILLFUL CONDUCT.**—Subsection (a) may not be construed to limit personal liability for criminal acts or omissions, willful or malicious misconduct, acts or omissions for private gain, or any other act or omission outside the scope of the service of a member of the Standards Board or the Board of Advisors.

PART 3—TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE

42 USC 15361.

SEC. 221. TECHNICAL GUIDELINES DEVELOPMENT COMMITTEE.

(a) **ESTABLISHMENT.**—There is hereby established the Technical Guidelines Development Committee (hereafter in this part referred to as the “Development Committee”).

(b) **DUTIES.**—

(1) **IN GENERAL.**—The Development Committee shall assist the Executive Director of the Commission in the development of the voluntary voting system guidelines.

(2) **DEADLINE FOR INITIAL SET OF RECOMMENDATIONS.**—The Development Committee shall provide its first set of recommendations under this section to the Executive Director of the Commission not later than 9 months after all of its members have been appointed.

(c) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Development Committee shall be composed of the Director of the National Institute of Standards and Technology (who shall serve as its chair), together with a group of 14 other individuals appointed jointly by the Commission and the Director of the National Institute of Standards and Technology, consisting of the following:

(A) An equal number of each of the following:

(i) Members of the Standards Board.

(ii) Members of the Board of Advisors.

(iii) Members of the Architectural and Transportation Barrier Compliance Board under section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792).

(B) A representative of the American National Standards Institute.

(C) A representative of the Institute of Electrical and Electronics Engineers.

(D) Two representatives of the National Association of State Election Directors selected by such Association who are not members of the Standards Board or Board of Advisors, and who are not of the same political party.

(E) Other individuals with technical and scientific expertise relating to voting systems and voting equipment.

(2) **QUORUM.**—A majority of the members of the Development Committee shall constitute a quorum, except that the Development Committee may not conduct any business prior to the appointment of all of its members.

(d) **NO COMPENSATION FOR SERVICE.**—Members of the Development Committee shall not receive any compensation for their service, but shall be paid travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies

under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Development Committee.

(e) TECHNICAL SUPPORT FROM NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—

(1) IN GENERAL.—At the request of the Development Committee, the Director of the National Institute of Standards and Technology shall provide the Development Committee with technical support necessary for the Development Committee to carry out its duties under this subtitle.

(2) TECHNICAL SUPPORT.—The technical support provided under paragraph (1) shall include intramural research and development in areas to support the development of the voluntary voting system guidelines under this part, including—

(A) the security of computers, computer networks, and computer data storage used in voting systems, including the computerized list required under section 303(a);

(B) methods to detect and prevent fraud;

(C) the protection of voter privacy;

(D) the role of human factors in the design and application of voting systems, including assistive technologies for individuals with disabilities (including blindness) and varying levels of literacy; and

(E) remote access voting, including voting through the Internet.

(3) NO PRIVATE SECTOR INTELLECTUAL PROPERTY RIGHTS IN GUIDELINES.—No private sector individual or entity shall obtain any intellectual property rights to any guideline or the contents of any guideline (or any modification to any guideline) adopted by the Commission under this Act.

(f) PUBLICATION OF RECOMMENDATIONS IN FEDERAL REGISTER.—At the time the Commission adopts any voluntary voting system guideline pursuant to section 222, the Development Committee shall cause to have published in the Federal Register the recommendations it provided under this section to the Executive Director of the Commission concerning the guideline adopted.

SEC. 222. PROCESS FOR ADOPTION.

42 USC 15362.

(a) GENERAL REQUIREMENT FOR NOTICE AND COMMENT.—Consistent with the requirements of this section, the final adoption of the voluntary voting system guidelines (or modification of such a guideline) shall be carried out by the Commission in a manner that provides for each of the following:

Federal Register, publication.

(1) Publication of notice of the proposed guidelines in the Federal Register.

(2) An opportunity for public comment on the proposed guidelines.

(3) An opportunity for a public hearing on the record.

(4) Publication of the final guidelines in the Federal Register.

(b) CONSIDERATION OF RECOMMENDATIONS OF DEVELOPMENT COMMITTEE; SUBMISSION OF PROPOSED GUIDELINES TO BOARD OF ADVISORS AND STANDARDS BOARD.—

(1) CONSIDERATION OF RECOMMENDATIONS OF DEVELOPMENT COMMITTEE.—In developing the voluntary voting system guidelines and modifications of such guidelines under this section,

the Executive Director of the Commission shall take into consideration the recommendations provided by the Technical Guidelines Development Committee under section 221.

(2) BOARD OF ADVISORS.—The Executive Director of the Commission shall submit the guidelines proposed to be adopted under this part (or any modifications to such guidelines) to the Board of Advisors.

(3) STANDARDS BOARD.—The Executive Director of the Commission shall submit the guidelines proposed to be adopted under this part (or any modifications to such guidelines) to the Executive Board of the Standards Board, which shall review the guidelines (or modifications) and forward its recommendations to the Standards Board.

(c) REVIEW.—Upon receipt of voluntary voting system guidelines described in subsection (b) (or a modification of such guidelines) from the Executive Director of the Commission, the Board of Advisors and the Standards Board shall each review and submit comments and recommendations regarding the guideline (or modification) to the Commission.

(d) FINAL ADOPTION.—

(1) IN GENERAL.—A voluntary voting system guideline described in subsection (b) (or modification of such a guideline) shall not be considered to be finally adopted by the Commission unless the Commission votes to approve the final adoption of the guideline (or modification), taking into consideration the comments and recommendations submitted by the Board of Advisors and the Standards Board under subsection (c).

(2) MINIMUM PERIOD FOR CONSIDERATION OF COMMENTS AND RECOMMENDATIONS.—The Commission may not vote on the final adoption of a guideline described in subsection (b) (or modification of such a guideline) until the expiration of the 90-day period which begins on the date the Executive Director of the Commission submits the proposed guideline (or modification) to the Board of Advisors and the Standards Board under subsection (b).

(e) SPECIAL RULE FOR INITIAL SET OF GUIDELINES.—Notwithstanding any other provision of this part, the most recent set of voting system standards adopted by the Federal Election Commission prior to the date of the enactment of this Act shall be deemed to have been adopted by the Commission as of the date of the enactment of this Act as the first set of voluntary voting system guidelines adopted under this part.

Subtitle B—Testing, Certification, Decertification, and Recertification of Voting System Hardware and Software

42 USC 15371.

SEC. 231. CERTIFICATION AND TESTING OF VOTING SYSTEMS.

(a) CERTIFICATION AND TESTING.—

(1) IN GENERAL.—The Commission shall provide for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories.

(2) OPTIONAL USE BY STATES.—At the option of a State, the State may provide for the testing, certification, decertification, or recertification of its voting system hardware and software by the laboratories accredited by the Commission under this section.

(b) LABORATORY ACCREDITATION.—

(1) RECOMMENDATIONS BY NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—Not later than 6 months after the Commission first adopts voluntary voting system guidelines under part 3 of subtitle A, the Director of the National Institute of Standards and Technology shall conduct an evaluation of independent, non-Federal laboratories and shall submit to the Commission a list of those laboratories the Director proposes to be accredited to carry out the testing, certification, decertification, and recertification provided for under this section.

Deadline.
Records.

(2) APPROVAL BY COMMISSION.—

(A) IN GENERAL.—The Commission shall vote on the accreditation of any laboratory under this section, taking into consideration the list submitted under paragraph (1), and no laboratory may be accredited for purposes of this section unless its accreditation is approved by a vote of the Commission.

(B) ACCREDITATION LABORATORIES NOT ON DIRECTOR LIST.—The Commission shall publish an explanation for the accreditation of any laboratory not included on the list submitted by the Director of the National Institute of Standards and Technology under paragraph (1).

Publication.

(c) CONTINUING REVIEW BY NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—

(1) IN GENERAL.—In cooperation with the Commission and in consultation with the Standards Board and the Board of Advisors, the Director of the National Institute of Standards and Technology shall monitor and review, on an ongoing basis, the performance of the laboratories accredited by the Commission under this section, and shall make such recommendations to the Commission as it considers appropriate with respect to the continuing accreditation of such laboratories, including recommendations to revoke the accreditation of any such laboratory.

(2) APPROVAL BY COMMISSION REQUIRED FOR REVOCATION.—The accreditation of a laboratory for purposes of this section may not be revoked unless the revocation is approved by a vote of the Commission.

(d) TRANSITION.—Until such time as the Commission provides for the testing, certification, decertification, and recertification of voting system hardware and software by accredited laboratories under this section, the accreditation of laboratories and the procedure for the testing, certification, decertification, and recertification of voting system hardware and software used as of the date of the enactment of this Act shall remain in effect.

Subtitle C—Studies and Other Activities To Promote Effective Administration of Federal Elections

42 USC 15381.

Public
information.

SEC. 241. PERIODIC STUDIES OF ELECTION ADMINISTRATION ISSUES.

(a) IN GENERAL.—On such periodic basis as the Commission may determine, the Commission shall conduct and make available to the public studies regarding the election administration issues described in subsection (b), with the goal of promoting methods of voting and administering elections which—

(1) will be the most convenient, accessible, and easy to use for voters, including members of the uniformed services and overseas voters, individuals with disabilities, including the blind and visually impaired, and voters with limited proficiency in the English language;

(2) will yield the most accurate, secure, and expeditious system for voting and tabulating election results;

(3) will be nondiscriminatory and afford each registered and eligible voter an equal opportunity to vote and to have that vote counted; and

(4) will be efficient and cost-effective for use.

(b) ELECTION ADMINISTRATION ISSUES DESCRIBED.—For purposes of subsection (a), the election administration issues described in this subsection are as follows:

(1) Methods and mechanisms of election technology and voting systems used in voting and counting votes in elections for Federal office, including the over-vote and under-vote notification capabilities of such technology and systems.

(2) Ballot designs for elections for Federal office.

(3) Methods of voter registration, maintaining secure and accurate lists of registered voters (including the establishment of a centralized, interactive, statewide voter registration list linked to relevant agencies and all polling sites), and ensuring that registered voters appear on the voter registration list at the appropriate polling site.

(4) Methods of conducting provisional voting.

(5) Methods of ensuring the accessibility of voting, registration, polling places, and voting equipment to all voters, including individuals with disabilities (including the blind and visually impaired), Native American or Alaska Native citizens, and voters with limited proficiency in the English language.

(6) Nationwide statistics and methods of identifying, deterring, and investigating voting fraud in elections for Federal office.

(7) Identifying, deterring, and investigating methods of voter intimidation.

(8) Methods of recruiting, training, and improving the performance of poll workers.

(9) Methods of educating voters about the process of registering to vote and voting, the operation of voting mechanisms, the location of polling places, and all other aspects of participating in elections.

(10) The feasibility and advisability of conducting elections for Federal office on different days, at different places, and

during different hours, including the advisability of establishing a uniform poll closing time and establishing—

(A) a legal public holiday under section 6103 of title 5, United States Code, as the date on which general elections for Federal office are held;

(B) the Tuesday next after the 1st Monday in November, in every even numbered year, as a legal public holiday under such section;

(C) a date other than the Tuesday next after the 1st Monday in November, in every even numbered year as the date on which general elections for Federal office are held; and

(D) any date described in subparagraph (C) as a legal public holiday under such section.

(11) Federal and State laws governing the eligibility of persons to vote.

(12) Ways that the Federal Government can best assist State and local authorities to improve the administration of elections for Federal office and what levels of funding would be necessary to provide such assistance.

(13)(A) The laws and procedures used by each State that govern—

(i) recounts of ballots cast in elections for Federal office;

(ii) contests of determinations regarding whether votes are counted in such elections; and

(iii) standards that define what will constitute a vote on each type of voting equipment used in the State to conduct elections for Federal office.

(B) The best practices (as identified by the Commission) that are used by States with respect to the recounts and contests described in clause (i).

(C) Whether or not there is a need for more consistency among State recount and contest procedures used with respect to elections for Federal office.

(14) The technical feasibility of providing voting materials in eight or more languages for voters who speak those languages and who have limited English proficiency.

(15) Matters particularly relevant to voting and administering elections in rural and urban areas.

(16) Methods of voter registration for members of the uniformed services and overseas voters, and methods of ensuring that such voters receive timely ballots that will be properly and expeditiously handled and counted.

(17) The best methods for establishing voting system performance benchmarks, expressed as a percentage of residual vote in the Federal contest at the top of the ballot.

(18) Broadcasting practices that may result in the broadcast of false information concerning the location or time of operation of a polling place.

(19) Such other matters as the Commission determines are appropriate.

(c) REPORTS.—The Commission shall submit to the President and to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate a report on each study conducted under subsection (a) together with such recommendations for administrative and legislative action as the Commission determines is appropriate.

42 USC 15382.

SEC. 242. STUDY, REPORT, AND RECOMMENDATIONS ON BEST PRACTICES FOR FACILITATING MILITARY AND OVERSEAS VOTING.**(a) STUDY.—**

(1) **IN GENERAL.**—The Commission, in consultation with the Secretary of Defense, shall conduct a study on the best practices for facilitating voting by absent uniformed services voters (as defined in section 107(1) of the Uniformed and Overseas Citizens Absentee Voting Act) and overseas voters (as defined in section 107(5) of such Act).

(2) **ISSUES CONSIDERED.**—In conducting the study under paragraph (1) the Commission shall consider the following issues:

(A) The rights of residence of uniformed services voters absent due to military orders.

(B) The rights of absent uniformed services voters and overseas voters to register to vote and cast absentee ballots, including the right of such voters to cast a secret ballot.

(C) The rights of absent uniformed services voters and overseas voters to submit absentee ballot applications early during an election year.

(D) The appropriate preelection deadline for mailing absentee ballots to absent uniformed services voters and overseas voters.

(E) The appropriate minimum period between the mailing of absentee ballots to absent uniformed services voters and overseas voters and the deadline for receipt of such ballots.

(F) The timely transmission of balloting materials to absent uniformed services voters and overseas voters.

(G) Security and privacy concerns in the transmission, receipt, and processing of ballots from absent uniformed services voters and overseas voters, including the need to protect against fraud.

(H) The use of a single application by absent uniformed services voters and overseas voters for absentee ballots for all Federal elections occurring during a year.

(I) The use of a single application for voter registration and absentee ballots by absent uniformed services voters and overseas voters.

(J) The use of facsimile machines and electronic means of transmission of absentee ballot applications and absentee ballots to absent uniformed services voters and overseas voters.

(K) Other issues related to the rights of absent uniformed services voters and overseas voters to participate in elections.

Deadline.

(b) **REPORT AND RECOMMENDATIONS.**—Not later than the date that is 18 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report on the study conducted under subsection (a)(1) together with recommendations identifying the best practices used with respect to the issues considered under subsection (a)(2).

42 USC 15383.

SEC. 243. REPORT ON HUMAN FACTOR RESEARCH.

Deadline.

Not later than 1 year after the date of the enactment of this Act, the Commission, in consultation with the Director of the

National Institute of Standards and Technology, shall submit a report to Congress which assesses the areas of human factor research, including usability engineering and human-computer and human-machine interaction, which feasibly could be applied to voting products and systems design to ensure the usability and accuracy of voting products and systems, including methods to improve access for individuals with disabilities (including blindness) and individuals with limited proficiency in the English language and to reduce voter error and the number of spoiled ballots in elections.

SEC. 244. STUDY AND REPORT ON VOTERS WHO REGISTER BY MAIL AND USE OF SOCIAL SECURITY INFORMATION. 42 USC 15384.

(a) REGISTRATION BY MAIL.—

(1) STUDY.—

(A) IN GENERAL.—The Commission shall conduct a study of the impact of section 303(b) on voters who register by mail.

(B) SPECIFIC ISSUES STUDIED.—The study conducted under subparagraph (A) shall include—

(i) an examination of the impact of section 303(b) on first time mail registrant voters who vote in person, including the impact of such section on voter registration;

(ii) an examination of the impact of such section on the accuracy of voter rolls, including preventing ineligible names from being placed on voter rolls and ensuring that all eligible names are placed on voter rolls; and

(iii) an analysis of the impact of such section on existing State practices, such as the use of signature verification or attestation procedures to verify the identity of voters in elections for Federal office, and an analysis of other changes that may be made to improve the voter registration process, such as verification or additional information on the registration card.

(2) REPORT.—Not later than 18 months after the date on which section 303(b)(2) takes effect, the Commission shall submit a report to the President and Congress on the study conducted under paragraph (1)(A) together with such recommendations for administrative and legislative action as the Commission determines is appropriate. Deadline.

(b) USE OF SOCIAL SECURITY INFORMATION.—Not later than 18 months after the date on which section 303(a)(5) takes effect, the Commission, in consultation with the Commissioner of Social Security, shall study and report to Congress on the feasibility and advisability of using Social Security identification numbers or other information compiled by the Social Security Administration to establish voter registration or other election law eligibility or identification requirements, including the matching of relevant information specific to an individual voter, the impact of such use on national security issues, and whether adequate safeguards or waiver procedures exist to protect the privacy of an individual voter. Deadline.

SEC. 245. STUDY AND REPORT ON ELECTRONIC VOTING AND THE ELECTORAL PROCESS.**(a) STUDY.—**

(1) **IN GENERAL.**—The Commission shall conduct a thorough study of issues and challenges, specifically to include the potential for election fraud, presented by incorporating communications and Internet technologies in the Federal, State, and local electoral process.

(2) **ISSUES TO BE STUDIED.**—The Commission may include in the study conducted under paragraph (1) an examination of—

(A) the appropriate security measures required and minimum standards for certification of systems or technologies in order to minimize the potential for fraud in voting or in the registration of qualified citizens to register and vote;

(B) the possible methods, such as Internet or other communications technologies, that may be utilized in the electoral process, including the use of those technologies to register voters and enable citizens to vote online, and recommendations concerning statutes and rules to be adopted in order to implement an online or Internet system in the electoral process;

(C) the impact that new communications or Internet technology systems for use in the electoral process could have on voter participation rates, voter education, public accessibility, potential external influences during the elections process, voter privacy and anonymity, and other issues related to the conduct and administration of elections;

(D) whether other aspects of the electoral process, such as public availability of candidate information and citizen communication with candidates, could benefit from the increased use of online or Internet technologies;

(E) the requirements for authorization of collection, storage, and processing of electronically generated and transmitted digital messages to permit any eligible person to register to vote or vote in an election, including applying for and casting an absentee ballot;

(F) the implementation cost of an online or Internet voting or voter registration system and the costs of elections after implementation (including a comparison of total cost savings for the administration of the electoral process by using Internet technologies or systems);

(G) identification of current and foreseeable online and Internet technologies for use in the registration of voters, for voting, or for the purpose of reducing election fraud, currently available or in use by election authorities;

(H) the means by which to ensure and achieve equity of access to online or Internet voting or voter registration systems and address the fairness of such systems to all citizens; and

(I) the impact of technology on the speed, timeliness, and accuracy of vote counts in Federal, State, and local elections.

(b) REPORT.—

(1) **SUBMISSION.**—Not later than 20 months after the date of the enactment of this Act, the Commission shall transmit to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate a report on the results of the study conducted under subsection (a), including such legislative recommendations or model State laws as are required to address the findings of the Commission. Deadline.

(2) **INTERNET POSTING.**—In addition to the dissemination requirements under chapter 19 of title 44, United States Code, the Election Administration Commission shall post the report transmitted under paragraph (1) on an Internet website.

SEC. 246. STUDY AND REPORT ON FREE ABSENTEE BALLOT POSTAGE. 42 USC 15386.

(a) **STUDY ON THE ESTABLISHMENT OF A FREE ABSENTEE BALLOT POSTAGE PROGRAM.**—

(1) **IN GENERAL.**—The Commission, in consultation with the Postal Service, shall conduct a study on the feasibility and advisability of the establishment of a program under which the Postal Service shall waive or otherwise reduce the amount of postage applicable with respect to absentee ballots submitted by voters in general elections for Federal office (other than balloting materials mailed under section 3406 of title 39, United States Code) that does not apply with respect to the postage required to send the absentee ballots to voters.

(2) **PUBLIC SURVEY.**—As part of the study conducted under paragraph (1), the Commission shall conduct a survey of potential beneficiaries under the program described in such paragraph, including the elderly and disabled, and shall take into account the results of such survey in determining the feasibility and advisability of establishing such a program.

(b) **REPORT.**—

(1) **SUBMISSION.**—Not later than the date that is 1 year after the date of the enactment of this Act, the Commission shall submit to Congress a report on the study conducted under subsection (a)(1) together with recommendations for such legislative and administrative action as the Commission determines appropriate. Deadline.

(2) **COSTS.**—The report submitted under paragraph (1) shall contain an estimate of the costs of establishing the program described in subsection (a)(1).

(3) **IMPLEMENTATION.**—The report submitted under paragraph (1) shall contain an analysis of the feasibility of implementing the program described in subsection (a)(1) with respect to the absentee ballots to be submitted in the general election for Federal office held in 2004.

(4) **RECOMMENDATIONS REGARDING THE ELDERLY AND DISABLED.**—The report submitted under paragraph (1) shall—

(A) include recommendations on ways that program described in subsection (a)(1) would target elderly individuals and individuals with disabilities; and

(B) identify methods to increase the number of such individuals who vote in elections for Federal office.

(c) **POSTAL SERVICE DEFINED.**—The term “Postal Service” means the United States Postal Service established under section 201 of title 39, United States Code.

42 USC 15387. **SEC. 247. CONSULTATION WITH STANDARDS BOARD AND BOARD OF ADVISORS.**

The Commission shall carry out its duties under this subtitle in consultation with the Standards Board and the Board of Advisors.

Subtitle D—Election Assistance

PART 1—REQUIREMENTS PAYMENTS

42 USC 15401. **SEC. 251. REQUIREMENTS PAYMENTS.**

(a) **IN GENERAL.**—The Commission shall make a requirements payment each year in an amount determined under section 252 to each State which meets the conditions described in section 253 for the year.

(b) **USE OF FUNDS.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a State receiving a requirements payment shall use the payment only to meet the requirements of title III.

(2) **OTHER ACTIVITIES.**—A State may use a requirements payment to carry out other activities to improve the administration of elections for Federal office if the State certifies to the Commission that—

(A) the State has implemented the requirements of title III; or

(B) the amount expended with respect to such other activities does not exceed an amount equal to the minimum payment amount applicable to the State under section 252(c).

(c) **RETROACTIVE PAYMENTS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of this subtitle, including the maintenance of effort requirements of section 254(a)(7), a State may use a requirements payment as a reimbursement for costs incurred in obtaining voting equipment which meets the requirements of section 301 if the State obtains the equipment after the regularly scheduled general election for Federal office held in November 2000.

(2) **SPECIAL RULE REGARDING MULTIYEAR CONTRACTS.**—A State may use a requirements payment for any costs for voting equipment which meets the requirements of section 301 that, pursuant to a multiyear contract, were incurred on or after January 1, 2001, except that the amount that the State is otherwise required to contribute under the maintenance of effort requirements of section 254(a)(7) shall be increased by the amount of the payment made with respect to such multiyear contract.

(d) **ADOPTION OF COMMISSION GUIDELINES AND GUIDANCE NOT REQUIRED TO RECEIVE PAYMENT.**—Nothing in this part may be construed to require a State to implement any of the voluntary voting system guidelines or any of the voluntary guidance adopted by the Commission with respect to any matter as a condition for receiving a requirements payment.

(e) **SCHEDULE OF PAYMENTS.**—As soon as practicable after the initial appointment of all members of the Commission (but in no event later than 6 months thereafter), and not less frequently than once each calendar year thereafter, the Commission shall make requirements payments to States under this part.

(f) **LIMITATION.**—A State may not use any portion of a requirements payment—

- (1) to pay costs associated with any litigation, except to the extent that such costs otherwise constitute permitted uses of a requirements payment under this part; or
- (2) for the payment of any judgment.

SEC. 252. ALLOCATION OF FUNDS.

42 USC 15402.

(a) **IN GENERAL.**—Subject to subsection (c), the amount of a requirements payment made to a State for a year shall be equal to the product of—

- (1) the total amount appropriated for requirements payments for the year pursuant to the authorization under section 257; and
- (2) the State allocation percentage for the State (as determined under subsection (b)).

(b) **STATE ALLOCATION PERCENTAGE DEFINED.**—The “State allocation percentage” for a State is the amount (expressed as a percentage) equal to the quotient of—

- (1) the voting age population of the State (as reported in the most recent decennial census); and
- (2) the total voting age population of all States (as reported in the most recent decennial census).

(c) **MINIMUM AMOUNT OF PAYMENT.**—The amount of a requirements payment made to a State for a year may not be less than—

- (1) in the case of any of the several States or the District of Columbia, one-half of 1 percent of the total amount appropriated for requirements payments for the year under section 257; or
- (2) in the case of the Commonwealth of Puerto Rico, Guam, American Samoa, or the United States Virgin Islands, one-tenth of 1 percent of such total amount.

(d) **PRO RATA REDUCTIONS.**—The Administrator shall make such pro rata reductions to the allocations determined under subsection (a) as are necessary to comply with the requirements of subsection (c).

(e) **CONTINUING AVAILABILITY OF FUNDS AFTER APPROPRIATION.**—A requirements payment made to a State under this part shall be available to the State without fiscal year limitation.

SEC. 253. CONDITION FOR RECEIPT OF FUNDS.

42 USC 15403.

(a) **IN GENERAL.**—A State is eligible to receive a requirements payment for a fiscal year if the chief executive officer of the State, or designee, in consultation and coordination with the chief State election official, has filed with the Commission a statement certifying that the State is in compliance with the requirements referred to in subsection (b). A State may meet the requirement of the previous sentence by filing with the Commission a statement which reads as follows: “_____ hereby certifies that it is in compliance with the requirements referred to in section 253(b) of the Help America Vote Act of 2002.” (with the blank to be filled in with the name of the State involved).

(b) **STATE PLAN REQUIREMENT; CERTIFICATION OF COMPLIANCE WITH APPLICABLE LAWS AND REQUIREMENTS.**—The requirements referred to in this subsection are as follows:

- (1) The State has filed with the Commission a State plan covering the fiscal year which the State certifies—

(A) contains each of the elements described in section 254 with respect to the fiscal year;

(B) is developed in accordance with section 255; and

(C) meets the public notice and comment requirements of section 256.

Applicability.

(2) The State has filed with the Commission a plan for the implementation of the uniform, nondiscriminatory administrative complaint procedures required under section 402 (or has included such a plan in the State plan filed under paragraph (1)), and has such procedures in place for purposes of meeting the requirements of such section. If the State does not include such an implementation plan in the State plan filed under paragraph (1), the requirements of sections 255(b) and 256 shall apply to the implementation plan in the same manner as such requirements apply to the State plan.

Applicability.

(3) The State is in compliance with each of the laws described in section 906, as such laws apply with respect to this Act.

(4) To the extent that any portion of the requirements payment is used for activities other than meeting the requirements of title III—

(A) the State's proposed uses of the requirements payment are not inconsistent with the requirements of title III; and

(B) the use of the funds under this paragraph is consistent with the requirements of section 251(b).

(5) The State has appropriated funds for carrying out the activities for which the requirements payment is made in an amount equal to 5 percent of the total amount to be spent for such activities (taking into account the requirements payment and the amount spent by the State) and, in the case of a State that uses a requirements payment as a reimbursement under section 251(c)(2), an additional amount equal to the amount of such reimbursement.

(c) METHODS OF COMPLIANCE LEFT TO DISCRETION OF STATE.—The specific choices on the methods of complying with the elements of a State plan shall be left to the discretion of the State.

(d) TIMING FOR FILING OF CERTIFICATION.—A State may not file a statement of certification under subsection (a) until the expiration of the 45-day period (or, in the case of a fiscal year other than the first fiscal year for which a requirements payment is made to the State under this subtitle, the 30-day period) which begins on the date the State plan under this subtitle is published in the Federal Register pursuant to section 255(b).

(e) CHIEF STATE ELECTION OFFICIAL DEFINED.—In this subtitle, the “chief State election official” of a State is the individual designated by the State under section 10 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-8) to be responsible for coordination of the State's responsibilities under such Act.

42 USC 15404.

SEC. 254. STATE PLAN.

(a) IN GENERAL.—The State plan shall contain a description of each of the following:

(1) How the State will use the requirements payment to meet the requirements of title III, and, if applicable under section 251(a)(2), to carry out other activities to improve the administration of elections.

(2) How the State will distribute and monitor the distribution of the requirements payment to units of local government or other entities in the State for carrying out the activities described in paragraph (1), including a description of—

(A) the criteria to be used to determine the eligibility of such units or entities for receiving the payment; and

(B) the methods to be used by the State to monitor the performance of the units or entities to whom the payment is distributed, consistent with the performance goals and measures adopted under paragraph (8).

(3) How the State will provide for programs for voter education, election official education and training, and poll worker training which will assist the State in meeting the requirements of title III.

(4) How the State will adopt voting system guidelines and processes which are consistent with the requirements of section 301.

(5) How the State will establish a fund described in subsection (b) for purposes of administering the State's activities under this part, including information on fund management.

(6) The State's proposed budget for activities under this part, based on the State's best estimates of the costs of such activities and the amount of funds to be made available, including specific information on—

(A) the costs of the activities required to be carried out to meet the requirements of title III;

(B) the portion of the requirements payment which will be used to carry out activities to meet such requirements; and

(C) the portion of the requirements payment which will be used to carry out other activities.

(7) How the State, in using the requirements payment, will maintain the expenditures of the State for activities funded by the payment at a level that is not less than the level of such expenditures maintained by the State for the fiscal year ending prior to November 2000.

(8) How the State will adopt performance goals and measures that will be used by the State to determine its success and the success of units of local government in the State in carrying out the plan, including timetables for meeting each of the elements of the plan, descriptions of the criteria the State will use to measure performance and the process used to develop such criteria, and a description of which official is to be held responsible for ensuring that each performance goal is met.

(9) A description of the uniform, nondiscriminatory State-based administrative complaint procedures in effect under section 402.

(10) If the State received any payment under title I, a description of how such payment will affect the activities proposed to be carried out under the plan, including the amount of funds available for such activities.

(11) How the State will conduct ongoing management of the plan, except that the State may not make any material change in the administration of the plan unless the change—

(A) is developed and published in the Federal Register in accordance with section 255 in the same manner as the State plan;

(B) is subject to public notice and comment in accordance with section 256 in the same manner as the State plan; and

(C) takes effect only after the expiration of the 30-day period which begins on the date the change is published in the Federal Register in accordance with subparagraph (A).

(12) In the case of a State with a State plan in effect under this subtitle during the previous fiscal year, a description of how the plan reflects changes from the State plan for the previous fiscal year and of how the State succeeded in carrying out the State plan for such previous fiscal year.

(13) A description of the committee which participated in the development of the State plan in accordance with section 255 and the procedures followed by the committee under such section and section 256.

(b) REQUIREMENTS FOR ELECTION FUND.—

(1) ELECTION FUND DESCRIBED.—For purposes of subsection (a)(5), a fund described in this subsection with respect to a State is a fund which is established in the treasury of the State government, which is used in accordance with paragraph (2), and which consists of the following amounts:

(A) Amounts appropriated or otherwise made available by the State for carrying out the activities for which the requirements payment is made to the State under this part.

(B) The requirements payment made to the State under this part.

(C) Such other amounts as may be appropriated under law.

(D) Interest earned on deposits of the fund.

(2) USE OF FUND.—Amounts in the fund shall be used by the State exclusively to carry out the activities for which the requirements payment is made to the State under this part.

(3) TREATMENT OF STATES THAT REQUIRE CHANGES TO STATE LAW.—In the case of a State that requires State legislation to establish the fund described in this subsection, the Commission shall defer disbursement of the requirements payment to such State until such time as legislation establishing the fund is enacted.

(c) PROTECTION AGAINST ACTIONS BASED ON INFORMATION IN PLAN.—

(1) IN GENERAL.—No action may be brought under this Act against a State or other jurisdiction on the basis of any information contained in the State plan filed under this part.

(2) EXCEPTION FOR CRIMINAL ACTS.—Paragraph (1) may not be construed to limit the liability of a State or other jurisdiction for criminal acts or omissions.

SEC. 255. PROCESS FOR DEVELOPMENT AND FILING OF PLAN; PUBLICATION BY COMMISSION. 42 USC 15405.

(a) **IN GENERAL.**—The chief State election official shall develop the State plan under this subtitle through a committee of appropriate individuals, including the chief election officials of the two most populous jurisdictions within the States, other local election officials, stake holders (including representatives of groups of individuals with disabilities), and other citizens, appointed for such purpose by the chief State election official.

(b) **PUBLICATION OF PLAN BY COMMISSION.**—After receiving the State plan of a State under this subtitle, the Commission shall cause to have the plan published in the Federal Register. Federal Register, publication.

SEC. 256. REQUIREMENT FOR PUBLIC NOTICE AND COMMENT. 42 USC 15406.

For purposes of section 251(a)(1)(C), a State plan meets the public notice and comment requirements of this section if—

(1) not later than 30 days prior to the submission of the plan, the State made a preliminary version of the plan available for public inspection and comment;

(2) the State publishes notice that the preliminary version of the plan is so available; and

(3) the State took the public comments made regarding the preliminary version of the plan into account in preparing the plan which was filed with the Commission.

SEC. 257. AUTHORIZATION OF APPROPRIATIONS. 42 USC 15407.

(a) **IN GENERAL.**—In addition to amounts transferred under section 104(c), there are authorized to be appropriated for requirements payments under this part the following amounts:

(1) For fiscal year 2003, \$1,400,000,000.

(2) For fiscal year 2004, \$1,000,000,000.

(3) For fiscal year 2005, \$600,000,000.

(b) **AVAILABILITY.**—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

SEC. 258. REPORTS. 42 USC 15408.

Not later than 6 months after the end of each fiscal year for which a State received a requirements payment under this part, the State shall submit a report to the Commission on the activities conducted with the funds provided during the year, and shall include in the report— Deadline.

(1) a list of expenditures made with respect to each category of activities described in section 251(b);

(2) the number and type of articles of voting equipment obtained with the funds; and

(3) an analysis and description of the activities funded under this part to meet the requirements of this Act and an analysis and description of how such activities conform to the State plan under section 254.

**PART 2—PAYMENTS TO STATES AND UNITS OF
LOCAL GOVERNMENT TO ASSURE ACCESS
FOR INDIVIDUALS WITH DISABILITIES**

42 USC 15421. **SEC. 261. PAYMENTS TO STATES AND UNITS OF LOCAL GOVERNMENT
TO ASSURE ACCESS FOR INDIVIDUALS WITH DISABILITIES.**

(a) **IN GENERAL.**—The Secretary of Health and Human Services shall make a payment to each eligible State and each eligible unit of local government (as described in section 263).

(b) **USE OF FUNDS.**—An eligible State and eligible unit of local government shall use the payment received under this part for—

(1) making polling places, including the path of travel, entrances, exits, and voting areas of each polling facility, accessible to individuals with disabilities, including the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters; and

(2) providing individuals with disabilities and the other individuals described in paragraph (1) with information about the accessibility of polling places, including outreach programs to inform the individuals about the availability of accessible polling places and training election officials, poll workers, and election volunteers on how best to promote the access and participation of individuals with disabilities in elections for Federal office.

(c) **SCHEDULE OF PAYMENTS.**—As soon as practicable after the date of the enactment of this Act (but in no event later than 6 months thereafter), and not less frequently than once each calendar year thereafter, the Secretary shall make payments under this part.

42 USC 15422. **SEC. 262. AMOUNT OF PAYMENT.**

(a) **IN GENERAL.**—The amount of a payment made to an eligible State or an eligible unit of local government for a year under this part shall be determined by the Secretary.

(b) **CONTINUING AVAILABILITY OF FUNDS AFTER APPROPRIATION.**—A payment made to an eligible State or eligible unit of local government under this part shall be available without fiscal year limitation.

42 USC 15423. **SEC. 263. REQUIREMENTS FOR ELIGIBILITY.**

(a) **APPLICATION.**—Each State or unit of local government that desires to receive a payment under this part for a fiscal year shall submit an application for the payment to the Secretary at such time and in such manner and containing such information as the Secretary shall require.

(b) **CONTENTS OF APPLICATION.**—Each application submitted under subsection (a) shall—

(1) describe the activities for which assistance under this section is sought; and

(2) provide such additional information and certifications as the Secretary determines to be essential to ensure compliance with the requirements of this part.

(c) **PROTECTION AGAINST ACTIONS BASED ON INFORMATION IN APPLICATION.**—

(1) IN GENERAL.—No action may be brought under this Act against a State or unit of local government on the basis of any information contained in the application submitted under subsection (a).

(2) EXCEPTION FOR CRIMINAL ACTS.—Paragraph (1) may not be construed to limit the liability of a State or unit of local government for criminal acts or omissions.

SEC. 264. AUTHORIZATION OF APPROPRIATIONS.

42 USC 15424.

(a) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this part the following amounts:

(1) For fiscal year 2003, \$50,000,000.

(2) For fiscal year 2004, \$25,000,000.

(3) For fiscal year 2005, \$25,000,000.

(b) AVAILABILITY.—Any amounts appropriated pursuant to the authority of subsection (a) shall remain available without fiscal year limitation until expended.

SEC. 265. REPORTS.

42 USC 15425.

(a) REPORTS BY RECIPIENTS.—Not later than the 6 months after the end of each fiscal year for which an eligible State or eligible unit of local government received a payment under this part, the State or unit shall submit a report to the Secretary on the activities conducted with the funds provided during the year, and shall include in the report a list of expenditures made with respect to each category of activities described in section 261(b).

Deadline.

(b) REPORT BY SECRETARY TO COMMITTEES.—With respect to each fiscal year for which the Secretary makes payments under this part, the Secretary shall submit a report on the activities carried out under this part to the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate.

PART 3—GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS

SEC. 271. GRANTS FOR RESEARCH ON VOTING TECHNOLOGY IMPROVEMENTS.

42 USC 15441.

(a) IN GENERAL.—The Commission shall make grants to assist entities in carrying out research and development to improve the quality, reliability, accuracy, accessibility, affordability, and security of voting equipment, election systems, and voting technology.

(b) ELIGIBILITY.—An entity is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) certifications that the research and development funded with the grant will take into account the need to make voting equipment fully accessible for individuals with disabilities, including the blind and visually impaired, the need to ensure that such individuals can vote independently and with privacy, and the need to provide alternative language accessibility for individuals with limited proficiency in the English language (consistent with the requirements of the Voting Rights Act of 1965); and

(2) such other information and certifications as the Commission may require.

(c) **APPLICABILITY OF REGULATIONS GOVERNING PATENT RIGHTS IN INVENTIONS MADE WITH FEDERAL ASSISTANCE.**—Any invention made by the recipient of a grant under this part using funds provided under this part shall be subject to chapter 18 of title 35, United States Code (relating to patent rights in inventions made with Federal assistance).

(d) **RECOMMENDATION OF TOPICS FOR RESEARCH.**—

Records.

(1) **IN GENERAL.**—The Director of the National Institute of Standards and Technology (hereafter in this section referred to as the “Director”) shall submit to the Commission an annual list of the Director’s suggestions for issues which may be the subject of research funded with grants awarded under this part during the year.

(2) **REVIEW OF GRANT APPLICATIONS RECEIVED BY COMMISSION.**—The Commission shall submit each application it receives for a grant under this part to the Director, who shall review the application and provide the Commission with such comments as the Director considers appropriate.

(3) **MONITORING AND ADJUSTMENT OF GRANT ACTIVITIES AT REQUEST OF COMMISSION.**—After the Commission has awarded a grant under this part, the Commission may request that the Director monitor the grant, and (to the extent permitted under the terms of the grant as awarded) the Director may recommend to the Commission that the recipient of the grant modify and adjust the activities carried out under the grant.

(4) **EVALUATION OF GRANTS AT REQUEST OF COMMISSION.**—

(A) **IN GENERAL.**—In the case of a grant for which the Commission submits the application to the Director under paragraph (2) or requests that the Director monitor the grant under paragraph (3), the Director shall prepare and submit to the Commission an evaluation of the grant and the activities carried out under the grant.

(B) **INCLUSION IN REPORTS.**—The Commission shall include the evaluations submitted under subparagraph (A) for a year in the report submitted for the year under section 207.

(e) **PROVISION OF INFORMATION ON PROJECTS.**—The Commission may provide to the Technical Guidelines Development Committee under part 3 of subtitle A such information regarding the activities funded under this part as the Commission deems necessary to assist the Committee in carrying out its duties.

42 USC 15442.

SEC. 272. REPORT.

(a) **IN GENERAL.**—Each entity which receives a grant under this part shall submit to the Commission a report describing the activities carried out with the funds provided under the grant.

(b) **DEADLINE.**—An entity shall submit a report required under subsection (a) not later than 60 days after the end of the fiscal year for which the entity received the grant which is the subject of the report.

42 USC 15443.

SEC. 273. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated for grants under this part \$20,000,000 for fiscal year 2003.

(b) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to the authorization under this section shall remain available, without fiscal year limitation, until expended.

PART 4—PILOT PROGRAM FOR TESTING OF EQUIPMENT AND TECHNOLOGY

Grants.

SEC. 281. PILOT PROGRAM.

42 USC 15451.

(a) **IN GENERAL.**—The Commission shall make grants to carry out pilot programs under which new technologies in voting systems and equipment are tested and implemented on a trial basis so that the results of such tests and trials are reported to Congress.

(b) **ELIGIBILITY.**—An entity is eligible to receive a grant under this part if it submits to the Commission (at such time and in such form as the Commission may require) an application containing—

(1) certifications that the pilot programs funded with the grant will take into account the need to make voting equipment fully accessible for individuals with disabilities, including the blind and visually impaired, the need to ensure that such individuals can vote independently and with privacy, and the need to provide alternative language accessibility for individuals with limited proficiency in the English language (consistent with the requirements of the Voting Rights Act of 1965 and the requirements of this Act); and

(2) such other information and certifications as the Commission may require.

(c) **RECOMMENDATION OF TOPICS FOR PILOT PROGRAMS.**—

(1) **IN GENERAL.**—The Director of the National Institute of Standards and Technology (hereafter in this section referred to as the “Director”) shall submit to the Commission an annual list of the Director’s suggestions for issues which may be the subject of pilot programs funded with grants awarded under this part during the year.

(2) **REVIEW OF GRANT APPLICATIONS RECEIVED BY COMMISSION.**—The Commission shall submit each application it receives for a grant under this part to the Director, who shall review the application and provide the Commission with such comments as the Director considers appropriate.

(3) **MONITORING AND ADJUSTMENT OF GRANT ACTIVITIES AT REQUEST OF COMMISSION.**—After the Commission has awarded a grant under this part, the Commission may request that the Director monitor the grant, and (to the extent permitted under the terms of the grant as awarded) the Director may recommend to the Commission that the recipient of the grant modify and adjust the activities carried out under the grant.

(4) **EVALUATION OF GRANTS AT REQUEST OF COMMISSION.**—

(A) **IN GENERAL.**—In the case of a grant for which the Commission submits the application to the Director under paragraph (2) or requests that the Director monitor the grant under paragraph (3), the Director shall prepare and submit to the Commission an evaluation of the grant and the activities carried out under the grant.

(B) **INCLUSION IN REPORTS.**—The Commission shall include the evaluations submitted under subparagraph (A) for a year in the report submitted for the year under section 207.

(d) **PROVISION OF INFORMATION ON PROJECTS.**—The Commission may provide to the Technical Guidelines Development Committee under part 3 of subtitle A such information regarding the activities funded under this part as the Commission deems necessary to assist the Committee in carrying out its duties.

42 USC 15452.

SEC. 282. REPORT.

(a) **IN GENERAL.**—Each entity which receives a grant under this part shall submit to the Commission a report describing the activities carried out with the funds provided under the grant.

(b) **DEADLINE.**—An entity shall submit a report required under subsection (a) not later than 60 days after the end of the fiscal year for which the entity received the grant which is the subject of the report.

42 USC 15453.

SEC. 283. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated for grants under this part \$10,000,000 for fiscal year 2003.

(b) **AVAILABILITY OF FUNDS.**—Amounts appropriated pursuant to the authorization under this section shall remain available, without fiscal year limitation, until expended.

PART 5—PROTECTION AND ADVOCACY SYSTEMS

42 USC 15461.

SEC. 291. PAYMENTS FOR PROTECTION AND ADVOCACY SYSTEMS.

(a) **IN GENERAL.**—In addition to any other payments made under this subtitle, the Secretary of Health and Human Services shall pay the protection and advocacy system (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)) of each State to ensure full participation in the electoral process for individuals with disabilities, including registering to vote, casting a vote and accessing polling places. In providing such services, protection and advocacy systems shall have the same general authorities as they are afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(b) **MINIMUM GRANT AMOUNT.**—The minimum amount of each grant to a protection and advocacy system shall be determined and allocated as set forth in subsections (c)(3), (c)(4), (c)(5), (e), and (g) of section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e), except that the amount of the grants to systems referred to in subsections (c)(3)(B) and (c)(4)(B) of that section shall be not less than \$70,000 and \$35,000, respectively.

(c) TRAINING AND TECHNICAL ASSISTANCE PROGRAM.—

Deadline.

(1) **IN GENERAL.**—Not later than 90 days after the date on which the initial appropriation of funds for a fiscal year is made pursuant to the authorization under section 292, the Secretary shall set aside 7 percent of the amount appropriated under such section and use such portion to make payments to eligible entities to provide training and technical assistance with respect to the activities carried out under this section.

(2) **USE OF FUNDS.**—A recipient of a payment under this subsection may use the payment to support training in the use of voting systems and technologies, and to demonstrate and evaluate the use of such systems and technologies, by individuals with disabilities (including blindness) in order to

assess the availability and use of such systems and technologies for such individuals. At least one of the recipients under this subsection shall use the payment to provide training and technical assistance for nonvisual access.

(3) **ELIGIBILITY.**—An entity is eligible to receive a payment under this subsection if the entity—

(A) is a public or private nonprofit entity with demonstrated experience in voting issues for individuals with disabilities;

(B) is governed by a board with respect to which the majority of its members are individuals with disabilities or family members of such individuals or individuals who are blind; and

(C) submits to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

SEC. 292. AUTHORIZATION OF APPROPRIATIONS.

42 USC 15462.

(a) **IN GENERAL.**—In addition to any other amounts authorized to be appropriated under this subtitle, there are authorized to be appropriated \$10,000,000 for each of the fiscal years 2003, 2004, 2005, and 2006, and for each subsequent fiscal year such sums as may be necessary, for the purpose of making payments under section 291(a); except that none of the funds provided by this subsection shall be used to initiate or otherwise participate in any litigation related to election-related disability access, notwithstanding the general authorities that the protection and advocacy systems are otherwise afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.).

(b) **AVAILABILITY.**—Any amounts appropriated pursuant to the authority of this section shall remain available until expended.

**PART 6—NATIONAL STUDENT AND PARENT
MOCK ELECTION**

SEC. 295. NATIONAL STUDENT AND PARENT MOCK ELECTION.

42 USC 15471.

(a) **IN GENERAL.**—The Election Assistance Commission is authorized to award grants to the National Student and Parent Mock Election, a national nonprofit, nonpartisan organization that works to promote voter participation in American elections to enable it to carry out voter education activities for students and their parents. Such activities may—

Grants.

(1) include simulated national elections at least 5 days before the actual election that permit participation by students and parents from each of the 50 States in the United States, its territories, the District of Columbia, and United States schools overseas; and

(2) consist of—

(A) school forums and local cable call-in shows on the national issues to be voted upon in an “issues forum”;

(B) speeches and debates before students and parents by local candidates or stand-ins for such candidates;

(C) quiz team competitions, mock press conferences, and speech writing competitions;

(D) weekly meetings to follow the course of the campaign; or

(E) school and neighborhood campaigns to increase voter turnout, including newsletters, posters, telephone chains, and transportation.

Awards.

(b) REQUIREMENT.—The National Student and Parent Mock Election shall present awards to outstanding student and parent mock election projects.

42 USC 15472.

SEC. 296. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out the provisions of this subtitle \$200,000 for fiscal year 2003 and such sums as may be necessary for each of the 6 succeeding fiscal years.

TITLE III—UNIFORM AND NONDISCRIMINATORY ELECTION TECHNOLOGY AND ADMINISTRATION REQUIREMENTS

Subtitle A—Requirements

42 USC 15481.

SEC. 301. VOTING SYSTEMS STANDARDS.

(a) REQUIREMENTS.—Each voting system used in an election for Federal office shall meet the following requirements:

(1) IN GENERAL.—

(A) Except as provided in subparagraph (B), the voting system (including any lever voting system, optical scanning voting system, or direct recording electronic system) shall—

(i) permit the voter to verify (in a private and independent manner) the votes selected by the voter on the ballot before the ballot is cast and counted;

(ii) provide the voter with the opportunity (in a private and independent manner) to change the ballot or correct any error before the ballot is cast and counted (including the opportunity to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error); and

(iii) if the voter selects votes for more than one candidate for a single office—

(I) notify the voter that the voter has selected more than one candidate for a single office on the ballot;

(II) notify the voter before the ballot is cast and counted of the effect of casting multiple votes for the office; and

(III) provide the voter with the opportunity to correct the ballot before the ballot is cast and counted.

(B) A State or jurisdiction that uses a paper ballot voting system, a punch card voting system, or a central count voting system (including mail-in absentee ballots and mail-in ballots), may meet the requirements of subparagraph (A)(iii) by—

(i) establishing a voter education program specific to that voting system that notifies each voter of the effect of casting multiple votes for an office; and

(ii) providing the voter with instructions on how to correct the ballot before it is cast and counted (including instructions on how to correct the error through the issuance of a replacement ballot if the voter was otherwise unable to change the ballot or correct any error).

(C) The voting system shall ensure that any notification required under this paragraph preserves the privacy of the voter and the confidentiality of the ballot.

(2) AUDIT CAPACITY.—

(A) IN GENERAL.—The voting system shall produce a record with an audit capacity for such system.

(B) MANUAL AUDIT CAPACITY.—

(i) The voting system shall produce a permanent paper record with a manual audit capacity for such system.

(ii) The voting system shall provide the voter with an opportunity to change the ballot or correct any error before the permanent paper record is produced.

(iii) The paper record produced under subparagraph (A) shall be available as an official record for any recount conducted with respect to any election in which the system is used.

(3) ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES.—

The voting system shall—

(A) be accessible for individuals with disabilities, including nonvisual accessibility for the blind and visually impaired, in a manner that provides the same opportunity for access and participation (including privacy and independence) as for other voters;

(B) satisfy the requirement of subparagraph (A) through the use of at least one direct recording electronic voting system or other voting system equipped for individuals with disabilities at each polling place; and

(C) if purchased with funds made available under title II on or after January 1, 2007, meet the voting system standards for disability access (as outlined in this paragraph).

(4) ALTERNATIVE LANGUAGE ACCESSIBILITY.—The voting system shall provide alternative language accessibility pursuant to the requirements of section 203 of the Voting Rights Act of 1965 (42 U.S.C. 1973aa-1a).

(5) ERROR RATES.—The error rate of the voting system in counting ballots (determined by taking into account only those errors which are attributable to the voting system and not attributable to an act of the voter) shall comply with the error rate standards established under section 3.2.1 of the voting systems standards issued by the Federal Election Commission which are in effect on the date of the enactment of this Act.

(6) UNIFORM DEFINITION OF WHAT CONSTITUTES A VOTE.—Each State shall adopt uniform and nondiscriminatory standards that define what constitutes a vote and what will be

counted as a vote for each category of voting system used in the State.

(b) VOTING SYSTEM DEFINED.—In this section, the term “voting system” means—

(1) the total combination of mechanical, electromechanical, or electronic equipment (including the software, firmware, and documentation required to program, control, and support the equipment) that is used—

(A) to define ballots;

(B) to cast and count votes;

(C) to report or display election results; and

(D) to maintain and produce any audit trail information; and

(2) the practices and associated documentation used—

(A) to identify system components and versions of such components;

(B) to test the system during its development and maintenance;

(C) to maintain records of system errors and defects;

(D) to determine specific system changes to be made to a system after the initial qualification of the system; and

(E) to make available any materials to the voter (such as notices, instructions, forms, or paper ballots).

(c) CONSTRUCTION.—

(1) IN GENERAL.—Nothing in this section shall be construed to prohibit a State or jurisdiction which used a particular type of voting system in the elections for Federal office held in November 2000 from using the same type of system after the effective date of this section, so long as the system meets or is modified to meet the requirements of this section.

(2) PROTECTION OF PAPER BALLOT VOTING SYSTEMS.—For purposes of subsection (a)(1)(A)(i), the term “verify” may not be defined in a manner that makes it impossible for a paper ballot voting system to meet the requirements of such subsection or to be modified to meet such requirements.

(d) EFFECTIVE DATE.—Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2006.

42 USC 15482.

SEC. 302. PROVISIONAL VOTING AND VOTING INFORMATION REQUIREMENTS.

(a) PROVISIONAL VOTING REQUIREMENTS.—If an individual declares that such individual is a registered voter in the jurisdiction in which the individual desires to vote and that the individual is eligible to vote in an election for Federal office, but the name of the individual does not appear on the official list of eligible voters for the polling place or an election official asserts that the individual is not eligible to vote, such individual shall be permitted to cast a provisional ballot as follows:

Notification.

(1) An election official at the polling place shall notify the individual that the individual may cast a provisional ballot in that election.

(2) The individual shall be permitted to cast a provisional ballot at that polling place upon the execution of a written affirmation by the individual before an election official at the polling place stating that the individual is—

(A) a registered voter in the jurisdiction in which the individual desires to vote; and

(B) eligible to vote in that election.

(3) An election official at the polling place shall transmit the ballot cast by the individual or the voter information contained in the written affirmation executed by the individual under paragraph (2) to an appropriate State or local election official for prompt verification under paragraph (4).

(4) If the appropriate State or local election official to whom the ballot or voter information is transmitted under paragraph (3) determines that the individual is eligible under State law to vote, the individual's provisional ballot shall be counted as a vote in that election in accordance with State law.

(5)(A) At the time that an individual casts a provisional ballot, the appropriate State or local election official shall give the individual written information that states that any individual who casts a provisional ballot will be able to ascertain under the system established under subparagraph (B) whether the vote was counted, and, if the vote was not counted, the reason that the vote was not counted.

(B) The appropriate State or local election official shall establish a free access system (such as a toll-free telephone number or an Internet website) that any individual who casts a provisional ballot may access to discover whether the vote of that individual was counted, and, if the vote was not counted, the reason that the vote was not counted.

States described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)) may meet the requirements of this subsection using voter registration procedures established under applicable State law. The appropriate State or local official shall establish and maintain reasonable procedures necessary to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used by the free access system established under paragraph (5)(B). Access to information about an individual provisional ballot shall be restricted to the individual who cast the ballot.

(b) VOTING INFORMATION REQUIREMENTS.—

(1) PUBLIC POSTING ON ELECTION DAY.—The appropriate State or local election official shall cause voting information to be publicly posted at each polling place on the day of each election for Federal office.

(2) VOTING INFORMATION DEFINED.—In this section, the term “voting information” means—

(A) a sample version of the ballot that will be used for that election;

(B) information regarding the date of the election and the hours during which polling places will be open;

(C) instructions on how to vote, including how to cast a vote and how to cast a provisional ballot;

(D) instructions for mail-in registrants and first-time voters under section 303(b);

(E) general information on voting rights under applicable Federal and State laws, including information on the right of an individual to cast a provisional ballot and instructions on how to contact the appropriate officials if these rights are alleged to have been violated; and

(F) general information on Federal and State laws regarding prohibitions on acts of fraud and misrepresentation.

(c) **VOTERS WHO VOTE AFTER THE POLLS CLOSE.**—Any individual who votes in an election for Federal office as a result of a Federal or State court order or any other order extending the time established for closing the polls by a State law in effect 10 days before the date of that election may only vote in that election by casting a provisional ballot under subsection (a). Any such ballot cast under the preceding sentence shall be separated and held apart from other provisional ballots cast by those not affected by the order.

(d) **EFFECTIVE DATE FOR PROVISIONAL VOTING AND VOTING INFORMATION.**—Each State and jurisdiction shall be required to comply with the requirements of this section on and after January 1, 2004.

42 USC 15483.

SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS AND REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.

(a) **COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.**—

(1) **IMPLEMENTATION.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), each State, acting through the chief State election official, shall implement, in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration list defined, maintained, and administered at the State level that contains the name and registration information of every legally registered voter in the State and assigns a unique identifier to each legally registered voter in the State (in this subsection referred to as the “computerized list”), and includes the following:

(i) The computerized list shall serve as the single system for storing and managing the official list of registered voters throughout the State.

(ii) The computerized list contains the name and registration information of every legally registered voter in the State.

(iii) Under the computerized list, a unique identifier is assigned to each legally registered voter in the State.

(iv) The computerized list shall be coordinated with other agency databases within the State.

(v) Any election official in the State, including any local election official, may obtain immediate electronic access to the information contained in the computerized list.

(vi) All voter registration information obtained by any local election official in the State shall be electronically entered into the computerized list on an expedited basis at the time the information is provided to the local official.

(vii) The chief State election official shall provide such support as may be required so that local election

officials are able to enter information as described in clause (vi).

(viii) The computerized list shall serve as the official voter registration list for the conduct of all elections for Federal office in the State.

(B) EXCEPTION.—The requirement under subparagraph (A) shall not apply to a State in which, under a State law in effect continuously on and after the date of the enactment of this Act, there is no voter registration requirement for individuals in the State with respect to elections for Federal office.

(2) COMPUTERIZED LIST MAINTENANCE.—

(A) IN GENERAL.—The appropriate State or local election official shall perform list maintenance with respect to the computerized list on a regular basis as follows:

(i) If an individual is to be removed from the computerized list, such individual shall be removed in accordance with the provisions of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), including subsections (a)(4), (c)(2), (d), and (e) of section 8 of such Act (42 U.S.C. 1973gg-6).

(ii) For purposes of removing names of ineligible voters from the official list of eligible voters—

(I) under section 8(a)(3)(B) of such Act (42 U.S.C. 1973gg-6(a)(3)(B)), the State shall coordinate the computerized list with State agency records on felony status; and

(II) by reason of the death of the registrant under section 8(a)(4)(A) of such Act (42 U.S.C. 1973gg-6(a)(4)(A)), the State shall coordinate the computerized list with State agency records on death.

(iii) Notwithstanding the preceding provisions of this subparagraph, if a State is described in section 4(b) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-2(b)), that State shall remove the names of ineligible voters from the computerized list in accordance with State law.

(B) CONDUCT.—The list maintenance performed under subparagraph (A) shall be conducted in a manner that ensures that—

(i) the name of each registered voter appears in the computerized list;

(ii) only voters who are not registered or who are not eligible to vote are removed from the computerized list; and

(iii) duplicate names are eliminated from the computerized list.

(3) TECHNOLOGICAL SECURITY OF COMPUTERIZED LIST.—The appropriate State or local official shall provide adequate technological security measures to prevent the unauthorized access to the computerized list established under this section.

(4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS.—The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters. Under such system, consistent with the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), registrants who have not responded to a notice and who have not voted in 2 consecutive general elections for Federal office shall be removed from the official list of eligible voters, except that no registrant may be removed solely by reason of a failure to vote.

(B) Safeguards to ensure that eligible voters are not removed in error from the official list of eligible voters.

(5) VERIFICATION OF VOTER REGISTRATION INFORMATION.—

(A) REQUIRING PROVISION OF CERTAIN INFORMATION BY APPLICANTS.—

(i) IN GENERAL.—Except as provided in clause (ii), notwithstanding any other provision of law, an application for voter registration for an election for Federal office may not be accepted or processed by a State unless the application includes—

(I) in the case of an applicant who has been issued a current and valid driver's license, the applicant's driver's license number; or

(II) in the case of any other applicant (other than an applicant to whom clause (ii) applies), the last 4 digits of the applicant's social security number.

(ii) SPECIAL RULE FOR APPLICANTS WITHOUT DRIVER'S LICENSE OR SOCIAL SECURITY NUMBER.—If an applicant for voter registration for an election for Federal office has not been issued a current and valid driver's license or a social security number, the State shall assign the applicant a number which will serve to identify the applicant for voter registration purposes. To the extent that the State has a computerized list in effect under this subsection and the list assigns unique identifying numbers to registrants, the number assigned under this clause shall be the unique identifying number assigned under the list.

(iii) DETERMINATION OF VALIDITY OF NUMBERS PROVIDED.—The State shall determine whether the information provided by an individual is sufficient to meet the requirements of this subparagraph, in accordance with State law.

(B) REQUIREMENTS FOR STATE OFFICIALS.—

(i) SHARING INFORMATION IN DATABASES.—The chief State election official and the official responsible for the State motor vehicle authority of a State shall enter into an agreement to match information in the database of the statewide voter registration system with information in the database of the motor vehicle authority to the extent required to enable each such official to verify the accuracy of the information provided on applications for voter registration.

(ii) AGREEMENTS WITH COMMISSIONER OF SOCIAL SECURITY.—The official responsible for the State motor vehicle authority shall enter into an agreement with

Contracts.

the Commissioner of Social Security under section 205(r)(8) of the Social Security Act (as added by subparagraph (C)).

(C) ACCESS TO FEDERAL INFORMATION.—Section 205(r) of the Social Security Act (42 U.S.C. 405(r)) is amended by adding at the end the following new paragraph:

“(8)(A) The Commissioner of Social Security shall, upon the request of the official responsible for a State driver’s license agency pursuant to the Help America Vote Act of 2002—

“(i) enter into an agreement with such official for the purpose of verifying applicable information, so long as the requirements of subparagraphs (A) and (B) of paragraph (3) are met; and

Contracts.

“(ii) include in such agreement safeguards to assure the maintenance of the confidentiality of any applicable information disclosed and procedures to permit such agency to use the applicable information for the purpose of maintaining its records.

Confidentiality.

“(B) Information provided pursuant to an agreement under this paragraph shall be provided at such time, in such place, and in such manner as the Commissioner determines appropriate.

“(C) The Commissioner shall develop methods to verify the accuracy of information provided by the agency with respect to applications for voter registration, for whom the last 4 digits of a social security number are provided instead of a driver’s license number.

Procedures.

“(D) For purposes of this paragraph—

“(i) the term ‘applicable information’ means information regarding whether—

“(I) the name (including the first name and any family forename or surname), the date of birth (including the month, day, and year), and social security number of an individual provided to the Commissioner match the information contained in the Commissioner’s records, and

“(II) such individual is shown on the records of the Commissioner as being deceased; and

“(ii) the term ‘State driver’s license agency’ means the State agency which issues driver’s licenses to individuals within the State and maintains records relating to such licensure.

“(E) Nothing in this paragraph may be construed to require the provision of applicable information with regard to a request for a record of an individual if the Commissioner determines there are exceptional circumstances warranting an exception (such as safety of the individual or interference with an investigation).

“(F) Applicable information provided by the Commission pursuant to an agreement under this paragraph or by an individual to any agency that has entered into an agreement under this paragraph shall be considered as strictly confidential and shall be used only for the purposes described in this paragraph and for carrying out an agreement under this paragraph. Any officer or employee or former officer or employee of a State, or any officer or employee or former officer or employee of a contractor of a State who, without the written authority of the Commissioner, publishes or communicates any applicable information in such individual’s possession by reason of such employment or position as such an officer, shall be guilty of a felony and upon conviction

Penalties.

thereof shall be fined or imprisoned, or both, as described in section 208.”.

(D) SPECIAL RULE FOR CERTAIN STATES.—In the case of a State which is permitted to use social security numbers, and provides for the use of social security numbers, on applications for voter registration, in accordance with section 7 of the Privacy Act of 1974 (5 U.S.C. 552a note), the provisions of this paragraph shall be optional.

(b) REQUIREMENTS FOR VOTERS WHO REGISTER BY MAIL.—

(1) IN GENERAL.—Notwithstanding section 6(c) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4(c)) and subject to paragraph (3), a State shall, in a uniform and nondiscriminatory manner, require an individual to meet the requirements of paragraph (2) if—

(A) the individual registered to vote in a jurisdiction by mail; and

(B)(i) the individual has not previously voted in an election for Federal office in the State; or

(ii) the individual has not previously voted in such an election in the jurisdiction and the jurisdiction is located in a State that does not have a computerized list that complies with the requirements of subsection (a).

(2) REQUIREMENTS.—

(A) IN GENERAL.—An individual meets the requirements of this paragraph if the individual—

(i) in the case of an individual who votes in person—

(I) presents to the appropriate State or local election official a current and valid photo identification; or

(II) presents to the appropriate State or local election official a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter; or

(ii) in the case of an individual who votes by mail, submits with the ballot—

(I) a copy of a current and valid photo identification; or

(II) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter.

(B) FAIL-SAFE VOTING.—

(i) IN PERSON.—An individual who desires to vote in person, but who does not meet the requirements of subparagraph (A)(i), may cast a provisional ballot under section 302(a).

(ii) BY MAIL.—An individual who desires to vote by mail but who does not meet the requirements of subparagraph (A)(ii) may cast such a ballot by mail and the ballot shall be counted as a provisional ballot in accordance with section 302(a).

(3) INAPPLICABILITY.—Paragraph (1) shall not apply in the case of a person—

(A) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits as part of such registration either—

(i) a copy of a current and valid photo identification; or

(ii) a copy of a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter;

(B)(i) who registers to vote by mail under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) and submits with such registration either—

(I) a driver's license number; or

(II) at least the last 4 digits of the individual's social security number; and

(ii) with respect to whom a State or local election official matches the information submitted under clause (i) with an existing State identification record bearing the same number, name and date of birth as provided in such registration; or

(C) who is—

(i) entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1 et seq.);

(ii) provided the right to vote otherwise than in person under section 3(b)(2)(B)(ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)); or

(iii) entitled to vote otherwise than in person under any other Federal law.

(4) CONTENTS OF MAIL-IN REGISTRATION FORM.—

(A) IN GENERAL.—The mail voter registration form developed under section 6 of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-4) shall include the following:

(i) The question “Are you a citizen of the United States of America?” and boxes for the applicant to check to indicate whether the applicant is or is not a citizen of the United States.

(ii) The question “Will you be 18 years of age on or before election day?” and boxes for the applicant to check to indicate whether or not the applicant will be 18 years of age or older on election day.

(iii) The statement “If you checked ‘no’ in response to either of these questions, do not complete this form.”.

(iv) A statement informing the individual that if the form is submitted by mail and the individual is registering for the first time, the appropriate information required under this section must be submitted with the mail-in registration form in order to avoid the additional identification requirements upon voting for the first time.

(B) INCOMPLETE FORMS.—If an applicant for voter registration fails to answer the question included on the mail voter registration form pursuant to subparagraph (A)(i), the registrar shall notify the applicant of the failure and provide the applicant with an opportunity to complete the form in a timely manner to allow for the completion of

Notification.

the registration form prior to the next election for Federal office (subject to State law).

(5) CONSTRUCTION.—Nothing in this subsection shall be construed to require a State that was not required to comply with a provision of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.) before the date of the enactment of this Act to comply with such a provision after such date.

(c) PERMITTED USE OF LAST 4 DIGITS OF SOCIAL SECURITY NUMBERS.—The last 4 digits of a social security number described in subsections (a)(5)(A)(i)(II) and (b)(3)(B)(i)(II) shall not be considered to be a social security number for purposes of section 7 of the Privacy Act of 1974 (5 U.S.C. 552a note).

(d) EFFECTIVE DATE.—

(1) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), each State and jurisdiction shall be required to comply with the requirements of subsection (a) on and after January 1, 2004.

Applicability.

(B) WAIVER.—If a State or jurisdiction certifies to the Commission not later than January 1, 2004, that the State or jurisdiction will not meet the deadline described in subparagraph (A) for good cause and includes in the certification the reasons for the failure to meet such deadline, subparagraph (A) shall apply to the State or jurisdiction as if the reference in such subparagraph to “January 1, 2004” were a reference to “January 1, 2006”.

(2) REQUIREMENT FOR VOTERS WHO REGISTER BY MAIL.—

(A) IN GENERAL.—Each State and jurisdiction shall be required to comply with the requirements of subsection (b) on and after January 1, 2004, and shall be prepared to receive registration materials submitted by individuals described in subparagraph (B) on and after the date described in such subparagraph.

(B) APPLICABILITY WITH RESPECT TO INDIVIDUALS.—The provisions of subsection (b) shall apply to any individual who registers to vote on or after January 1, 2003.

42 USC 15484.

SEC. 304. MINIMUM REQUIREMENTS.

The requirements established by this title are minimum requirements and nothing in this title shall be construed to prevent a State from establishing election technology and administration requirements that are more strict than the requirements established under this title so long as such State requirements are not inconsistent with the Federal requirements under this title or any law described in section 906.

42 USC 15485.

SEC. 305. METHODS OF IMPLEMENTATION LEFT TO DISCRETION OF STATE.

The specific choices on the methods of complying with the requirements of this title shall be left to the discretion of the State.

Subtitle B—Voluntary Guidance

SEC. 311. ADOPTION OF VOLUNTARY GUIDANCE BY COMMISSION.

42 USC 15501.

(a) IN GENERAL.—To assist States in meeting the requirements of subtitle A, the Commission shall adopt voluntary guidance consistent with such requirements in accordance with the procedures described in section 312.

(b) DEADLINES.—The Commission shall adopt the recommendations under this section not later than—

(1) in the case of the recommendations with respect to section 301, January 1, 2004;

(2) in the case of the recommendations with respect to section 302, October 1, 2003; and

(3) in the case of the recommendations with respect to section 303, October 1, 2003.

(c) QUADRENNIAL UPDATE.—The Commission shall review and update recommendations adopted with respect to section 301 no less frequently than once every 4 years.

SEC. 312. PROCESS FOR ADOPTION.

Federal Register,
publication.
Public
information.
42 USC 15502.

The adoption of the voluntary guidance under this subtitle shall be carried out by the Commission in a manner that provides for each of the following:

(1) Publication of notice of the proposed recommendations in the Federal Register.

(2) An opportunity for public comment on the proposed recommendations.

(3) An opportunity for a public hearing on the record.

(4) Publication of the final recommendations in the Federal Register.

TITLE IV—ENFORCEMENT

SEC. 401. ACTIONS BY THE ATTORNEY GENERAL FOR DECLARATORY AND INJUNCTIVE RELIEF.

42 USC 15511.

The Attorney General may bring a civil action against any State or jurisdiction in an appropriate United States District Court for such declaratory and injunctive relief (including a temporary restraining order, a permanent or temporary injunction, or other order) as may be necessary to carry out the uniform and nondiscriminatory election technology and administration requirements under sections 301, 302, and 303.

SEC. 402. ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES.

42 USC 15512.

(a) ESTABLISHMENT OF STATE-BASED ADMINISTRATIVE COMPLAINT PROCEDURES TO REMEDY GRIEVANCES.—

(1) ESTABLISHMENT OF PROCEDURES AS CONDITION OF RECEIVING FUNDS.—If a State receives any payment under a program under this Act, the State shall be required to establish and maintain State-based administrative complaint procedures which meet the requirements of paragraph (2).

(2) REQUIREMENTS FOR PROCEDURES.—The requirements of this paragraph are as follows:

(A) The procedures shall be uniform and nondiscriminatory.

(B) Under the procedures, any person who believes that there is a violation of any provision of title III (including a violation which has occurred, is occurring, or is about to occur) may file a complaint.

(C) Any complaint filed under the procedures shall be in writing and notarized, and signed and sworn by the person filing the complaint.

(D) The State may consolidate complaints filed under subparagraph (B).

(E) At the request of the complainant, there shall be a hearing on the record.

(F) If, under the procedures, the State determines that there is a violation of any provision of title III, the State shall provide the appropriate remedy.

(G) If, under the procedures, the State determines that there is no violation, the State shall dismiss the complaint and publish the results of the procedures.

Deadline.

(H) The State shall make a final determination with respect to a complaint prior to the expiration of the 90-day period which begins on the date the complaint is filed, unless the complainant consents to a longer period for making such a determination.

Deadline.

(I) If the State fails to meet the deadline applicable under subparagraph (H), the complaint shall be resolved within 60 days under alternative dispute resolution procedures established for purposes of this section. The record and other materials from any proceedings conducted under the complaint procedures established under this section shall be made available for use under the alternative dispute resolution procedures.

Records.

(b) **REQUIRING ATTORNEY GENERAL APPROVAL OF COMPLIANCE PLAN FOR STATES NOT RECEIVING FUNDS.—**

Deadline.

(1) **IN GENERAL.**—Not later than January 1, 2004, each nonparticipating State shall elect—

(A) to certify to the Commission that the State meets the requirements of subsection (a) in the same manner as a State receiving a payment under this Act; or

(B) to submit a compliance plan to the Attorney General which provides detailed information on the steps the State will take to ensure that it meets the requirements of title III.

(2) **STATES WITHOUT APPROVED PLAN DEEMED OUT OF COMPLIANCE.**—A nonparticipating State (other than a State which makes the election described in paragraph (1)(A)) shall be deemed to not meet the requirements of title III if the Attorney General has not approved a compliance plan submitted by the State under this subsection.

(3) **NONPARTICIPATING STATE DEFINED.**—In this section, a “nonparticipating State” is a State which, during 2003, does not notify any office which is responsible for making payments to States under any program under this Act of its intent to participate in, and receive funds under, the program.

TITLE V—HELP AMERICA VOTE COLLEGE PROGRAM

SEC. 501. ESTABLISHMENT OF PROGRAM.

42 USC 15521.

(a) IN GENERAL.—Not later than 1 year after the appointment of its members, the Election Assistance Commission shall develop a program to be known as the “Help America Vote College Program” (hereafter in this title referred to as the “Program”).

Deadline.

(b) PURPOSES OF PROGRAM.—The purpose of the Program shall be—

(1) to encourage students enrolled at institutions of higher education (including community colleges) to assist State and local governments in the administration of elections by serving as nonpartisan poll workers or assistants; and

(2) to encourage State and local governments to use the services of the students participating in the Program.

SEC. 502. ACTIVITIES UNDER PROGRAM.

42 USC 15522.

(a) IN GENERAL.—In carrying out the Program, the Commission (in consultation with the chief election official of each State) shall develop materials, sponsor seminars and workshops, engage in advertising targeted at students, make grants, and take such other actions as it considers appropriate to meet the purposes described in section 501(b).

(b) REQUIREMENTS FOR GRANT RECIPIENTS.—In making grants under the Program, the Commission shall ensure that the funds provided are spent for projects and activities which are carried out without partisan bias or without promoting any particular point of view regarding any issue, and that each recipient is governed in a balanced manner which does not reflect any partisan bias.

(c) COORDINATION WITH INSTITUTIONS OF HIGHER EDUCATION.—The Commission shall encourage institutions of higher education (including community colleges) to participate in the Program, and shall make all necessary materials and other assistance (including materials and assistance to enable the institution to hold workshops and poll worker training sessions) available without charge to any institution which desires to participate in the Program.

SEC. 503. AUTHORIZATION OF APPROPRIATIONS.

42 USC 15523.

In addition to any funds authorized to be appropriated to the Commission under section 210, there are authorized to be appropriated to carry out this title—

(1) \$5,000,000 for fiscal year 2003; and

(2) such sums as may be necessary for each succeeding fiscal year.

TITLE VI—HELP AMERICA VOTE FOUNDATION

SEC. 601. HELP AMERICA VOTE FOUNDATION.

(a) IN GENERAL.—Part B of subtitle II of title 36, United States Code, is amended by inserting after chapter 1525 the following:

“CHAPTER 1526—HELP AMERICA VOTE FOUNDATION

“Sec.

“152601. Organization.

“152602. Purposes.

“152603. Board of directors.

“152604. Officers and employees.

“152605. Powers.

“152606. Principal office.

“152607. Service of process.

“152608. Annual audit.

“152609. Civil action by Attorney General for equitable relief.

“152610. Immunity of United States Government.

“152611. Authorization of appropriations.

“152612. Annual report.

“§ 152601. Organization

“(a) FEDERAL CHARTER.—The Help America Vote Foundation (in this chapter, the ‘foundation’) is a federally chartered corporation.

“(b) NATURE OF FOUNDATION.—The foundation is a charitable and nonprofit corporation and is not an agency or establishment of the United States Government.

“(c) PERPETUAL EXISTENCE.—Except as otherwise provided, the foundation has perpetual existence.

“§ 152602. Purposes

“(a) IN GENERAL.—The purposes of the foundation are to—

“(1) mobilize secondary school students (including students educated in the home) in the United States to participate in the election process in a nonpartisan manner as poll workers or assistants (to the extent permitted under applicable State law);

“(2) place secondary school students (including students educated in the home) as nonpartisan poll workers or assistants to local election officials in precinct polling places across the United States (to the extent permitted under applicable State law); and

“(3) establish cooperative efforts with State and local election officials, local educational agencies, superintendents and principals of public and private secondary schools, and other appropriate nonprofit charitable and educational organizations exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 as an organization described in section 501(c)(3) of such Code to further the purposes of the foundation.

“(b) REQUIRING ACTIVITIES TO BE CARRIED OUT ON NON-PARTISAN BASIS.—The foundation shall carry out its purposes without partisan bias or without promoting any particular point of view regarding any issue, and shall ensure that each participant in its activities is governed in a balanced manner which does not reflect any partisan bias.

“(c) CONSULTATION WITH STATE ELECTION OFFICIALS.—The foundation shall carry out its purposes under this section in consultation with the chief election officials of the States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

“§ 152603. Board of directors

“(a) GENERAL.—The board of directors is the governing body of the foundation.

“(b) MEMBERS AND APPOINTMENT.—(1) The board consists of 12 directors, who shall be appointed not later than 60 days after the date of the enactment of this chapter as follows: Deadline.

“(A) Four directors (of whom not more than two may be members of the same political party) shall be appointed by the President.

“(B) Two directors shall be appointed by the Speaker of the House of Representatives.

“(C) Two directors shall be appointed by the Minority Leader of the House of Representatives.

“(D) Two directors shall be appointed by the Majority Leader of the Senate.

“(E) Two directors shall be appointed by the Minority Leader of the Senate.

“(2) In addition to the directors described in paragraph (1), the chair and ranking minority member of the Committee on House Administration of the House of Representatives (or their designees) and the chair and ranking minority member of the Committee on Rules and Administration of the Senate (or their designees) shall each serve as an ex officio nonvoting member of the board.

“(3) A director is not an employee of the Federal Government and appointment to the board does not constitute appointment as an officer or employee of the United States Government for the purpose of any law of the United States (except as may otherwise be provided in this chapter).

“(4) The terms of office of the directors are 4 years.

“(5) A vacancy on the board shall be filled in the manner in which the original appointment was made.

“(c) CHAIR.—The directors shall select one of the directors as the chair of the board. The individual selected may not be a current or former holder of any partisan elected office or a current or former officer of any national committee of a political party.

“(d) QUORUM.—The number of directors constituting a quorum of the board shall be established under the bylaws of the foundation.

“(e) MEETINGS.—The board shall meet at the call of the chair of the board for regularly scheduled meetings, except that the board shall meet not less often than annually.

“(f) REIMBURSEMENT OF EXPENSES.—Directors shall serve without compensation but may receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5.

“(g) LIABILITY OF DIRECTORS.—Directors are not personally liable, except for gross negligence.

“§ 152604. Officers and employees

“(a) APPOINTMENT OF OFFICERS AND EMPLOYEES.—The board of directors appoints, removes, and replaces officers and employees of the foundation.

“(b) STATUS AND COMPENSATION OF EMPLOYEES.—

“(1) IN GENERAL.—Officers and employees of the foundation—

“(A) are not employees of the Federal Government (except as may otherwise be provided in this chapter);

“(B) shall be appointed and removed without regard to the provisions of title 5 governing appointments in the competitive service; and

“(C) may be paid without regard to chapter 51 and subchapter III of chapter 53 of title 5.

“(2) AVAILABILITY OF FEDERAL EMPLOYEE RATES FOR TRAVEL.—For purposes of any schedules of rates negotiated by the Administrator of General Services for the use of employees of the Federal Government who travel on official business, officers and employees of the foundation who travel while engaged in the performance of their duties under this chapter shall be deemed to be employees of the Federal Government.

“§ 152605. Powers

“(a) IN GENERAL.—The foundation may—

“(1) adopt a constitution and bylaws;

“(2) adopt a seal which shall be judicially noticed; and

“(3) do any other act necessary to carry out this chapter.

“(b) POWERS AS TRUSTEE.—To carry out its purposes, the foundation has the usual powers of a corporation acting as a trustee in the District of Columbia, including the power—

“(1) to accept, receive, solicit, hold, administer, and use any gift, devise, or bequest, either absolutely or in trust, of property or any income from or other interest in property;

“(2) to acquire property or an interest in property by purchase or exchange;

“(3) unless otherwise required by an instrument of transfer, to sell, donate, lease, invest, or otherwise dispose of any property or income from property;

“(4) to borrow money and issue instruments of indebtedness;

“(5) to make contracts and other arrangements with public agencies and private organizations and persons and to make payments necessary to carry out its functions;

“(6) to sue and be sued; and

“(7) to do any other act necessary and proper to carry out the purposes of the foundation.

“(c) ENCUMBERED OR RESTRICTED GIFTS.—A gift, devise, or bequest may be accepted by the foundation even though it is encumbered, restricted, or subject to beneficial interests of private persons, if any current or future interest is for the benefit of the foundation.

“(d) CONTRACTS.—The foundation may enter into such contracts with public and private entities as it considers appropriate to carry out its purposes.

“(e) ANNUAL CONFERENCE IN WASHINGTON METROPOLITAN AREA.—During each year (beginning with 2003), the foundation may sponsor a conference in the Washington, D.C. metropolitan area to honor secondary school students and other individuals who have served (or plan to serve) as poll workers and assistants and who have otherwise participated in the programs and activities of the foundation.

“§ 152606. Principal office

“The principal office of the foundation shall be in the District of Columbia unless the board of directors determines otherwise. However, the foundation may conduct business throughout the States, territories, and possessions of the United States.

“§ 152607. Service of process

“The foundation shall have a designated agent to receive service of process for the foundation. Notice to or service on the agent, or mailed to the business address of the agent, is notice to or service on the foundation.

“§ 152608. Annual audit

Contracts.

“The foundation shall enter into a contract with an independent auditor to conduct an annual audit of the foundation.

“§ 152609. Civil action by Attorney General for equitable relief

“The Attorney General may bring a civil action in the United States District Court for the District of Columbia for appropriate equitable relief if the foundation—

“(1) engages or threatens to engage in any act, practice, or policy that is inconsistent with the purposes in section 152602 of this title; or

“(2) refuses, fails, or neglects to carry out its obligations under this chapter or threatens to do so.

“§ 152610. Immunity of United States Government

“The United States Government is not liable for any debts, defaults, acts, or omissions of the foundation. The full faith and credit of the Government does not extend to any obligation of the foundation.

“§ 152611. Authorization of appropriations

“There are authorized to be appropriated to the foundation for carrying out the purposes of this chapter—

“(1) \$5,000,000 for fiscal year 2003; and

“(2) such sums as may be necessary for each succeeding fiscal year.

“§ 152612. Annual report

“As soon as practicable after the end of each fiscal year, the foundation shall submit a report to the Commission, the President, and Congress on the activities of the foundation during the prior fiscal year, including a complete statement of its receipts, expenditures, and investments. Such report shall contain information gathered from participating secondary school students describing the nature of the work they performed in assisting local election officials and the value they derived from the experience of educating participants about the electoral process.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part B of subtitle II of title 36, United States Code, is amended by inserting after the item relating to chapter 1525 the following new item:

“1526. Help America Vote Foundation152601”.

TITLE VII—VOTING RIGHTS OF MILITARY MEMBERS AND OVERSEAS CITIZENS

SEC. 701. VOTING ASSISTANCE PROGRAMS.

(a) VOTING ASSISTANCE OFFICERS.—Subsection (f) of section 1566 of title 10, United States Code, as added by section 1602(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1274), is amended—

(1) by striking “Voting assistance” in the first sentence and inserting “(1) Voting assistance”; and

(2) by adding at the end the following new paragraph:
 Regulations. Procedures.
 “(2) Under regulations and procedures (including directives) prescribed by the Secretary, a member of the armed forces appointed or assigned to duty as a voting assistance officer shall, to the maximum extent practicable, be given the time and resources needed to perform the member’s duties as a voting assistance officer during the period in advance of a general election when members and their dependents are preparing and submitting absentee ballots.”.

(b) POSTMARKING OF OVERSEAS VOTING MATERIALS.—Subsection (g)(2) of such section is amended by adding at the end the following: “The Secretary shall, to the maximum extent practicable, implement measures to ensure that a postmark or other official proof of mailing date is provided on each absentee ballot collected at any overseas location or vessel at sea whenever the Department of Defense is responsible for collecting mail for return shipment to the United States. The Secretary shall ensure that the measures implemented under the preceding sentence do not result in the delivery of absentee ballots to the final destination of such ballots after the date on which the election for Federal office is held. Not later than the date that is 6 months after the date of the enactment of the Help America Vote Act of 2002, the Secretary shall submit to Congress a report describing the measures to be implemented to ensure the timely transmittal and postmarking of voting materials and identifying the persons responsible for implementing such measures.”.
 Procedures.
 Deadline. Reports.

(c) PROVIDING NOTICE OF DEADLINES AND REQUIREMENTS.—Such section is amended by adding at the end the following new subsection:

“(h) NOTICE OF DEADLINES AND REQUIREMENTS.—The Secretary of each military department, utilizing the voting assistance officer network established for each military installation, shall, to the maximum extent practicable, provide notice to members of the Armed Forces stationed at that installation of the last date before a general Federal election for which absentee ballots mailed from a postal facility located at that installation can reasonably be expected to be timely delivered to the appropriate State and local election officials.”.

(d) REGISTRATION AND VOTING INFORMATION FOR MEMBERS AND DEPENDENTS.—Such section is further amended by adding at the end the following new subsection:

“(i) REGISTRATION AND VOTING INFORMATION FOR MEMBERS AND DEPENDENTS.—(1) The Secretary of each military department, using a variety of means including both print and electronic media, shall,

to the maximum extent practicable, ensure that members of the Armed Forces and their dependents who are qualified to vote have ready access to information regarding voter registration requirements and deadlines (including voter registration), absentee ballot application requirements and deadlines, and the availability of voting assistance officers to assist members and dependents to understand and comply with these requirements.

“(2) The Secretary of each military department shall make the national voter registration form prepared for purposes of the Uniformed and Overseas Citizens Absentee Voting Act by the Federal Election Commission available so that each person who enlists shall receive such form at the time of the enlistment, or as soon thereafter as practicable.

“(3) Where practicable, a special day or days shall be designated at each military installation for the purpose of informing members of the Armed Forces and their dependents of election timing, registration requirements, and voting procedures.”.

SEC. 702. DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOTS FOR ALL VOTERS IN STATE.

Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1) is amended—

(1) by inserting “(a) IN GENERAL.—” before “Each State”;

and

(2) by adding at the end the following new subsection:

“(b) DESIGNATION OF SINGLE STATE OFFICE TO PROVIDE INFORMATION ON REGISTRATION AND ABSENTEE BALLOT PROCEDURES FOR ALL VOTERS IN STATE.—

“(1) IN GENERAL.—Each State shall designate a single office which shall be responsible for providing information regarding voter registration procedures and absentee ballot procedures to be used by absent uniformed services voters and overseas voters with respect to elections for Federal office (including procedures relating to the use of the Federal write-in absentee ballot) to all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.

“(2) RECOMMENDATION REGARDING USE OF OFFICE TO ACCEPT AND PROCESS MATERIALS.—Congress recommends that the State office designated under paragraph (1) be responsible for carrying out the State’s duties under this Act, including accepting valid voter registration applications, absentee ballot applications, and absentee ballots (including Federal write-in absentee ballots) from all absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in the State.”.

SEC. 703. REPORT ON ABSENTEE BALLOTS TRANSMITTED AND RECEIVED AFTER GENERAL ELECTIONS.

(a) IN GENERAL.—Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 702, is amended by adding at the end the following new subsection:

“(c) REPORT ON NUMBER OF ABSENTEE BALLOTS TRANSMITTED AND RECEIVED.—Not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall

Deadline.
Public
information.

(through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such report available to the general public.”.

42 USC 1973ff-1
note.

(b) **DEVELOPMENT OF STANDARDIZED FORMAT FOR REPORTS.**—The Election Assistance Commission, working with the Election Assistance Commission Board of Advisors and the Election Assistance Commission Standards Board, shall develop a standardized format for the reports submitted by States and units of local government under section 102(c) of the Uniformed and Overseas Citizens Absentee Voting Act (as added by subsection (a)), and shall make the format available to the States and units of local government submitting such reports.

SEC. 704. EXTENSION OF PERIOD COVERED BY SINGLE ABSENTEE BALLOT APPLICATION.

42 USC 1973ff-3.

Section 104(a) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1279), is amended by striking “during that year,” and all that follows and inserting the following: “through the next 2 regularly scheduled general elections for Federal office (including any runoff elections which may occur as a result of the outcome of such general elections), the State shall provide an absentee ballot to the voter for each such subsequent election.”.

SEC. 705. ADDITIONAL DUTIES OF PRESIDENTIAL DESIGNEE UNDER UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.

(a) **EDUCATING ELECTION OFFICIALS ON RESPONSIBILITIES UNDER ACT.**—Section 101(b)(1) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff(b)(1)) is amended by striking the semicolon at the end and inserting the following: “, and ensure that such officials are aware of the requirements of this Act;”.

(b) **DEVELOPMENT OF STANDARD OATH FOR USE WITH MATERIALS.**—

(1) **IN GENERAL.**—Section 101(b) of such Act (42 U.S.C. 1973ff(b)) is amended—

(A) by striking “and” at the end of paragraph (5);

(B) by striking the period at the end of paragraph

(6) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(7) prescribe a standard oath for use with any document under this title affirming that a material misstatement of fact in the completion of such a document may constitute grounds for a conviction for perjury.”.

(2) **REQUIRING STATES TO USE STANDARD OATH.**—Section 102(a) of such Act (42 U.S.C. 1973ff-1(b)), as amended by section 702, is amended—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph

(4) and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(5) if the State requires an oath or affirmation to accompany any document under this title, use the standard oath prescribed by the Presidential designee under section 101(b)(7).”.

(c) PROVIDING STATISTICAL ANALYSIS OF VOTER PARTICIPATION FOR BOTH OVERSEAS VOTERS AND ABSENT UNIFORMED SERVICES VOTERS.—Section 101(b)(6) of such Act (42 U.S.C. 1973ff(b)(6)) is amended by striking “a general assessment” and inserting “a separate statistical analysis”.

SEC. 706. PROHIBITION OF REFUSAL OF VOTER REGISTRATION AND ABSENTEE BALLOT APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.

(a) IN GENERAL.—Section 104 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-3), as amended by section 1606(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1279), is amended by adding at the end the following new subsection:

“(e) PROHIBITION OF REFUSAL OF APPLICATIONS ON GROUNDS OF EARLY SUBMISSION.—A State may not refuse to accept or process, with respect to any election for Federal office, any otherwise valid voter registration application or absentee ballot application (including the postcard form prescribed under section 101) submitted by an absent uniformed services voter during a year on the grounds that the voter submitted the application before the first date on which the State otherwise accepts or processes such applications for that year submitted by absentee voters who are not members of the uniformed services.”.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to elections for Federal office that occur after January 1, 2004.

Applicability.
42 USC 1973ff-3
note.

SEC. 707. OTHER REQUIREMENTS TO PROMOTE PARTICIPATION OF OVERSEAS AND ABSENT UNIFORMED SERVICES VOTERS.

Section 102 of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by the preceding provisions of this title, is amended by adding at the end the following new subsection:

“(d) REGISTRATION NOTIFICATION.—With respect to each absent uniformed services voter and each overseas voter who submits a voter registration application or an absentee ballot request, if the State rejects the application or request, the State shall provide the voter with the reasons for the rejection.”.

TITLE VIII—TRANSITION PROVISIONS

Subtitle A—Transfer to Commission of Functions Under Certain Laws

SEC. 801. FEDERAL ELECTION CAMPAIGN ACT OF 1971.

(a) TRANSFER OF FUNCTIONS OF OFFICE OF ELECTION ADMINISTRATION OF FEDERAL ELECTION COMMISSION.—There are transferred to the Election Assistance Commission established under section 201 all functions which the Office of Election Administration,

42 USC 15531.

established within the Federal Election Commission, exercised before the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 311(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 438(a)) is amended—

(1) in paragraph (8), by inserting “and” at the end;

(2) in paragraph (9), by striking “; and” and inserting a period; and

(3) by striking paragraph (10) and the second and third sentences.

42 USC 15532.

SEC. 802. NATIONAL VOTER REGISTRATION ACT OF 1993.

(a) TRANSFER OF FUNCTIONS.—There are transferred to the Election Assistance Commission established under section 201 all functions which the Federal Election Commission exercised under section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7(a)) before the date of the enactment of this Act.

(b) CONFORMING AMENDMENT.—Section 9(a) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-7(a)) is amended by striking “Federal Election Commission” and inserting “Election Assistance Commission”.

42 USC 15533.

SEC. 803. TRANSFER OF PROPERTY, RECORDS, AND PERSONNEL.

(a) PROPERTY AND RECORDS.—The contracts, liabilities, records, property, and other assets and interests of, or made available in connection with, the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Assistance Commission for appropriate allocation.

(b) PERSONNEL.—

(1) IN GENERAL.—The personnel employed in connection with the offices and functions of the Federal Election Commission which are transferred by this subtitle are transferred to the Election Assistance Commission.

(2) EFFECT.—Any full-time or part-time personnel employed in permanent positions shall not be separated or reduced in grade or compensation because of the transfer under this subsection during the 1-year period beginning on the date of the enactment of this Act.

42 USC 15534.

SEC. 804. EFFECTIVE DATE; TRANSITION.

(a) EFFECTIVE DATE.—This title and the amendments made by this title shall take effect upon the appointment of all members of the Election Assistance Commission under section 203.

(b) TRANSITION.—With the consent of the entity involved, the Election Assistance Commission is authorized to utilize the services of such officers, employees, and other personnel of the entities from which functions have been transferred to the Election Assistance Commission under this title or the amendments made by this title for such period of time as may reasonably be needed to facilitate the orderly transfer of such functions.

(c) NO EFFECT ON AUTHORITIES OF OFFICE OF ELECTION ADMINISTRATION PRIOR TO APPOINTMENT OF MEMBERS OF COMMISSION.—During the period which begins on the date of the enactment of this Act and ends on the effective date described in subsection (a), the Office of Election Administration of the Federal Election Commission shall continue to have the authority to carry out any of the functions (including the development of voluntary standards for voting systems and procedures for the certification of voting

systems) which it has the authority to carry out as of the date of the enactment of this Act.

Subtitle B—Coverage of Commission Under Certain Laws and Programs

SEC. 811. TREATMENT OF COMMISSION PERSONNEL UNDER CERTAIN CIVIL SERVICE LAWS.

(a) **COVERAGE UNDER HATCH ACT.**—Section 7323(b)(2)(B)(i)(I) of title 5, United States Code, is amended by inserting “or the Election Assistance Commission” after “Commission”.

(b) **EXCLUSION FROM SENIOR EXECUTIVE SERVICE.**—Section 3132(a)(1)(C) of title 5, United States Code, is amended by inserting “or the Election Assistance Commission” after “Commission”.

SEC. 812. COVERAGE UNDER INSPECTOR GENERAL ACT OF 1978.

(a) **IN GENERAL.**—Section 8G(a)(2) of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting “the Election Assistance Commission,” after “Federal Election Commission,”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect 180 days after the appointment of all members of the Election Assistance Commission under section 203.

5 USC app. 8G
note.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. STATE DEFINED.

42 USC 15541.

In this Act, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

SEC. 902. AUDITS AND REPAYMENT OF FUNDS.

42 USC 15542.

(a) **RECORDKEEPING REQUIREMENT.**—Each recipient of a grant or other payment made under this Act shall keep such records with respect to the payment as are consistent with sound accounting principles, including records which fully disclose the amount and disposition by such recipient of funds, the total cost of the project or undertaking for which such funds are used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(b) **AUDITS AND EXAMINATIONS.**—

(1) **AUDITS AND EXAMINATIONS.**—Except as provided in paragraph (5), each office making a grant or other payment under this Act, or any duly authorized representative of such office, may audit or examine any recipient of the grant or payment and shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient which in the opinion of the entity may be related or pertinent to the grant or payment.

(2) **RECIPIENTS OF ASSISTANCE SUBJECT TO PROVISIONS OF SECTION.**—The provisions of this section shall apply to all recipients of grants or other payments under this Act, whether by direct grant, cooperative agreement, or contract under this

Applicability.

Act or by subgrant or subcontract from primary grantees or contractors under this Act.

(3) MANDATORY AUDIT.—In addition to audits conducted pursuant to paragraph (1), all funds provided under this Act shall be subject to mandatory audit by the Comptroller General at least once during the lifetime of the program involved. For purposes of an audit under this paragraph, the Comptroller General shall have access to books, documents, papers, and records of recipients of funds in the same manner as the office making the grant or payment involved has access to such books, documents, papers, and records under paragraph (1).

(4) SPECIAL RULE FOR PAYMENTS BY GENERAL SERVICES ADMINISTRATION.—With respect to any grant or payment made under this Act by the Administrator of General Services, the Election Assistance Commission shall be deemed to be the office making the grant or payment for purposes of this section.

(5) SPECIAL RULE.—In the case of grants or payments made under section 251, audits and examinations conducted under paragraph (1) shall be performed on a regular basis (as determined by the Commission).

(6) SPECIAL RULES FOR AUDITS BY THE COMMISSION.—In addition to the audits described in paragraph (1), the Election Assistance Commission may conduct a special audit or special examination of a recipient described in paragraph (1) upon a vote of the Commission.

(c) RECOUPMENT OF FUNDS.—If the Comptroller General determines as a result of an audit conducted under subsection (b) that—

(1) a recipient of funds under this Act is not in compliance with each of the requirements of the program under which the funds are provided; or

(2) an excess payment has been made to the recipient under the program,

the recipient shall pay to the office which made the grant or payment involved a portion of the funds provided which reflects the proportion of the requirements with which the recipient is not in compliance, or the extent to which the payment is in excess, under the program involved.

SEC. 903. CLARIFICATION OF ABILITY OF ELECTION OFFICIALS TO REMOVE REGISTRANTS FROM OFFICIAL LIST OF VOTERS ON GROUNDS OF CHANGE OF RESIDENCE.

Section 8(b)(2) of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg-6(b)(2)) is amended by striking the period at the end and inserting the following: “, except that nothing in this paragraph may be construed to prohibit a State from using the procedures described in subsections (c) and (d) to remove an individual from the official list of eligible voters if the individual—

“(A) has not either notified the applicable registrar (in person or in writing) or responded during the period described in subparagraph (B) to the notice sent by the applicable registrar; and then

“(B) has not voted or appeared to vote in 2 or more consecutive general elections for Federal office.”.

SEC. 904. REVIEW AND REPORT ON ADEQUACY OF EXISTING ELECTION FRAUD STATUTES AND PENALTIES. 42 USC 15543.

(a) **REVIEW.**—The Attorney General shall conduct a review of existing criminal statutes concerning election offenses to determine—

(1) whether additional statutory offenses are needed to secure the use of the Internet for election purposes; and

(2) whether existing penalties provide adequate punishment and deterrence with respect to such offenses.

(b) **REPORT.**—The Attorney General shall submit a report to the Committees on the Judiciary of the Senate and House of Representatives, the Committee on Rules and Administration of the Senate, and the Committee on House Administration of the House of Representatives on the review conducted under subsection (a) together with such recommendations for legislative and administrative action as the Attorney General determines appropriate.

SEC. 905. OTHER CRIMINAL PENALTIES.

42 USC 15544.

(a) **CONSPIRACY TO DEPRIVE VOTERS OF A FAIR ELECTION.**—Any individual who knowingly and willfully gives false information in registering or voting in violation of section 11(c) of the National Voting Rights Act of 1965 (42 U.S.C. 1973i(c)), or conspires with another to violate such section, shall be fined or imprisoned, or both, in accordance with such section.

(b) **FALSE INFORMATION IN REGISTERING AND VOTING.**—Any individual who knowingly commits fraud or knowingly makes a false statement with respect to the naturalization, citizenry, or alien registry of such individual in violation of section 1015 of title 18, United States Code, shall be fined or imprisoned, or both, in accordance with such section.

SEC. 906. NO EFFECT ON OTHER LAWS.

42 USC 15545.

(a) **IN GENERAL.**—Except as specifically provided in section 303(b) of this Act with regard to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.), nothing in this Act may be construed to authorize or require conduct prohibited under any of the following laws, or to supersede, restrict, or limit the application of such laws:

(1) The Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

(2) The Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee et seq.).

(3) The Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. 1973ff et seq.).

(4) The National Voter Registration Act of 1993 (42 U.S.C. 1973gg et seq.).

(5) The Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.).

(6) The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.).

(b) NO EFFECT ON PRECLEARANCE OR OTHER REQUIREMENTS UNDER VOTING RIGHTS ACT.—The approval by the Administrator or the Commission of a payment or grant application under title I or title II, or any other action taken by the Commission or a State under such title, shall not be considered to have any effect on requirements for preclearance under section 5 of the Voting Rights Act of 1965 (42 U.S.C. 1973c) or any other requirements of such Act.

Approved October 29, 2002.

LEGISLATIVE HISTORY—H.R. 3295 (S. 565):

HOUSE REPORTS: Nos. 107-329, Pt. 1 (Comm. on House Administration) and 107-730 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 12, considered and passed House.

Vol. 148 (2002): Apr. 11, considered and passed Senate, amended, in lieu of S. 565.

Oct. 10, House agreed to conference report.

Oct. 15, 16, Senate considered, receded from its amendment, and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 29, Presidential remarks and statement.



Public Law 107-253
107th Congress

An Act

To authorize the National Oceanic and Atmospheric Administration, through the United States Weather Research Program, to conduct research and development, training, and outreach activities relating to inland flood forecasting improvement, and for other purposes.

Oct. 29, 2002
[H.R. 2486]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Inland Flood
Forecasting and
Warning System
Act of 2002.
15 USC 311 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Inland Flood Forecasting and Warning System Act of 2002”.

SEC. 2. AUTHORIZED ACTIVITIES.

15 USC 313c.

The National Oceanic and Atmospheric Administration, through the United States Weather Research Program, shall—

(1) improve the capability to accurately forecast inland flooding (including inland flooding influenced by coastal and ocean storms) through research and modeling;

(2) develop, test, and deploy a new flood warning index that will give the public and emergency management officials fuller, clearer, and more accurate information about the risks and dangers posed by expected floods;

(3) train emergency management officials, National Weather Service personnel, meteorologists, and others as appropriate regarding improved forecasting techniques for inland flooding, risk management techniques, and use of the inland flood warning index developed under paragraph (2);

(4) conduct outreach and education activities for local meteorologists and the public regarding the dangers and risks associated with inland flooding and the use and understanding of the inland flood warning index developed under paragraph (2); and

(5) assess, through research and analysis of previous trends, among other activities—

(A) the long-term trends in frequency and severity of inland flooding; and

(B) how shifts in climate, development, and erosion patterns might make certain regions vulnerable to more continual or escalating flood damage in the future.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

15 USC 313c
note.

There are authorized to be appropriated to the National Oceanic and Atmospheric Administration for carrying out this Act \$1,250,000 for each of the fiscal years 2003 through 2005, of which \$100,000 for each fiscal year shall be available for competitive

merit-reviewed grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) to carry out the activities described in section 2(5), and \$1,150,000 for each of the fiscal years 2006 and 2007. Of the amounts authorized under this section, \$250,000 for each fiscal year shall be available for competitive merit-reviewed grants to institutions of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)) to develop models that can improve the ability to forecast the coastal and estuary-inland flooding that is influenced by tropical cyclones. The models should incorporate the interaction of such factors as storm surges, soil saturation, and other relevant phenomena.

Deadlines.
15 USC 313c
note.

SEC. 4. REPORT.

Not later than 90 days after the date of the enactment of this Act, and annually thereafter through fiscal year 2007, the National Oceanic and Atmospheric Administration shall transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on its activities under this Act and the success and acceptance of the inland flood warning index developed under section 2(2) by the public and emergency management professionals. The National Oceanic and Atmospheric Administration shall also, not later than January 1, 2006, transmit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the likely long-term trends in inland flooding, the results of which shall be used in outreach activities conducted under section 2(4), especially to alert the public and builders to flood hazards.

Approved October 29, 2002.

LEGISLATIVE HISTORY—H.R. 2486:

HOUSE REPORTS: No. 107-495 (Comm. on Science).

SENATE REPORTS: No. 107-310 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 11, considered and passed House.

Oct. 16, considered and passed Senate.



Public Law 107-254
107th Congress

An Act

To authorize the duration of the base contract of the Navy-Marine Corps Intranet contract to be more than five years but not more than seven years.

Oct. 29, 2002
[H.R. 5647]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZED DURATION OF BASE CONTRACT FOR NAVY-MARINE CORPS INTRANET.

Section 814 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106-398 (114 Stat. 1654A-215) and amended by section 362 of Public Law 107-107 (115 Stat. 1065), is amended—

(1) by redesignating subsection (i) as subsection (j); and

(2) by inserting after subsection (h) the following new subsection (i):

“(i) DURATION OF BASE NAVY-MARINE CORPS INTRANET CONTRACT.—Notwithstanding section 2306c of title 10, United States Code, the base contract of the Navy-Marine Corps Intranet contract may have a term in excess of five years, but not more than seven years.”.

Approved October 29, 2002.

LEGISLATIVE HISTORY—H.R. 5647:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 16, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–255
107th Congress

Joint Resolution

Oct. 29, 2002

[H.J. Res. 113]

Recognizing the contributions of Patsy Takemoto Mink.

Whereas Patsy Takemoto Mink was one of the country's leading voices for women's rights, civil rights, and working families and was devoted to raising living standards and providing economic and educational opportunity to all Americans;

Whereas Patsy Takemoto Mink was a passionate and persistent fighter against economic and social injustices in Hawaii and across America;

Whereas Patsy Takemoto Mink was one of the first women of color to win national office in 1964 and opened doors of opportunity to millions of women and people of color across America;

Whereas Patsy Takemoto Mink won unprecedented legislative accomplishments on issues affecting women's health, children, students, and working families; and

Whereas Patsy Takemoto Mink's heroic, visionary, and tireless leadership to win the landmark passage of title IX of the Education Amendments of 1972 opened doors to women's academic and athletic achievements and redefined what is possible for a generation of women and for future generations our Nation's daughters: Now, therefore, be it

Short title.
20 USC 1681
note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.; Public Law 92–318) may be cited as the “Patsy Takemoto Mink Equal Opportunity in Education Act”.

Approved October 29, 2002.

LEGISLATIVE HISTORY—H.J. Res. 113:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 7, 9, considered and passed House.

Oct. 10, considered and passed Senate.



Public Law 107–256
107th Congress

An Act

To authorize the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Niagara Falls National Heritage Area in the State of New York, and for other purposes.

Oct. 29, 2002
[S. 1227]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Niagara Falls National Heritage Area Study Act”.

Niagara Falls
National
Heritage Area
Study Act.

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STUDY AREA.—The term “study area” means lands in Niagara County, New York, along and in the vicinity of the Niagara River.

SEC. 3. NIAGARA FALLS NATIONAL HERITAGE AREA STUDY.

(a) IN GENERAL.—The Secretary shall conduct a study of the suitability and feasibility of establishing a heritage area in the State of New York to be known as the “Niagara Falls National Heritage Area”.

(b) ANALYSES AND DOCUMENTATION.—The study shall include analysis and documentation of whether the study area—

(1) contains an assemblage of natural, historical, scenic, and cultural resources that represent distinctive aspects of the heritage of the United States that—

(A) are worthy of recognition, conservation, interpretation, and continued use; and

(B) would best be managed—

(i) through partnerships among public and private entities; and

(ii) by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the story of the United States;

(3) provides outstanding opportunities to conserve natural, historical, scenic, or cultural features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme of the study area that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and State and local governments that—

(A) are involved in planning a national heritage area;

(B) have developed a conceptual financial plan for a national heritage area that outlines the roles for all participants, including the Federal Government; and

(C) have demonstrated support for the concept of a national heritage area;

(7) has a potential management entity to work in partnership with residents, business interests, nonprofit organizations, and State and local governments to develop a national heritage area consistent with continued State and local economic activity; and

(8) has a conceptual boundary map that is supported by the public.

(c) CONSULTATION.—In conducting the study, the Secretary shall consult with—

(1) State and local agencies; and

(2) interested organizations within the study area.

Deadline.

(d) REPORT.—Not later than 3 fiscal years after the date on which funds are made available to carry out this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the findings, conclusions, and recommendations of the study under subsection (a).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$300,000 to carry out this Act.

Approved October 29, 2002.

LEGISLATIVE HISTORY—S. 1227:

HOUSE REPORTS: No. 107-668 (Comm. on Resources).

SENATE REPORTS: No. 107-179 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Aug. 1, considered and passed Senate.

Oct. 16, considered and passed House.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Oct. 30, Presidential statement.



Public Law 107–257
107th Congress

An Act

To designate the United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, as the “Wayne Lyman Morse United States Courthouse”.

Oct. 29, 2002
[S. 1270]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WAYNE LYMAN MORSE UNITED STATES COURTHOUSE.

The United States courthouse to be constructed at 8th Avenue and Mill Street in Eugene, Oregon, shall be known and designated as the “Wayne Lyman Morse United States Courthouse”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the Wayne Lyman Morse United States Courthouse.

Approved October 29, 2002.

LEGISLATIVE HISTORY—S. 1270 (H.R. 2672)

HOUSE REPORTS: No. 107–428 accompanying H.R. 2672 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 15, considered and passed Senate.

Vol. 148 (2002): Oct. 16, considered and passed House.



Public Law 107–258
107th Congress

An Act

Oct. 29, 2002
[S. 1339]

To amend the Bring Them Home Alive Act of 2000 to provide an asylum program with regard to American Persian Gulf War POW/MIAs, and for other purposes.

Persian Gulf War
POW/MIA
Accountability
Act of 2002.
8 USC 1101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Persian Gulf War POW/MIA Accountability Act of 2002”.

SEC. 2. AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

(a) **ASYLUM PROGRAM.**—The Bring Them Home Alive Act of 2000 (Public Law 106–484; 114 Stat. 2195; 8 U.S.C. 1157 note) is amended by inserting after section 3 the following new section:

“SEC. 3A. AMERICAN PERSIAN GULF WAR POW/MIA ASYLUM PROGRAM.

“(a) **ASYLUM FOR ELIGIBLE ALIENS.**—Notwithstanding any other provision of law, the Attorney General shall grant refugee status in the United States to any alien described in subsection (b), upon the application of that alien.

“(b) **ELIGIBILITY.**—

“(1) **IN GENERAL.**—Except as provided in paragraph (2), an alien described in this subsection is—

“(A) any alien who—

“(i) is a national of Iraq or a nation of the Greater Middle East Region (as determined by the Attorney General in consultation with the Secretary of State); and

“(ii) personally delivers into the custody of the United States Government a living American Persian Gulf War POW/MIA; and

“(B) any parent, spouse, or child of an alien described in subparagraph (A).

“(2) **EXCEPTIONS.**—An alien described in this subsection does not include a terrorist, a persecutor, a person who has been convicted of a serious criminal offense, or a person who presents a danger to the security of the United States, as set forth in clauses (i) through (v) of section 208(b)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1158(b)(2)(A)).

“(c) DEFINITIONS.—In this section:

“(1) AMERICAN PERSIAN GULF WAR POW/MIA.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘American Persian Gulf War POW/MIA’ means an individual—

“(i) who is a member of a uniformed service (within the meaning of section 101(3) of title 37, United States Code) in a missing status (as defined in section 551(2) of such title and this subsection) as a result of the Persian Gulf War, or any successor conflict, operation, or action; or

“(ii) who is an employee (as defined in section 5561(2) of title 5, United States Code) in a missing status (as defined in section 5561(5) of such title) as a result of the Persian Gulf War, or any successor conflict, operation, or action.

“(B) EXCLUSION.—Such term does not include an individual with respect to whom it is officially determined under section 552(c) of title 37, United States Code, that such individual is officially absent from such individual’s post of duty without authority.

“(2) MISSING STATUS.—The term ‘missing status’, with respect to the Persian Gulf War, or any successor conflict, operation, or action, means the status of an individual as a result of the Persian Gulf War, or such conflict, operation, or action, if immediately before that status began the individual—

“(A) was performing service in Kuwait, Iraq, or another nation of the Greater Middle East Region; or

“(B) was performing service in the Greater Middle East Region in direct support of military operations in Kuwait or Iraq.

“(3) PERSIAN GULF WAR.—The term ‘Persian Gulf War’ means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.”.

(b) BROADCASTING INFORMATION.—Section 4(a)(2) of that Act is amended—

(1) by striking “and” at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting “; and”; and

8 USC 1157 note.

(3) by adding at the end the following new subparagraph:
“(C) Iraq, Kuwait, or any other country of the Greater Middle East Region (as determined by the International Broadcasting Bureau in consultation with the Attorney General and the Secretary of State).”.

Approved October 29, 2002.

LEGISLATIVE HISTORY—S. 1339:

HOUSE REPORTS: No. 107-749, Pt. 1 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 29, considered and passed Senate.

Oct. 15, considered and passed House.



Public Law 107–259
107th Congress

An Act

To identify certain routes in the States of Texas, Oklahoma, Colorado, and New Mexico as part of the Ports-to-Plains Corridor, a high priority corridor on the National Highway System.

Oct. 29, 2002
[S. 1646]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IDENTIFICATION OF PORTS-TO-PLAINS HIGH PRIORITY CORRIDOR ROUTES.

Section 1105(c)(38) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2032; 114 Stat. 2763A–201) is amended—

- (1) in subparagraph (A), by redesignating clauses (i) through (viii) as subclauses (I) through (VIII), respectively;
- (2) by redesignating subparagraph (A) as clause (i);
- (3) by striking “(38) The” and inserting “(38)(A) The”;
- (4) in subparagraph (A) (as designated by paragraph (3))—
 - (A) in clause (i) (as redesignated by paragraph (2))—
 - (i) in subclause (VII) (as redesignated by paragraph (1)), by striking “and” at the end;
 - (ii) in subclause (VIII) (as redesignated by paragraph (1)), by striking the period at the end and inserting “; and”; and
 - (iii) by adding at the end the following:

“(IX) United States Route 287 from Dumas to the border between the States of Texas and Oklahoma, and also United States Route 87 from Dumas to the border between the States of Texas and New Mexico.”;
 - (B) by adding at the end the following:

“(ii) In the State of Oklahoma, the Ports-to-Plains Corridor shall generally follow United States Route 287 from the border between the States of Texas and Oklahoma to the border between the States of Oklahoma and Colorado.
 - “(iii) In the State of Colorado, the Ports-to-Plains Corridor shall generally follow—
 - “(I) United States Route 287 from the border between the States of Oklahoma and Colorado to Limon; and
 - “(II) Interstate Route 70 from Limon to Denver.
 - (iv) In the State of New Mexico, the Ports-to-Plains Corridor shall generally follow United States Route 87 from the border between the States of Texas and New Mexico to Raton.”; and

(5) by striking “(B) The corridor designation contained in paragraph (A)” and inserting the following:

“(B) The corridor designation contained in subclauses (I) through (VIII) of subparagraph (A)(i)”.

Approved October 29, 2002.

LEGISLATIVE HISTORY—S. 1646:

SENATE REPORTS: No. 107-165 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 26, considered and passed Senate.

Oct. 16, considered and passed House.



Public Law 107–260
107th Congress

An Act

To amend the Public Health Service Act to provide for the collection of data on benign brain-related tumors through the national program of cancer registries.

Oct. 29, 2002
[S. 2558]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Benign Brain Tumor Cancer Registries Amendment Act”.

Benign Brain
Tumor Cancer
Registries
Amendment Act.
42 USC 201 note.

SEC. 2. NATIONAL PROGRAM OF CANCER REGISTRIES; BENIGN BRAIN-RELATED TUMORS AS ADDITIONAL CATEGORY OF DATA COLLECTED.

(a) IN GENERAL.—Section 399B of the Public Health Service Act (42 U.S.C. 280e), as redesignated by section 502(2)(A) of Public Law 106–310 (114 Stat. 1115), is amended in subsection (a)—

(1) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively, and indenting appropriately;

(2) by striking “(a) IN GENERAL.—The Secretary” and inserting the following:

“(a) IN GENERAL.—

“(1) STATEWIDE CANCER REGISTRIES.—The Secretary”;

(3) in the matter preceding subparagraph (A) (as so redesignated), by striking “population-based” and all that follows through “data” and inserting the following: “population-based, statewide registries to collect, for each condition specified in paragraph (2)(A), data”; and

(4) by adding at the end the following:

“(2) CANCER; BENIGN BRAIN-RELATED TUMORS.—

“(A) IN GENERAL.—For purposes of paragraph (1), the conditions referred to in this paragraph are the following:

“(i) Each form of in-situ and invasive cancer (with the exception of basal cell and squamous cell carcinoma of the skin), including malignant brain-related tumors.

“(ii) Benign brain-related tumors.

“(B) BRAIN-RELATED TUMOR.—For purposes of subparagraph (A):

“(i) The term ‘brain-related tumor’ means a listed primary tumor (whether malignant or benign) occurring in any of the following sites:

“(I) The brain, meninges, spinal cord, cauda equina, a cranial nerve or nerves, or any other part of the central nervous system.

“(II) The pituitary gland, pineal gland, or craniopharyngeal duct.

“(ii) The term ‘listed’, with respect to a primary tumor, means a primary tumor that is listed in the International Classification of Diseases for Oncology (commonly referred to as the ICD-O).

“(iii) The term ‘International Classification of Diseases for Oncology’ means a classification system that includes topography (site) information and histology (cell type information) developed by the World Health Organization, in collaboration with international centers, to promote international comparability in the collection, classification, processing, and presentation of cancer statistics. The ICD-O system is a supplement to the International Statistical Classification of Diseases and Related Health Problems (commonly known as the ICD) and is the standard coding system used by cancer registries worldwide. Such term includes any modification made to such system for purposes of the United States. Such term further includes any published classification system that is internationally recognized as a successor to the classification system referred to in the first sentence of this clause.

“(C) STATEWIDE CANCER REGISTRY.—References in this section to cancer registries shall be considered to be references to registries described in this subsection.”

Grants.
42 USC 280e
note.

(b) APPLICABILITY.—The amendments made by subsection (a) apply to grants under section 399B of the Public Health Service Act for fiscal year 2002 and subsequent fiscal years, except that, in the case of a State that received such a grant for fiscal year 2000, the Secretary of Health and Human Services may delay the applicability of such amendments to the State for not more than 12 months if the Secretary determines that compliance with such amendments requires the enactment of a statute by the State or the issuance of State regulations.

Approved October 29, 2002.

LEGISLATIVE HISTORY—S. 2558:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Aug. 1, considered and passed Senate.

Oct. 10, considered and passed House.



Public Law 107–261
107th Congress

An Act

To designate the facility of the United States Postal Service located at 127 Social Street in Woonsocket, Rhode Island, as the “Alphonse F. Auclair Post Office Building”.

Oct. 30, 2002
[H.R. 669]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 127 Social Street in Woonsocket, Rhode Island, shall be known and designated as the “Alphonse F. Auclair Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Alphonse F. Auclair Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 669:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 10, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–262
107th Congress

An Act

Oct. 30, 2002
[H.R. 670]

To designate the facility of the United States Postal Service located at 7 Commercial Street in Newport, Rhode Island, as the “Bruce F. Cotta Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 7 Commercial Street in Newport, Rhode Island, shall be known and designated as the “Bruce F. Cotta Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Bruce F. Cotta Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 670:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 10, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–263
107th Congress

An Act

To redesignate the facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, as the “Frank Sinatra Post Office Building”.

Oct. 30, 2002
[H.R. 3034]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The facility of the United States Postal Service located at 89 River Street in Hoboken, New Jersey, and known as the Hoboken Main Post Office, shall be known and designated as the “Frank Sinatra Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Frank Sinatra Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 3034 (S. 1222):

CONGRESSIONAL RECORD, Vol. 148 (2002):
June 25, 27, considered and passed House.
Oct. 17, considered and passed Senate.



Public Law 107–264
107th Congress

An Act

Oct. 30, 2002
[H.R. 3738]

To designate the facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, as the “Herbert Arlene Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1299 North 7th Street in Philadelphia, Pennsylvania, shall be known and designated as the “Herbert Arlene Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Herbert Arlene Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 3738:

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 11, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–265
107th Congress

An Act

To designate the facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, as the “Rev. Leon Sullivan Post Office Building”.

Oct. 30, 2002
[H.R. 3739]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 6150 North Broad Street in Philadelphia, Pennsylvania, shall be known and designated as the “Rev. Leon Sullivan Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Rev. Leon Sullivan Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 3739:

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 11, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–266
107th Congress

An Act

Oct. 30, 2002
[H.R. 3740]

To designate the facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, as the “William A. Cibotti Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 925 Dickinson Street in Philadelphia, Pennsylvania, shall be known and designated as the “William A. Cibotti Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “William A. Cibotti Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 3740:

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 11, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–267
107th Congress

An Act

To designate the facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, as the “Rollan D. Melton Post Office Building”.

Oct. 30, 2002
[H.R. 4102]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 120 North Maine Street in Fallon, Nevada, shall be known and designated as the “Rollan D. Melton Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Rollan D. Melton Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 4102 (S. 2840):

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 17, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–268
107th Congress

An Act

Oct. 30, 2002
[H.R. 4717]

To designate the facility of the United States Postal Service located at 1199 Pasadena Boulevard in Pasadena, Texas, as the “Jim Fonteno Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1199 Pasadena Boulevard in Pasadena, Texas, shall be known and designated as the “Jim Fonteno Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Jim Fonteno Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 4717:

CONGRESSIONAL RECORD, Vol. 148 (2002):
June 18, considered and passed House.
Oct. 17, considered and passed Senate.



Public Law 107–269
107th Congress

An Act

To designate the facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, as the “Clarence Miller Post Office Building”.

Oct. 30, 2002
[H.R. 4755]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 204 South Broad Street in Lancaster, Ohio, shall be known and designated as the “Clarence Miller Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Clarence Miller Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 4755:

CONGRESSIONAL RECORD, Vol. 148 (2002):
July 15, considered and passed House.
Oct. 17, considered and passed Senate.



Public Law 107–270
107th Congress

An Act

Oct. 30, 2002
[H.R. 4794]

To designate the facility of the United States Postal Service located at 1895 Avenida Del Oro in Oceanside, California, as the “Ronald C. Packard Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 1895 Avenida Del Oro in Oceanside, California, shall be known and designated as the “Ronald C. Packard Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Ronald C. Packard Post Office Building”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 4794:

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 18, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–271
107th Congress

An Act

To redesignate the facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, as the “Nat King Cole Post Office”.

Oct. 30, 2002
[H.R. 4797]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) Nat King Cole was born Nathaniel Adams Coles in Montgomery, Alabama, during the difficult period of segregation in the United States, and was raised in the ghettos of the south side of Chicago, Illinois, where he endured the harshness of poverty.

(2) Nat King Cole was often confronted with racism during his career, including being attacked by members of a white supremacist group while he was on stage in Birmingham, Alabama, in 1956.

(3) Nat King Cole allowed neither poverty nor racism to prevent him from sharing his music with people worldwide and from leaving a lasting impression on American culture.

(4) Nat King Cole established himself as the best selling African-American recording artist of his generation.

(5) Nat King Cole and his family became the first African-American family to integrate the community of Hancock Park in Los Angeles when, despite threats and protests from local residents, they purchased their English Tudor mansion in 1948.

(6) “The Nat King Cole Show”, primarily broadcast from Burbank, California, aired nationally for more than a year beginning in 1956 and was the first television show to be hosted by an African-American artist.

(7) Nat King Cole graced southern California with his music during the formative years of his music career and formed the successful “King Cole Trio” in Los Angeles, California.

(8) Nat King Cole’s recording of “Route 66” serenaded generations of eager California immigrants.

(9) Nat King Cole’s recorded rendition of “The Christmas Song” symbolizes the family warmth of the yuletide season.

(10) Nat King Cole’s disarming delivery teaches people the meaning of “Unforgettable”.

(11) Although Nat King Cole died from lung cancer on February 15, 1965, the music and embracing baritone voice of Nat King Cole are lasting legacies that continue to be enjoyed by people worldwide.

(12) Nat King Cole exemplifies the American dream by having overcome societal and other barriers to become one of the great American entertainers.

(13) Members of the community surrounding the Oakwood Station Post Office in Los Angeles, California, have advocated for the renaming of the post office in honor of Nat King Cole, a former resident of the area.

SEC. 2. REDESIGNATION AND REFERENCES.

(a) REDESIGNATION.—The facility of the United States Postal Service located at 265 South Western Avenue, Los Angeles, California, and known as the Oakwood Station Post Office, shall be known and designated as the “Nat King Cole Post Office”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the “Nat King Cole Post Office”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 4797 (S. 2929):

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 9, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–272
107th Congress

An Act

To redesignate the facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, as the “Robert Wayne Jenkins Station”.

Oct. 30, 2002

[H.R. 4851]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The facility of the United States Postal Service located at 6910 South Yorktown Avenue in Tulsa, Oklahoma, and known as the Southside Station, shall be known and designated as the “Robert Wayne Jenkins Station”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Robert Wayne Jenkins Station”.

Approved October 30, 2002.

LEGISLATIVE HISTORY—H.R. 4851 (S. 2828):

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–273
107th Congress

An Act

Nov. 2, 2002
[H.R. 2215]

To authorize appropriations for the Department of Justice for fiscal year 2002,
and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

21st Century
Department of
Justice
Appropriations
Authorization
Act.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “21st Century Department of Justice Appropriations Authorization Act”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

**DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS
AUTHORIZATION ACT**

**TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2002
AND 2003**

- Sec. 101. Specific sums authorized to be appropriated for fiscal year 2002.
- Sec. 102. Specific sums authorized to be appropriated for fiscal year 2003.
- Sec. 103. Appointment of additional assistant United States attorneys; reduction of certain litigation positions.
- Sec. 104. Authorization for additional assistant United States attorneys for project safe neighborhoods.

TITLE II—PERMANENT ENABLING PROVISIONS

- Sec. 201. Permanent authority.
- Sec. 202. Permanent authority relating to enforcement of laws.
- Sec. 203. Miscellaneous uses of funds; technical amendments.
- Sec. 204. Technical and miscellaneous amendments to Department of Justice authorities; authority to transfer property of marginal value; record-keeping; protection of the Attorney General.
- Sec. 205. Oversight; waste, fraud, and abuse within the Department of Justice.
- Sec. 206. Enforcement of Federal criminal laws by Attorney General.
- Sec. 207. Strengthening law enforcement in United States territories, commonwealths, and possessions.

TITLE III—MISCELLANEOUS

- Sec. 301. Repealers.
- Sec. 302. Technical amendments to title 18 of the United States Code.
- Sec. 303. Required submission of proposed authorization of appropriations for the Department of Justice for fiscal years 2004 and 2005.
- Sec. 304. Study of untested rape examination kits.
- Sec. 305. Reports on use of DCS 1000 (Carnivore).
- Sec. 306. Study of allocation of litigating attorneys.
- Sec. 307. Use of truth-in-sentencing and violent offender incarceration grants.
- Sec. 308. Authority of the Department of Justice Inspector General.
- Sec. 309. Review of the Department of Justice.
- Sec. 310. Authorization of appropriations.
- Sec. 311. Report on threats and assaults against Federal law enforcement officers, United States judges, United States officials and their families.
- Sec. 312. Additional Federal judgeships.

TITLE IV—VIOLENCE AGAINST WOMEN

- Sec. 401. Short title.

- Sec. 402. Establishment of Violence Against Women Office.
Sec. 403. Effective date.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUBS OF AMERICA

- Sec. 1101. Boys and Girls Clubs of America.

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT
OF 2002

- Sec. 2001. Short title.

Subtitle A—Drug-Free Prisons and Jails

- Sec. 2101. Use of residential substance abuse treatment grants to provide for services during and after incarceration.
Sec. 2102. Jail-based substance abuse treatment programs.
Sec. 2103. Mandatory revocation of probation and supervised release for failing a drug test.

Subtitle B—Treatment and Prevention

- Sec. 2201. Report on drug-testing technologies.
Sec. 2202. Drug and substance abuse treatment, prevention, education, and research study.
Sec. 2203. Drug abuse and addiction research.

Subtitle C—Drug Courts

- Sec. 2301. Drug courts.
Sec. 2302. Authorization of appropriations.
Sec. 2303. Study by the General Accounting Office.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local
CommunitiesCHAPTER 1—POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL
OPPORTUNITIES FOR INMATES

- Sec. 2411. Post incarceration vocational and remedial educational opportunities for inmates.

CHAPTER 2—STATE REENTRY GRANT PROGRAMS

- Sec. 2421. Amendments to the Omnibus Crime Control and Safe Streets Act of 1968.

Subtitle E—Other Matters

- Sec. 2501. Amendment to Controlled Substances Act.
Sec. 2502. Study of methamphetamine treatment.
Sec. 2503. Authorization of funds for DEA police training in South and Central Asia.
Sec. 2504. United States-Thailand drug prosecutor exchange program.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE
SYSTEM

- Sec. 3001. Increasing the penalty for using physical force to tamper with witnesses, victims, or informants.
Sec. 3002. Correction of aberrant statutes to permit imposition of both a fine and imprisonment.
Sec. 3003. Reinstatement of counts dismissed pursuant to a plea agreement.
Sec. 3004. Appeals from certain dismissals.
Sec. 3005. Clarification of length of supervised release terms in controlled substance cases.
Sec. 3006. Authority of court to impose a sentence of probation or supervised release when reducing a sentence of imprisonment in certain cases.
Sec. 3007. Clarification that making restitution is a proper condition of supervised release.

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

- Sec. 4001. Short title.
Sec. 4002. Technical amendments relating to criminal law and procedure.
Sec. 4003. Additional technicals.
Sec. 4004. Repeal of outmoded provisions.

- Sec. 4005. Amendments resulting from Public Law 107-56.
- Sec. 4006. Cross reference correction.

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

- Sec. 5001. Paul Coverdell Forensic Sciences Improvement Grants.
- Sec. 5002. Authorization of appropriations.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTITRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE, AND IMMIGRATION

Subtitle A—General Improvements

- Sec. 11001. Law Enforcement Tribute Act.
- Sec. 11002. Disclosure of grand jury matters relating to money laundering offenses.
- Sec. 11003. Grant program for State and local domestic preparedness support.
- Sec. 11004. United States Sentencing Commission access to NCIC terminal.
- Sec. 11005. Danger pay for FBI agents.
- Sec. 11006. Police corps.
- Sec. 11007. Radiation exposure compensation technical amendments.
- Sec. 11008. Federal Judiciary Protection Act of 2002.
- Sec. 11009. James Guelff and Chris McCurley Body Armor Act of 2002.
- Sec. 11010. Persons authorized to serve search warrant.
- Sec. 11011. Study on reentry, mental illness, and public safety.
- Sec. 11012. Technical amendment to Omnibus Crime Control Act.
- Sec. 11013. Debt collection improvement.
- Sec. 11014. SCAAP authorization.
- Sec. 11015. Use of annuity brokers in structured settlements.
- Sec. 11016. INS processing fees.
- Sec. 11017. United States Parole Commission extension.
- Sec. 11018. Waiver of foreign country residence requirement with respect to international medical graduates.
- Sec. 11019. Pretrial disclosure of expert testimony relating to defendant's mental condition.
- Sec. 11020. Multiparty, Multiforum Trial Jurisdiction Act of 2002.
- Sec. 11021. Additional place of holding court in the southern district of Ohio.
- Sec. 11022. Direct shipment of wine.
- Sec. 11023. Webster Commission implementation report.
- Sec. 11024. FBI police.
- Sec. 11025. Report on FBI information management and technology.
- Sec. 11026. GAO report on crime statistics reporting.
- Sec. 11027. Crime-free rural States grants.
- Sec. 11028. Motor vehicle franchise contract dispute resolution process.
- Sec. 11029. Holding court for the southern district of Iowa.
- Sec. 11030. Posthumous citizenship restoration.
- Sec. 11030A. Extension of H-1B status for aliens with lengthy adjudications.
- Sec. 11030B. Application for naturalization by alternative applicant if citizen parent has died.

Subtitle B—EB-5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

- Sec. 11031. Removal of conditional basis of permanent resident status for certain alien entrepreneurs, spouses, and children.
- Sec. 11032. Conditional permanent resident status for certain alien entrepreneurs, spouses, and children.
- Sec. 11033. Regulations.
- Sec. 11034. Definitions.

CHAPTER 2—AMENDMENTS TO OTHER LAWS

- Sec. 11035. Definition of "full-time employment".
- Sec. 11036. Eliminating enterprise establishment requirement for alien entrepreneurs.
- Sec. 11037. Amendments to pilot immigration program for regional centers to promote economic growth.

Subtitle C—Judicial Improvements Act of 2002

- Sec. 11041. Short title.
- Sec. 11042. Judicial discipline procedures.
- Sec. 11043. Technical amendments.

Sec. 11044. Severability.

Subtitle D—Antitrust Modernization Commission Act of 2002

- Sec. 11051. Short title.
- Sec. 11052. Establishment.
- Sec. 11053. Duties of the Commission.
- Sec. 11054. Membership.
- Sec. 11055. Compensation of the Commission.
- Sec. 11056. Staff of Commission; experts and consultants.
- Sec. 11057. Powers of the Commission.
- Sec. 11058. Report.
- Sec. 11059. Termination of Commission.
- Sec. 11060. Authorization of appropriations.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

- Sec. 12101. Short title.
- Sec. 12102. Juvenile offender accountability.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

- Sec. 12201. Short title.
- Sec. 12202. Findings.
- Sec. 12203. Purpose.
- Sec. 12204. Definitions.
- Sec. 12205. Concentration of Federal effort.
- Sec. 12206. Coordinating Council on Juvenile Justice and Delinquency Prevention.
- Sec. 12207. Annual report.
- Sec. 12208. Allocation.
- Sec. 12209. State plans.
- Sec. 12210. Juvenile delinquency prevention block grant program.
- Sec. 12211. Research; evaluation; technical assistance; training.
- Sec. 12212. Demonstration projects.
- Sec. 12213. Authorization of appropriations.
- Sec. 12214. Administrative authority.
- Sec. 12215. Use of funds.
- Sec. 12216. Limitations on use of funds.
- Sec. 12217. Rules of construction.
- Sec. 12218. Leasing surplus Federal property.
- Sec. 12219. Issuance of rules.
- Sec. 12220. Content of materials.
- Sec. 12221. Technical and conforming amendments.
- Sec. 12222. Incentive grants for local delinquency prevention programs.
- Sec. 12223. Effective date; application of amendments.

Subtitle C—Juvenile Disposition Hearing

- Sec. 12301. Juvenile disposition hearing.

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

- Sec. 13101. Short title.
- Sec. 13102. Authorization of amounts available to the Patent and Trademark Office.
- Sec. 13103. Electronic filing and processing of patent and trademark applications.
- Sec. 13104. Strategic plan.
- Sec. 13105. Determination of substantial new question of patentability in reexamination proceedings.
- Sec. 13106. Appeals in inter partes reexamination proceedings.

Subtitle B—Intellectual Property and High Technology Technical Amendments

- Sec. 13201. Short title.
- Sec. 13202. Clarification of Reexamination Procedure Act of 1999; technical amendments.
- Sec. 13203. Patent and Trademark Efficiency Act amendments.
- Sec. 13204. Domestic publication of foreign filed Patent Applications Act of 1999 amendments.
- Sec. 13205. Domestic publication of patent applications published abroad.
- Sec. 13206. Miscellaneous clerical amendments.
- Sec. 13207. Technical corrections in trademark law.
- Sec. 13208. Patent and trademark fee clerical amendment.

Sec. 13209. Copyright related corrections to 1999 Omnibus Reform Act.
Sec. 13210. Amendments to title 17, United States Code.
Sec. 13211. Other copyright related technical amendments.

Subtitle C—Educational Use Copyright Exemption

Sec. 13301. Educational use copyright exemption.

Subtitle D—Madrid Protocol Implementation

Sec. 13401. Short title.
Sec. 13402. Provisions to implement the protocol relating to the Madrid Agreement concerning the international registration of marks.
Sec. 13403. Effective date.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

Sec. 14101. Short title.
Sec. 14102. Amendments.
Sec. 14103. Effective date; application of amendments.

DIVISION A—21ST CENTURY DEPARTMENT OF JUSTICE APPROPRIATIONS AUTHORIZATION ACT

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEARS 2002 AND 2003

SEC. 101. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 2002.

There are authorized to be appropriated for fiscal year 2002, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: \$92,668,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: \$173,647,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: \$50,735,000, which shall include for each such fiscal year, not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: \$549,176,000, which shall include for each such fiscal year—

(A) not less than \$4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed \$20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: \$130,791,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: \$1,353,968,000, which shall include not less than \$10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and

crimes identified in the No Electronic Theft (NET) Act (Public Law 105-147): *Provided*, That such amounts in the appropriations account “General Legal Services” as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: \$3,524,864,000, which shall include for each such fiscal year—

(A) not to exceed \$33,791,000 for construction, to remain available until expended; and

(B) not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: \$648,696,000, which shall include for each such fiscal year not to exceed \$15,000,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: \$4,622,152,000.

(10) FEDERAL PRISONER DETENTION.—For the support of United States prisoners in non-Federal institutions, as authorized by section 4013(a) of title 18 of the United States Code: \$706,182,000, to remain available until expended.

(11) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: \$1,481,783,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(12) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: \$3,499,854,000, which shall include—

(A) not to exceed \$2,739,695,000 for salaries and expenses of enforcement and border affairs (i.e., the Border Patrol, deportation, intelligence, investigations, and inspection programs, and the detention program);

(B) not to exceed \$631,745,000 for salaries and expenses of citizenship and benefits (i.e., programs not included under subparagraph (A));

(C) for each such fiscal year, not to exceed \$128,454,000 for construction, to remain available until expended; and

(D) not to exceed \$50,000 to meet unforeseen emergencies of a confidential character.

(13) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: \$156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed \$6,000,000 for construction of protected witness safesites.

(14) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: \$338,577,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(15) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: \$1,136,000.

(16) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: \$9,269,000.

(17) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: \$22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(18) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: \$9,876,000.

(19) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: \$1,000,000.

(20) JOINT AUTOMATED BOOKING SYSTEM.—For expenses necessary for the operation of the Joint Automated Booking System: \$1,000,000.

(21) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: \$94,615,000.

(22) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(23) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: \$4,989,000.

(24) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: \$132,862,000.

SEC. 102. SPECIFIC SUMS AUTHORIZED TO BE APPROPRIATED FOR FISCAL YEAR 2003.

There are authorized to be appropriated for fiscal year 2003, to carry out the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof), the following sums:

(1) GENERAL ADMINISTRATION.—For General Administration: \$121,079,000.

(2) ADMINISTRATIVE REVIEW AND APPEALS.—For Administrative Review and Appeals: \$198,869,000 for administration of pardon and clemency petitions and for immigration-related activities.

(3) OFFICE OF INSPECTOR GENERAL.—For the Office of Inspector General: \$66,288,000, which shall include for each such fiscal year, not to exceed \$10,000 to meet unforeseen emergencies of a confidential character.

(4) GENERAL LEGAL ACTIVITIES.—For General Legal Activities: \$659,181,000, which shall include for each such fiscal year—

(A) not less than \$4,000,000 for the investigation and prosecution of denaturalization and deportation cases involving alleged Nazi war criminals; and

(B) not to exceed \$20,000 to meet unforeseen emergencies of a confidential character.

(5) ANTITRUST DIVISION.—For the Antitrust Division: \$141,855,000.

(6) UNITED STATES ATTORNEYS.—For United States Attorneys: \$1,550,948,000, which shall include not less than \$10,000,000 for the investigation and prosecution of intellectual property crimes, including software counterfeiting crimes and crimes identified in the No Electronic Theft (NET) Act (Public

Law 105-147): *Provided*, That such amounts in the appropriations account “General Legal Services” as may be expended for such investigations or prosecutions shall count towards this minimum as though expended from this appropriations account.

(7) FEDERAL BUREAU OF INVESTIGATION.—For the Federal Bureau of Investigation: \$4,323,912,000, which shall include for each such fiscal year—

(A) not to exceed \$1,250,000 for construction, to remain available until expended; and

(B) not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(8) UNITED STATES MARSHALS SERVICE.—For the United States Marshals Service: \$737,346,000, which shall include for each such fiscal year not to exceed \$15,153,000 for construction, to remain available until expended.

(9) FEDERAL PRISON SYSTEM.—For the Federal Prison System, including the National Institute of Corrections: \$4,605,068,000.

(10) DRUG ENFORCEMENT ADMINISTRATION.—For the Drug Enforcement Administration: \$1,582,044,000, which shall include not to exceed \$70,000 to meet unforeseen emergencies of a confidential character.

(11) IMMIGRATION AND NATURALIZATION SERVICE.—For the Immigration and Naturalization Service: \$4,131,811,000, which shall include—

(A) not to exceed \$3,253,561,000 for salaries and expenses of Border Patrol, detention and removals, intelligence, investigations, inspections, and international enforcement, including not to exceed \$50,000 to meet unforeseen emergencies of a confidential character;

(B) not to exceed \$88,598,000 for salaries and expenses of immigration services, including international services; and

(C) not to exceed \$789,652,000 for salaries and expenses for support and administration (i.e., data and communications, information and records management, construction, etc.).

(12) FEES AND EXPENSES OF WITNESSES.—For Fees and Expenses of Witnesses: \$156,145,000 to remain available until expended, which shall include for each such fiscal year not to exceed \$6,000,000 for construction of protected witness safesites.

(13) INTERAGENCY CRIME AND DRUG ENFORCEMENT.—For Interagency Crime and Drug Enforcement: \$362,131,000, for expenses not otherwise provided for, for the investigation and prosecution of persons involved in organized crime drug trafficking, except that any funds obligated from appropriations authorized by this paragraph may be used under authorities available to the organizations reimbursed from such funds.

(14) FOREIGN CLAIMS SETTLEMENT COMMISSION.—For the Foreign Claims Settlement Commission: \$1,194,000.

(15) COMMUNITY RELATIONS SERVICE.—For the Community Relations Service: \$10,732,000.

(16) ASSETS FORFEITURE FUND.—For the Assets Forfeiture Fund: \$22,949,000 for expenses authorized by section 524 of title 28, United States Code.

(17) UNITED STATES PAROLE COMMISSION.—For the United States Parole Commission: \$11,355,000.

(18) FEDERAL DETENTION TRUSTEE.—For the necessary expenses of the Federal Detention Trustee: \$1,388,583,000.

(19) IDENTIFICATION SYSTEM INTEGRATION.—For expenses necessary for the operation of the Identification System Integration: \$24,505,000.

(20) NARROWBAND COMMUNICATIONS.—For the costs of conversion to narrowband communications, including the cost for operation and maintenance of Land Mobile Radio legacy systems: \$149,292,000.

(21) RADIATION EXPOSURE COMPENSATION.—For administrative expenses in accordance with the Radiation Exposure Compensation Act: such sums as necessary.

(22) COUNTERTERRORISM FUND.—For the Counterterrorism Fund for necessary expenses, as determined by the Attorney General: \$35,000,000.

(23) OFFICE OF JUSTICE PROGRAMS.—For administrative expenses not otherwise provided for, of the Office of Justice Programs: \$215,811,000.

(24) LEGAL ACTIVITIES OFFICE.—For necessary expenses related to office automation: \$15,942,000.

SEC. 103. APPOINTMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS; REDUCTION OF CERTAIN LITIGATION POSITIONS.

Deadline.

(a) APPOINTMENTS.—Not later than September 30, 2003, the Attorney General may exercise authority under section 542 of title 28, United States Code, to appoint 200 assistant United States attorneys in addition to the number of assistant United States attorneys serving on the date of the enactment of this Act.

(b) SELECTION OF APPOINTEES.—Individuals first appointed under subsection (a) shall be appointed from among attorneys who are incumbents of 200 full-time litigation positions in divisions of the Department of Justice and whose official duty station is at the seat of Government.

(c) TERMINATION OF POSITIONS.—Each of the 200 litigation positions that become vacant by reason of an appointment made in accordance with subsections (a) and (b) shall be terminated at the time the vacancy arises.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

28 USC 509 note.

SEC. 104. AUTHORIZATION FOR ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS FOR PROJECT SAFE NEIGHBORHOODS.

(a) IN GENERAL.—The Attorney General shall establish a program for each United States Attorney to provide for coordination with State and local law enforcement officials in the identification and prosecution of violations of Federal firearms laws including school gun violence and juvenile gun offenses.

(b) AUTHORIZATION FOR HIRING 94 ADDITIONAL ASSISTANT UNITED STATES ATTORNEYS.—There are authorized to be appropriated to carry out this section \$9,000,000 for fiscal year 2002 to hire an additional Assistant United States Attorney in each United States Attorney Office.

TITLE II—PERMANENT ENABLING PROVISIONS

SEC. 201. PERMANENT AUTHORITY.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following:

“§ 530C. Authority to use available funds

“(a) IN GENERAL.—Except to the extent provided otherwise by law, the activities of the Department of Justice (including any bureau, office, board, division, commission, subdivision, unit, or other component thereof) may, in the reasonable discretion of the Attorney General, be carried out through any means, including—

“(1) through the Department’s own personnel, acting within, from, or through the Department itself;

“(2) by sending or receiving details of personnel to other branches or agencies of the Federal Government, on a reimbursable, partially-reimbursable, or nonreimbursable basis;

“(3) through reimbursable agreements with other Federal agencies for work, materials, or equipment;

“(4) through contracts, grants, or cooperative agreements with non-Federal parties; and

“(5) as provided in subsection (b), in section 524, and in any other provision of law consistent herewith, including, without limitation, section 102(b) of Public Law 102-395 (106 Stat. 1838), as incorporated by section 815(d) of Public Law 104-132 (110 Stat. 1315).

“(b) PERMITTED USES.—

“(1) GENERAL PERMITTED USES.—Funds available to the Attorney General (i.e., all funds available to carry out the activities described in subsection (a)) may be used, without limitation, for the following:

“(A) The purchase, lease, maintenance, and operation of passenger motor vehicles, or police-type motor vehicles for law enforcement purposes, without regard to general purchase price limitation for the then-current fiscal year.

“(B) The purchase of insurance for motor vehicles, boats, and aircraft operated in official Government business in foreign countries.

“(C) Services of experts and consultants, including private counsel, as authorized by section 3109 of title 5, and at rates of pay for individuals not to exceed the maximum daily rate payable from time to time under section 5332 of title 5.

“(D) Official reception and representation expenses (i.e., official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, but excluding expenses of public tours of facilities of the Department of Justice), in accordance with distributions and procedures established, and rules issued, by the Attorney General, and expenses of public tours of facilities of the Department of Justice.

“(E) Unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney

General and accounted for solely on the certificate of the Attorney General.

“(F) Miscellaneous and emergency expenses authorized or approved by the Attorney General, the Deputy Attorney General, the Associate Attorney General, or the Assistant Attorney General for Administration.

“(G) In accordance with procedures established and rules issued by the Attorney General—

“(i) attendance at meetings and seminars;

“(ii) conferences and training; and

“(iii) advances of public moneys under section 3324 of title 31: *Provided*, That travel advances of such moneys to law enforcement personnel engaged in undercover activity shall be considered to be public money for purposes of section 3527 of title 31.

“(H) Contracting with individuals for personal services abroad, except that such individuals shall not be regarded as employees of the United States for the purpose of any law administered by the Office of Personnel Management.

“(I) Payment of interpreters and translators who are not citizens of the United States, in accordance with procedures established and rules issued by the Attorney General.

“(J) Expenses or allowances for uniforms as authorized by section 5901 of title 5, but without regard to the general purchase price limitation for the then-current fiscal year.

“(K) Expenses of—

“(i) primary and secondary schooling for dependents of personnel stationed outside the United States at cost not in excess of those authorized by the Department of Defense for the same area, when it is determined by the Attorney General that schools available in the locality are unable to provide adequately for the education of such dependents; and

“(ii) transportation of those dependents between their place of residence and schools serving the area which those dependents would normally attend when the Attorney General, under such regulations as he may prescribe, determines that such schools are not accessible by public means of transportation.

“(L) payment of rewards (i.e., payments pursuant to public advertisements for assistance to the Department of Justice), in accordance with procedures and regulations established or issued by the Attorney General: *Provided*, That—

“(i) no such reward shall exceed \$2,000,000, unless—

“(I) the reward is to combat domestic terrorism or international terrorism (as defined in section 2331 of title 18); or

“(II) a statute should authorize a higher amount;

“(ii) no such reward of \$250,000 or more may be made or offered without the personal approval of either the Attorney General or the President;

“(iii) the Attorney General shall give written notice to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary

Notice.
Deadline.

of the Senate and of the House of Representatives not later than 30 days after the approval of a reward under clause (ii);

“(iv) any executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5) may provide the Attorney General with funds for the payment of rewards; and

“(v) neither the failure of the Attorney General to authorize a payment nor the amount authorized shall be subject to judicial review.

“(2) SPECIFIC PERMITTED USES.—

“(A) AIRCRAFT AND BOATS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, and for the Immigration and Naturalization Service may be used for the purchase, lease, maintenance, and operation of aircraft and boats, for law enforcement purposes.

“(B) PURCHASE OF AMMUNITION AND FIREARMS; FIREARMS COMPETITIONS.—Funds available to the Attorney General for United States Attorneys, for the Federal Bureau of Investigation, for the United States Marshals Service, for the Drug Enforcement Administration, for the Federal Prison System, for the Office of the Inspector General, and for the Immigration and Naturalization Service may be used for—

“(i) the purchase of ammunition and firearms; and

“(ii) participation in firearms competitions.

“(C) CONSTRUCTION.—Funds available to the Attorney General for construction may be used for expenses of planning, designing, acquiring, building, constructing, activating, renovating, converting, expanding, extending, remodeling, equipping, repairing, or maintaining buildings or facilities, including the expenses of acquisition of sites therefor, and all necessary expenses incident or related thereto; but the foregoing shall not be construed to mean that funds generally available for salaries and expenses are not also available for certain incidental or minor construction, activation, remodeling, maintenance, and other related construction costs.

“(3) FEES AND EXPENSES OF WITNESSES.—Funds available to the Attorney General for fees and expenses of witnesses may be used for—

“(A) expenses, mileage, compensation, protection, and per diem in lieu of subsistence, of witnesses (including advances of public money) and as authorized by section 1821 or other law, except that no witness may be paid more than 1 attendance fee for any 1 calendar day;

“(B) fees and expenses of neutrals in alternative dispute resolution proceedings, where the Department of Justice is a party; and

“(C) construction of protected witness safesites.

“(4) FEDERAL BUREAU OF INVESTIGATION.—Funds available to the Attorney General for the Federal Bureau of Investigation for the detection, investigation, and prosecution of crimes against the United States may be used for the conduct of all its authorized activities.

“(5) IMMIGRATION AND NATURALIZATION SERVICE.—Funds available to the Attorney General for the Immigration and Naturalization Service may be used for—

“(A) acquisition of land as sites for enforcement fences, and construction incident to such fences;

“(B) cash advances to aliens for meals and lodging en route;

“(C) refunds of maintenance bills, immigration fines, and other items properly returnable, except deposits of aliens who become public charges and deposits to secure payment of fines and passage money; and

“(D) expenses and allowances incurred in tracking lost persons, as required by public exigencies, in aid of State or local law enforcement agencies.

“(6) FEDERAL PRISON SYSTEM.—Funds available to the Attorney General for the Federal Prison System may be used for—

“(A) inmate medical services and inmate legal services, within the Federal prison system;

“(B) the purchase and exchange of farm products and livestock;

“(C) the acquisition of land as provided in section 4010 of title 18; and

“(D) the construction of buildings and facilities for penal and correctional institutions (including prison camps), by contract or force account, including the payment of United States prisoners for their work performed in any such construction;

except that no funds may be used to distribute or make available to a prisoner any commercially published information or material that is sexually explicit or features nudity.

“(7) DETENTION TRUSTEE.—Funds available to the Attorney General for the Detention Trustee may be used for all the activities of such Trustee in the exercise of all power and functions authorized by law relating to the detention of Federal prisoners in non-Federal institutions or otherwise in the custody of the United States Marshals Service and to the detention of aliens in the custody of the Immigration and Naturalization Service, including the overseeing of construction of detention facilities or for housing related to such detention, the management of funds appropriated to the Department for the exercise of detention functions, and the direction of the United States Marshals Service and Immigration Service with respect to the exercise of detention policy setting and operations for the Department of Justice.

“(c) RELATED PROVISIONS.—

“(1) LIMITATION OF COMPENSATION OF INDIVIDUALS EMPLOYED AS ATTORNEYS.—No funds available to the Attorney General may be used to pay compensation for services provided by an individual employed as an attorney (other than an individual employed to provide services as a foreign attorney in special cases) unless such individual is duly licensed and authorized to practice as an attorney under the law of a State, a territory of the United States, or the District of Columbia.

“(2) REIMBURSEMENTS PAID TO GOVERNMENTAL ENTITIES.—Funds available to the Attorney General that are paid as reimbursement to a governmental unit of the Department of

Justice, to another Federal entity, or to a unit of State or local government, may be used under authorities available to the unit or entity receiving such reimbursement.

“(d) FOREIGN REIMBURSEMENTS.—Whenever the Department of Justice or any component participates in a cooperative project to improve law enforcement or national security operations or services with a friendly foreign country on a cost-sharing basis, any reimbursements or contributions received from that foreign country to meet its share of the project may be credited to appropriate current appropriations accounts of the Department of Justice or any component. The amount of a reimbursement or contribution credited shall be available only for payment of the share of the project expenses allocated to the participating foreign country.

“(e) RAILROAD POLICE TRAINING FEES.—The Attorney General is authorized to establish and collect a fee to defray the costs of railroad police officers participating in a Federal Bureau of Investigation law enforcement training program authorized by Public Law 106-110, and to credit such fees to the appropriation account ‘Federal Bureau of Investigation, Salaries and Expenses’, to be available until expended for salaries and expenses incurred in providing such services.

“(f) WARRANTY WORK.—In instances where the Attorney General determines that law enforcement-, security-, or mission-related considerations mitigate against obtaining maintenance or repair services from private sector entities for equipment under warranty, the Attorney General is authorized to seek reimbursement from such entities for warranty work performed at Department of Justice facilities, and to credit any payment made for such work to any appropriation charged therefor.”.

(b) CONFORMING AMENDMENT.—The table of sections of chapter 31 of title 28, United States Code, is amended by adding at the end the following:

“530C. Authority to use available funds.”.

SEC. 202. PERMANENT AUTHORITY RELATING TO ENFORCEMENT OF LAWS.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

“§ 530D. Report on enforcement of laws

“(a) REPORT.—

“(1) IN GENERAL.—The Attorney General shall submit to the Congress a report of any instance in which the Attorney General or any officer of the Department of Justice—

“(A) establishes or implements a formal or informal policy to refrain—

“(i) from enforcing, applying, or administering any provision of any Federal statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer on the grounds that such provision is unconstitutional; or

“(ii) within any judicial jurisdiction of or within the United States, from adhering to, enforcing, applying, or complying with, any standing rule of decision (binding upon courts of, or inferior to those of,

that jurisdiction) established by a final decision of any court of, or superior to those of, that jurisdiction, respecting the interpretation, construction, or application of the Constitution, any statute, rule, regulation, program, policy, or other law whose enforcement, application, or administration is within the responsibility of the Attorney General or such officer;

“(B) determines—

“(i) to contest affirmatively, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law; or

“(ii) to refrain (on the grounds that the provision is unconstitutional) from defending or asserting, in any judicial, administrative, or other proceeding, the constitutionality of any provision of any Federal statute, rule, regulation, program, policy, or other law, or not to appeal or request review of any judicial, administrative, or other determination adversely affecting the constitutionality of any such provision; or

“(C) approves (other than in circumstances in which a report is submitted to the Joint Committee on Taxation, pursuant to section 6405 of the Internal Revenue Code of 1986) the settlement or compromise (other than in bankruptcy) of any claim, suit, or other action—

“(i) against the United States (including any agency or instrumentality thereof) for a sum that exceeds, or is likely to exceed, \$2,000,000, excluding prejudgment interest; or

“(ii) by the United States (including any agency or instrumentality thereof) pursuant to an agreement, consent decree, or order (or pursuant to any modification of an agreement, consent decree, or order) that provides injunctive or other nonmonetary relief that exceeds, or is likely to exceed, 3 years in duration: *Provided*, That for purposes of this clause, the term “injunctive or other nonmonetary relief” shall not be understood to include the following, where the same are a matter of public record—

“(I) debarments, suspensions, or other exclusions from Government contracts or grants;

“(II) mere reporting requirements or agreements (including sanctions for failure to report);

“(III) requirements or agreements merely to comply with statutes or regulations;

“(IV) requirements or agreements to surrender professional licenses or to cease the practice of professions, occupations, or industries;

“(V) any criminal sentence or any requirements or agreements to perform community service, to serve probation, or to participate in supervised release from detention, confinement, or prison; or

“(VI) agreements to cooperate with the government in investigations or prosecutions (whether or not the agreement is a matter of public record).

“(2) SUBMISSION OF REPORT TO THE CONGRESS.—For the purposes of paragraph (1), a report shall be considered to be submitted to the Congress if the report is submitted to—

“(A) the majority leader and minority leader of the Senate;

“(B) the Speaker, majority leader, and minority leader of the House of Representatives;

“(C) the chairman and ranking minority member of the Committee on the Judiciary of the House of Representatives and the chairman and ranking minority member of the Committee on the Judiciary of the Senate; and

“(D) the Senate Legal Counsel and the General Counsel of the House of Representatives.

“(b) DEADLINE.—A report shall be submitted—

“(1) under subsection (a)(1)(A), not later than 30 days after the establishment or implementation of each policy;

“(2) under subsection (a)(1)(B), within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but in no event later than 30 days after the making of each determination; and

“(3) under subsection (a)(1)(C), not later than 30 days after the conclusion of each fiscal-year quarter, with respect to all approvals occurring in such quarter.

“(c) CONTENTS.—A report required by subsection (a) shall—

“(1) specify the date of the establishment or implementation of the policy described in subsection (a)(1)(A), of the making of the determination described in subsection (a)(1)(B), or of each approval described in subsection (a)(1)(C);

“(2) include a complete and detailed statement of the relevant issues and background (including a complete and detailed statement of the reasons for the policy or determination, and the identity of the officer responsible for establishing or implementing such policy, making such determination, or approving such settlement or compromise), except that—

“(A) such details may be omitted as may be absolutely necessary to prevent improper disclosure of national-security- or classified information, of any information subject to the deliberative-process-, executive-, attorney-work-product-, or attorney-client privileges, or of any information the disclosure of which is prohibited by section 6103 of the Internal Revenue Code of 1986, or other law or any court order if the fact of each such omission (and the precise ground or grounds therefor) is clearly noted in the statement: *Provided*, That this subparagraph shall not be construed to deny to the Congress (including any House, Committee, or agency thereof) any such omitted details (or related information) that it lawfully may seek, subsequent to the submission of the report; and

“(B) the requirements of this paragraph shall be deemed satisfied—

“(i) in the case of an approval described in subsection (a)(1)(C)(i), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the legal and factual basis or bases for the settlement

or compromise (if not apparent on the face of documents provided); and

“(ii) in the case of an approval described in subsection (a)(1)(C)(ii), if an unredacted copy of the entire settlement agreement and consent decree or order (if any) is provided, along with a statement indicating the injunctive or other nonmonetary relief (if not apparent on the face of documents provided); and

“(3) in the case of a determination described in subsection (a)(1)(B) or an approval described in subsection (a)(1)(C), indicate the nature, tribunal, identifying information, and status of the proceeding, suit, or action.

“(d) DECLARATION.—In the case of a determination described in subsection (a)(1)(B), the representative of the United States participating in the proceeding shall make a clear declaration in the proceeding that any position expressed as to the constitutionality of the provision involved is the position of the executive branch of the Federal Government (or, as applicable, of the President or of any executive agency or military department).

“(e) APPLICABILITY TO THE PRESIDENT AND TO EXECUTIVE AGENCIES AND MILITARY DEPARTMENTS.—The reporting, declaration, and other provisions of this section relating to the Attorney General and other officers of the Department of Justice shall apply to the President (but only with respect to the promulgation of any unclassified Executive order or similar memorandum or order), to the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) that establishes or implements a policy described in subsection (a)(1)(A) or is authorized to conduct litigation, and to the officers of such executive agency.”.

(b) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 31 of title 28, United States Code (as amended by section 201), is amended by adding at the end the following:

“530D. Report on enforcement of laws.”.

(2) Section 712 of Public Law 95-521 (92 Stat. 1883) is amended by striking subsection (b) and inserting:

“(b) The Attorney General shall notify Counsel as required by section 530D of title 28.”.

(3) Not later than 30 days after the date of the enactment of this Act, the President shall advise the head of each executive agency or military department (as defined, respectively, in sections 105 and 102 of title 5, United States Code) of the enactment of this section.

(4)(A) Not later than 90 days after the date of the enactment of this Act, the Attorney General (and, as applicable, the President, and the head of any executive agency or military department described in subsection (e) of section 530D of title 28, United States Code, as added by subsection (a)) shall submit to Congress a report (in accordance with subsections (a), (c), and (e) of such section) on—

(i) all policies of which the Attorney General and applicable official are aware described in subsection (a)(1)(A) of such section that were established or implemented before the date of the enactment of this Act and were in effect on such date; and

2 USC 288k.

Notification.

Deadline.
28 USC 530D
note.

Deadline.
Reports.
28 USC 530D
note.

(ii) all determinations of which the Attorney General and applicable official are aware described in subsection (a)(1)(B) of such section that were made before the date of the enactment of this Act and were in effect on such date.

(B) If a determination described in subparagraph (A)(ii) relates to any judicial, administrative, or other proceeding that is pending in the 90-day period beginning on the date of the enactment of this Act, with respect to any such determination, then the report required by this paragraph shall be submitted within such time as will reasonably enable the House of Representatives and the Senate to take action, separately or jointly, to intervene in timely fashion in the proceeding, but not later than 30 days after the date of the enactment of this Act.

(5) Section 101 of Public Law 106-57 (113 Stat. 414) is amended by striking subsection (b). 2 USC 130f.

SEC. 203. MISCELLANEOUS USES OF FUNDS; TECHNICAL AMENDMENTS.

(a) BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended—

(1) in section 504(a) by striking “502” and inserting “501(b)”; 42 USC 3754.

(2) in section 506(a)(1) by striking “participating”; 42 USC 3756.

(3) in section 510(a)(3) by striking “502” and inserting “501(b)”; 42 USC 3760.

(4) in section 510 by adding at the end the following:

“(d) No grants or contracts under subsection (b) may be made, entered into, or used, directly or indirectly, to provide any security enhancements or any equipment to any non-governmental entity that is not engaged in law enforcement or law enforcement support, criminal or juvenile justice, or delinquency prevention.”; and

(5) in section 511 by striking “503” and inserting “501(b)”. 42 USC 3761.

(b) ATTORNEYS SPECIALLY RETAINED BY THE ATTORNEY GENERAL.—The 3d sentence of section 515(b) of title 28, United States Code, is amended by striking “at not more than \$12,000”.

SEC. 204. TECHNICAL AND MISCELLANEOUS AMENDMENTS TO DEPARTMENT OF JUSTICE AUTHORITIES; AUTHORITY TO TRANSFER PROPERTY OF MARGINAL VALUE; RECORD-KEEPING; PROTECTION OF THE ATTORNEY GENERAL.

(a) Section 524 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting “to the Attorney General” after “available”;

(2) in subsection (c)(1)—

(A) by striking the semicolon at the end of the 1st subparagraph (I) and inserting a period;

(B) by striking the 2d subparagraph (I);

(C) by striking “(A)(iv), (B), (F), (G), and (H)” in the first sentence following the second subparagraph (I) and inserting “(B), (F), and (G)”; and

(D) by striking “fund” in the 3d sentence following the 2d subparagraph (I) and inserting “Fund”;

(3) in subsection (c)(2)—

(A) by inserting before the period in the last sentence “, without both the personal approval of the Attorney General and written notice within 30 days thereof to the Chairmen and ranking minority members of the Committees on Appropriations and the Judiciary of the Senate and of the House of Representatives”;

(B) by striking “for information” each place it appears; and

(C) by striking “\$250,000” the 2d and 3d places it appears and inserting “\$500,000”;

(4) in subsection (c)(3) by striking “(F)” and inserting “(G)”;

(5) in subsection (c)(5) by striking “Fund which” and inserting “Fund, that”;

(6) in subsection (c)(8)(A), by striking “(A)(iv), (B), (F), (G), and (H)” and inserting “(B), (F), and (G)”;

(7) in subsection (c)(9)(B)—

(A) by striking “year 1997” and inserting “years 2002 and 2003”; and

(B) by striking “Such transfer shall not” and inserting “Each such transfer shall be subject to satisfaction by the recipient involved of any outstanding lien against the property transferred, but no such transfer shall”.

(b) Section 522 of title 28, United States Code, is amended by inserting “(a)” before “The”, and by inserting at the end the following:

“(b) With respect to any data, records, or other information acquired, collected, classified, preserved, or published by the Attorney General for any statistical, research, or other aggregate reporting purpose beginning not later than 1 year after the date of enactment of 21st Century Department of Justice Appropriations Authorization Act and continuing thereafter, and notwithstanding any other provision of law, the same criteria shall be used (and shall be required to be used, as applicable) to classify or categorize offenders and victims (in the criminal context), and to classify or categorize actors and acted upon (in the noncriminal context).”.

(c) Section 534(a)(3) of title 28, United States Code, is amended by adding “and” after the semicolon.

(d) Section 509(3) of title 28, United States Code, is amended by striking the 2d period.

(e) Section 533 of title 28, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by adding after paragraph (2) a new paragraph as follows:

“(3) to assist in the protection of the person of the Attorney General.”.

31 USC 6503
note.

(f) No compensation or reimbursement paid pursuant to section 501(a) of Public Law 99-603 (100 Stat. 3443) or section 241(i) of the Act of June 27, 1952 (ch. 477) shall be subject to section 6503(d) of title 31, United States Code, and no funds available to the Attorney General may be used to pay any assessment made pursuant to such section 6503 with respect to any such compensation or reimbursement.

28 USC 527 note.

(g) Section 108 of Public Law 103-121 (107 Stat. 1164) is amended by replacing “three” with “six”, by replacing “only” with “, first,”, and by replacing “litigation.” with “litigation, and, thereafter, for financial systems, and other personnel, administrative, and litigation expenses of debt collection activities.”.

SEC. 205. OVERSIGHT; WASTE, FRAUD, AND ABUSE WITHIN THE DEPARTMENT OF JUSTICE.

(a) Section 529 of title 28, United States Code, is amended by inserting “(a)” before “Beginning”, and by adding at the end the following:

“(b) Notwithstanding any provision of law limiting the amount of management or administrative expenses, the Attorney General shall, not later than May 2, 2003, and of every year thereafter, prepare and provide to the Committees on the Judiciary and Appropriations of each House of the Congress using funds available for the underlying programs—

Deadline.
Reports.

“(1) a report identifying and describing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract that was made, entered into, awarded, or, for which additional or supplemental funds were provided in the immediately preceding fiscal year, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services), and including, without limitation, for each such grant, cooperative agreement, or contract: the term, the dollar amount or value, a description of its specific purpose or purposes, the names of all grantees or parties, the names of each unsuccessful applicant or bidder, and a description of the specific purpose or purposes proposed in each unsuccessful application or bid, and of the reason or reasons for rejection or denial of the same; and

“(2) a report identifying and reviewing every grant (other than one made to a governmental entity, pursuant to a statutory formula), cooperative agreement, or programmatic services contract over \$5,000,000 made, entered into, awarded, or for which additional or supplemental funds were provided, after October 1, 2002, by or on behalf of the Office of Justice Programs (including any component or unit thereof, and the Office of Community Oriented Policing Services) that was programmatically and financially closed out or that otherwise ended in the immediately preceding fiscal year (or even if not yet closed out, was terminated or otherwise ended in the fiscal year that ended 2 years before the end of such immediately preceding fiscal year), and including, without limitation, for each such grant, cooperative agreement, or contract: a description of how the appropriated funds involved actually were spent, statistics relating to its performance, its specific purpose or purposes, and its effectiveness, and a written declaration by each non-Federal grantee and each non-Federal party to such agreement or to such contract, that—

“(A) the appropriated funds were spent for such purpose or purposes, and only such purpose or purposes;

“(B) the terms of the grant, cooperative agreement, or contract were complied with; and

“(C) all documentation necessary for conducting a full and proper audit under generally accepted accounting principles, and any (additional) documentation that may have been required under the grant, cooperative agreement, or contract, have been kept in orderly fashion and will be preserved for not less than 3 years from the date of such close out, termination, or end;

except that the requirement of this paragraph shall be deemed satisfied with respect to any such description, statistics, or declaration if such non-Federal grantee or such non-Federal party shall have failed to provide the same to the Attorney General, and the Attorney General notes the fact of such failure and the name of such grantee or such party in the report.”.

(b) Section 1913 of title 18, United States Code, is amended by striking “to favor” and inserting “a jurisdiction, or an official of any government, to favor, adopt,” by inserting “, law, ratification, policy,” after “legislation” every place it appears, by striking “by Congress” the 2d place it appears, by inserting “or such official” before “, through the proper”, by inserting “, measure,” before “or resolution”, by striking “Members of Congress on the request of any Member” and inserting “any such Member or official, at his request,” by striking “for legislation” and inserting “for any legislation”, and by striking the period and the paragraph following “business” and inserting “, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.”.

(c) Section 1516(a) of title 18, United States Code, is amended by inserting “, entity, or program” after “person”, and by inserting “grant, or cooperative agreement,” after “subcontract,”.

42 USC 3712
note.

(d) Section 112 of title I of section 101(b) of division A of Public Law 105-277 (112 Stat. 2681-67) is amended by striking “fiscal year” and all that follows through “Justice—”, and inserting “any fiscal year the Attorney General—”.

(e) Section 2320(f) of title 18, United States Code, is amended—

(1) by striking “title 18” each place it appears and inserting “this title”; and

(2) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively;

(3) by inserting “(1)” after “(f)”; and

(4) by adding at the end the following:

“(2)(A) The report under paragraph (1), with respect to criminal infringement of copyright, shall include the following:

“(i) The number of infringement cases in these categories: audiovisual (videos and films); audio (sound recordings); literary works (books and musical compositions); computer programs; video games; and, others.

“(ii) The number of online infringement cases.

“(iii) The number and dollar amounts of fines assessed in specific categories of dollar amounts. These categories shall be: no fines ordered; fines under \$500; fines from \$500 to \$1,000; fines from \$1,000 to \$5,000; fines from \$5,000 to \$10,000; and fines over \$10,000.

“(iv) The total amount of restitution ordered in all copyright infringement cases.

“(B) In this paragraph, the term ‘online infringement cases’ as used in paragraph (2) means those cases where the infringer—

“(i) advertised or publicized the infringing work on the Internet; or

“(ii) made the infringing work available on the Internet for download, reproduction, performance, or distribution by other persons.

“(C) The information required under subparagraph (A) shall be submitted in the report required in fiscal year 2005 and thereafter.”.

SEC. 206. ENFORCEMENT OF FEDERAL CRIMINAL LAWS BY ATTORNEY GENERAL.

Section 535 of title 28, United States Code, is amended in subsections (a) and (b), by replacing “title 18” with “Federal criminal law”, and in subsection (b), by replacing “or complaint” the 1st place it appears with “matter, or complaint witnessed, discovered, or”, and by inserting “or the witness, discoverer, or recipient, as appropriate,” after “agency,”.

SEC. 207. STRENGTHENING LAW ENFORCEMENT IN UNITED STATES TERRITORIES, COMMONWEALTHS, AND POSSESSIONS.

(a) **EXTENDED ASSIGNMENT INCENTIVE.**—Chapter 57 of title 5, United States Code, is amended—

(1) in subchapter IV, by inserting at the end the following:

“§ 5757. Extended assignment incentive

“(a) The head of an Executive agency may pay an extended assignment incentive to an employee if—

“(1) the employee has completed at least 2 years of continuous service in 1 or more civil service positions located in a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Commonwealth of the Northern Mariana Islands;

“(2) the agency determines that replacing the employee with another employee possessing the required qualifications and experience would be difficult; and

“(3) the agency determines it is in the best interest of the Government to encourage the employee to complete a specified additional period of employment with the agency in the territory or possession, the Commonwealth of Puerto Rico or Commonwealth of the Northern Mariana Islands, except that the total amount of service performed in a particular territory, commonwealth, or possession under 1 or more agreements established under this section may not exceed 5 years.

“(b) The sum of extended assignment incentive payments for a service period may not exceed the greater of—

“(1) an amount equal to 25 percent of the annual rate of basic pay of the employee at the beginning of the service period, times the number of years in the service period; or

“(2) \$15,000 per year in the service period.

“(c)(1) Payment of an extended assignment incentive shall be contingent upon the employee entering into a written agreement with the agency specifying the period of service and other terms and conditions under which the extended assignment incentive is payable.

“(2) The agreement shall set forth the method of payment, including any use of an initial lump-sum payment, installment payments, or a final lump-sum payment upon completion of the entire period of service.

“(3) The agreement shall describe the conditions under which the extended assignment incentive may be canceled prior to the

completion of agreed-upon service period and the effect of the cancellation. The agreement shall require that if, at the time of cancellation of the incentive, the employee has received incentive payments which exceed the amount which bears the same relationship to the total amount to be paid under the agreement as the completed service period bears to the agreed-upon service period, the employee shall repay that excess amount, at a minimum, except that an employee who is involuntarily reassigned to a position stationed outside the territory, commonwealth, or possession or involuntarily separated (not for cause on charges of misconduct, delinquency, or inefficiency) may not be required to repay any excess amounts.

“(d) An agency may not put an extended assignment incentive into effect during a period in which the employee is fulfilling a recruitment or relocation bonus service agreement under section 5753 or for which an employee is receiving a retention allowance under section 5754.

“(e) Extended assignment incentive payments may not be considered part of the basic pay of an employee.

“(f) The Office of Personnel Management may prescribe regulations for the administration of this section, including regulations on an employee’s entitlement to retain or receive incentive payments when an agreement is canceled. Neither this section nor implementing regulations may impair any agency’s independent authority to administratively determine compensation for a class of its employees.”; and

(2) in the analysis by adding at the end the following:

“5757. Extended assignment incentive.”.

(b) CONFORMING AMENDMENT.—Section 5307(a)(2)(B) of title 5, United States Code, is amended by striking “or 5755” and inserting “5755, or 5757”.

5 USC 5307 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first applicable pay period beginning on or after 6 months after the date of enactment of this Act.

Deadline.

5 USC 5757 note.

(d) REPORT.—No later than 3 years after the effective date of this section, the Office of Personnel Management, after consultation with affected agencies, shall submit a report to Congress assessing the effectiveness of the extended assignment incentive authority as a human resources management tool and making recommendations for any changes necessary to improve the effectiveness of the incentive authority. Each agency shall maintain such records and report such information, including the number and size of incentive offers made and accepted or declined by geographic location and occupation, in such format and at such times as the Office of Personnel Management may prescribe, for use in preparing the report.

TITLE III—MISCELLANEOUS

SEC. 301. REPEALERS.

(a) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR NATIONAL INSTITUTE OF CORRECTIONS.—Chapter 319 of title 18, United States Code, is amended by striking section 4353.

(b) OPEN-ENDED AUTHORIZATION OF APPROPRIATIONS FOR UNITED STATES MARSHALS SERVICE.—Section 561 of title 28, United States Code, is amended by striking subsection (i).

(c) REDUNDANT AUTHORIZATIONS OF PAYMENTS FOR REWARDS.—

(1) Public Law 107-56 is amended by striking section 501.

18 USC 3071
note.

(2) Chapter 203 of title 18, United States Code, is amended by striking sections 3059, 3059A, 3059B, 3075, and all the matter after the first sentence of 3072.

(3) Public Law 101-647 is amended in section 2565, by replacing all the matter after “2561” in subsection (c)(1) with “the Attorney General may, in his discretion, pay a reward to the declarant” and by striking subsection (e); and by striking section 2569.

12 USC 4205,
4209.

SEC. 302. TECHNICAL AMENDMENTS TO TITLE 18 OF THE UNITED STATES CODE.

Title 18 of the United States Code is amended—

(1) in section 4041 by striking “at a salary of \$10,000 a year”;

(2) in section 4013—

(A) in subsection (a)—

(i) by replacing “the support of United States prisoners” with “Federal prisoner detention”;

(ii) in paragraph (2) by adding “and” after “hire”;

(iii) in paragraph (3) by replacing “entities; and” with “entities.”; and

(iv) in paragraph (4) by inserting “The Attorney General, in support of Federal prisoner detainees in non-Federal institutions, is authorized to make payments, from funds appropriated for State and local law enforcement assistance, for” before “entering”; and

(B) by redesignating—

(i) subsections (b) and (c) as subsections (c) and (d); and

(ii) paragraph (a)(4) as subsection (b), and subparagraphs (A), (B), and (C), of such paragraph (a)(4) as paragraphs (1), (2), and (3) of such subsection (b); and

(3) in section 209(a)—

(A) by striking “or makes” and inserting “makes”; and

(B) by striking “supplements the salary of, any” and inserting “supplements, the salary of any”.

SEC. 303. REQUIRED SUBMISSION OF PROPOSED AUTHORIZATION OF APPROPRIATIONS FOR THE DEPARTMENT OF JUSTICE FOR FISCAL YEARS 2004 AND 2005.

When the President submits to the Congress the budget of the United States Government for fiscal year 2004, the President shall simultaneously submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate such proposed legislation authorizing appropriations for the Department of Justice for fiscal years 2004 and 2005 as the President may judge necessary and expedient.

SEC. 304. STUDY OF UNTESTED RAPE EXAMINATION KITS.

Not later than 6 months after the date of enactment of this Act, the Attorney General shall conduct a study to assess and report to Congress the number of untested rape examination kits

Deadline.
Reports.

that currently exist nationwide and shall submit to the Congress a report containing a summary of the results of such study. For the purpose of carrying out such study, the Attorney General shall attempt to collect information from all law enforcement jurisdictions in the United States.

SEC. 305. REPORTS ON USE OF DCS 1000 (CARNIVORE).

18 USC 3126
note.

(a) REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER 18 U.S.C. 3123.—At the same time that the Attorney General submits to Congress the annual reports required by section 3126 of title 18, United States Code, that are respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, on the number of orders under section 3123 applied for by law enforcement agencies of the Department of Justice whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program), which report shall include information concerning—

- (1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- (2) the offense specified in the order or application, or extension of an order;
- (3) the number of investigations involved;
- (4) the number and nature of the facilities affected;
- (5) the identity of the applying investigative or law enforcement agency making the application for an order; and
- (6) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

18 USC 2519
note.

(b) REPORT ON USE OF DCS 1000 (CARNIVORE) TO IMPLEMENT ORDERS UNDER 18 U.S.C. 2518.—At the same time that the Attorney General, or Assistant Attorney General specially designated by the Attorney General, submits to the Administrative Office of the United States Courts the annual report required by section 2519(2) of title 18, United States Code, that is respectively next due after the end of each of the fiscal years 2002 and 2003, the Attorney General shall also submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report, covering the same respective time period, that contains the following information with respect to those orders described in that annual report that were applied for by law enforcement agencies of the Department of Justice and whose implementation involved the use of the DCS 1000 program (or any subsequent version of such program)—

- (1) the kind of order or extension applied for (including whether or not the order was an order with respect to which the requirements of sections 2518(1)(b)(ii) and 2518(3)(d) of title 18, United States Code, did not apply by reason of section 2518 (11) of title 18);
- (2) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;
- (3) the offense specified in the order or application, or extension of an order;

(4) the identity of the applying investigative or law enforcement officer and agency making the application and the person authorizing the application;

(5) the nature of the facilities from which or place where communications were to be intercepted;

(6) a general description of the interceptions made under such order or extension, including—

(A) the approximate nature and frequency of incriminating communications intercepted;

(B) the approximate nature and frequency of other communications intercepted;

(C) the approximate number of persons whose communications were intercepted;

(D) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order; and

(E) the approximate nature, amount, and cost of the manpower and other resources used in the interceptions;

(7) the number of arrests resulting from interceptions made under such order or extension, and the offenses for which arrests were made;

(8) the number of trials resulting from such interceptions;

(9) the number of motions to suppress made with respect to such interceptions, and the number granted or denied;

(10) the number of convictions resulting from such interceptions and the offenses for which the convictions were obtained and a general assessment of the importance of the interceptions; and

(11) the specific persons authorizing the use of the DCS 1000 program (or any subsequent version of such program) in the implementation of such order.

SEC. 306. STUDY OF ALLOCATION OF LITIGATING ATTORNEYS.

Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit a report to the chairman and ranking minority member of the Committees on the Judiciary of the House of Representatives and Committee on the Judiciary of the Senate, detailing the distribution or allocation of appropriated funds, attorneys and other personnel, and per-attorney workloads, for each Office of United States Attorney and each division of the Department of Justice except the Justice Management Division. Deadline.

SEC. 307. USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13705(b)) is amended to read as follows:

“(b) **USE OF TRUTH-IN-SENTENCING AND VIOLENT OFFENDER INCARCERATION GRANTS.**—Funds provided under section 20103 or 20104 may be applied to the cost of—

“(1) altering existing correctional facilities to provide separate facilities for juveniles under the jurisdiction of an adult criminal court who are detained or are serving sentences in adult prisons or jails;

“(2) providing correctional staff who are responsible for supervising juveniles who are detained or serving sentences

under the jurisdiction of an adult criminal court with orientation and ongoing training regarding the unique needs of such offenders; and

“(3) providing ombudsmen to monitor the treatment of juveniles who are detained or serving sentences under the jurisdiction of an adult criminal court in adult facilities, consistent with guidelines issued by the Assistant Attorney General.”.

SEC. 308. AUTHORITY OF THE DEPARTMENT OF JUSTICE INSPECTOR GENERAL.

Section 8E of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (b), by striking paragraphs (2) and (3) and inserting the following:

“(2) except as specified in subsection (a) and paragraph (3), may investigate allegations of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, or may, in the discretion of the Inspector General, refer such allegations to the Office of Professional Responsibility or the internal affairs office of the appropriate component of the Department of Justice;

“(3) shall refer to the Counsel, Office of Professional Responsibility of the Department of Justice, allegations of misconduct involving Department attorneys, investigators, or law enforcement personnel, where the allegations relate to the exercise of the authority of an attorney to investigate, litigate, or provide legal advice, except that no such referral shall be made if the attorney is employed in the Office of Professional Responsibility;

“(4) may investigate allegations of criminal wrongdoing or administrative misconduct by a person who is the head of any agency or component of the Department of Justice; and

“(5) shall forward the results of any investigation conducted under paragraph (4), along with any appropriate recommendation for disciplinary action, to the Attorney General.”; and

(2) by adding at the end the following:

“(d) The Attorney General shall ensure by regulation that any component of the Department of Justice receiving a nonfrivolous allegation of criminal wrongdoing or administrative misconduct by an employee of the Department of Justice, except with respect to allegations described in subsection (b)(3), shall report that information to the Inspector General.”.

SEC. 309. REVIEW OF THE DEPARTMENT OF JUSTICE.

(a) **APPOINTMENT OF OVERSIGHT OFFICIAL WITHIN THE OFFICE OF INSPECTOR GENERAL.**—

(1) **IN GENERAL.**—The Inspector General of the Department of Justice shall direct that 1 official from the office of the Inspector General be responsible for supervising and coordinating independent oversight of programs and operations of the Federal Bureau of Investigation until September 30, 2004.

(2) **CONTINUATION OF OVERSIGHT.**—The Inspector General may continue individual oversight in accordance with paragraph (1) after September 30, 2004, at the discretion of the Inspector General.

(b) **INSPECTOR GENERAL OVERSIGHT PLAN FOR THE FEDERAL BUREAU OF INVESTIGATION.**—Not later than 30 days after the date

5 USC app. 8E note.

of the enactment of this Act, the Inspector General of the Department of Justice shall submit to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives, a plan for oversight of the Federal Bureau of Investigation, which plan may include—

(1) an audit of the financial systems, information technology systems, and computer security systems of the Federal Bureau of Investigation;

(2) an audit and evaluation of programs and processes of the Federal Bureau of Investigation to identify systemic weaknesses or implementation failures and to recommend corrective action;

(3) a review of the activities of internal affairs offices of the Federal Bureau of Investigation, including the Inspections Division and the Office of Professional Responsibility;

(4) an investigation of allegations of serious misconduct by personnel of the Federal Bureau of Investigation;

(5) a review of matters relating to any other program or operation of the Federal Bureau of Investigation that the Inspector General determines requires review; and

(6) an identification of resources needed by the Inspector General to implement a plan for oversight of the Federal Bureau of Investigation.

(c) **REPORT ON INSPECTOR GENERAL FOR FEDERAL BUREAU OF INVESTIGATION.**—Not later than 90 days after the date of enactment of this Act, the Attorney General shall submit a report and recommendation to the Chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives concerning—

Deadline.

(1) whether there should be established, within the Department of Justice, a separate office of the Inspector General for the Federal Bureau of Investigation that shall be responsible for supervising independent oversight of programs and operations of the Federal Bureau of Investigation;

(2) what changes have been or should be made to the rules, regulations, policies, or practices governing the Federal Bureau of Investigation in order to assist the Office of the Inspector General in effectively exercising its authority to investigate the conduct of employees of the Federal Bureau of Investigation;

(3) what differences exist between the methods and practices used by different Department of Justice components in the investigation and adjudication of alleged misconduct by Department of Justice personnel;

(4) what steps should be or are being taken to make the methods and practices described in paragraph (3) uniform throughout the Department of Justice; and

(5) whether a set of recommended guidelines relating to the discipline of Department of Justice personnel for misconduct should be developed, and what factors, such as the nature and seriousness of the misconduct, the prior history of the employee, and the rank and seniority of the employee at the time of the misconduct, should be taken into account in establishing such recommended disciplinary guidelines.

SEC. 310. AUTHORIZATION OF APPROPRIATIONS.

(a) DEPARTMENT OF JUSTICE.—There is authorized to be appropriated \$2,000,000 to the Department of Justice for fiscal year 2003—

(1) for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Inspector General by 25 full-time employees who shall conduct an increased number of audits, inspections, and investigations of alleged misconduct by employees of the Federal Bureau of Investigation;

(2) to fund expanded audit coverage of the grant programs administered by the Office of Justice Programs of the Department of Justice; and

(3) to conduct special reviews of efforts by the Federal Bureau of Investigation to implement recommendations made by the Office of Inspector General in reports on alleged misconduct by the Bureau.

(b) FEDERAL BUREAU OF INVESTIGATION.—There is authorized to be appropriated \$1,700,000 to the Federal Bureau of Investigation for fiscal year 2003 for salary, pay, retirement, and other costs associated with increasing the staffing level of the Office of Professional Responsibility by 10 full-time special agents and 4 full-time support employees.

SEC. 311. REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.

(a) REPEAL OF COMPILATION OF STATISTICS RELATING TO INTIMIDATION OF GOVERNMENT EMPLOYEES.—Section 808 of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132; 110 Stat.1310) is repealed.

28 USC 534 note.

Deadline.

(b) REPORT ON THREATS AND ASSAULTS AGAINST FEDERAL LAW ENFORCEMENT OFFICERS, UNITED STATES JUDGES, UNITED STATES OFFICIALS AND THEIR FAMILIES.—Not later than 45 days after the end of fiscal year 2002, the Attorney General shall submit to the Chairmen and ranking minority members of the Committees on the Judiciary of the Senate and of the House of Representatives a report on the number of investigations and prosecutions under section 111 of title 18, United States Code, and section 115 of title 18, United States Code, for the fiscal year 2002.

SEC. 312. ADDITIONAL FEDERAL JUDGESHIPS.

(a) PERMANENT DISTRICT JUDGES FOR THE DISTRICT COURTS.—

President.
28 USC 133 note.

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 5 additional district judges for the southern district of California;

(B) 1 additional district judge for the western district of North Carolina; and

(C) 2 additional district judges for the western district of Texas.

28 USC 133.

(2) TABLES.—In order that the table contained in section 133 of title 28, United States Code, will, with respect to each judicial district, reflect the changes in the total number of permanent district judgeships authorized as a result of paragraph (1) of this subsection, such table is amended—

(A) by striking the item relating to California and inserting the following:

“California:	
Northern	14
Eastern	6
Central	27
Southern	13”;

(B) by striking the item relating to North Carolina and inserting the following:

“North Carolina:	
Eastern	4
Middle	4
Western	4”;

and

(C) by striking the item relating to Texas and inserting the following:

“Texas:	
Northern	12
Southern	19
Eastern	7
Western	13”.

(3) EFFECTIVE DATE.—This subsection shall take effect on July 15, 2003. 28 USC 133 note.

(b) DISTRICT JUDGEShips FOR THE CENTRAL AND SOUTHERN DISTRICTS OF ILLINOIS, THE NORTHERN DISTRICT OF NEW YORK, AND THE EASTERN DISTRICT OF VIRGINIA.— 28 USC 133 note.

(1) CONVERSION OF TEMPORARY JUDGEShips TO PERMANENT JUDGEShips.—The existing district judgeships for the central district and the southern district of Illinois, the northern district of New York, and the eastern district of Virginia authorized by section 203(c) (3), (4), (9), and (12) of the Judicial Improvements Act of 1990 (Public Law 101–650, 28 U.S.C. 133 note) shall be authorized under section 133 of title 28, United States Code, and the incumbents in such offices shall hold the offices under section 133 of title 28, United States Code (as amended by this section).

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table contained in section 133(a) of title 28, United States Code, is amended—

(A) by striking the item relating to Illinois and inserting the following:

“Illinois:	
Northern	22
Central	4
Southern	4”;

(B) by striking the item relating to New York and inserting the following:

“New York:	
Northern	5
Southern	28
Eastern	15
Western	4”;

and

(C) by striking the item relating to Virginia and inserting the following:

“Virginia:	
Eastern	11
Western	4”.

28 USC 133 note.

(3) EFFECTIVE DATE.—With respect to the central or southern district of Illinois, the northern district of New York, or the eastern district of Virginia, this subsection shall take effect on the earlier of—

(A) the date on which the first vacancy in the office of district judge occurs in such district; or

(B) July 15, 2003.

28 USC 133 note.
President.

(c) TEMPORARY JUDGESHIPS.—

(1) IN GENERAL.—The President shall appoint, by and with the advice and consent of the Senate—

(A) 1 additional district judge for the northern district of Alabama;

(B) 1 additional judge for the district of Arizona;

(C) 1 additional judge for the central district of California;

(D) 1 additional judge for the southern district of Florida;

(E) 1 additional district judge for the district of New Mexico;

(F) 1 additional district judge for the western district of North Carolina; and

(G) 1 additional district judge for the eastern district of Texas.

(2) VACANCIES NOT FILLED.—The first vacancy in the office of district judge in each of the offices of district judge authorized by this subsection, occurring 10 years or more after the confirmation date of the judge named to fill the temporary district judgeship created in the applicable district by this subsection, shall not be filled.

(3) EFFECTIVE DATE.—This subsection shall take effect on July 15, 2003.

(d) EXTENSION OF TEMPORARY FEDERAL DISTRICT COURT JUDGESHIP FOR THE NORTHERN DISTRICT OF OHIO.—

(1) IN GENERAL.—Section 203(c) of the Judicial Improvement Act of 1990 (28 U.S.C. 133 note) is amended—

(A) in the first sentence following paragraph (12), by striking “and the eastern district of Pennsylvania” and inserting “, the eastern district of Pennsylvania, and the northern district of Ohio”; and

(B) by inserting after the third sentence following paragraph (12) “The first vacancy in the office of district judge in the northern district of Ohio occurring 15 years or more after the confirmation date of the judge named to fill the temporary judgeship created under this subsection shall not be filled.”.

28 USC 133 note.

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of enactment of this Act.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section, including such sums as may be necessary to provide appropriate space and facilities for the judicial positions created by this section.

TITLE IV—VIOLENCE AGAINST WOMEN

Violence Against
Women Office
Act.
42 USC 3711
note.

SEC. 401. SHORT TITLE.

This title may be cited as the “Violence Against Women Office Act”.

SEC. 402. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

Part T of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg et seq.) is amended—

(1) in section 2002(d)—

(A) in paragraph (2), by striking “section 2005” and inserting “section 2010”; and

(B) in paragraph (3), by striking “section 2006” and inserting “section 2011”;

(2) by redesignating sections 2002 through 2006 as sections 2006 through 2011, respectively; and

(3) by inserting after section 2001 the following:

42 USC
3796gg-1.

42 USC
3796gg-1—
3796gg-5.

“SEC. 2002. ESTABLISHMENT OF VIOLENCE AGAINST WOMEN OFFICE.

42 USC
3796gg-0.

“(a) IN GENERAL.—There is hereby established within the Department of Justice, under the general authority of the Attorney General, a Violence Against Women Office (in this part referred to as the “Office”).

“(b) SEPARATE OFFICE.—The Office shall be a separate and distinct office within the Department of Justice, headed by a Director, who shall report to the Attorney General and serve as Counsel to the Attorney General on the subject of violence against women, and who shall have final authority over all grants, cooperative agreements, and contracts awarded by the Office.

“(c) JURISDICTION.—Under the general authority of the Attorney General, the Office—

“(1) shall have sole jurisdiction over all duties and functions described in section 2004; and

“(2) shall be solely responsible for coordination with other departments, agencies, or offices of all activities authorized or undertaken under the Violence Against Women Act of 1994 (title VI of Public Law 103-322) and the Violence Against Women Act of 2000 (Division B of Public Law 106-386).

“SEC. 2003. DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

42 USC
3796gg-0a.
President.

“(a) APPOINTMENT.—The President, by and with the advice and consent of the Senate, shall appoint a Director for the Violence Against Women Office (in this title referred to as the ‘Director’) to be responsible, under the general authority of the Attorney General, for the administration, coordination, and implementation of the programs and activities of the Office.

“(b) OTHER EMPLOYMENT.—The Director shall not—

“(1) engage in any employment other than that of serving as Director; or

“(2) hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under the Violence Against Women Act of 1994 (title IV of Public Law 103-322) or the Violence Against Women Act of 2000 (division B of Public Law 106-386).

“(c) VACANCY.—In the case of a vacancy, the President may designate an officer or employee who shall act as Director during the vacancy.

“(d) COMPENSATION.—The Director shall be compensated at a rate of pay not to exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

42 USC
3796gg-0b.

“SEC. 2004. DUTIES AND FUNCTIONS OF DIRECTOR OF VIOLENCE AGAINST WOMEN OFFICE.

“The Director shall have the following duties:

“(1) Maintaining liaison with the judicial branches of the Federal and State Governments on matters relating to violence against women.

“(2) Providing information to the President, the Congress, the judiciary, State, local, and tribal governments, and the general public on matters relating to violence against women.

“(3) Serving, at the request of the Attorney General, as the representative of the Department of Justice on domestic task forces, committees, or commissions addressing policy or issues relating to violence against women.

“(4) Serving, at the request of the President, acting through the Attorney General, as the representative of the United States Government on human rights and economic justice matters related to violence against women in international fora, including, but not limited to, the United Nations.

“(5) Carrying out the functions of the Department of Justice under the Violence Against Women Act of 1994 (title IV of Public Law 103-322) and the Violence Against Women Act of 2000 (division B of Public Law 106-386), including with respect to those functions—

“(A) the development of policy, protocols, and guidelines;

“(B) the development and management of grant programs and other programs, and the provision of technical assistance under such programs; and

“(C) the award and termination of grants, cooperative agreements, and contracts.

“(6) Providing technical assistance, coordination, and support to—

“(A) other components of the Department of Justice, in efforts to develop policy and to enforce Federal laws relating to violence against women, including the litigation of civil and criminal actions relating to enforcing such laws;

“(B) other Federal, State, local, and tribal agencies, in efforts to develop policy, provide technical assistance, and improve coordination among agencies carrying out efforts to eliminate violence against women, including Indian or indigenous women; and

“(C) grantees, in efforts to combat violence against women and to provide support and assistance to victims of such violence.

“(7) Exercising such other powers and functions as may be vested in the Director pursuant to this part or by delegation of the Attorney General.

“(8) Establishing such rules, regulations, guidelines, and procedures as are necessary to carry out any function of the Office.

“SEC. 2005. STAFF OF VIOLENCE AGAINST WOMEN OFFICE.

42 USC
3796gg–0c.

“The Attorney General shall ensure that the Director has adequate staff to support the Director in carrying out the Director’s responsibilities under this part.

“SEC. 2006. AUTHORIZATION OF APPROPRIATIONS.

42 USC
3796gg–0d.

“There are authorized to be appropriated such sums as are necessary to carry out this part for each fiscal year until fiscal year 2005.”.

SEC. 403. EFFECTIVE DATE.

42 USC
3796gg–0
note.

This title shall take effect 90 days after this bill becomes law.

DIVISION B—MISCELLANEOUS DIVISION

TITLE I—BOYS AND GIRLS CLUBS OF AMERICA

SEC. 1101. BOYS AND GIRLS CLUBS OF AMERICA.

Section 401 of the Economic Espionage Act of 1996 (42 U.S.C. 13751 note) is amended—

(1) in subsection (a)(2)—

(A) by striking “1,000” and inserting “1,200”;

(B) by striking “2,500” and inserting “4,000”; and

(C) by striking “December 31, 1999” and inserting “December 31, 2005, serving not less than 5,000,000 young people”;

(2) in subsection (c)—

(A) in paragraph (1), by striking “1997, 1998, 1999, 2000, and 2001” and inserting “2002, 2003, 2004, 2005, and 2006”; and

(B) in paragraph (2)—

(i) in subparagraph (A), by striking “1,000” and inserting “1,200”; and

(ii) in subparagraph (B), by striking “2,500 Boys and Girls Clubs of America facilities in operation before January 1, 2000” and inserting “4,000 Boys and Girls Clubs of America facilities in operation before January 1, 2007”; and

(3) in subsection (e), by striking paragraph (1) and paragraph (2) and inserting the following:

“(1) IN GENERAL.—There are authorized to be appropriated to carry out this section—

“(A) \$70,000,000 for fiscal year 2002;

“(B) \$80,000,000 for fiscal year 2003;

“(C) \$80,000,000 for fiscal year 2004; and

“(D) \$80,000,000 for fiscal year 2005.”.

Drug Abuse
Education,
Prevention, and
Treatment Act of
2002.

TITLE II—DRUG ABUSE EDUCATION, PREVENTION, AND TREATMENT ACT OF 2002

42 USC 3711
note.

SEC. 2001. SHORT TITLE.

This title may be cited as the “Drug Abuse Education, Prevention, and Treatment Act of 2002”.

Subtitle A—Drug-Free Prisons and Jails

SEC. 2101. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

“(c) **ADDITIONAL USE OF FUNDS.**—States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements may use funds awarded under this part for treatment and sanctions both during incarceration and after release.”.

SEC. 2102. JAIL-BASED SUBSTANCE ABUSE TREATMENT PROGRAMS.

Part S of the Omnibus Crime Control and Safe Streets Act of 1968 is amended—

(1) in section 1901(a)—

(A) by striking “purpose of developing” and inserting the following: “purpose of—

“(1) developing”; and

(B) striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(2) encouraging the establishment and maintenance of drug-free prisons and jails.”;

42 USC 3796ff-1.

(2) in section 1902, by adding at the end the following:

“(f) **USE OF GRANT AMOUNTS FOR NONRESIDENTIAL AFTERCARE SERVICES.**—A State may use amounts received under this part to provide nonresidential substance abuse treatment aftercare services for inmates or former inmates that meet the requirements of subsection (c), if the chief executive officer of the State certifies to the Attorney General that the State is providing, and will continue to provide, an adequate level of residential treatment services.”; and

42 USC 3796ff-3.

(3) in section 1904, by adding at the end the following:

“(c) **LOCAL ALLOCATION.**—At least 10 percent of the total amount made available to a State under section 1904(a) for any fiscal year shall be used by the State to make grants to local correctional and detention facilities in the State (provided such facilities exist therein), for the purpose of assisting jail-based substance abuse treatment programs that are effective and science-based established by those local correctional facilities.”.

SEC. 2103. MANDATORY REVOCATION OF PROBATION AND SUPERVISED RELEASE FOR FAILING A DRUG TEST.

(a) REVOCATION OF PROBATION.—Section 3565(b) of title 18, United States Code, is amended—

- (1) in paragraph (2), by striking “or” after the semicolon;
- (2) in paragraph (3), by striking “(4),” and inserting “(4); or”; and
- (3) by adding after paragraph (3) the following:

“(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;”.

(b) REVOCATION OF SUPERVISED RELEASE.—Section 3583(g) of title 18, United States Code, is amended—

- (1) in paragraph (2), by striking “or” after the semicolon;
- (2) in paragraph (3), by inserting “or” after the semicolon; and
- (3) by adding after paragraph (3) the following:

“(4) as a part of drug testing, tests positive for illegal controlled substances more than 3 times over the course of 1 year;”.

Subtitle B—Treatment and Prevention

SEC. 2201. REPORT ON DRUG-TESTING TECHNOLOGIES.

42 USC 3722
note.

(a) REQUIREMENT.—The National Institute of Justice shall conduct a study of drug-testing technologies in order to identify and assess the efficacy, accuracy, and usefulness for purposes of the National effort to detect the use of illicit drugs of any drug-testing technologies (including the testing of hair) that may be used as alternatives or complements to urinalysis as a means of detecting the use of such drugs.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Institute shall submit to Congress a report on the results of the study conducted under subsection (a).

Deadline.

SEC. 2202. DRUG AND SUBSTANCE ABUSE TREATMENT, PREVENTION, EDUCATION, AND RESEARCH STUDY.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President, after consultation with the Attorney General, Secretary of Health and Human Services, Secretary of Education, and other appropriate Federal officers, shall—

Deadline.

- (1) conduct a thorough review of all Federal drug and substance abuse treatment, prevention, education, and research programs; and
- (2) make such recommendations to Congress as the President may judge necessary and expedient to streamline, consolidate, coordinate, simplify, and more effectively conduct and deliver drug and substance abuse treatment, prevention, and education.

(b) REPORT TO CONGRESS.—The report to Congress shall—

- (1) contain a survey of all Federal drug and substance abuse treatment, prevention, education, and research programs;
- (2) indicate the legal authority for each program, the amount of funding in the last 2 fiscal years for each program, and a brief description of the program; and

(3) identify authorized programs that were not funded in fiscal year 2002 or 2003.

SEC. 2203. DRUG ABUSE AND ADDICTION RESEARCH.

Section 464N of the Public Health Service Act (42 U.S.C. 285o-2) is amended by striking subsection (c) and inserting the following:

“(c) DRUG ABUSE AND ADDICTION RESEARCH.—

“(1) GRANTS OR COOPERATIVE AGREEMENTS.—The Director of the Institute may make grants or enter into cooperative agreements to expand the current and ongoing interdisciplinary research and clinical trials with treatment centers of the National Drug Abuse Treatment Clinical Trials Network relating to drug abuse and addiction, including related biomedical, behavioral, and social issues.

“(2) USE OF FUNDS.—Amounts made available under a grant or cooperative agreement under paragraph (1) for drug abuse and addiction may be used for research and clinical trials relating to—

“(A) the effects of drug abuse on the human body, including the brain;

“(B) the addictive nature of drugs and how such effects differ with respect to different individuals;

“(C) the connection between drug abuse and mental health;

“(D) the identification and evaluation of the most effective methods of prevention of drug abuse and addiction;

“(E) the identification and development of the most effective methods of treatment of drug addiction, including pharmacological treatments;

“(F) risk factors for drug abuse;

“(G) effects of drug abuse and addiction on pregnant women and their fetuses; and

“(H) cultural, social, behavioral, neurological, and psychological reasons that individuals abuse drugs, or refrain from abusing drugs.

“(3) RESEARCH RESULTS.—The Director shall promptly disseminate research results under this subsection to Federal, State, and local entities involved in combating drug abuse and addiction.

“(4) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary for each fiscal year.

“(B) SUPPLEMENT NOT SUPPLANT.—Amounts appropriated pursuant to the authorization of appropriations in subparagraph (A) for a fiscal year shall supplement and not supplant any other amounts appropriated in such fiscal year for research on drug abuse and addiction.”.

Subtitle C—Drug Courts

SEC. 2301. DRUG COURTS.

(a) DRUG COURTS.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after part DD the following new part:

“PART EE—DRUG COURTS**“SEC. 2951. GRANT AUTHORITY.**

42 USC 3797u.

“(a) IN GENERAL.—The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or private entities, for adult drug courts, juvenile drug courts, family drug courts, and tribal drug courts that involve—

“(1) continuing judicial supervision over offenders with substance abuse problems who are not violent offenders;

“(2) coordination with the appropriate State or local prosecutor; and

“(3) the integrated administration of other sanctions and services, which shall include—

“(A) mandatory periodic testing for the use of controlled substances or other addictive substances during any period of supervised release or probation for each participant;

“(B) substance abuse treatment for each participant;

“(C) diversion, probation, or other supervised release involving the possibility of prosecution, confinement, or incarceration based on noncompliance with program requirements or failure to show satisfactory progress;

“(D) offender management, and aftercare services such as relapse prevention, health care, education, vocational training, job placement, housing placement, and child care or other family support services for each participant who requires such services;

“(E) payment, in whole or part, by the offender of treatment costs, to the extent practicable, such as costs for urinalysis or counseling; and

“(F) payment, in whole or part, by the offender of restitution, to the extent practicable, to either a victim of the offender’s offense or to a restitution or similar victim support fund.

“(b) LIMITATION.—Economic sanctions imposed on an offender pursuant to this section shall not be at a level that would interfere with the offender’s rehabilitation.

“SEC. 2952. PROHIBITION OF PARTICIPATION BY VIOLENT OFFENDERS. 42 USC 3797u-1.

“The Attorney General shall—

“(1) issue regulations or guidelines to ensure that the programs authorized in this part do not permit participation by violent offenders; and

“(2) immediately suspend funding for any grant under this part, pending compliance, if the Attorney General finds that violent offenders are participating in any program funded under this part.

“SEC. 2953. DEFINITION.

42 USC 3797u-2.

“(a) IN GENERAL.—Except as provided in subsection (b), in this part, the term ‘violent offender’ means a person who—

“(1) is charged with or convicted of an offense, during the course of which offense or conduct—

“(A) the person carried, possessed, or used a firearm or dangerous weapon;

“(B) there occurred the death of or serious bodily injury to any person; or

“(C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or

“(2) has 1 or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

“(b) DEFINITION FOR PURPOSES OF JUVENILE DRUG COURTS.—For purposes of juvenile drug courts, the term ‘violent offender’ means a juvenile who has been convicted of, or adjudicated delinquent for, an offense that—

“(1) has as an element, the use, attempted use, or threatened use of physical force against the person or property of another, or the possession or use of a firearm; or

“(2) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

42 USC 3797u-3. **“SEC. 2954. ADMINISTRATION.**

“(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

“(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

“(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

“(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

“(1) include a long-term strategy and detailed implementation plan that shall provide for the consultation and coordination with appropriate State and local prosecutors, particularly when program participants fail to comply with program requirements;

“(2) explain the applicant’s inability to fund the program adequately without Federal assistance;

“(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

“(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

“(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

“(6) certify that participating offenders will be supervised by 1 or more designated judges with responsibility for the drug court program;

“(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

“(8) describe the methodology that will be used in evaluating the program.

“SEC. 2955. APPLICATIONS.

42 USC 3797u-4.

“To request funds under this part, the chief executive or the chief justice of a State or the chief executive or judge of a unit of local government or Indian tribal government, or the chief judge of a State court or the judge of a local court or Indian tribal court shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

“SEC. 2956. FEDERAL SHARE.

42 USC 3797u-5.

“(a) IN GENERAL.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2955 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section.

“(b) IN-KIND CONTRIBUTIONS.—In-kind contributions may constitute a portion of the non-Federal share of a grant.

“SEC. 2957. DISTRIBUTION AND ALLOCATION.

42 USC 3797u-6.

“(a) GEOGRAPHIC DISTRIBUTION.—The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

“(b) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a grant under this part have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this part not less than 0.50 percent of the total amount appropriated in the fiscal year for grants pursuant to this part.

“SEC. 2958. REPORT.

42 USC 3797u-7.

“A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a description and an evaluation report on a date specified by the Attorney General regarding the effectiveness of this part.

“SEC. 2959. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

42 USC 3797u-8.

“(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

“(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees (including uniform data collection standards and reporting requirements), the Attorney General shall carry out or make arrangements for evaluations of programs that receive support under this part.

“(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.”.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part DD the following:

“PART EE—DRUG COURTS

- “Sec. 2951. Grant authority.
- “Sec. 2952. Prohibition of participation by violent offenders.
- “Sec. 2953. Definition.
- “Sec. 2954. Administration.
- “Sec. 2955. Applications.
- “Sec. 2956. Federal share.
- “Sec. 2957. Distribution and allocation.
- “Sec. 2958. Report.
- “Sec. 2959. Technical assistance, training, and evaluation.”.

Deadline.

(c) IMPLEMENTATION OF RECOMMENDATIONS.—Not later than 120 days after the date of enactment of this Act, the Attorney General shall—

(1) devise a plan to implement recommendations of the General Accounting Office to—

(A) develop and implement a management information system that is able to track and readily identify the universe of drug court programs funded by the Drug Court Program Office of the Department of Justice;

(B) take steps to ensure and sustain an adequate grantee response rate to the Drug Court Program Office’s data collection efforts by improving efforts to notify and remind grantees of their reporting requirements;

(C) take corrective action toward grantees that do not comply with the data collection reporting requirement of the Department of Justice;

(D) reinstate the collection of post-program data in the Drug Court Program Office’s data collection effort, selectively spot checking grantee responses to ensure accurate reporting;

(E) analyze performance and outcome data collected from grantees and report annually on the results;

(F) consolidate the multiple Department of Justice-funded drug court program-related data collection efforts to better ensure that the primary focus is on the collection and reporting of data on Drug Court Program Office-funded drug court programs;

(G) conduct a methodologically sound national impact evaluation of Drug Court Program Office-funded drug court programs; and

(H) consider ways to reduce the time needed to provide information on the overall impact of Federally-funded drug court programs; and

(2) submit a report on the plan to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 2302. AUTHORIZATION OF APPROPRIATIONS.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended—

(1) in paragraph (3), by inserting before the period at the end the following: “or EE”; and

(2) by adding at the end the following:

“(25)(A) Except as provided in subparagraph (C), there are authorized to be appropriated to carry out part EE—

“(i) \$50,000,000 for fiscal year 2002;

“(ii) \$54,000,000 for fiscal year 2003;

“(iii) \$58,000,000 for fiscal year 2004; and

“(iv) \$60,000,000 for fiscal year 2005.

“(B) The Attorney General shall reserve not less than 1 percent and not more than 4.5 percent of the sums appropriated for this program in each fiscal year for research and evaluation of this program.

“(C) No funds made available to carry out part EE shall be expended if the Attorney General fails to submit the report required to be submitted under section 2401(c) of title II of Division B of the 21st Century Department of Justice Appropriations Authorization Act.”.

SEC. 2303. STUDY BY THE GENERAL ACCOUNTING OFFICE.

42 USC 3797u
note.

(a) **IN GENERAL.**—The Comptroller General of the United States shall study and assess the effectiveness and impact of grants authorized by part EE of title I of the Omnibus Crime Control and Safe Streets Act of 1968 as added by section 2401 and report to Congress the results of the study on or before January 1, 2005.

(b) **DOCUMENTS AND INFORMATION.**—The Attorney General and grant recipients shall provide the Comptroller General with all relevant documents and information that the Comptroller General deems necessary to conduct the study under subsection (a), including the identities and criminal records of program participants.

(c) **CRITERIA.**—In assessing the effectiveness of the grants made under programs authorized by part EE of the Omnibus Crime Control and Safe Streets Act of 1968, the Comptroller General shall consider, among other things—

- (1) recidivism rates of program participants;
- (2) completion rates among program participants;
- (3) drug use by program participants; and
- (4) the costs of the program to the criminal justice system.

Subtitle D—Program for Successful Reentry of Criminal Offenders Into Local Communities

CHAPTER 1—POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES

SEC. 2411. POST INCARCERATION VOCATIONAL AND REMEDIAL EDUCATIONAL OPPORTUNITIES FOR INMATES.

18 USC 3601
note.

(a) **FEDERAL REENTRY CENTER DEMONSTRATION.**—

(1) **AUTHORITY AND ESTABLISHMENT OF DEMONSTRATION PROJECT.**—The Attorney General, in consultation with the Director of the Administrative Office of the United States Courts, shall establish the Federal Reentry Center Demonstration project. The project shall involve appropriate prisoners from the Federal prison population and shall utilize community corrections facilities, home confinement, and a coordinated response by Federal agencies to assist participating prisoners in preparing for and adjusting to reentry into the community.

(2) **PROJECT ELEMENTS.**—The project authorized by paragraph (1) shall include the following core elements:

- (A) A Reentry Review Team for each prisoner, consisting of a representative from the Bureau of Prisons,

the United States Probation System, the United States Parole Commission, and the relevant community corrections facility, who shall initially meet with the prisoner to develop a reentry plan tailored to the needs of the prisoner.

(B) A system of graduated levels of supervision with the community corrections facility to promote community safety, provide incentives for prisoners to complete the reentry plan, including victim restitution, and provide a reasonable method for imposing sanctions for a prisoner's violation of the conditions of participation in the project.

(C) Substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and educational training, life skills instruction, conflict resolution skills training, batterer intervention programs, assistance obtaining suitable affordable housing, and other programming to promote effective reintegration into the community as needed.

(3) PROBATION OFFICERS.—From funds made available to carry out this section, the Director of the Administrative Office of the United States Courts shall assign 1 or more probation officers from each participating judicial district to the Reentry Demonstration project. Such officers shall be assigned to and stationed at the community corrections facility and shall serve on the Reentry Review Teams.

Deadline.

(4) PROJECT DURATION.—The Reentry Center Demonstration project shall begin not later than 6 months following the availability of funds to carry out this subsection, and shall last 3 years.

(b) DEFINITIONS.—In this section, the term “appropriate prisoner” shall mean a person who is considered by prison authorities—

(1) to pose a medium to high risk of committing a criminal act upon reentering the community; and

(2) to lack the skills and family support network that facilitate successful reintegration into the community.

(c) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated, to remain available until expended—

(1) to the Federal Bureau of Prisons—

(A) \$1,375,000 for fiscal year 2003;

(B) \$1,110,000 for fiscal year 2004;

(C) \$1,130,000 for fiscal year 2005;

(D) \$1,155,000 for fiscal year 2006; and

(E) \$1,230,000 for fiscal year 2007; and

(2) to the Federal Judiciary—

(A) \$3,380,000 for fiscal year 2003;

(B) \$3,540,000 for fiscal year 2004;

(C) \$3,720,000 for fiscal year 2005;

(D) \$3,910,000 for fiscal year 2006; and

(E) \$4,100,000 for fiscal year 2007.

CHAPTER 2—STATE REENTRY GRANT PROGRAMS**SEC. 2421. AMENDMENTS TO THE OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968.**

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after part EE the following new part:

**“PART FF—OFFENDER REENTRY AND
COMMUNITY SAFETY****“SEC. 2976. ADULT AND JUVENILE OFFENDER STATE AND LOCAL REENTRY DEMONSTRATION PROJECTS.** 42 USC 3797w.

“(a) GRANT AUTHORIZATION.—The Attorney General shall make grants of up to \$1,000,000 to States, Territories, and Indian tribes, in partnership with units of local government and nonprofit organizations, for the purpose of establishing adult and juvenile offender reentry demonstration projects.

“(b) ADULT OFFENDER REENTRY DEMONSTRATION PROJECTS.—Funds for adult offender demonstration projects may be expended for—

“(1) oversight/monitoring of released offenders;

“(2) substance abuse treatment and aftercare, mental and medical health treatment and aftercare, vocational and basic educational training, and other programming to promote effective reintegration into the community as needed;

“(3) convening community impact panels, victim impact panels or victim impact educational classes; and

“(4) establishing and implementing graduated sanctions and incentives.

“(c) JUVENILE OFFENDER REENTRY DEMONSTRATION PROJECTS.—Funds for the juvenile offender reentry demonstration projects may be expended for—

“(1) providing returning juvenile offenders with drug and alcohol testing and treatment and mental and medical health assessment and services;

“(2) convening victim impact panels, restorative justice panels, or victim impact educational classes for juvenile offenders;

“(3) oversight/monitoring of released juvenile offenders; and

“(4) providing for the planning of reentry services when the youth is initially incarcerated and coordinating the delivery of community-based services, such as education, family involvement and support, and other services as needed.

“(d) SUBMISSION OF APPLICATION.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this subpart shall—

“(1) describe a long-term strategy and detailed implementation plan, including how the jurisdiction plans to pay for the program after the Federal funding ends;

“(2) identify the governmental and community agencies that will be coordinated by this project;

“(3) certify that there has been appropriate consultation with all affected agencies and there will be appropriate coordination with all affected agencies in the implementation

of the program, including existing community corrections and parole; and

“(4) describe the methodology and outcome measures that will be used in evaluating the program.

“(e) APPLICANTS.—The applicants as designated under 2601(a)—

“(1) shall prepare the application as required under subsection 2601(b); and

“(2) shall administer grant funds in accordance with the guidelines, regulations, and procedures promulgated by the Attorney General, as necessary to carry out the purposes of this part.

“(f) MATCHING FUNDS.—The Federal share of a grant received under this title may not exceed 75 percent of the costs of the project funded under this title unless the Attorney General waives, wholly or in part, the requirements of this section.

“(g) REPORTS.—Each entity that receives a grant under this part shall submit to the Attorney General, for each year in which funds from a grant received under this part is expended, a description and an evaluation report at such time and in such manner as the Attorney General may reasonably require that contains—

“(1) a summary of the activities carried out under the grant and an assessment of whether such activities are meeting the needs identified in the application funded under this part; and

“(2) such other information as the Attorney General may require.

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated \$15,000,000 for fiscal year 2003, \$15,500,000 for fiscal year 2004, and \$16,000,000 for fiscal year 2005.

“(2) LIMITATIONS.—Of the amount made available to carry out this section in any fiscal year—

“(A) not more than 2 percent or less than 1 percent may be used by the Attorney General for salaries and administrative expenses; and

“(B) not more than 3 percent or less than 2 percent may be used for technical assistance and training.

42 USC 3797w-1. **“SEC. 2977. STATE REENTRY PROJECT EVALUATION.**

“(a) EVALUATION.—The Attorney General shall evaluate the demonstration projects authorized by section 2976 to determine their effectiveness.

Deadline.

“(b) REPORT.—Not later than April 30, 2005, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and the Senate containing—

“(1) the findings of the evaluation required by subsection (a); and

“(2) any recommendations the Attorney General has with regard to expanding, changing, or eliminating the demonstration projects.”.

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part EE the following:

“PART FF—OFFENDER REENTRY AND COMMUNITY SAFETY ACT

“Sec. 2976. Adult Offender State and Local Reentry Demonstration Projects.
“Sec. 2977. State reentry project evaluation.”.

Subtitle E—Other Matters**SEC. 2501. AMENDMENT TO CONTROLLED SUBSTANCES ACT.**

Section 303(g)(2) of the Controlled Substances Act (21 U.S.C. 823(g)(2)) is amended—

(1) in subparagraph (I), by striking “on October 17, 2000,” and all that follows through “such drugs,” and inserting “on the date of approval by the Food and Drug Administration of a drug in schedule III, IV, or V, a State may not preclude a practitioner from dispensing or prescribing such drug, or combination of such drugs,”; and

(2) in subparagraph (J)(i), by striking “October 17, 2000,” and inserting “the date referred to in subparagraph (I),”.

SEC. 2502. STUDY OF METHAMPHETAMINE TREATMENT.

Section 3633 of the Methamphetamine Anti-Proliferation Act of 2000 (114 Stat. 1236) is amended by striking “the Institute of Medicine of the National Academy of Sciences” and inserting “the National Institute on Drug Abuse”.

SEC. 2503. AUTHORIZATION OF FUNDS FOR DEA POLICE TRAINING IN SOUTH AND CENTRAL ASIA.

There is authorized to be appropriated to the Attorney General not less than \$5,000,000 for fiscal year 2003 for regional antidrug training by the Drug Enforcement Administration for law enforcement entities (including police, border control, and other entities engaged in drug interdiction and narcotics control efforts), as well as increased precursor chemical control efforts in the South and Central Asia region.

SEC. 2504. UNITED STATES-THAILAND DRUG PROSECUTOR EXCHANGE PROGRAM.

(a) PROGRAM AUTHORIZATION.—The Attorney General shall establish an exchange program in which prosecutors, judges, or policy makers from the Kingdom of Thailand participate in an exchange program to observe Federal prosecutors in an effort to learn about the various rules and procedures used to prosecute violations of federal criminal narcotics laws.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated \$75,000 for fiscal year 2003 and \$75,000 for fiscal year 2004.

TITLE III—SAFEGUARDING THE INTEGRITY OF THE CRIMINAL JUSTICE SYSTEM**SEC. 3001. INCREASING THE PENALTY FOR USING PHYSICAL FORCE TO TAMPER WITH WITNESSES, VICTIMS, OR INFORMANTS.**

(a) IN GENERAL.—Section 1512 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking “as provided in paragraph (2)” and inserting “as provided in paragraph (3)”;

(B) by redesignating paragraph (2) as paragraph (3);

(C) by inserting after paragraph (1) the following:

“(2) Whoever uses physical force or the threat of physical force against any person, or attempts to do so, with intent to—

“(A) influence, delay, or prevent the testimony of any person in an official proceeding;

“(B) cause or induce any person to—

“(i) withhold testimony, or withhold a record, document, or other object, from an official proceeding;

“(ii) alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official proceeding;

“(iii) evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official proceeding; or

“(iv) be absent from an official proceeding to which that person has been summoned by legal process; or

“(C) hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of conditions of probation, supervised release, parole, or release pending judicial proceedings; shall be punished as provided in paragraph (3).”; and

(D) in paragraph (3), as redesignated—

(i) by striking “and” at the end of subparagraph (A); and

(ii) by striking subparagraph (B) and inserting the following:

“(B) in the case of—

“(i) an attempt to murder; or

“(ii) the use or attempted use of physical force against any person; imprisonment for not more than 20 years; and

“(C) in the case of the threat of use of physical force against any person, imprisonment for not more than 10 years.”;

(2) in subsection (b), by striking “or physical force”; and

(3) by adding at the end the following:

“(k) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.”.

(b) RETALIATING AGAINST A WITNESS.—Section 1513 of title 18, United States Code, is amended by adding at the end the following:

“(e) Whoever conspires to commit any offense under this section shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.”.

(c) CONFORMING AMENDMENTS.—

(1) WITNESS TAMPERING.—Section 1512 of title 18, United States Code, is amended in subsections (b)(3) and (d)(2) by inserting “supervised release,” after “probation”.

(2) RETALIATION AGAINST A WITNESS.—Section 1513 of title 18, United States Code, is amended in subsections (a)(1)(B) and (b)(2) by inserting “supervised release,” after “probation”.

SEC. 3002. CORRECTION OF ABERRANT STATUTES TO PERMIT IMPOSITION OF BOTH A FINE AND IMPRISONMENT.

(a) IN GENERAL.—Title 18 of the United States Code is amended—

(1) in section 401, by inserting “or both,” after “fine or imprisonment,”;

(2) in section 1705, by inserting “, or both” after “years”; and

(3) in sections 1916, 2234, and 2235, by inserting “, or both” after “year”.

(b) IMPOSITION BY MAGISTRATE.—Section 636 of title 28, United States Code, is amended—

(1) in subsection (e)(2), by inserting “, or both,” after “fine or imprisonment”; and

(2) in subsection (e)(3), by inserting “or both,” after “fine or imprisonment.”.

SEC. 3003. REINSTATEMENT OF COUNTS DISMISSED PURSUANT TO A PLEA AGREEMENT.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

“§ 3296. Counts dismissed pursuant to a plea agreement

“(a) IN GENERAL.—Notwithstanding any other provision of this chapter, any counts of an indictment or information that are dismissed pursuant to a plea agreement shall be reinstated by the District Court if—

“(1) the counts sought to be reinstated were originally filed within the applicable limitations period;

“(2) the counts were dismissed pursuant to a plea agreement approved by the District Court under which the defendant pled guilty to other charges;

“(3) the guilty plea was subsequently vacated on the motion of the defendant; and

“(4) the United States moves to reinstate the dismissed counts within 60 days of the date on which the order vacating the plea becomes final.

Deadline.

“(b) DEFENSES; OBJECTIONS.—Nothing in this section shall preclude the District Court from considering any defense or objection, other than statute of limitations, to the prosecution of the counts reinstated under subsection (a).”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Chapter 213 of title 18, United States Code, is amended in the table of sections by adding at the end the following new item:

“3296. Counts dismissed pursuant to a plea agreement.”.

SEC. 3004. APPEALS FROM CERTAIN DISMISSALS.

Section 3731 of title 18, United States Code, is amended by inserting “, or any part thereof” after “as to any one or more counts”.

SEC. 3005. CLARIFICATION OF LENGTH OF SUPERVISED RELEASE TERMS IN CONTROLLED SUBSTANCE CASES.

(a) DRUG ABUSE PENALTIES.—Subparagraphs (A), (B), (C), and (D) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) are amended by striking “Any sentence” and inserting “Notwithstanding section 3583 of title 18, any sentence”.

(b) **PENALTIES FOR DRUG IMPORT AND EXPORT.**—Section 1010(b) of the Controlled Substances Import and Export Act (21 U.S.C. 960(b)) is amended—

(1) in paragraphs (1), (2), and (3), by striking “Any sentence” and inserting “Notwithstanding section 3583 of title 18, any sentence”; and

(2) in paragraph (4), by inserting “notwithstanding section 3583 of title 18,” before “in addition to such term of imprisonment”.

SEC. 3006. AUTHORITY OF COURT TO IMPOSE A SENTENCE OF PROBATION OR SUPERVISED RELEASE WHEN REDUCING A SENTENCE OF IMPRISONMENT IN CERTAIN CASES.

Section 3582(c)(1)(A) of title 18, United States Code, is amended by inserting “(and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment)” after “may reduce the term of imprisonment”.

SEC. 3007. CLARIFICATION THAT MAKING RESTITUTION IS A PROPER CONDITION OF SUPERVISED RELEASE.

Subsections (c) and (e) of section 3583 of title 18, United States Code, are amended by striking “and (a)(6) and inserting “(a)(6), and (a)(7)”.

Criminal Law
Technical
Amendments Act
of 2002.

TITLE IV—CRIMINAL LAW TECHNICAL AMENDMENTS ACT OF 2002

18 USC 1 note.

SEC. 4001. SHORT TITLE.

This title may be cited as the “Criminal Law Technical Amendments Act of 2002”.

SEC. 4002. TECHNICAL AMENDMENTS RELATING TO CRIMINAL LAW AND PROCEDURE.

(a) **MISSING AND INCORRECT WORDS.**—

(1) **CORRECTION OF GARBLED SENTENCE.**—Section 510(c) of title 18, United States Code, is amended by striking “fine of under this title” and inserting “fine under this title”.

(2) **INSERTION OF MISSING WORDS.**—Section 981(d) of title 18, United States Code, is amended by striking “proceeds from the sale of this section” and inserting “proceeds from the sale of such property under this section”.

(3) **CORRECTION OF INCORRECT WORD.**—Sections 1425 through 1427, 1541 through 1544 and 1546(a) of title 18, United States Code, are each amended by striking “to facility” and inserting “to facilitate”.

Effective date.

(4) **CORRECTING ERRONEOUS AMENDATORY LANGUAGE ON EXECUTED AMENDMENT.**—Effective on the date of the enactment of Public Law 103-322, section 60003(a)(13) of such public law is amended by striking “\$1,000,000 or imprisonment” and inserting “\$1,000,000 and imprisonment”.

18 USC 1091.

(5) **CORRECTION OF REFERENCE TO SHORT TITLE OF LAW.**—That section 2332d(a) of title 18, United States Code, which relates to financial transactions is amended by inserting “of 1979” after “Export Administration Act”.

(6) **ELIMINATION OF TYPOGRAPHICAL ERROR.**—Section 1992(b) of title 18, United States Code, is amended by striking “term or years” and inserting “term of years”.

(7) **SPELLING CORRECTION.**—Section 2339A(a) of title 18, United States Code, is amended by striking “or an escape” and inserting “of an escape”.

(8) **SECTION 3553.**—Section 3553(e) of title 18, United States Code, is amended by inserting “a” before “minimum”.

(9) **MISSPELLING IN SECTION 205.**—Section 205(d)(1)(B) of title 18, United States Code, is amended by striking “groups’s” and inserting “group’s”.

(10) **CONFORMING CHANGE AND INSERTING MISSING WORD IN SECTION 709.**—The paragraph in section 709 of title 18, United States Code, that begins with “A person who” is amended—

(A) by striking “A person who” and inserting “Whoever”; and

(B) by inserting “or” after the semicolon at the end.

(11) **ERROR IN LANGUAGE BEING STRICKEN.**—Effective on the date of its enactment, section 726(2) of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) is amended—

(A) in subparagraphs (C) and (E), by striking “section” the first place it appears; and

(B) in subparagraph (G), by striking “relating to” the first place it appears.

(b) **MARGINS, PUNCTUATION, AND SIMILAR ERRORS.**—

(1) **MARGIN ERROR.**—Section 1030(c)(2) of title 18, United States Code, is amended so that the margins of subparagraph (B) and each of its clauses, are moved 2 ems to the left.

(2) **CORRECTING CAPITALIZATION IN LANGUAGE TO BE STRICKEN.**—Effective on the date of its enactment, section 607(g)(2) of the Economic Espionage Act of 1996 is amended by striking “territory” and inserting “Territory”.

(3) **CORRECTING PARAGRAPHING.**—The material added to section 521(a) of title 18, United States Code, by section 607(q) of the Economic Espionage Act of 1996 is amended to appear as a paragraph indented 2 ems from the left margin.

(4) **SUBSECTION PLACEMENT CORRECTION.**—Section 1513 of title 18, United States Code, is amended by transferring subsection (d) so that it appears following subsection (c).

(5) **CORRECTION TO ALLOW FOR INSERTION OF NEW SUBPARAGRAPH AND CORRECTION OF ERRONEOUS INDENTATION.**—Section 1956(c)(7) of title 18, United States Code, is amended—

(A) in subparagraph (B)(ii), by moving the margin 2 ems to the right;

(B) by striking “or” at the end of subparagraph (D);

(C) by striking the period at the end of subparagraph (E) and inserting “; or”; and

(D) in subparagraph (F)—

(i) by striking “Any” and inserting “any”; and

(ii) by striking the period at the end and inserting a semicolon.

(6) **CORRECTION OF CONFUSING SUBDIVISION DESIGNATION.**—Section 1716 of title 18, United States Code, is amended—

(A) in the first undesignated paragraph, by inserting “(j)(1)” before “Whoever”;

18 USC 1956.

Effective date.
18 USC 1716.

(B) in the second undesignated paragraph—

(i) by striking “not more than \$10,000” and inserting “under this title”; and

(ii) by inserting “(2)” at the beginning of that paragraph;

(C) by inserting “(3)” at the beginning of the third undesignated paragraph; and

(D) by redesignating subsection (j) as subsection (k).

(7) PUNCTUATION CORRECTION IN SECTION 1091.—Section 1091(b)(1) of title 18, United States Code, is amended by striking “subsection (a)(1),” and inserting “subsection (a)(1)”.

(8) PUNCTUATION CORRECTION IN SECTION 2311.—Section 2311 of title 18, United States Code, is amended by striking the period after “carcasses thereof” the second place that term appears and inserting a semicolon.

(9) SYNTAX CORRECTION.—Section 115(b)(2) of title 18, United States Code, is amended by striking “, attempted kidnapping, or conspiracy to kidnap of a person” and inserting “or attempted kidnapping of, or a conspiracy to kidnap, a person”.

(10) CORRECTING CAPITALIZATION IN SECTION 982.—Section 982(a)(8) of title 18, United States Code, is amended by striking “Court” and inserting “court”.

(11) PUNCTUATION CORRECTIONS IN SECTION 1029.—Section 1029 of title 18, United States Code, is amended—

(A) in subsection (c)(1)(A)(ii), by striking “(9),” and inserting “(9)”;

(B) in subsection (e), by adding a semicolon at the end of paragraph (8).

(12) CORRECTIONS OF CONNECTORS AND PUNCTUATION IN SECTION 1030.—Section 1030 of title 18, United States Code, is amended—

(A) by inserting “and” at the end of subsection (c)(2)(B)(iii); and

(B) by striking the period at the end of subsection (e)(4)(I) and inserting a semicolon.

(13) CORRECTION OF PUNCTUATION IN SECTION 1032.—Section 1032(1) of title 18, United States Code, is amended by striking “13,” and inserting “13”.

(14) CORRECTION OF PUNCTUATION IN SECTION 1345.—Section 1345(a)(1) of title 18, United States Code, is amended—

(A) in subparagraph (B), by striking “, or” and inserting “; or”; and

(B) in subparagraph (C), by striking the period and inserting a semicolon.

(15) CORRECTION OF PUNCTUATION IN SECTION 3612.—Section 3612(f)(2)(B) of title 18, United States Code, is amended by striking “preceding.” and inserting “preceding”.

(16) CORRECTION OF INDENTATION IN CONTROLLED SUBSTANCES ACT.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by moving the margin of subparagraph (C) 2 ems to the left.

(c) ELIMINATION OF REDUNDANCIES.—

(1) ELIMINATION OF DUPLICATE AMENDMENTS.—Effective on the date of its enactment, paragraphs (1), (2), and (4) of section 601(b), paragraph (2) of section 601(d), paragraph (2) of section 601(f), paragraphs (1) and (2)(A) of section 601(j), paragraphs

Effective date.

(1) and (2) of section 601(k), subsection (d) of section 602, paragraph (4) of section 604(b), subsection (r) of section 605, and paragraph (2) of section 607(j) of the Economic Espionage Act of 1996 are repealed.

(2) ELIMINATION OF EXTRA COMMA.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by striking “Code,,” and inserting “Code,;” and

(B) by striking “services),,” and inserting “services),.”

(3) REPEAL OF SECTION GRANTING DUPLICATIVE AUTHORITY.—

(A) Section 3503 of title 18, United States Code, is repealed.

(B) The table of sections at the beginning of chapter 223 of title 18, United States Code, is amended by striking the item relating to section 3503.

(4) ELIMINATION OF OUTMODED REFERENCE TO PAROLE.—Section 929(b) of title 18, United States Code, is amended by striking the last sentence.

(d) CORRECTION OF OUTMODED FINE AMOUNTS.—

(1) IN TITLE 18, UNITED STATES CODE.—

(A) IN SECTION 492.—Section 492 of title 18, United States Code, is amended by striking “not more than \$100” and inserting “under this title”.

(B) IN SECTION 665.—Section 665(c) of title 18, United States Code, is amended by striking “a fine of not more than \$5,000” and inserting “a fine under this title”.

(C) IN SECTIONS 1924, 2075, 2113(b), AND 2236.—

(i) Section 1924(a) of title 18, United States Code, is amended by striking “not more than \$1,000,” and inserting “under this title”.

(ii) Sections 2075 and 2113(b) of title 18, United States Code, are each amended by striking “not more than \$1,000” and inserting “under this title”.

(iii) Section 2236 of title 18, United States Code, is amended by inserting “under this title” after “warrant, shall be fined”, and by striking “not more than \$1,000”.

(D) IN SECTION 372 AND 752.—Sections 372 and 752(a) of title 18, United States Code, are each amended by striking “not more than \$5,000” and inserting “under this title”.

(E) IN SECTION 924(e)(1).—Section 924(e)(1) of title 18, United States Code, is amended by striking “not more than \$25,000” and inserting “under this title”.

(2) IN THE CONTROLLED SUBSTANCES ACT.—

(A) IN SECTION 401.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended—

(i) in paragraph (1), by striking “and shall be fined not more than \$10,000” and inserting “or fined under title 18, United States Code, or both”; and

(ii) in paragraph (2), by striking “and shall be fined not more than \$20,000” and inserting “or fined under title 18, United States Code, or both”.

(B) IN SECTION 402.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)) is amended—

18 USC 247, 281,
1114, 2339A,
2423, 2516, 3286,
3563; 21 USC
802.

(i) in subparagraph (A), by striking “of not more than \$25,000” and inserting “under title 18, United States Code”; and

(ii) in subparagraph (B), by striking “of \$50,000” and inserting “under title 18, United States Code”.

(C) IN SECTION 403.—Section 403(d) of the Controlled Substances Act (21 U.S.C. 843(d)) is amended—

(i) by striking “of not more than \$30,000” each place that term appears and inserting “under title 18, United States Code”; and

(ii) by striking “of not more than \$60,000” each place it appears and inserting “under title 18, United States Code”.

(e) CROSS REFERENCE CORRECTIONS.—

(1) SECTION 3664.—Section 3664(o)(1)(C) of title 18, United States Code, is amended by striking “section 3664(d)(3)” and inserting “subsection (d)(5)”.

(2) CHAPTER 228.—Section 3592(c)(1) of title 18, United States Code, is amended by striking “section 36” and inserting “section 37”.

(3) CORRECTING ERRONEOUS CROSS REFERENCE IN CONTROLLED SUBSTANCES ACT.—Section 511(a)(10) of the Controlled Substances Act (21 U.S.C. 881(a)(10)) is amended by striking “1822 of the Mail Order Drug Paraphernalia Control Act” and inserting “422”.

(4) CORRECTION TO REFLECT CROSS REFERENCE CHANGE MADE BY OTHER LAW.—Effective on the date of its enactment, section 601(c)(3) of the Economic Espionage Act of 1996 is amended by striking “247(d)” and inserting “247(e)”.

(5) TYPOGRAPHICAL AND TYPEFACE ERROR IN TABLE OF CHAPTERS.—The item relating to chapter 123 in the table of chapters at the beginning of part I of title 18, United States Code, is amended—

(A) by striking “2271” and inserting “2721”; and

(B) so that the item appears in bold face type.

(6) SECTION 4104.—Section 4104(d) of title 18, United States Code, is amended by striking “section 3653 of this title and rule 32(f) of” and inserting “section 3565 of this title and the applicable provisions of”.

(7) ERROR IN AMENDATORY LANGUAGE.—Effective on the date of its enactment, section 583 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (111 Stat. 2436) is amended by striking “Section 2401” and inserting “Section 2441”.

(8) ERROR IN CROSS REFERENCE TO COURT RULES.—The first sentence of section 3593(c) of title 18, United States Code, is amended by striking “rule 32(c)” and inserting “rule 32”.

(9) SECTION 1836.—Section 1836 of title 18, United States Code, is amended—

(A) in subsection (a), by striking “this section” and inserting “this chapter”; and

(B) in subsection (b), by striking “this subsection” and inserting “this section”.

(10) CORRECTION OF ERRONEOUS CITE IN CHAPTER 119.—Section 2510(10) of title 18, United States Code, is amended by striking “shall have” and all that follows through “United

Effective date.
18 USC 247.

Effective date.

18 USC 2441.

States Code,” and inserting “has the meaning given that term in section 3 of the Communications Act of 1934;”.

(11) ELIMINATION OF OUTMODED CITE IN SECTION 2339A.—Section 2339A(a) of title 18, United States Code, is amended by striking “2332c,”.

(12) CORRECTION OF REFERENCES IN AMENDATORY LANGUAGE.—Effective the date of its enactment, section 115(a)(8)(B) of Public Law 105-119 is amended—

Effective date.
18 USC 3563.

(A) in clause (i)—

(i) by striking “at the end of” and inserting “following”; and

(ii) by striking “paragraph” the second place it appears and inserting “subsection”; and

(B) in clause (ii), by striking “subparagraph (A)” and inserting “clause (i)”.

(f) TABLES OF SECTIONS CORRECTIONS.—

(1) CONFORMING TABLE OF SECTIONS TO HEADING OF SECTION.—The item relating to section 1837 in the table of sections at the beginning of chapter 90 of title 18, United States Code, is amended by striking “Conduct” and inserting “Applicability to conduct”.

(2) CONFORMING HEADING TO TABLE OF SECTIONS ENTRY.—The heading of section 1920 of title 18, United States Code, is amended by striking “**employee’s**” and inserting “**employees**”.

SEC. 4003. ADDITIONAL TECHNICALS.

(a) TITLE 18.—Title 18, United States Code, is amended—

(1) in section 922(t)(1)(C), by striking “1028(d)(1)” and inserting “1028(d)”;

(2) in section 1005—

(A) in the first undesignated paragraph, by striking “Act,” and inserting “Act,”; and

(B) by inserting “or” at the end of the third undesignated paragraph;

(3) in section 1071, by striking “fine of under this title” and inserting “fine under this title”;

(4) in section 1368(a), by inserting “to” after “serious bodily injury”;

(5) in subsections (b)(1) and (c) of section 2252A, by striking “paragraphs” and inserting “paragraph”; and

(6) in section 2254(a)(3), by striking the comma before the period at the end.

(b) TITLE 28.—Title 28, United States Code, is amended—

(1) in section 509(3), by striking the second period;

(2) in section 526—

(A) in the heading, by striking “AND” before “TRUSTEES”; and

(B) in subsection (a)(1), by striking the second comma after “marshals”;

(3) in section 529(b)(2), as hereinbefore added, by striking the matter between “services contract” and “made,”;

(4) in section 534(a)(3), by inserting “and” after the semicolon;

(5) in the item relating to section 526 in the table of sections at the beginning of chapter 31, by striking “and” before “trustees”;

(6) in the item relating to chapter 37 in the table of chapters at the beginning of part II, by inserting “Service” after “Marshals”;

(7) in the item relating to section 532 in the table of sections at the beginning of chapter 33, by inserting “the” after “of”; and

(8) in the item relating to section 537 in the table of sections at the beginning of chapter 33, by striking “nature” and inserting “character”.

SEC. 4004. REPEAL OF OUTMODED PROVISIONS.

(a) Section 14 of title 18, United States Code, and the item relating thereto in the table of sections at the beginning of chapter 1 of title 18, United States Code, are repealed.

(b) Section 1261 of such title is amended—

(1) by striking “(a) The Secretary” and inserting “The Secretary”; and

(2) by striking subsection (b).

(c) Section 1821 of such title is amended by striking “, the Canal Zone”.

(d) Section 3183 of such title is amended by striking “or the Panama Canal Zone”.

(e) Section 3241 of such title is amended by striking “United States District Court for the Canal Zone and the”.

(f) Any section of any Act enacted on the antepenultimate day of November 2001, which section provides for any amendment to chapter 31 of title 28, United States Code, is hereby repealed.

SEC. 4005. AMENDMENTS RESULTING FROM PUBLIC LAW 107-56.

(a) MARGIN CORRECTIONS.—

(1) Section 2516(1) of title 18, United States Code, is amended by moving the left margin for subsection (q) 2 ems to the right.

(2) Section 2703(c)(1) of title 18, United States Code, is amended by moving the left margin of subparagraph (E) 2 ems to the left.

(3) Section 1030(a)(5) of title 18, United States Code, is amended by moving the left margin of subparagraph (B) 2 ems to the left.

Effective date. (b) CORRECTION OF WRONGLY WORDED CLERICAL AMENDMENT.—Effective on the date of its enactment, section 223(c)(2) of Public Law 107-56 is amended to read as follows:

“(2) The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by adding at the end the following new item:

“2712. Civil actions against the United States.”.

Effective date. (c) CORRECTION OF ERRONEOUS PLACEMENT OF AMENDMENT LANGUAGE.—Effective on the date of its enactment, section 225 of Public Law 107-56 is amended—

(1) by striking “after subsection (g)” and inserting “after subsection (h)”; and

(2) by redesignating the subsection added to section 105 of section 105 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805) as subsection (i).

(d) PUNCTUATION CORRECTIONS.—

(1) Section 1956(c)(6)(B) of title 18, United States Code, is amended by striking the period and inserting a semicolon.

28 USC 504 and
note.

Effective date.
50 USC 1805.

(2) Effective on the date of its enactment, section 803(a) of Public Law 107–56 is amended by striking the close quotation mark and period that follows at the end of subsection (a) in the matter proposed to be inserted in title 18, United States Code, as a new section 2339. Effective date.
18 USC 2339.

(3) Section 1030(c)(3)(B) of title 18, United States Code, is amended by inserting a comma after “(a)(4)”.

(e) ELIMINATION OF DUPLICATE AMENDMENT.—Effective on the date of its enactment, section 805 of Public Law 107–56 is amended by striking subsection (b). Effective date.
18 USC 1956.

(f) CORRECTION OF UNEXECUTABLE AMENDMENTS.—

(1) Effective on the date of its enactment, section 813(2) of Public Law 107–56 is amended by striking “semicolon” and inserting “period”. Effective date.
18 USC 1961.

(2) Effective on the date of its enactment, section 815 of Public Law 107–56 is amended by inserting “a” before “statutory authorization”. Effective date.
18 USC 2707
note.

(g) CORRECTION OF HEADING STYLE.—The heading for section 175b of title 18, United States Code, is amended to read as follows:

“§ 175b. Possession by restricted persons”.

SEC. 4006. CROSS REFERENCE CORRECTION.

Section 2339C(a)(1) of title 18, United States Code, is amended by striking “described in subsection (c)” and inserting “described in subsection (b)”.

TITLE V—PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS

SEC. 5001. PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANTS.

(a) STATE APPLICATIONS.—Section 503(a)(13)(A)(iii) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3753(a)(13)(A)(iii)) is amended by striking “or the National Association of Medical Examiners,” and inserting “, the National Association of Medical Examiners, or any other nonprofit, professional organization that may be recognized within the forensic science community as competent to award such accreditation,”.

(b) FORENSIC SCIENCES IMPROVEMENT GRANTS.—Part BB of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797j et seq.) is amended—

(1) in section 2801, by inserting after “States” the following: 42 USC 3797j.
“and units of local government”;

(2) in section 2802—

(A) in the matter before paragraph (1), by inserting “or unit of local government” after “State”;

(B) in paragraph (1), to read as follows:

“(1) a certification that the State or unit of local government has developed a plan for forensic science laboratories under a program described in section 2804(a), and a specific description of the manner in which the grant will be used to carry out that plan;”;

(C) in paragraph (2), by inserting “or appropriate certifying bodies” before the semicolon; and

42 USC 3797k.

- (D) in paragraph (3), by inserting “for a State or local plan” after “program”;
- 42 USC 3797l. (3) in section 2803(a)(2), by striking “to States with” and all that follows through the period and inserting “for competitive awards to States and units of local government. In making awards under this part, the Attorney General shall consider the average annual number of part 1 violent crimes reported by each State to the Federal Bureau of Investigation for the 3 most recent calendar years for which data is available and consider the existing resources and current needs of the potential grant recipient.”;
- 42 USC 3797m. (4) in section 2804—
- (A) in subsection (a), by inserting “or unit of local government” after “A State”; and
- (B) in subsection (c)(1), by inserting “(including grants received by units of local government within a State)” after “under this part”; and
- 42 USC 3797o. (5) in section 2806(a)—
- (A) in the matter before paragraph (1), by inserting “or unit of local government” after “each State”; and
- (B) in paragraph (1), by inserting before the semicolon the following: “, which shall include a comparison of pre-grant and post-grant forensic science capabilities”
- (C) in paragraph (2), by striking “and” at the end;
- (D) by redesignating paragraph (3) as paragraph (4); and
- (E) by inserting after paragraph (2) the following:
- “(3) an identification of the number and type of cases currently accepted by the laboratory; and”.

SEC. 5002. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of fiscal years 2002 through 2007—

- (1) such sums as may be necessary for the Center for Domestic Preparedness of the Department of Justice in Anniston, Alabama;
- (2) such sums as may be necessary for the Texas Engineering Extension Service of Texas A&M University;
- (3) such sums as may be necessary for the Energetic Materials Research and Test Center of the New Mexico Institute of Mining and Technology;
- (4) such sums as may be necessary for the Academy of Counterterrorist Education at Louisiana State University;
- (5) such sums as may be necessary for the National Exercise, Test, and Training Center of the Department of Energy, located at the Nevada test site;
- (6) such sums as may be necessary for the National Center for the Study of Counter-Terrorism and Cyber-Crime at Norwich University; and
- (7) such sums as may be necessary for the Northeast Counterdrug Training Center at Fort Indiantown Gap, Pennsylvania.

DIVISION C—IMPROVEMENTS TO CRIMINAL JUSTICE, CIVIL JUSTICE, IMMIGRATION, JUVENILE JUSTICE, AND INTELLECTUAL PROPERTY AND ANTI-TRUST LAWS

TITLE I—CRIMINAL JUSTICE, CIVIL JUSTICE, AND IMMIGRATION

Subtitle A—General Improvements

SEC. 11001. LAW ENFORCEMENT TRIBUTE ACT.

Law Enforcement
Tribute Act.
42 USC 15208.

(a) **SHORT TITLE.**—This section may be cited as the “Law Enforcement Tribute Act”.

(b) **FINDINGS.**—Congress finds the following:

(1) The well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement and public safety personnel.

(2) More than 700,000 law enforcement officers, both men and women, at great risk to their personal safety, serve their fellow citizens as guardians of peace.

(3) Nationwide, 51 law enforcement officers were killed in the line of duty in 2000, according to statistics released by the Federal Bureau of Investigation. This number is an increase of 9 from the 1999 total of 42.

(4) In 1999, 112 firefighters died while on duty, an increase of 21 deaths from the previous year.

(5) Every year, 1 in 9 peace officers is assaulted, 1 in 25 is injured, and 1 in 4,400 is killed in the line of duty.

(6) In addition, recent statistics indicate that 83 officers were accidentally killed in the performance of their duties in 2000, an increase of 18 from the 65 accidental deaths in 1999.

(7) A permanent tribute is a powerful means of honoring the men and women who have served our Nation with distinction. However, many law enforcement and public safety agencies lack the resources to honor their fallen colleagues.

(c) **PROGRAM AUTHORIZED.**—From amounts made available to carry out this section, the Attorney General may make grants to States, units of local government, and Indian tribes to carry out programs to honor, through permanent tributes, men and women of the United States who were killed or disabled while serving as law enforcement or public safety officers.

(d) **USES OF FUNDS.**—Grants awarded under this section shall be distributed directly to the State, unit of local government, or Indian tribe, and shall be used for the purposes specified in subsection (c).

(e) **\$150,000 LIMITATION.**—A grant under this section may not exceed \$150,000 to any single recipient.

(f) **MATCHING FUNDS.**—

(1) The Federal portion of the costs of a program provided by a grant under this section may not exceed 50 percent.

(2) Any funds appropriated by Congress for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement or public safety functions on any Indian lands may be used to provide the non-Federal share of a matching requirement funded under this subsection.

(g) APPLICATIONS.—To request a grant under this section, the chief executive of a State, unit of local government, or Indian tribe shall submit an application to the Attorney General at such time, in such manner, and accompanied by such information as the Attorney General may require.

Deadline.

(h) ANNUAL REPORT TO CONGRESS.—Not later than November 30 of each year, the Attorney General shall submit a report to the Congress regarding the activities carried out under this section. Each such report shall include, for the preceding fiscal year, the number of grants funded under this section, the amount of funds provided under those grants, and the activities for which those funds were used.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2002 through 2006.

SEC. 11002. DISCLOSURE OF GRAND JURY MATTERS RELATING TO MONEY LAUNDERING OFFENSES.

Section 3322(d)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking “or 1344; or” and inserting “1344, 1956, or 1957;”;

(2) in subparagraph (B), by inserting “or” after the semicolon; and

(3) by adding at the end the following:

“(C) any provision of subchapter II of chapter 53 of title 31, United States Code;”.

SEC. 11003. GRANT PROGRAM FOR STATE AND LOCAL DOMESTIC PREPAREDNESS SUPPORT.

(a) TECHNICAL CORRECTIONS.—

42 USC 3714.

(1) OFFICE.—Section 1014(a) of the USA PATRIOT Act (Public Law 107-56) is amended by striking “Office of State and Local Domestic Preparedness Support” and inserting “Office for Domestic Preparedness”.

(2) PERCENT.—Section 1014(c)(3) of the USA PATRIOT Act (Public Law 107-56) is amended by inserting “not less than” before “0.25 percent”.

(b) ADDITIONAL USE OF GRANT AMOUNTS.—Section 1014(b) of the USA PATRIOT Act (Public Law 107-56) is amended by inserting at the end the following: “In addition, grants under this section may be used to construct, develop, expand, modify, operate, or improve facilities to provide training or assistance to State and local first responders.”.

SEC. 11004. UNITED STATES SENTENCING COMMISSION ACCESS TO NCIC TERMINAL.

Section 534(a) of title 28, United States Code, is amended by striking paragraph (4) and inserting the following:

“(4) exchange such records and information with, and for the official use of, authorized officials of the Federal Government, including the United States Sentencing Commission, the States, cities, and penal and other institutions.”.

SEC. 11005. DANGER PAY FOR FBI AGENTS.

Section 151 of the Foreign Relations Act, fiscal years 1990 and 1991 (5 U.S.C. 5928 note), is amended by inserting “or Federal Bureau of Investigation” after “Drug Enforcement Administration”.

SEC. 11006. POLICE CORPS.

Subtitle A of title XX of the Violent Crime Control and Law Enforcement Act of 1994, the Police Corps Act (42 U.S.C. 14091 et seq.), is amended—

- (1) in section 200106—
 - (A) in subsection (a)(2)—
 - (i) in subparagraph (A), by striking “\$7,500” and inserting “\$10,000”;
 - (ii) in subparagraph (B), by striking “\$10,000” and inserting “\$13,333”; and
 - (iii) in subparagraph (C), by striking “\$30,000” and inserting “\$40,000”; and
 - (B) in subsection (b)(2)—
 - (i) in subparagraph (A), by striking “\$7,500” and inserting “\$10,000”;
 - (ii) in subparagraph (B), by striking “\$10,000” and inserting “\$13,333”; and
 - (iii) in subparagraph (C), by striking “\$30,000” and inserting “\$40,000”;
- (2) in section 200108, by striking “\$250” and inserting “\$400”; 42 USC 14095.
- (3) in section 200110(2), by striking “no more than 10 percent” and inserting “except with permission of the Director, no more than 25 percent”; 42 USC 14097.
- (4) by striking section 200111; and 42 USC 14099.
- (5) in section 200112, by striking “fiscal year 2002” and inserting “each of fiscal years 2002 through 2005”. 42 USC 14100.
42 USC 14101.

SEC. 11007. RADIATION EXPOSURE COMPENSATION TECHNICAL AMENDMENTS.

(a) IN GENERAL.—The Radiation Exposure Compensation Act (42 U.S.C. 2210 note) is amended—

- (1) in section 4(b)(1)(C), by inserting “, and that part of Arizona that is north of the Grand Canyon” after “Gila”;
- (2) in section 4(b)(2)—
 - (A) by striking “lung cancer (other than in situ lung cancer that is discovered during or after a post-mortem exam),”; and
 - (B) by striking “or liver (except if cirrhosis or hepatitis B is indicated).” and inserting “liver (except if cirrhosis or hepatitis B is indicated), or lung.”;
- (3) in section 5(a)(1)(A)(ii)(I), by inserting “or worked for at least 1 year during the period described under clause (i)” after “months of radiation”;
- (4) in section 5(a)(2)(A), by striking “an Atomic Energy Commission” and inserting “a”;
- (5) in section 5(b)(5), by striking “or lung cancer”;
- (6) in section 5(c)(1)(B)(i), by striking “or lung cancer”;
- (7) in section 5(c)(2)(B)(i), by striking “or lung cancer”;
- (8) in section 6(e)—
 - (A) by striking “The” and inserting “Except as otherwise authorized by law, the”; and

(B) by inserting “, mill, or while employed in the transport of uranium ore or vanadium-uranium ore from such mine or mill” after “radiation in a uranium mine”;

(9) in section 6(i), by striking the second sentence;

(10) in section 6(k), by adding at the end the following: “Not later than 180 days after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000, the Attorney General shall issue revised regulations to carry out this Act.”;

(11) in section 7, by amending subsection (b) to read as follows:

“(b) CHOICE OF REMEDIES.—No individual may receive more than 1 payment under this Act.”; and

(12) by adding at the end the following:

“SEC. 14. GAO REPORTS.

“(a) IN GENERAL.—Not later than 18 months after the date of enactment of the Radiation Exposure Compensation Act Amendments of 2000, and every 18 months thereafter, the General Accounting Office shall submit a report to Congress containing a detailed accounting of the administration of this Act by the Department of Justice.

“(b) CONTENTS.—Each report submitted under this section shall include an analysis of—

“(1) claims, awards, and administrative costs under this Act; and

“(2) the budget of the Department of Justice relating to this Act.”.

(b) CONFORMING AMENDMENTS.—Section 3 of the Radiation Exposure Compensation Act Amendments of 2000 (Public Law 106-245) is amended by striking subsection (i).

SEC. 11008. FEDERAL JUDICIARY PROTECTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the “Federal Judiciary Protection Act of 2002”.

(b) ASSAULTING, RESISTING, OR IMPEDING CERTAIN OFFICERS OR EMPLOYEES.—Section 111 of title 18, United States Code, is amended—

(1) in subsection (a), by striking “three” and inserting “8”; and

(2) in subsection (b), by striking “ten” and inserting “20”.

(c) INFLUENCING, IMPEDING, OR RETALIATING AGAINST A FEDERAL OFFICIAL BY THREATENING OR INJURING A FAMILY MEMBER.—Section 115(b)(4) of title 18, United States Code, is amended—

(1) by striking “five” and inserting “10”; and

(2) by striking “three” and inserting “6”.

(d) MAILING THREATENING COMMUNICATIONS.—Section 876 of title 18, United States Code, is amended—

(1) by designating the first 4 undesignated paragraphs as subsections (a) through (d), respectively;

(2) in subsection (c), as redesignated by paragraph (1), by adding at the end the following: “If such a communication is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.”; and

(3) in subsection (d), as redesignated by paragraph (1), by adding at the end the following: “If such a communication

Deadline.

42 USC 2210
note.
Federal Judiciary
Protection Act of
2002.
18 USC 111 note.

is addressed to a United States judge, a Federal law enforcement officer, or an official who is covered by section 1114, the individual shall be fined under this title, imprisoned not more than 10 years, or both.”.

(e) AMENDMENT OF THE SENTENCING GUIDELINES FOR ASSAULTS AND THREATS AGAINST FEDERAL JUDGES AND CERTAIN OTHER FEDERAL OFFICIALS AND EMPLOYEES.— 28 USC 994 note.

(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(2) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in paragraph (1)—

(A) any expression of congressional intent regarding the appropriate penalties for the offense;

(B) the range of conduct covered by the offense;

(C) the existing sentences for the offense;

(D) the extent to which sentencing enhancements within the Federal sentencing guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(E) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(F) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness; and

(H) any other factors that the Commission considers to be appropriate.

SEC. 11009. JAMES GUELFF AND CHRIS McCURLEY BODY ARMOR ACT OF 2002.

James Guelff and
Chris McCurley
Body Armor Act
of 2002.
42 USC 3796ll-3.

(a) SHORT TITLE.—This section may be cited as the “James Guelff and Chris McCurley Body Armor Act of 2002”.

(b) FINDINGS.—Congress finds that—

(1) nationally, police officers and ordinary citizens are facing increased danger as criminals use more deadly weaponry, body armor, and other sophisticated assault gear;

(2) crime at the local level is exacerbated by the interstate movement of body armor and other assault gear;

(3) there is a traffic in body armor moving in or otherwise affecting interstate commerce, and existing Federal controls over such traffic do not adequately enable the States to control this traffic within their own borders through the exercise of their police power;

(4) recent incidents, such as the murder of San Francisco Police Officer James Guelff by an assailant wearing 2 layers of body armor, a 1997 bank shoot out in north Hollywood, California, between police and 2 heavily armed suspects outfitted in body armor, and the 1997 murder of Captain Chris McCurley of the Etowah County, Alabama Drug Task Force by a drug dealer shielded by protective body armor, demonstrate the serious threat to community safety posed by criminals who wear body armor during the commission of a violent crime;

(5) of the approximately 1,500 officers killed in the line of duty since 1980, more than 30 percent could have been saved by body armor, and the risk of dying from gunfire is 14 times higher for an officer without a bulletproof vest;

(6) the Department of Justice has estimated that 25 percent of State and local police are not issued body armor;

(7) the Federal Government is well-equipped to grant local police departments access to body armor that is no longer needed by Federal agencies; and

(8) Congress has the power, under the interstate commerce clause and other provisions of the Constitution of the United States, to enact legislation to regulate interstate commerce that affects the integrity and safety of our communities.

(c) DEFINITIONS.—In this section:

(1) BODY ARMOR.—The term “body armor” means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.

(2) LAW ENFORCEMENT AGENCY.—The term “law enforcement agency” means an agency of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(3) LAW ENFORCEMENT OFFICER.—The term “law enforcement officer” means any officer, agent, or employee of the United States, a State, or a political subdivision of a State, authorized by law or by a government agency to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

(d) AMENDMENT OF SENTENCING GUIDELINES WITH RESPECT TO BODY ARMOR.—

(1) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18, United States Code) or drug trafficking crime (as defined in section 924(c) of title 18, United States Code) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.

(2) SENSE OF CONGRESS.—It is the sense of Congress that any sentencing enhancement under this subsection should be at least 2 levels.

(e) PROHIBITION OF PURCHASE, USE, OR POSSESSION OF BODY ARMOR BY VIOLENT FELONS.—

(1) DEFINITION OF BODY ARMOR.—Section 921(a) of title 18, United States Code, is amended by adding at the end the following:

“(35) The term ‘body armor’ means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment.”.

(2) PROHIBITION.—

(A) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following:

“§ 931. Prohibition on purchase, ownership, or possession of body armor by violent felons

“(a) IN GENERAL.—Except as provided in subsection (b), it shall be unlawful for a person to purchase, own, or possess body armor, if that person has been convicted of a felony that is—

“(1) a crime of violence (as defined in section 16); or

“(2) an offense under State law that would constitute a crime of violence under paragraph (1) if it occurred within the special maritime and territorial jurisdiction of the United States.

“(b) AFFIRMATIVE DEFENSE.—

“(1) IN GENERAL.—It shall be an affirmative defense under this section that—

“(A) the defendant obtained prior written certification from his or her employer that the defendant’s purchase, use, or possession of body armor was necessary for the safe performance of lawful business activity; and

“(B) the use and possession by the defendant were limited to the course of such performance.

“(2) EMPLOYER.—In this subsection, the term ‘employer’ means any other individual employed by the defendant’s business that supervises defendant’s activity. If that defendant has no supervisor, prior written certification is acceptable from any other employee of the business.”.

(B) CLERICAL AMENDMENT.—The analysis for chapter 44 of title 18, United States Code, is amended by adding at the end the following:

“931. Prohibition on purchase, ownership, or possession of body armor by violent felons.”.

(3) PENALTIES.—Section 924(a) of title 18, United States Code, is amended by adding at the end the following:

“(7) Whoever knowingly violates section 931 shall be fined under this title, imprisoned not more than 3 years, or both.”.

(f) DONATION OF FEDERAL SURPLUS BODY ARMOR.—

(1) DEFINITIONS.—In this subsection, the terms “Federal agency” and “surplus property” have the meanings given such terms under section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(2) **DONATION OF BODY ARMOR.**—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484), the head of a Federal agency may donate body armor directly to any State or local law enforcement agency, if such body armor—

(A) is in serviceable condition;

(B) is surplus property; and

(C) meets or exceeds the requirements of National Institute of Justice Standard 0101.03 (as in effect on the date of enactment of this Act).

(3) **NOTICE TO ADMINISTRATOR.**—The head of a Federal agency who donates body armor under this subsection shall submit to the Administrator of General Services a written notice identifying the amount of body armor donated and each State or local law enforcement agency that received the body armor.

(4) **DONATION BY CERTAIN OFFICERS.**—

(A) **DEPARTMENT OF JUSTICE.**—In the administration of this subsection with respect to the Department of Justice, in addition to any other officer of the Department of Justice designated by the Attorney General, the following officers may act as the head of a Federal agency:

(i) The Administrator of the Drug Enforcement Administration.

(ii) The Director of the Federal Bureau of Investigation.

(iii) The Commissioner of the Immigration and Naturalization Service.

(iv) The Director of the United States Marshals Service.

(B) **DEPARTMENT OF THE TREASURY.**—In the administration of this subsection with respect to the Department of the Treasury, in addition to any other officer of the Department of the Treasury designated by the Secretary of the Treasury, the following officers may act as the head of a Federal agency:

(i) The Director of the Bureau of Alcohol, Tobacco, and Firearms.

(ii) The Commissioner of Customs.

(iii) The Director of the United States Secret Service.

(5) **NO LIABILITY.**—Notwithstanding any other provision of law, the United States shall not be liable for any harm occurring in connection with the use or misuse of any body armor donated under this subsection.

SEC. 11010. PERSONS AUTHORIZED TO SERVE SEARCH WARRANT.

Section 2703 of title 18, United States Code, is amended by adding at the end the following:

“(g) **PRESENCE OF OFFICER NOT REQUIRED.**—Notwithstanding section 3105 of this title, the presence of an officer shall not be required for service or execution of a search warrant issued in accordance with this chapter requiring disclosure by a provider of electronic communications service or remote computing service of the contents of communications or records or other information pertaining to a subscriber to or customer of such service.”.

SEC. 11011. STUDY ON REENTRY, MENTAL ILLNESS, AND PUBLIC SAFETY.42 USC 3796ii
note.

(a) **STUDY.**—The Attorney General shall commission a study of offenders, or a sampling of such offenders, with mental illness released from prison or jail in 2 or more jurisdictions, including at least 1 State or local and 1 Federal, to determine the extent to which participation in public benefit programs correlates with successful reentry and improved public safety.

(b) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives—

Deadline.

(1) a report detailing the results of the study conducted under subsection (a) with findings that address—

(A) the number of offenders with mental illness released from the prison or jail who qualify for medicaid, SSI, or SSDI;

(B) the number of offenders with mental illness who qualify for medicaid, SSI, or SSDI benefits and who are enrolled in these programs upon release from prison or jail; and

(C) how enrollment in medicaid, SSI, or SSDI affects—

(i) rearrest;

(ii) violation of condition(s) of release;

(iii) reincarceration;

(iv) rehospitalization;

(v) the length of time upon release from prison or jail time to the first contact with a mental health or substance abuse service; and

(vi) the number of contacts with a mental health or substance abuse services within the first 90 days of release; and

(2) any recommendations.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized such sums as necessary to conduct the study and issue the report required by this section.

SEC. 11012. TECHNICAL AMENDMENT TO OMNIBUS CRIME CONTROL ACT.

Section 802(b) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended in the first sentence by striking “U,” and inserting “T,”.

42 USC 3783.

SEC. 11013. DEBT COLLECTION IMPROVEMENT.

(a) **IN GENERAL.**—Notwithstanding section 3302 of title 31, United States Code, or any other statute affecting the crediting of collections, the Attorney General may credit, as an offsetting collection, to the Department of Justice Working Capital Fund up to 3 percent of all amounts collected pursuant to civil debt collection litigation activities of the Department of Justice. Such amounts in the Working Capital Fund shall remain available until expended and shall be subject to the terms and conditions of that fund, and shall be used first, for paying the costs of processing and tracking civil and criminal debt-collection litigation, and, thereafter, for financial systems and for debt-collection-related personnel, administrative, and litigation expenses.

28 USC 527 note.

(b) **CONFORMING AMENDMENT.**—Section 108 of Public Law 103–121 is repealed.

28 USC 527 note.

SEC. 11014. SCAAP AUTHORIZATION.

Section 241(i)(5) of the Immigration and Nationality Act (8 U.S.C. 1231(i)(5)) is amended by striking “, of which” and all that follows through “2000” and inserting “in fiscal years 2003 and 2004”.

28 USC 519 note. **SEC. 11015. USE OF ANNUITY BROKERS IN STRUCTURED SETTLEMENTS.**

Deadline. (a) **ESTABLISHMENT AND TRANSMISSION OF LIST OF APPROVED ANNUITY BROKERS.**—Not later than 6 months after the date of enactment of this Act, the Attorney General shall establish a list of annuity brokers who meet minimum qualifications for providing annuity brokerage services in connection with structured settlements entered by the United States. This list shall be updated upon request by any annuity broker that meets the minimum qualifications for inclusion on the list. The Attorney General shall transmit such list, and any updates to such list, to all United States Attorneys.

(b) **AUTHORITY TO SELECT ANNUITY BROKER FOR STRUCTURED SETTLEMENTS.**—In any structured settlement that is not negotiated exclusively through the Civil Division of the Department of Justice, the United States Attorney (or his designee) involved in any settlement negotiations shall have the exclusive authority to select an annuity broker from the list of such brokers established by the Attorney General, provided that all documents related to any settlement comply with Department of Justice requirements.

SEC. 11016. INS PROCESSING FEES.

The Immigration and Nationality Act is amended—

(1) in section 344(c) (8 U.S.C. 1455(c)), by striking “All” and inserting “Except as provided by section 286(q)(2) or any other law, all”; and

(2) in section 286(q)(2) (8 U.S.C. 1356(q)(2)), by inserting “, including receipts for services performed in processing forms I-94, I-94W, and I-68, and other similar applications processed at land border ports of entry,” after “subsection”.

18 USC 4202
note.

SEC. 11017. UNITED STATES PAROLE COMMISSION EXTENSION.

(a) **EXTENSION OF THE PAROLE COMMISSION.**—For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as such section relates to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to “fifteen years” or “fifteen-year period” shall be deemed to be a reference to “eighteen years” or “eighteen-year period”, respectively.

Deadline.

(b) **STUDY BY ATTORNEY GENERAL.**—The Attorney General, not later than 60 days after the enactment of this Act, should establish a committee within the Department of Justice to evaluate the merits and feasibility of transferring the United States Parole Commission’s functions regarding the supervised release of District of Columbia offenders to another entity or entities outside the Department of Justice. This committee should consult with the District of Columbia Superior Court and the District of Columbia Court Services and Offender Supervision Agency, and should report its findings and recommendations to the Attorney General. The Attorney General, in turn, should submit to Congress, not later than 18 months after the enactment of this Act, a long-term plan

Deadline.

for the most effective and cost-efficient assignment of responsibilities relating to the supervised release of District of Columbia offenders.

(c) SERVICE AS COMMISSIONER.—Notwithstanding subsection (a), the final clause of the fourth sentence of section 4202 of title 18, United States Code, which begins “except that”, shall not apply to a person serving as a Commissioner of the United States Parole Commission when this Act takes effect.

SEC. 11018. WAIVER OF FOREIGN COUNTRY RESIDENCE REQUIREMENT WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) INCREASE IN NUMERICAL LIMITATION ON WAIVERS REQUESTED BY STATES.—Section 214(l)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(B)) is amended by striking “20;” and inserting “30;”.

(b) EXTENSION OF DEADLINE.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) is amended by striking “2002.” and inserting “2004.”.

(c) TECHNICAL CORRECTION.—Section 212(e) of the Immigration and Nationality Act (8 U.S.C. 1182(e)) is amended by striking “214(k).” and inserting “214(l).”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if this Act were enacted on May 31, 2002. 8 USC 1182 note.

SEC. 11019. PRETRIAL DISCLOSURE OF EXPERT TESTIMONY RELATING TO DEFENDANT’S MENTAL CONDITION.

(a) MODIFICATION OF PROPOSED AMENDMENTS.—The proposed amendments to the Federal Rules of Criminal Procedure that are embraced by an order entered by the Supreme Court of the United States on April 29, 2002, shall take effect on December 1, 2002, as otherwise provided by law, but with the amendments made in subsection (b). 28 USC 2074 note.

(b) PRETRIAL DISCLOSURE OF EXPERT TESTIMONY.—Rule 16 of the Federal Rules of Criminal Procedure is amended—

(1) in subdivision (a)(1), by amending subparagraph (G) to read as follows:

“(G) EXPERT WITNESSES.—At the defendant’s request, the government must give to the defendant a written summary of any testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence during its case-in-chief at trial. If the government requests discovery under subdivision (b)(1)(C)(ii) and the defendant complies, the government must, at the defendant’s request, give to the defendant a written summary of testimony that the government intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial on the issue of the defendant’s mental condition. The summary provided under this subparagraph must describe the witness’s opinions, the bases and reasons for those opinions, and the witness’s qualifications.”; and

(2) in subdivision (b)(1), by amending subparagraph (C) to read as follows:

“(C) EXPERT WITNESSES.—The defendant must, at the government’s request, give to the government a written summary of any testimony that the defendant intends to

18 USC app.

use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial, if—

“(i) the defendant requests disclosure under subdivision (a)(1)(G) and the government complies; or

“(ii) the defendant has given notice under Rule 12.2(b) of an intent to present expert testimony on the defendant’s mental condition.

This summary must describe the witness’s opinions, the bases and reasons for those opinions, and the witness’s qualifications”.

18 USC app.

(c) EFFECTIVE DATE.—The amendments made by subsection (b) shall take effect on December 1, 2002.

Multiparty,
Multiforum Trial
Jurisdiction Act
of 2002.
28 USC 1 note.

SEC. 11020. MULTIPARTY, MULTIFORUM TRIAL JURISDICTION ACT OF 2002.

(a) SHORT TITLE.—This section may be cited as the “Multiparty, Multiforum Trial Jurisdiction Act of 2002”.

(b) MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.—

(1) BASIS OF JURISDICTION.—

(A) IN GENERAL.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

“§ 1369. Multiparty, multiforum jurisdiction

“(a) IN GENERAL.—The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 75 natural persons have died in the accident at a discrete location, if—

“(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

“(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

“(3) substantial parts of the accident took place in different States.

“(b) LIMITATION OF JURISDICTION OF DISTRICT COURTS.—The district court shall abstain from hearing any civil action described in subsection (a) in which—

“(1) the substantial majority of all plaintiffs are citizens of a single State of which the primary defendants are also citizens; and

“(2) the claims asserted will be governed primarily by the laws of that State.

“(c) SPECIAL RULES AND DEFINITIONS.—For purposes of this section—

“(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

“(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is

deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

“(3) the term ‘injury’ means—

“(A) physical harm to a natural person; and

“(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

“(4) the term ‘accident’ means a sudden accident, or a natural event culminating in an accident, that results in death incurred at a discrete location by at least 75 natural persons; and

“(5) the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

“(d) INTERVENING PARTIES.—In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

“(e) NOTIFICATION OF JUDICIAL PANEL ON MULTIDISTRICT LITIGATION.—A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.”.

(B) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

“1369. Multiparty, multiforum jurisdiction.”.

(2) VENUE.—Section 1391 of title 28, United States Code, is amended by adding at the end the following:

“(g) A civil action in which jurisdiction of the district court is based upon section 1369 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.”.

(3) REMOVAL OF ACTIONS.—Section 1441 of title 28, United States Code, is amended—

(A) in subsection (e) by striking “(e) The court to which such civil action is removed” and inserting “(f) The court to which a civil action is removed under this section”; and

(B) by inserting after subsection (d) the following new subsection:

“(e)(1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if—

“(A) the action could have been brought in a United States district court under section 1369 of this title; or

“(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1369 in a United States district court and arises from the same accident as the action in State court, even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1369 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

“(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(j) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

“(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination shall not be subject to further review by appeal or otherwise.

“(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

“(5) An action removed under this subsection shall be deemed to be an action under section 1369 and an action in which jurisdiction is based on section 1369 of this title for purposes of this section and sections 1407, 1697, and 1785 of this title.

“(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.”

(4) SERVICE OF PROCESS.—

(A) OTHER THAN SUBPOENAS.—(i) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

“§ 1697. Service in multiparty, multiforum actions

“When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, process, other than subpoenas, may be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.”

(ii) The table of sections at the beginning of chapter 113 of title 28, United States Code, is amended by adding at the end the following new item:

“1697. Service in multiparty, multiforum actions.”

(B) SERVICE OF SUBPOENAS.—(i) Chapter 117 of title 28, United States Code, is amended by adding at the end the following new section:

“§ 1785. Subpoenas in multiparty, multiforum actions

“When the jurisdiction of the district court is based in whole or in part upon section 1369 of this title, a subpoena for attendance at a hearing or trial may, if authorized by the court upon motion for good cause shown, and upon such terms and conditions as the court may impose, be served at any place within the United States, or anywhere outside the United States if otherwise permitted by law.”.

(ii) The table of sections at the beginning of chapter 117 of title 28, United States Code, is amended by adding at the end the following new item:

“1785. Subpoenas in multiparty, multiforum actions.”.

(c) **EFFECTIVE DATE.**—The amendments made by subsection (b) shall apply to a civil action if the accident giving rise to the cause of action occurred on or after the 90th day after the date of the enactment of this Act.

28 USC 1369
note.

SEC. 11021. ADDITIONAL PLACE OF HOLDING COURT IN THE SOUTHERN DISTRICT OF OHIO.

Section 115(b)(2) of title 28, United States Code, is amended by inserting “St. Clairsville,” after “Columbus,”.

SEC. 11022. DIRECT SHIPMENT OF WINE.

27 USC 124.

(a) **CONDITIONS FOR TRANSPORTING CERTAIN WINE.**—During any period in which the Federal Aviation Administration has in effect restrictions on airline passengers to ensure safety, the direct shipment of wine shall be permitted from States where wine is purchased from a winery, to another State or the District of Columbia, if—

(1) the wine was purchased while the purchaser was physically present at the winery;

(2) the purchaser of the wine provided the winery verification of legal age to purchase alcohol;

(3) the shipping container in which the wine is shipped is marked to require an adult’s signature upon delivery;

(4) the wine is for personal use only and not for resale; and

(5) the purchaser could have carried the wine lawfully into the State or the District of Columbia to which the wine is shipped.

(b) **VIOLATIONS.**—If any person fails to meet any of the conditions under subsection (a), the attorney general of any State may bring a civil action under the same terms as those set out in section 2 of the Act entitled “An Act divesting intoxicating liquors of their interstate character in certain cases”, approved March 1, 1913 (commonly known as the “Webb-Kenyon Act”) (27 U.S.C. 122a).

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, and at 2-year intervals thereafter, the Attorney General of the United States, in consultation with the Administrator of the Federal Aviation Administration, shall prepare and submit to the Committee on the Judiciary of the Senate and to the Committee on the Judiciary of the House of Representatives a report on the implementation of this section.

Deadline.

28 USC 532 note. **SEC. 11023. WEBSTER COMMISSION IMPLEMENTATION REPORT.**

Deadline.

(a) **IMPLEMENTATION PLAN.**—Not later than 6 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a plan for implementation of the recommendations of the Commission for Review of FBI Security Programs, dated March 31, 2002, including the costs of such implementation.

(b) **ANNUAL REPORTS.**—On the date that is 1 year after the submission of the plan described in subsection (a), and for 2 years thereafter, the Director of the Federal Bureau of Investigation shall submit to the appropriate Committees of Congress a report on the implementation of such plan.

(c) **APPROPRIATE COMMITTEES OF CONGRESS.**—For purposes of this section, the term “appropriate Committees of Congress” means—

(1) the Committees on the Judiciary of the Senate and the House of Representatives;

(2) the Committees on Appropriations of the Senate and the House of Representatives;

(3) the Select Committee on Intelligence of the Senate; and

(4) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 11024. FBI POLICE.

(a) **IN GENERAL.**—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

“§ 540C. FBI Police

“(a) **DEFINITIONS.**—In this section:

“(1) **DIRECTOR.**—The term “Director” means the Director of the Federal Bureau of Investigation.

“(2) **FBI BUILDINGS AND GROUNDS.**—

“(A) **IN GENERAL.**—The term “FBI buildings and grounds” means—

“(i) the whole or any part of any building or structure which is occupied under a lease or otherwise by the Federal Bureau of Investigation and is subject to supervision and control by the Federal Bureau of Investigation;

“(ii) the land upon which there is situated any building or structure which is occupied wholly by the Federal Bureau of Investigation; and

“(iii) any enclosed passageway connecting 2 or more buildings or structures occupied in whole or in part by the Federal Bureau of Investigation.

“(B) **INCLUSION.**—The term “FBI buildings and grounds” includes adjacent streets and sidewalks not to exceed 500 feet from such property.

“(3) **FBI POLICE.**—The term “FBI police” means the permanent police force established under subsection (b).

“(b) **ESTABLISHMENT OF FBI POLICE; DUTIES.**—

“(1) **IN GENERAL.**—Subject to the supervision of the Attorney General, the Director may establish a permanent police force, to be known as the FBI police.

“(2) DUTIES.—The FBI police shall perform such duties as the Director may prescribe in connection with the protection of persons and property within FBI buildings and grounds.

“(3) UNIFORMED REPRESENTATIVE.—The Director, or designated representative duly authorized by the Attorney General, may appoint uniformed representatives of the Federal Bureau of Investigation as FBI police for duty in connection with the policing of all FBI buildings and grounds.

“(4) AUTHORITY.—

“(A) IN GENERAL.—In accordance with regulations prescribed by the Director and approved by the Attorney General, the FBI police may—

“(i) police the FBI buildings and grounds for the purpose of protecting persons and property;

“(ii) in the performance of duties necessary for carrying out subparagraph (A), make arrests and otherwise enforce the laws of the United States, including the laws of the District of Columbia;

“(iii) carry firearms as may be required for the performance of duties;

“(iv) prevent breaches of the peace and suppress affrays and unlawful assemblies; and

“(v) hold the same powers as sheriffs and constables when policing FBI buildings and grounds.

“(B) EXCEPTION.—The authority and policing powers of FBI police under this paragraph shall not include the service of civil process.

“(5) PAY AND BENEFITS.—

“(A) IN GENERAL.—The rates of basic pay, salary schedule, pay provisions, and benefits for members of the FBI police shall be equivalent to the rates of basic pay, salary schedule, pay provisions, and benefits applicable to members of the United States Secret Service Uniformed Division.

“(B) APPLICATION.—Pay and benefits for the FBI police under subparagraph (A)—

“(i) shall be established by regulation;

“(ii) shall apply with respect to pay periods beginning after January 1, 2003; and

“(iii) shall not result in any decrease in the rates of pay or benefits of any individual.

“(c) AUTHORITY OF METROPOLITAN POLICE FORCE.—This section does not affect the authority of the Metropolitan Police Force of the District of Columbia with respect to FBI buildings and grounds.”.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 33 of title 28, United States Code, is amended by adding at the end the following new item:

“540C. FBI police.”.

SEC. 11025. REPORT ON FBI INFORMATION MANAGEMENT AND TECHNOLOGY.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation, with appropriate comments from other components of the Department of Justice, shall submit to Congress a report on the information management and technology programs of the Federal

Deadline.

Bureau of Investigation including recommendations for any legislation that may be necessary to enhance the effectiveness of those programs.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall provide—

(1) an analysis and evaluation of whether authority for waiver of any provision of procurement law (including any regulation implementing such a law) is necessary to expeditiously and cost-effectively acquire information technology to meet the unique needs of the Federal Bureau of Investigation to improve its investigative operations in order to respond better to national law enforcement, intelligence, and counter-intelligence requirements;

(2) the results of the studies and audits conducted by the Strategic Management Council and the Inspector General of the Department of Justice to evaluate the information management and technology programs of the Federal Bureau of Investigation, including systems, policies, procedures, practices, and operations; and

(3) a plan for improving the information management and technology programs of the Federal Bureau of Investigation.

(c) RESULTS.—The results provided under subsection (b)(2) shall include an evaluation of—

(1) information technology procedures and practices regarding procurement, training, and systems maintenance;

(2) record keeping policies, procedures, and practices of the Federal Bureau of Investigation, focusing particularly on how information is inputted, stored, managed, utilized, and shared within the Federal Bureau of Investigation;

(3) how information in a given database is related or compared to, or integrated with, information in other technology databases within the Federal Bureau of Investigation;

(4) the effectiveness of the existing information technology infrastructure of the Federal Bureau of Investigation in supporting and accomplishing the overall mission of the Federal Bureau of Investigation;

(5) the management of information technology projects of the Federal Bureau of Investigation, focusing on how the Federal Bureau of Investigation—

(A) selects its information technology projects;

(B) ensures that projects under development deliver benefits; and

(C) ensures that completed projects deliver the expected results; and

(6) the security and access control techniques for classified and sensitive but unclassified information systems in the Federal Bureau of Investigation.

(d) CONTENTS OF PLAN.—The plan provided under subsection (b)(3) shall include consideration of, among other things—

(1) to what extent appropriate key technology management positions in the Federal Bureau of Investigation should be filled by personnel with experience in the commercial sector;

(2) how access to the most sensitive information can be audited in such a manner that suspicious activity is subject to near contemporaneous security review;

(3) how critical information systems can employ a public key infrastructure to validate both users and recipients of messages or records;

(4) how security features can be tested to meet national information systems security standards;

(5) which employees in the Federal Bureau of Investigation should receive instruction in records and information management policies and procedures relevant to their positions and how frequently they should receive that instruction;

(6) whether and to what extent a reserve should be established for research and development to guide strategic information management and technology investment decisions;

(7) whether administrative requirements for software purchases under \$2,000,000 are necessary and could be eliminated;

(8) whether the Federal Bureau of Investigation should contract with an expert technology partner to provide technical support for the information technology procurement for the Federal Bureau of Investigation;

(9) whether procedures should be implemented to permit procurement of products and services through contracts of other agencies, as necessary; and

(10) whether a systems integration and test center should be established, with the participation of field personnel, to test each series of information systems upgrades or application changes before their operational deployment to confirm that they meet proper requirements.

SEC. 11026. GAO REPORT ON CRIME STATISTICS REPORTING.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the issue of how statistics are reported and used by Federal law enforcement agencies. Deadline.

(b) CONTENTS.—The report submitted under subsection (a) shall—

(1) identify the current regulations, procedures, internal policies, or other conditions that allow the investigation or arrest of an individual to be claimed or reported by more than 1 Federal or State agency charged with law enforcement responsibility;

(2) identify and examine the conditions that allow the investigation or arrest of an individual to be claimed or reported by the Offices of Inspectors General and any other Federal agency charged with law enforcement responsibility;

(3) examine the statistics reported by Federal law enforcement agencies, and document those instances in which more than 1 agency, bureau, or office claimed or reported the same investigation or arrest during the years 1998 through 2001;

(4) examine the issue of Federal agencies simultaneously claiming arrest credit for in-custody situations that have already occurred pursuant to a State or local agency arrest situation during the years 1998 through 2001;

(5) examine the issue of how such statistics are used for administrative and management purposes;

(6) set forth a comprehensive definition of the terms “investigation” and “arrest” as those terms apply to Federal agencies charged with law enforcement responsibilities; and

(7) include recommendations, that when implemented, would eliminate unwarranted and duplicative reporting of investigation and arrest statistics by all Federal agencies charged with law enforcement responsibilities.

(c) **FEDERAL AGENCY COMPLIANCE.**—Federal law enforcement agencies shall comply with requests made by the General Accounting Office for information that is necessary to assist in preparing the report required by this section.

Crime-Free Rural
States Act of
2002.
42 USC 3711
note.

SEC. 11027. CRIME-FREE RURAL STATES GRANTS.

(a) **SHORT TITLE.**—This section may be cited as the “Crime-Free Rural States Act of 2002”.

(b) **IN GENERAL.**—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), as amended, is amended by inserting after part FF the following new part:

**“PART GG—CRIME FREE RURAL STATE
GRANTS**

42 USC 3797y.

“SEC. 2985. GRANT AUTHORITY.

“The Attorney General shall award grants to rural State criminal justice agencies, Byrne agencies, or other agencies as designated by the Governor of that State and approved by the Attorney General, to develop rural States’ capacity to assist local communities in the prevention and reduction of crime, violence, and substance abuse.

42 USC 3797y-1.

“SEC. 2986. USE OF FUNDS.

“(a) **IN GENERAL.**—A capacity building grant shall be used to develop a statewide strategic plan as described in section 2987 to prevent and reduce crime, violence, and substance abuse.

“(b) **PERMISSIVE USE.**—A rural State may also use its grant to provide training and technical assistance to communities and promote innovation in the development of policies, technologies, and programs to prevent and reduce crime.

“(c) **DATA COLLECTION.**—A rural State may use up to 5 percent of the grant to assist grant recipients in collecting statewide data related to the costs of crime, violence, and substance abuse for purposes of supporting the statewide strategic plan.

42 USC 3797y-2.

“SEC. 2987. STATEWIDE STRATEGIC PREVENTION PLAN.

“(a) **IN GENERAL.**—A statewide strategic prevention plan shall be used by the rural State to assist local communities, both directly and through existing State programs and services, in building comprehensive, strategic, and innovative approaches to reducing crime, violence, and substance abuse based on local conditions and needs.

“(b) **GOALS.**—The plan must contain statewide long-term goals and measurable annual objectives for reducing crime, violence, and substance abuse.

“(c) **ACCOUNTABILITY.**—The rural State shall be required to develop and report in its plan relevant performance targets and measures for the goals and objectives to track changes in crime, violence, and substance abuse.

“(d) CONSULTATION.—The rural State shall form a State crime free communities commission that includes representatives of State and local government, and community leaders who will provide advice and recommendations on relevant community goals and objectives, and performance targets and measures.

“SEC. 2988. REQUIREMENTS.

42 USC 3797y-3.

“(a) TRAINING AND TECHNICAL ASSISTANCE.—The rural State shall provide training and technical assistance, including through such groups as the National Crime Prevention Council, to assist local communities in developing Crime Prevention Plans that reflect statewide strategic goals and objectives, and performance targets and measures.

“(b) REPORTS.—The rural State shall provide a report on its statewide strategic plan to the Attorney General, including information about—

“(1) involvement of relevant State-level agencies to assist communities in the development and implementation of their Crime Prevention Plans;

“(2) support for local applications for Community Grants; and

“(3) community progress toward reducing crime, violence, and substance abuse.

“(c) CERTIFICATION.—Beginning in the third year of the program, States must certify that the local grantee’s project funded under the community grant is generally consistent with statewide strategic goals and objectives, and performance targets and measures.

“SEC. 2989. AUTHORIZATION OF APPROPRIATIONS.

42 USC 3797y-4.

“There are authorized to be appropriated \$10,000,000 to carry out this part for each of fiscal years 2003, 2004, and 2005.”

(c) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by inserting after the matter relating to part FF the following:

“PART GG—CRIME FREE RURAL STATE GRANTS

“Sec. 2985. Grant authority.

“Sec. 2986. Use of funds.

“Sec. 2987. Statewide strategic prevention plan.

“Sec. 2988. Requirements.

“Sec. 2989. Authorization of appropriations.”.

SEC. 11028. MOTOR VEHICLE FRANCHISE CONTRACT DISPUTE RESOLUTION PROCESS.

15 USC 1226.

(a) ELECTION OF ARBITRATION.—

(1) DEFINITIONS.—For purposes of this subsection—

(A) the term “motor vehicle” has the meaning given such term in section 30102(6) of title 49 of the United States Code; and

(B) the term “motor vehicle franchise contract” means a contract under which a motor vehicle manufacturer, importer, or distributor sells motor vehicles to any other person for resale to an ultimate purchaser and authorizes such other person to repair and service the manufacturer’s motor vehicles.

(2) **CONSENT REQUIRED.**—Notwithstanding any other provision of law, whenever a motor vehicle franchise contract provides for the use of arbitration to resolve a controversy arising out of or relating to such contract, arbitration may be used to settle such controversy only if after such controversy arises all parties to such controversy consent in writing to use arbitration to settle such controversy.

(3) **EXPLANATION REQUIRED.**—Notwithstanding any other provision of law, whenever arbitration is elected to settle a dispute under a motor vehicle franchise contract, the arbitrator shall provide the parties to such contract with a written explanation of the factual and legal basis for the award.

(b) **APPLICATION.**—Subsection (a) shall apply to contracts entered into, amended, altered, modified, renewed, or extended after the date of the enactment of this Act.

28 USC 95 note.

SEC. 11029. HOLDING COURT FOR THE SOUTHERN DISTRICT OF IOWA.

Notwithstanding any other provision of law, during the period beginning on January 1, 2003, through July 1, 2005, the United States District Court for the Southern District of Iowa may—

(1) with the consent of the parties in any case filed in the Eastern Division or the Davenport Division of the Southern District of Iowa, hold court on that case in Rock Island, Illinois; and

(2) summon jurors from the Southern District of Iowa to serve in any case described under paragraph (1).

Posthumous
Citizenship
Restoration Act
of 2002.

8 USC 1101 note.

SEC. 11030. POSTHUMOUS CITIZENSHIP RESTORATION.

(a) **SHORT TITLE.**—This section may be cited as the “Posthumous Citizenship Restoration Act of 2002”.

(b) **DEADLINE EXTENSION.**—Section 329A(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1440-1(c)(1)(A)) is amended by striking “this section,” and inserting “the Posthumous Citizenship Restoration Act of 2002,”.

SEC. 11030A. EXTENSION OF H-1B STATUS FOR ALIENS WITH LENGTHY ADJUDICATIONS.

(a) **EXEMPTION FROM LIMITATION.**—Section 106(a) of American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended to read as follows:

“(a) **EXEMPTION FROM LIMITATION.**—The limitation contained in section 214(g)(4) of the Immigration and Nationality Act (8 U.S.C. 1184(g)(4)) with respect to the duration of authorized stay shall not apply to any nonimmigrant alien previously issued a visa or otherwise provided nonimmigrant status under section 101(a)(15)(H)(i)(b) of such Act (8 U.S.C. 1101(a)(15)(H)(i)(b)), if 365 days or more have elapsed since the filing of any of the following:

“(1) Any application for labor certification under section 212(a)(5)(A) of such Act (8 U.S.C. 1182(a)(5)(A)), in a case in which certification is required or used by the alien to obtain status under section 203(b) of such Act (8 U.S.C. 1153(b)).

“(2) A petition described in section 204(b) of such Act (3 U.S.C. 1154(b)) to accord the alien a status under section 203(b) of such Act.”.

(b) **EXTENSION OF H-1B WORKER STATUS.**—Section 106(b) of American Competitiveness in the Twenty-first Century Act of 2000 (8 U.S.C. 1184 note) is amended to read as follows:

“(b) **EXTENSION OF H-1B WORKER STATUS.**—The Attorney General shall extend the stay of an alien who qualifies for an exemption under subsection (a) in one-year increments until such time as a final decision is made—

“(1) to deny the application described in subsection (a)(1), or, in a case in which such application is granted, to deny a petition described in subsection (a)(2) filed on behalf of the alien pursuant to such grant;

“(2) to deny the petition described in subsection (a)(2); or

“(3) to grant or deny the alien’s application for an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence.”.

SEC. 11030B. APPLICATION FOR NATURALIZATION BY ALTERNATIVE APPLICANT IF CITIZEN PARENT HAS DIED.

Section 322(a) of the Immigration and Nationality Act (8 U.S.C. 1433(a)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by inserting “(or, if the citizen parent has died during the preceding 5 years, a citizen grandparent or citizen legal guardian)” after “citizen of the United States”; and

(B) by striking “such parent” and inserting “such applicant”;

(2) in paragraph (1), by inserting “(or, at the time of his or her death, was)” after “parent”;

(3) in paragraph (2)—

(A) in subparagraph (A), by inserting “(or, at the time of his or her death, had)” after “has”; and

(B) in subparagraph (B), by inserting “(or, at the time of his or her death, had)” after “has” the first place such term appears;

(4) by amending paragraph (4), to read as follows:

“(4) The child is residing outside of the United States in the legal and physical custody of the applicant (or, if the citizen parent is deceased, an individual who does not object to the application).”; and

(5) by adding at the end the following:

“(5) The child is temporarily present in the United States pursuant to a lawful admission, and is maintaining such lawful status.”.

Subtitle B—EB-5 Amendments

CHAPTER 1—IMMIGRATION BENEFITS

SEC. 11031. REMOVAL OF CONDITIONAL BASIS OF PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.

8 USC 1186b
note.

(a) **IN GENERAL.**—In lieu of the provisions of section 216A(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)), subsection (c) shall apply in the case of an eligible alien described in subsection (b)(1).

(b) **ELIGIBLE ALIENS DESCRIBED.**—

(1) **IN GENERAL.**—An alien is an eligible alien described in this subsection if the alien—

(A) filed, under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), a petition to accord the alien a status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) that was approved by the Attorney General after January 1, 1995, and before August 31, 1998;

(B) pursuant to such approval, obtained the status of an alien entrepreneur with permanent resident status on a conditional basis described in section 216A of such Act (8 U.S.C. 1186b); and

(C) timely filed, in accordance with section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) and before the date of the enactment of this Act, a petition requesting the removal of such conditional basis.

(2) REOPENING PETITIONS PREVIOUSLY DENIED.—

(A) IN GENERAL.—In the case of a petition described in paragraph (1)(C) that was denied under section 216A(c)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)(C)) before the date of the enactment of this Act, upon a motion to reopen such petition filed by the eligible alien not later than 60 days after such date, the Attorney General shall make determinations on such petition pursuant to subsection (c).

(B) PETITIONERS ABROAD.—In the case of such an eligible alien who is no longer physically present in the United States, the Attorney General shall establish a process under which the alien may be paroled into the United States if necessary in order to obtain the determinations under subsection (c), unless the Attorney General finds that—

(i) the alien is inadmissible or deportable on any ground; or

(ii) the petition described in paragraph (1)(C) was denied on the ground that it contains a material misrepresentation in the facts and information described in section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) and alleged in the petition with respect to a commercial enterprise.

(C) DEPORTATION OR REMOVAL PROCEEDINGS.—In the case of such an eligible alien who was placed in deportation or removal proceedings by reason of the denial of the petition described in paragraph (1)(C), a motion to reopen filed under subparagraph (A) shall be treated as a motion to reopen such proceedings. The Attorney General shall grant such motion notwithstanding any time and number limitations imposed by law on motions to reopen such proceedings, except that the scope of any proceeding reopened on this basis shall be limited to whether any order of deportation or removal should be vacated, and the alien granted the status of an alien lawfully admitted for permanent residence (unconditionally or on a conditional basis), by reason of the determinations made under subsection (c). An alien who is inadmissible or deportable on any ground shall not be granted such status, except that this prohibition shall not apply to an alien who has been paroled into the United States under subparagraph (B).

(c) DETERMINATIONS ON PETITIONS.—

(1) INITIAL DETERMINATION.—

(A) IN GENERAL.—With respect to each eligible alien described in subsection (b)(1), the Attorney General shall make a determination, not later than 180 days after the date of the enactment of this Act, whether—

Deadline.

(i) the petition described in subsection (b)(1)(C) contains any material misrepresentation in the facts and information described in section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) and alleged in the petition with respect to a commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation);

(ii) subject to subparagraphs (B) and (C), such enterprise created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the eligible alien and the alien's spouse, sons, or daughters), and those jobs exist or existed on any of the dates described in subparagraph (D); and

(iii) on any of the dates described in subparagraph (D), the alien is in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)).

(B) INVESTMENT UNDER PILOT IMMIGRATION PROGRAM.—

For purposes of subparagraph (A)(ii), an investment that satisfies the requirements of section 610(c) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note), as in effect on the date of the enactment of this Act, shall be deemed to satisfy the requirements of such subparagraph.

(C) EXCEPTION FOR TROUBLED BUSINESSES.—In the case of an eligible alien who has made a capital investment in a troubled business (as defined in 8 CFR 204.6(e), as in effect on the date of the enactment of this Act), in lieu of the determination under subparagraph (A)(ii), the Attorney General shall determine whether the number of employees of the business, as measured on any of the dates described in subparagraph (D), is at no less than the pre-investment level.

(D) DATES.—The dates described in this subparagraph are the following:

(i) The date on which the petition described in subsection (b)(1)(C) is filed.

(ii) 6 months after the date described in clause (i).

(iii) The date on which the determination under subparagraph (A) or (C) is made.

(E) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General renders an affirmative determination with respect to clauses (ii) and (iii) of subparagraph (A), and if the Attorney General renders a negative determination with respect to clause (i)

of such subparagraph, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the alien's lawful admission for permanent residence.

(F) REQUIREMENTS RELATING TO ADVERSE DETERMINATIONS.—

(i) NOTICE.—If the Attorney General renders an adverse determination with respect to clause (i), (ii), or (iii) of subparagraph (A), the Attorney General shall so notify the alien involved. The notice shall be in writing and shall state the factual basis for any adverse determination. The Attorney General shall provide the alien with an opportunity to submit evidence to rebut any adverse determination. If the Attorney General reverses all adverse determinations pursuant to such rebuttal, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the alien's lawful admission for permanent residence.

(ii) CONTINUATION OF CONDITIONAL BASIS IF CERTAIN ADVERSE DETERMINATIONS.—If the Attorney General renders an adverse determination with respect to clause (ii) or (iii) of subparagraph (A), and the eligible alien's rebuttal does not cause the Attorney General to reverse such determination, the Attorney General shall continue the conditional basis of the alien's permanent resident status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) for a 2-year period.

(iii) TERMINATION IF ADVERSE DETERMINATION.—If the Attorney General renders an adverse determination with respect to subparagraph (A)(i), and the eligible alien's rebuttal does not cause the Attorney General to reverse such determination, the Attorney General shall so notify the alien involved and, subject to subsection (d), shall terminate the permanent resident status of the alien (and that of the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(iv) ADMINISTRATIVE AND JUDICIAL REVIEW.—An alien may seek administrative review of an adverse determination made under subparagraph (A) by filing a petition for such review with the Board of Immigration Appeals. If the Board of Immigration Appeals denies the petition, the alien may seek judicial review. The procedures for judicial review under this clause shall be the same as the procedures for judicial review of a final order of removal under section 242(a)(1) of the Immigration and Nationality Act (8 U.S.C.

1252(a)(1)). During the period in which an administrative or judicial appeal under this clause is pending, the Attorney General shall continue the conditional basis of the alien's permanent resident status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(2) SECOND DETERMINATION.—

(A) AUTHORIZATION TO CONSIDER INVESTMENTS IN OTHER COMMERCIAL ENTERPRISES.—In determining under this paragraph whether to remove a conditional basis continued under paragraph (1)(F)(ii) with respect to an alien, the Attorney General shall consider any capital investment made by the alien in a commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation), in the United States, regardless of whether that investment was made before or after the determinations under paragraph (1) and regardless of whether the commercial enterprise is the same as that considered in the determinations under such paragraph, if facts and information with respect to the investment and the enterprise are included in the petition submitted under subparagraph (B).

(B) PETITION.—In order for a conditional basis continued under paragraph (1)(F)(ii) for an eligible alien (and the alien's spouse and children) to be removed, the alien must submit to the Attorney General, during the period described in subparagraph (C), a petition which requests the removal of such conditional basis and which states, under penalty of perjury, the facts and information described in subparagraphs (A) and (B) of section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) with respect to any commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation) which the alien desires to have considered under this paragraph, regardless of whether such enterprise was created before or after the determinations made under paragraph (1).

(C) PERIOD FOR FILING PETITION.—

(i) 90-DAY PERIOD BEFORE SECOND ANNIVERSARY.—

Except as provided in clause (ii), the petition under subparagraph (B) must be filed during the 90-day period before the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) DATE PETITIONS FOR GOOD CAUSE.—Such a petition may be considered if filed after such date, but only if the alien establishes to the satisfaction of the Attorney General good cause and extenuating circumstances for failure to file the petition during the period described in clause (i).

(D) TERMINATION OF PERMANENT RESIDENT STATUS FOR FAILURE TO FILE PETITION.—

(i) IN GENERAL.—In the case of an alien with permanent resident status on a conditional basis under paragraph (1)(F)(ii), if no petition is filed with respect to the alien in accordance with subparagraph (B), the Attorney General shall terminate the permanent resident status of the alien (and the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) HEARING IN REMOVAL PROCEEDING.—In any removal proceeding with respect to an alien whose permanent resident status is terminated under clause (i), the burden of proof shall be on the alien to establish compliance with subparagraph (B).

(E) DETERMINATIONS AFTER PETITION.—If a petition is filed by an eligible alien in accordance with subparagraph (B), the Attorney General shall make a determination, within 90 days of the date of such filing, whether—

(i) the petition contains any material misrepresentation in the facts and information alleged in the petition with respect to the commercial enterprises included in such petition;

(ii) all such enterprises, considered together, created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the eligible alien and the alien's spouse, sons, or daughters), and those jobs exist on the date on which the determination is made, except that—

(I) this clause shall apply only if the Attorney General made an adverse determination with respect to the eligible alien under paragraph (1)(A)(ii);

(II) the provisions of subparagraphs (B) and (C) of paragraph (1) shall apply to a determination under this clause in the same manner as they apply to a determination under paragraph (1)(A)(ii); and

(III) if the Attorney General determined under paragraph (1)(A)(ii) that any jobs satisfying the requirement of such paragraph were created, the number of those jobs shall be subtracted from the number of jobs otherwise needed to satisfy the requirement of this clause; and

(iii) considering all such enterprises together, on the date on which the determination is made, the eligible alien is in substantial compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)), except that—

(I) this clause shall apply only if the Attorney General made an adverse determination with

respect to the eligible alien under paragraph (1)(A)(iii); and

(II) if the Attorney General determined under paragraph (1)(A)(iii) that any capital amount was invested that could be credited towards compliance with the capital investment requirement described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)), such amount shall be subtracted from the amount of capital otherwise needed to satisfy the requirement of this clause.

(F) REMOVAL OF CONDITIONAL BASIS IF FAVORABLE DETERMINATION.—If the Attorney General renders an affirmative determination with respect to clauses (ii) and (iii) of subparagraph (E), and if the Attorney General renders a negative determination with respect to clause (i) of such subparagraph, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(G) REQUIREMENTS RELATING TO ADVERSE DETERMINATIONS.—

(i) NOTICE.—If the Attorney General renders an adverse determination under subparagraph (E), the Attorney General shall so notify the alien involved. The notice shall be in writing and shall state the factual basis for any adverse determination. The Attorney General shall provide the alien with an opportunity to submit evidence to rebut any adverse determination. If the Attorney General reverses all adverse determinations pursuant to such rebuttal, the Attorney General shall so notify the alien involved and shall remove the conditional basis of the alien's status (and that of the alien's spouse and children if it was obtained under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)) effective as of the second anniversary of the continuation, under paragraph (1)(F)(ii), of the conditional basis of the alien's lawful admission for permanent residence.

(ii) TERMINATION IF ADVERSE DETERMINATION.—If the eligible alien's rebuttal does not cause the Attorney General to reverse each adverse determination under subparagraph (E), the Attorney General shall so notify the alien involved and, subject to subsection (d), shall terminate the permanent resident status of the alien (and that of the alien's spouse and children if it was obtained on a conditional basis under section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b)).

(d) HEARING IN REMOVAL PROCEEDING.—Any alien whose permanent resident status is terminated under paragraph (1)(F)(iii)

or (2)(G)(ii) of subsection (c) may request a review of such determination in a proceeding to remove the alien. In such proceeding, the burden of proof shall be on the Attorney General.

(e) **CLARIFICATION WITH RESPECT TO CHILDREN.**—In the case of an alien who obtained the status of an alien lawfully admitted for permanent residence on a conditional basis before the date of the enactment of this Act by virtue of being the child of an eligible alien described in subsection (b)(1), the alien shall be considered to be a child for purposes of this section regardless of any change in age or marital status after obtaining such status.

(f) **DEFINITION OF FULL-TIME.**—For purposes of this section, the term “full-time” means a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.

8 USC 1186b
note.

SEC. 11032. CONDITIONAL PERMANENT RESIDENT STATUS FOR CERTAIN ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.

(a) **IN GENERAL.**—With respect to each eligible alien described in subsection (b), the Attorney General or the Secretary of State shall approve the application described in subsection (b)(2) and grant the alien (and any spouse or child of the alien, if the spouse or child is eligible to receive a visa under section 203(d) of the Immigration and Nationality Act (8 U.S.C. 1153(d))) the status of an alien lawfully admitted for permanent residence on a conditional basis under section 216A of such Act (8 U.S.C. 1186b). Such application shall be approved not later than 180 days after the date of the enactment of this Act.

(b) **ELIGIBLE ALIENS DESCRIBED.**—An alien is an eligible alien described in this subsection if the alien—

(1) filed, under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), a petition to accord the alien a status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)) that was approved by the Attorney General after January 1, 1995, and before August 31, 1998;

(2) pursuant to such approval, timely filed before the date of the enactment of this Act an application for adjustment of status under section 245 of such Act (8 U.S.C. 1255) or an application for an immigrant visa under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)); and

(3) is not inadmissible or deportable on any ground.

(c) **TREATMENT OF CERTAIN APPLICATIONS.**—

(1) **REVOCATION OF APPROVAL OF PETITIONS.**—If the Attorney General revoked the approval of a petition described in subsection (b)(1), such revocation shall be disregarded for purposes of this section if it was based on a determination that the alien failed to satisfy section 203(b)(5)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)(A)(ii)).

(2) **APPLICATIONS NO LONGER PENDING.**—

(A) **IN GENERAL.**—If an application described in subsection (b)(2) is not pending on the date of the enactment of this Act, the Attorney General shall disregard the circumstances leading to such lack of pendency and treat it as reopened, if such lack of pendency is due to a determination that the alien—

(i) failed to satisfy section 203(b)(5)(A)(ii) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)(A)(ii)); or

(ii) departed the United States without advance parole.

(B) APPLICANTS ABROAD.—In the case of an eligible alien who filed an application for adjustment of status described in subsection (b)(2), but who is no longer physically present in the United States, the Attorney General shall establish a process under which the alien may be paroled into the United States if necessary in order to obtain adjustment of status under this section.

(d) RECORDATION OF DATE; REDUCTION OF NUMBERS.—Upon the approval of an application under subsection (a), the Attorney General shall record the alien's lawful admission for permanent residence on a conditional basis as of the date of such approval and the Secretary of State shall reduce by one the number of visas authorized to be issued under sections 201(d) and 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1151(d) and 1153(b)(5)) for the fiscal year then current.

(e) REMOVAL OF CONDITIONAL BASIS.—

(1) PETITION.—In order for a conditional basis established under this section for an alien (and the alien's spouse and children) to be removed, the alien must satisfy the requirements of section 216A(c)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(1)), including the submission of a petition in accordance with subparagraph (A) of such section. Such petition may include the facts and information described in subparagraphs (A) and (B) of section 216A(d)(1) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)) with respect to any commercial enterprise (regardless of whether such enterprise is a limited partnership and regardless of whether the alien entered the enterprise after its formation) in the United States in which the alien has made a capital investment at any time.

(2) DETERMINATION.—In carrying out section 216A(c)(3) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(3)) with respect to an alien described in paragraph (1), the Attorney General, in lieu of the determination described in such section 216A(c)(3), shall make a determination, within 90 days of the date of such filing, whether—

Deadline.

(A) the petition described in paragraph (1) contains any material misrepresentation in the facts and information alleged in the petition with respect to the commercial enterprises included in the petition;

(B) subject to subparagraphs (B) and (C) of section 11031(c)(1), all such enterprises, considered together, created full-time jobs for not fewer than 10 United States citizens or aliens lawfully admitted for permanent residence or other immigrants lawfully authorized to be employed in the United States (other than the alien and the alien's spouse, sons, or daughters), and those jobs exist or existed on either of the dates described in paragraph (3); and

(C) considering the alien's investments in such enterprises on either of the dates described in paragraph (3), or on both such dates, the alien is or was in substantial compliance with the capital investment requirement

described in section 216A(d)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1186b(d)(1)(B)).

(3) DATES.—The dates described in this paragraph are the following:

(A) The date on which the application described in subsection (b)(2) was filed.

(B) The date on which the determination under paragraph (2) is made.

(f) CLARIFICATION WITH RESPECT TO CHILDREN.—In the case of an alien who was a child on the date on which the application described in subsection (b)(2) was filed, the alien shall be considered to be a child for purposes of this section regardless of any change in age or marital status after such date.

8 USC 1186b
note.
Deadline.

SEC. 11033. REGULATIONS.

The Immigration and Naturalization Service shall promulgate regulations to implement this chapter not later than 120 days after the date of enactment of this Act. Until such regulations are promulgated, the Attorney General shall not deny a petition filed or pending under section 216A(c)(1)(A) of the Immigration and Nationality Act (8 U.S.C. 1186b(c)(1)(A)) that relates to an eligible alien described in section 11031, or on an application filed or pending under section 245 of such Act (8 U.S.C. 1255) that relates to an eligible alien described in section 11032. Until such regulations are promulgated, the Attorney General shall not initiate or proceed with removal proceedings under section 240 of the Immigration and Nationality Act (8 U.S.C. 1229a) that relate to an eligible alien described in section 11031 or 11032.

8 USC 1186b
note.

SEC. 11034. DEFINITIONS.

Except as otherwise provided, the terms used in this chapter shall have the meaning given such terms in section 101(b) of the Immigration and Nationality Act (8 U.S.C. 1101(b)).

CHAPTER 2—AMENDMENTS TO OTHER LAWS

SEC. 11035. DEFINITION OF “FULL-TIME EMPLOYMENT”.

Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended by adding at the end the following:

“(D) FULL-TIME EMPLOYMENT DEFINED.—In this paragraph, the term ‘full-time employment’ means employment in a position that requires at least 35 hours of service per week at any time, regardless of who fills the position.”.

SEC. 11036. ELIMINATING ENTERPRISE ESTABLISHMENT REQUIREMENT FOR ALIEN ENTREPRENEURS.

(a) PREFERENCE ALLOCATION FOR EMPLOYMENT CREATION.—Section 203(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1153(b)(5)) is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “enterprise—” and inserting “enterprise (including a limited partnership)—”;

(B) by striking clause (i); and

(C) by redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively; and

(2) in subparagraph (B)(i), by striking “establish” and inserting “invest in”.

(b) **CONDITIONAL PERMANENT RESIDENT STATUS FOR ALIEN ENTREPRENEURS, SPOUSES, AND CHILDREN.**—Section 216A of the Immigration and Nationality Act (8 U.S.C. 1186b) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A) by striking “establishment of” and inserting “investment in”; and

(B) by amending subparagraph (B) to read as follows:

“(B)(i) the alien did not invest, or was not actively in the process of investing, the requisite capital; or

“(ii) the alien was not sustaining the actions described in clause (i) throughout the period of the alien’s residence in the United States; or”;

(2) by amending subsection (d)(1) to read as follows:

“(1) **CONTENTS OF PETITION.**—Each petition under subsection (c)(1)(A) shall contain facts and information demonstrating that the alien—

“(A)(i) invested, or is actively in the process of investing, the requisite capital; and

“(ii) sustained the actions described in clause (i) throughout the period of the alien’s residence in the United States; and

“(B) is otherwise conforming to the requirements of section 203(b)(5).”; and

(3) by adding at the end of subsection (f) the following:

“(3) The term ‘commercial enterprise’ includes a limited partnership.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to aliens having any of the following petitions pending on or after the date of the enactment of this Act:

8 USC 1153 note.

(1) A petition under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision), with respect to status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).

(2) A petition under section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) to remove the conditional basis of an alien’s permanent resident status.

SEC. 11037. AMENDMENTS TO PILOT IMMIGRATION PROGRAM FOR REGIONAL CENTERS TO PROMOTE ECONOMIC GROWTH.

(a) **PURPOSE OF PROGRAM.**—Section 610(a) of the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1993 (8 U.S.C. 1153 note), is amended—

(1) by inserting after “regional center in the United States” the following: “, designated by the Attorney General on the basis of a general proposal,”;

(2) by striking “and increased domestic” and inserting “or increased domestic”; and

(3) by adding at the end the following:

“A regional center shall have jurisdiction over a limited geographic area, which shall be described in the proposal and consistent with the purpose of concentrating pooled investment in defined economic zones. The establishment of a regional center may be based on general predictions, contained in the proposal, concerning the kinds of commercial enterprises that will receive capital from aliens, the jobs that will be created directly or indirectly as a result

of such capital investments, and the other positive economic effects such capital investments will have.”.

8 USC 1153 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to—

(1) any proposal for a regional center pending before the Attorney General (whether for an initial decision or on appeal) on or after the date of the enactment of this Act; and

(2) any of the following petitions, if filed on or after the date of the enactment of this Act:

(A) A petition under section 204(a)(1)(H) of the Immigration and Nationality Act (8 U.S.C. 1154(a)(1)(H)) (or any predecessor provision)(or any predecessor provision), with respect to status under section 203(b)(5) of such Act (8 U.S.C. 1153(b)(5)).

(B) A petition under section 216A(c)(1)(A) of such Act (8 U.S.C. 1186b(c)(1)(A)) to remove the conditional basis of an alien’s permanent resident status.

Judicial
Improvements
Act of 2002.

Subtitle C—Judicial Improvements Act of 2002

28 USC 1 note.

SEC. 11041. SHORT TITLE.

This subtitle may be cited as the “Judicial Improvements Act of 2002”.

SEC. 11042. JUDICIAL DISCIPLINE PROCEDURES.

(a) **IN GENERAL.**—Part I of title 28, United States Code, is amended by inserting after chapter 15 the following new chapter:

“CHAPTER 16—COMPLAINTS AGAINST JUDGES AND JUDICIAL DISCIPLINE

“Sec.

“351. Complaints; judge defined.

“352. Review of complaint by chief judge.

“353. Special committees.

“354. Action by judicial council.

“355. Action by Judicial Conference.

“356. Subpoena power.

“357. Review of orders and actions.

“358. Rules.

“359. Restrictions.

“360. Disclosure of information.

“361. Reimbursement of expenses.

“362. Other provisions and rules not affected.

“363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit.

“364. Effect of felony conviction.

“§ 351. Complaints; judge defined

“(a) **FILING OF COMPLAINT BY ANY PERSON.**—Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts, or alleging that such judge is unable to discharge all the duties of office by reason of mental or physical disability, may file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.

“(b) IDENTIFYING COMPLAINT BY CHIEF JUDGE.—In the interests of the effective and expeditious administration of the business of the courts and on the basis of information available to the chief judge of the circuit, the chief judge may, by written order stating reasons therefor, identify a complaint for purposes of this chapter and thereby dispense with filing of a written complaint.

“(c) TRANSMITTAL OF COMPLAINT.—Upon receipt of a complaint filed under subsection (a), the clerk shall promptly transmit the complaint to the chief judge of the circuit, or, if the conduct complained of is that of the chief judge, to that circuit judge in regular active service next senior in date of commission (hereafter, for purposes of this chapter only, included in the term ‘chief judge’). The clerk shall simultaneously transmit a copy of the complaint to the judge whose conduct is the subject of the complaint. The clerk shall also transmit a copy of any complaint identified under subsection (b) to the judge whose conduct is the subject of the complaint.

“(d) DEFINITIONS.—In this chapter—

“(1) the term ‘judge’ means a circuit judge, district judge, bankruptcy judge, or magistrate judge; and

“(2) the term ‘complainant’ means the person filing a complaint under subsection (a) of this section.

“§ 352. Review of complaint by chief judge

“(a) EXPEDITIOUS REVIEW; LIMITED INQUIRY.—The chief judge shall expeditiously review any complaint received under section 351(a) or identified under section 351(b). In determining what action to take, the chief judge may conduct a limited inquiry for the purpose of determining—

“(1) whether appropriate corrective action has been or can be taken without the necessity for a formal investigation; and

“(2) whether the facts stated in the complaint are either plainly untrue or are incapable of being established through investigation.

For this purpose, the chief judge may request the judge whose conduct is complained of to file a written response to the complaint. Such response shall not be made available to the complainant unless authorized by the judge filing the response. The chief judge or his or her designee may also communicate orally or in writing with the complainant, the judge whose conduct is complained of, and any other person who may have knowledge of the matter, and may review any transcripts or other relevant documents. The chief judge shall not undertake to make findings of fact about any matter that is reasonably in dispute.

“(b) ACTION BY CHIEF JUDGE FOLLOWING REVIEW.—After expeditiously reviewing a complaint under subsection (a), the chief judge, by written order stating his or her reasons, may—

“(1) dismiss the complaint—

“(A) if the chief judge finds the complaint to be—

“(i) not in conformity with section 351(a);

“(ii) directly related to the merits of a decision or procedural ruling; or

“(iii) frivolous, lacking sufficient evidence to raise an inference that misconduct has occurred, or containing allegations which are incapable of being established through investigation; or

“(B) when a limited inquiry conducted under subsection (a) demonstrates that the allegations in the complaint lack any factual foundation or are conclusively refuted by objective evidence; or

“(2) conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.

The chief judge shall transmit copies of the written order to the complainant and to the judge whose conduct is the subject of the complaint.

“(c) REVIEW OF ORDERS OF CHIEF JUDGE.—A complainant or judge aggrieved by a final order of the chief judge under this section may petition the judicial council of the circuit for review thereof. The denial of a petition for review of the chief judge’s order shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

“(d) REFERRAL OF PETITIONS FOR REVIEW TO PANELS OF THE JUDICIAL COUNCIL.—Each judicial council may, pursuant to rules prescribed under section 358, refer a petition for review filed under subsection (c) to a panel of no fewer than 5 members of the council, at least 2 of whom shall be district judges.

“§ 353. Special committees

“(a) APPOINTMENT.—If the chief judge does not enter an order under section 352(b), the chief judge shall promptly—

“(1) appoint himself or herself and equal numbers of circuit and district judges of the circuit to a special committee to investigate the facts and allegations contained in the complaint;

“(2) certify the complaint and any other documents pertaining thereto to each member of such committee; and

“(3) provide written notice to the complainant and the judge whose conduct is the subject of the complaint of the action taken under this subsection.

“(b) CHANGE IN STATUS OR DEATH OF JUDGES.—A judge appointed to a special committee under subsection (a) may continue to serve on that committee after becoming a senior judge or, in the case of the chief judge of the circuit, after his or her term as chief judge terminates under subsection (a)(3) or (c) of section 45. If a judge appointed to a committee under subsection (a) dies, or retires from office under section 371(a), while serving on the committee, the chief judge of the circuit may appoint another circuit or district judge, as the case may be, to the committee.

“(c) INVESTIGATION BY SPECIAL COMMITTEE.—Each committee appointed under subsection (a) shall conduct an investigation as extensive as it considers necessary, and shall expeditiously file a comprehensive written report thereon with the judicial council of the circuit. Such report shall present both the findings of the investigation and the committee’s recommendations for necessary and appropriate action by the judicial council of the circuit.

“§ 354. Action by judicial council

“(a) ACTIONS UPON RECEIPT OF REPORT.—

“(1) ACTIONS.—The judicial council of a circuit, upon receipt of a report filed under section 353(c)—

“(A) may conduct any additional investigation which it considers to be necessary;

Reports.

“(B) may dismiss the complaint; and

“(C) if the complaint is not dismissed, shall take such action as is appropriate to assure the effective and expeditious administration of the business of the courts within the circuit.

“(2) DESCRIPTION OF POSSIBLE ACTIONS IF COMPLAINT NOT DISMISSED.—

“(A) IN GENERAL.—Action by the judicial council under paragraph (1)(C) may include—

“(i) ordering that, on a temporary basis for a time certain, no further cases be assigned to the judge whose conduct is the subject of a complaint;

“(ii) censuring or reprimanding such judge by means of private communication; and

“(iii) censuring or reprimanding such judge by means of public announcement.

“(B) FOR ARTICLE III JUDGES.—If the conduct of a judge appointed to hold office during good behavior is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include—

“(i) certifying disability of the judge pursuant to the procedures and standards provided under section 372(b); and

“(ii) requesting that the judge voluntarily retire, with the provision that the length of service requirements under section 371 of this title shall not apply.

“(C) FOR MAGISTRATE JUDGES.—If the conduct of a magistrate judge is the subject of the complaint, action by the judicial council under paragraph (1)(C) may include directing the chief judge of the district of the magistrate judge to take such action as the judicial council considers appropriate.

“(3) LIMITATIONS ON JUDICIAL COUNCIL REGARDING REMOVALS.—

“(A) ARTICLE III JUDGES.—Under no circumstances may the judicial council order removal from office of any judge appointed to hold office during good behavior.

“(B) MAGISTRATE AND BANKRUPTCY JUDGES.—Any removal of a magistrate judge under this subsection shall be in accordance with section 631 and any removal of a bankruptcy judge shall be in accordance with section 152.

“(4) NOTICE OF ACTION TO JUDGE.—The judicial council shall immediately provide written notice to the complainant and to the judge whose conduct is the subject of the complaint of the action taken under this subsection.

“(b) REFERRAL TO JUDICIAL CONFERENCE.—

“(1) IN GENERAL.—In addition to the authority granted under subsection (a), the judicial council may, in its discretion, refer any complaint under section 351, together with the record of any associated proceedings and its recommendations for appropriate action, to the Judicial Conference of the United States.

“(2) SPECIAL CIRCUMSTANCES.—In any case in which the judicial council determines, on the basis of a complaint and an investigation under this chapter, or on the basis of information otherwise available to the judicial council, that a judge

appointed to hold office during good behavior may have engaged in conduct—

“(A) which might constitute one or more grounds for impeachment under article II of the Constitution, or

“(B) which, in the interest of justice, is not amenable to resolution by the judicial council, the judicial council shall promptly certify such determination, together with any complaint and a record of any associated proceedings, to the Judicial Conference of the United States.

“(3) NOTICE TO COMPLAINANT AND JUDGE.—A judicial council acting under authority of this subsection shall, unless contrary to the interests of justice, immediately submit written notice to the complainant and to the judge whose conduct is the subject of the action taken under this subsection.

“§ 355. Action by Judicial Conference

“(a) IN GENERAL.—Upon referral or certification of any matter under section 354(b), the Judicial Conference, after consideration of the prior proceedings and such additional investigation as it considers appropriate, shall by majority vote take such action, as described in section 354(a)(1)(C) and (2), as it considers appropriate.

“(b) IF IMPEACHMENT WARRANTED.—

“(1) IN GENERAL.—If the Judicial Conference concurs in the determination of the judicial council, or makes its own determination, that consideration of impeachment may be warranted, it shall so certify and transmit the determination and the record of proceedings to the House of Representatives for whatever action the House of Representatives considers to be necessary. Upon receipt of the determination and record of proceedings in the House of Representatives, the Clerk of the House of Representatives shall make available to the public the determination and any reasons for the determination.

“(2) IN CASE OF FELONY CONVICTION.—If a judge has been convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the Judicial Conference may, by majority vote and without referral or certification under section 354(b), transmit to the House of Representatives a determination that consideration of impeachment may be warranted, together with appropriate court records, for whatever action the House of Representatives considers to be necessary.

“§ 356. Subpoena power

“(a) JUDICIAL COUNCILS AND SPECIAL COMMITTEES.—In conducting any investigation under this chapter, the judicial council, or a special committee appointed under section 353, shall have full subpoena powers as provided in section 332(d).

“(b) JUDICIAL CONFERENCE AND STANDING COMMITTEES.—In conducting any investigation under this chapter, the Judicial Conference, or a standing committee appointed by the Chief Justice under section 331, shall have full subpoena powers as provided in that section.

“§ 357. Review of orders and actions

“(a) REVIEW OF ACTION OF JUDICIAL COUNCIL.—A complainant or judge aggrieved by an action of the judicial council under section 354 may petition the Judicial Conference of the United States for review thereof.

“(b) ACTION OF JUDICIAL CONFERENCE.—The Judicial Conference, or the standing committee established under section 331, may grant a petition filed by a complainant or judge under subsection (a).

“(c) NO JUDICIAL REVIEW.—Except as expressly provided in this section and section 352(c), all orders and determinations, including denials of petitions for review, shall be final and conclusive and shall not be judicially reviewable on appeal or otherwise.

“§ 358. Rules

“(a) IN GENERAL.—Each judicial council and the Judicial Conference may prescribe such rules for the conduct of proceedings under this chapter, including the processing of petitions for review, as each considers to be appropriate.

“(b) REQUIRED PROVISIONS.—Rules prescribed under subsection (a) shall contain provisions requiring that—

“(1) adequate prior notice of any investigation be given in writing to the judge whose conduct is the subject of a complaint under this chapter;

“(2) the judge whose conduct is the subject of a complaint under this chapter be afforded an opportunity to appear (in person or by counsel) at proceedings conducted by the investigating panel, to present oral and documentary evidence, to compel the attendance of witnesses or the production of documents, to cross-examine witnesses, and to present argument orally or in writing; and

“(3) the complainant be afforded an opportunity to appear at proceedings conducted by the investigating panel, if the panel concludes that the complainant could offer substantial information.

“(c) PROCEDURES.—Any rule prescribed under this section shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such rule shall be a matter of public record, and any such rule promulgated by a judicial council may be modified by the Judicial Conference. No rule promulgated under this section may limit the period of time within which a person may file a complaint under this chapter. Notice.

“§ 359. Restrictions

“(a) RESTRICTION ON INDIVIDUALS WHO ARE SUBJECT OF INVESTIGATION.—No judge whose conduct is the subject of an investigation under this chapter shall serve upon a special committee appointed under section 353, upon a judicial council, upon the Judicial Conference, or upon the standing committee established under section 331, until all proceedings under this chapter relating to such investigation have been finally terminated.

“(b) AMICUS CURIAE.—No person shall be granted the right to intervene or to appear as amicus curiae in any proceeding before a judicial council or the Judicial Conference under this chapter.

“§ 360. Disclosure of information

“(a) CONFIDENTIALITY OF PROCEEDINGS.—Except as provided in section 355, all papers, documents, and records of proceedings related to investigations conducted under this chapter shall be confidential and shall not be disclosed by any person in any proceeding except to the extent that—

“(1) the judicial council of the circuit in its discretion releases a copy of a report of a special committee under section 353(c) to the complainant whose complaint initiated the investigation by that special committee and to the judge whose conduct is the subject of the complaint;

“(2) the judicial council of the circuit, the Judicial Conference of the United States, or the Senate or the House of Representatives by resolution, releases any such material which is believed necessary to an impeachment investigation or trial of a judge under article I of the Constitution; or

“(3) such disclosure is authorized in writing by the judge who is the subject of the complaint and by the chief judge of the circuit, the Chief Justice, or the chairman of the standing committee established under section 331.

“(b) PUBLIC AVAILABILITY OF WRITTEN ORDERS.—Each written order to implement any action under section 354(a)(1)(C), which is issued by a judicial council, the Judicial Conference, or the standing committee established under section 331, shall be made available to the public through the appropriate clerk’s office of the court of appeals for the circuit. Unless contrary to the interests of justice, each such order shall be accompanied by written reasons therefor.

“§ 361. Reimbursement of expenses

“Upon the request of a judge whose conduct is the subject of a complaint under this chapter, the judicial council may, if the complaint has been finally dismissed under section 354(a)(1)(B), recommend that the Director of the Administrative Office of the United States Courts award reimbursement, from funds appropriated to the Federal judiciary, for those reasonable expenses, including attorneys’ fees, incurred by that judge during the investigation which would not have been incurred but for the requirements of this chapter.

“§ 362. Other provisions and rules not affected

“Except as expressly provided in this chapter, nothing in this chapter shall be construed to affect any other provision of this title, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Appellate Procedure, or the Federal Rules of Evidence.

“§ 363. Court of Federal Claims, Court of International Trade, Court of Appeals for the Federal Circuit

“The United States Court of Federal Claims, the Court of International Trade, and the Court of Appeals for the Federal Circuit shall each prescribe rules, consistent with the provisions of this chapter, establishing procedures for the filing of complaints with respect to the conduct of any judge of such court and for the investigation and resolution of such complaints. In investigating and taking action with respect to any such complaint, each such

court shall have the powers granted to a judicial council under this chapter.

“§ 364. Effect of felony conviction

“In the case of any judge or judge of a court referred to in section 363 who is convicted of a felony under State or Federal law and has exhausted all means of obtaining direct review of the conviction, or the time for seeking further direct review of the conviction has passed and no such review has been sought, the following shall apply:

“(1) The judge shall not hear or decide cases unless the judicial council of the circuit (or, in the case of a judge of a court referred to in section 363, that court) determines otherwise.

“(2) Any service as such judge or judge of a court referred to in section 363, after the conviction is final and all time for filing appeals thereof has expired, shall not be included for purposes of determining years of service under section 371(c), 377, or 178 of this title or creditable service under subchapter III of chapter 83, or chapter 84, of title 5.”.

(b) CONFORMING AMENDMENT.—The table of chapters for part I of title 28, United States Code, is amended by inserting after the item relating to chapter 15 the following new item:

“16. Complaints against judges and judicial discipline 351”.

SEC. 11043. TECHNICAL AMENDMENTS.

(a) RETIREMENT FOR DISABILITY.—(1) Section 372 of title 28, United States Code, is amended—

(A) in the section caption by striking “; **judicial discipline**”; and

(B) by striking subsection (c).

(2) The item relating to section 372 in the table of sections for chapter 17 of title 28, United States Code, is amended by striking “; judicial discipline”.

(b) JUDICIAL CONFERENCE.—Section 331 of title 28, United States Code, is amended in the fourth undesignated paragraph by striking “section 372(c)” each place it appears and inserting “chapter 16”.

(c) JUDICIAL COUNCILS.—Section 332 of title 28, United States Code, is amended—

(1) in subsection (d)(2)—

(A) by striking “section 372(c) of this title” and inserting “chapter 16 of this title”; and

(B) by striking “372(c)(4)” and inserting “353”; and

(2) by striking the second subsection designated as subsection (h).

(d) RECALL OF BANKRUPTCY JUDGES AND MAGISTRATE JUDGES.—Section 375(d) of title 28, United States Code, is amended by striking “section 372(c)” and inserting “chapter 16”.

(e) DIRECTOR OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 604 of title 28, United States Code, is amended—

(1) in subsection (a)(20)—

(A) in subparagraph (B), by striking “372(c)(11)” and inserting “358”; and

(B) in subparagraph (C), by striking “372(c)(15)” and inserting “360(b)”; and

(2) in subsection (h)—

(A) in paragraph (1), by striking “section 372” each place it appears and inserting “chapter 16”; and

(B) in paragraph (2), by striking “section 372(c)” and inserting “chapter 16”.

(f) COURT OF APPEALS FOR VETERANS CLAIMS.—Section 7253(g) of title 38, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “section 372(c)” and inserting “chapter 16”; and

(B) by striking “such section” and inserting “such chapter”;

(2) in paragraph (2)—

(A) in the first sentence, by striking “paragraphs (7) through (15) of section 372(c)” and inserting “sections 354(b) through 360”; and

(B) in the second sentence, by striking “paragraph (7) or (8) of section 372(c)” and inserting “section 354(b) or 355”; and

(3) in paragraph (3)(B), by striking “372(c)(16)” and inserting “361”.

28 USC 351 note.

SEC. 11044. SEVERABILITY.

If any provision of this subtitle, an amendment made by this subtitle, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this subtitle, the amendments made by this subtitle, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Antitrust
Modernization
Commission Act
of 2002.

Subtitle D—Antitrust Modernization Commission Act of 2002

15 USC 1 note.

SEC. 11051. SHORT TITLE.

This subtitle may be cited as the “Antitrust Modernization Commission Act of 2002”.

SEC. 11052. ESTABLISHMENT.

There is established the Antitrust Modernization Commission (in this subtitle referred to as the “Commission”).

SEC. 11053. DUTIES OF THE COMMISSION.

The duties of the Commission are—

(1) to examine whether the need exists to modernize the antitrust laws and to identify and study related issues;

(2) to solicit views of all parties concerned with the operation of the antitrust laws;

(3) to evaluate the advisability of proposals and current arrangements with respect to any issues so identified; and

(4) to prepare and to submit to Congress and the President a report in accordance with section 11058.

SEC. 11054. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—The Commission shall be composed of 12 members appointed as follows:

(1) Four members, no more than 2 of whom shall be of the same political party, shall be appointed by the President.

President.

The President shall appoint members of the opposing party only on the recommendation of the leaders of Congress from that party.

(2) Two members shall be appointed by the majority leader of the Senate.

(3) Two members shall be appointed by the minority leader of the Senate.

(4) Two members shall be appointed by the Speaker of the House of Representatives.

(5) Two members shall be appointed by the minority leader of the House of Representatives.

(b) INELIGIBILITY FOR APPOINTMENT.—Members of Congress shall be ineligible for appointment to the Commission.

(c) TERM OF APPOINTMENT.—

(1) IN GENERAL.—Subject to paragraph (2), members of the Commission shall be appointed for the life of the Commission.

(2) EARLY TERMINATION OF APPOINTMENT.—If a member of the Commission who is appointed to the Commission as—

(A) an officer or employee of a government ceases to be an officer or employee of such government; or

(B) an individual who is not an officer or employee of a government becomes an officer or employee of a government;

then such member shall cease to be a member of the Commission on the expiration of the 90-day period beginning on the date such member ceases to be such officer or employee of such government, or becomes an officer or employee of a government, as the case may be.

(d) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may conduct meetings.

(e) APPOINTMENT DEADLINE.—Initial appointments under subsection (a) shall be made not later than 60 days after the date of enactment of this Act.

(f) MEETINGS.—The Commission shall meet at the call of the chairperson. The first meeting of the Commission shall be held not later than 30 days after the date on which all members of the Commission are first appointed under subsection (a) or funds are appropriated to carry out this subtitle, whichever occurs later.

(g) VACANCY.—A vacancy on the Commission shall be filled in the same manner as the initial appointment is made.

(h) CONSULTATION BEFORE APPOINTMENT.—Before appointing members of the Commission, the President, the majority and minority leaders of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives shall consult with each other to ensure fair and equitable representation of various points of view in the Commission.

(i) CHAIRPERSON; VICE CHAIRPERSON.—The President shall select the chairperson of the Commission from among its appointed members. The leaders of Congress from the opposing party of the President shall select the vice chairperson of the Commission from among its remaining members.

President.

SEC. 11055. COMPENSATION OF THE COMMISSION.

(a) PAY.—

(1) NONGOVERNMENT EMPLOYEES.—Each member of the Commission who is not otherwise employed by a government

shall be entitled to receive the daily equivalent of the annual rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5 United States Code, as in effect from time to time, for each day (including travel time) during which such member is engaged in the actual performance of duties of the Commission.

(2) **GOVERNMENT EMPLOYEES.**—A member of the Commission who is an officer or employee of a government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Commission.

(b) **TRAVEL EXPENSES.**—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

SEC. 11056. STAFF OF COMMISSION; EXPERTS AND CONSULTANTS.

(a) **STAFF.**—

(1) **APPOINTMENT.**—The chairperson of the Commission may, without regard to the provisions of chapter 51 of title 5 of the United States Code (relating to appointments in the competitive service), appoint and terminate an executive director and such other staff as are necessary to enable the Commission to perform its duties. The appointment of an executive director shall be subject to approval by the Commission.

(2) **COMPENSATION.**—The chairperson of the Commission may fix the compensation of the executive director and other staff without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code (relating to classification of positions and General Schedule pay rates), except that the rate of pay for the executive director and other staff may not exceed the rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5 United States Code, as in effect from time to time.

(b) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services of experts and consultants in accordance with section 3109(b) of title 5, United States Code.

SEC. 11057. POWERS OF THE COMMISSION.

(a) **HEARINGS AND MEETINGS.**—The Commission, or a member of the Commission if authorized by the Commission, may hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence, as the Commission considers to be appropriate. The Commission or a member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or such member.

(b) **OFFICIAL DATA.**—The Commission may obtain directly from any executive agency (as defined in section 105 of title 5 of the United States Code) or court information necessary to enable it to carry out its duties under this subtitle. On the request of the chairperson of the Commission, and consistent with any other law, the head of an executive agency or of a Federal court shall provide such information to the Commission.

(c) **FACILITIES AND SUPPORT SERVICES.**—The Administrator of General Services shall provide to the Commission on a reimbursable basis such facilities and support services as the Commission may request. On request of the Commission, the head of an executive agency may make any of the facilities or services of such agency available to the Commission, on a reimbursable or nonreimbursable

basis, to assist the Commission in carrying out its duties under this subtitle.

(d) **EXPENDITURES AND CONTRACTS.**—The Commission or, on authorization of the Commission, a member of the Commission may make expenditures and enter into contracts for the procurement of such supplies, services, and property as the Commission or such member considers to be appropriate for the purpose of carrying out the duties of the Commission. Such expenditures and contracts may be made only to such extent or in such amounts as are provided in advance in appropriation Acts.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(f) **GIFTS, BEQUESTS, AND DEVISES.**—The Commission may accept, use, and dispose of gifts, bequests, or devises of services or property, both real and personal, for the purpose of aiding or facilitating the work of the Commission. Gifts, bequests, or devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury and shall be available for disbursement upon order of the Commission.

SEC. 11058. REPORT.

Not later than 3 years after the first meeting of the Commission, the Commission shall submit to Congress and the President a report containing a detailed statement of the findings and conclusions of the Commission, together with recommendations for legislative or administrative action the Commission considers to be appropriate.

Deadline.

SEC. 11059. TERMINATION OF COMMISSION.

The Commission shall cease to exist 30 days after the date on which the report required by section 8 is submitted.

SEC. 11060. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$4,000,000 to carry out this subtitle.

TITLE II—JUVENILE JUSTICE

Subtitle A—Juvenile Offender Accountability

Consequences for
Juvenile
Offenders Act of
2002.

SEC. 12101. SHORT TITLE.

This subtitle may be cited as the “Consequences for Juvenile Offenders Act of 2002”.

42 USC 3711
note.

SEC. 12102. JUVENILE OFFENDER ACCOUNTABILITY.

(a) **GRANT PROGRAM.**—Part R of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ee et seq.) is amended to read as follows:

“PART R—JUVENILE ACCOUNTABILITY BLOCK GRANTS

42 USC 3796ee.

“SEC. 1801. PROGRAM AUTHORIZED.

“(a) IN GENERAL.—The Attorney General is authorized to provide grants to States, for use by States and units of local government, and in certain cases directly to specially qualified units.

“(b) AUTHORIZED ACTIVITIES.—Amounts paid to a State or a unit of local government under this part shall be used by the State or unit of local government for the purpose of strengthening the juvenile justice system, which includes—

“(1) developing, implementing, and administering graduated sanctions for juvenile offenders;

“(2) building, expanding, renovating, or operating temporary or permanent juvenile correction, detention, or community corrections facilities;

“(3) hiring juvenile court judges, probation officers, and court-appointed defenders and special advocates, and funding pretrial services (including mental health screening and assessment) for juvenile offenders, to promote the effective and expeditious administration of the juvenile justice system;

“(4) hiring additional prosecutors, so that more cases involving violent juvenile offenders can be prosecuted and case backlogs reduced;

“(5) providing funding to enable prosecutors to address drug, gang, and youth violence problems more effectively and for technology, equipment, and training to assist prosecutors in identifying and expediting the prosecution of violent juvenile offenders;

“(6) establishing and maintaining training programs for law enforcement and other court personnel with respect to preventing and controlling juvenile crime;

“(7) establishing juvenile gun courts for the prosecution and adjudication of juvenile firearms offenders;

“(8) establishing drug court programs for juvenile offenders that provide continuing judicial supervision over juvenile offenders with substance abuse problems and the integrated administration of other sanctions and services for such offenders;

“(9) establishing and maintaining a system of juvenile records designed to promote public safety;

“(10) establishing and maintaining interagency information-sharing programs that enable the juvenile and criminal justice systems, schools, and social services agencies to make more informed decisions regarding the early identification, control, supervision, and treatment of juveniles who repeatedly commit serious delinquent or criminal acts;

“(11) establishing and maintaining accountability-based programs designed to reduce recidivism among juveniles who are referred by law enforcement personnel or agencies;

“(12) establishing and maintaining programs to conduct risk and need assessments of juvenile offenders that facilitate the effective early intervention and the provision of comprehensive services, including mental health screening and treatment and substance abuse testing and treatment to such offenders;

“(13) establishing and maintaining accountability-based programs that are designed to enhance school safety;

“(14) establishing and maintaining restorative justice programs;

“(15) establishing and maintaining programs to enable juvenile courts and juvenile probation officers to be more effective and efficient in holding juvenile offenders accountable and reducing recidivism; or

“(16) hiring detention and corrections personnel, and establishing and maintaining training programs for such personnel to improve facility practices and programming.

“(c) DEFINITION.—In this section the term ‘restorative justice program’ means a program that emphasizes the moral accountability of an offender toward the victim and the affected community and may include community reparations boards, restitution (in the form of monetary payment or service to the victim or, where no victim can be identified, service to the affected community), and mediation between victim and offender.

“SEC. 1801A. TRIBAL GRANT PROGRAM AUTHORIZED.

42 USC
3796ee-1.

“(a) IN GENERAL.—From the amount reserved under section 1810(b), the Attorney General shall make grants to Indian tribes for programs to strengthen tribal juvenile justice systems and to hold tribal youth accountable.

“(b) ELIGIBILITY.—Indian tribes, as defined by section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 479a), or a consortia of such tribes, shall submit to the Attorney General an application in such form and containing such information as the Attorney General may require. Only tribes that carry out tribal juvenile justice functions shall be eligible to receive a grant under this section.

“(c) AWARDS.—The Attorney General shall award grants under this section on a competitive basis.

“(d) GUIDELINES.—The Attorney General shall issue guidelines establishing application, use, and award criteria and processes consistent with the purposes and requirements of this Act.

“SEC. 1802. GRANT ELIGIBILITY.

42 USC
3796ee-2.

“(a) STATE ELIGIBILITY.—To be eligible to receive a grant under this part, a State shall submit to the Attorney General an application at such time, in such form, and containing such assurances and information as the Attorney General may require by guidelines, including—

“(1) information about—

“(A) the activities proposed to be carried out with such grant; and

“(B) the criteria by which the State proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

“(2) assurances that the State and any unit of local government to which the State provides funding under section 1803(b), has in effect (or shall have in effect, not later than 1 year after the date that the State submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the State submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (d).

“(b) LOCAL ELIGIBILITY.—

“(1) SUBGRANT ELIGIBILITY.—To be eligible to receive a subgrant, a unit of local government, other than a specially qualified unit, shall provide to the State—

“(A) information about—

“(i) the activities proposed to be carried out with such subgrant; and

“(ii) the criteria by which the unit proposes to assess the effectiveness of such activities on achieving the purposes of this part; and

“(B) such assurances as the State shall require, that, to the maximum extent applicable, the unit of local government has in effect (or shall have in effect, not later than 1 year after the date that the unit submits such application) laws, or has implemented (or shall implement, not later than 1 year after the date that the unit submits such application) policies and programs, that provide for a system of graduated sanctions described in subsection (d).

“(2) SPECIAL RULE.—The requirements of paragraph (1) shall apply to a specially qualified unit that receives funds from the Attorney General under section 1803(e), except that information that is otherwise required to be submitted to the State shall be submitted to the Attorney General.

“(c) ROLE OF COURTS.—In the development of the grant application, the States and units of local governments shall take into consideration the needs of the judicial branch in strengthening the juvenile justice system and specifically seek the advice of the chief of the highest court of the State and where appropriate, the chief judge of the local court, with respect to the application.

“(d) GRADUATED SANCTIONS.—A system of graduated sanctions, which may be discretionary as provided in subsection (e), shall ensure, at a minimum, that—

“(1) sanctions are imposed on a juvenile offender for each delinquent offense;

“(2) sanctions escalate in intensity with each subsequent, more serious delinquent offense;

“(3) there is sufficient flexibility to allow for individualized sanctions and services suited to the individual juvenile offender; and

“(4) appropriate consideration is given to public safety and victims of crime.

“(e) DISCRETIONARY USE OF SANCTIONS.—

“(1) VOLUNTARY PARTICIPATION.—A State or unit of local government may be eligible to receive a grant under this part if—

“(A) its system of graduated sanctions is discretionary; and

“(B) it demonstrates that it has promoted the use of a system of graduated sanctions by taking steps to encourage implementation of such a system by juvenile courts.

“(2) REPORTING REQUIREMENT IF GRADUATED SANCTIONS NOT USED.—

“(A) JUVENILE COURTS.—A State or unit of local government in which the imposition of graduated sanctions is discretionary shall require each juvenile court within its jurisdiction—

“(i) which has not implemented a system of graduated sanctions, to submit an annual report that

explains why such court did not implement graduated sanctions; and

“(ii) which has implemented a system of graduated sanctions but has not imposed graduated sanctions in all cases, to submit an annual report that explains why such court did not impose graduated sanctions in all cases.

“(B) UNITS OF LOCAL GOVERNMENT.—Each unit of local government, other than a specially qualified unit, that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the State each year.

“(C) STATES.—Each State and specially qualified unit that has 1 or more juvenile courts that use a discretionary system of graduated sanctions shall collect the information reported under subparagraph (A) for submission to the Attorney General each year. A State shall also collect and submit to the Attorney General the information collected under subparagraph (B).

“(f) DEFINITIONS.—In this section:

“(1) DISCRETIONARY.—The term ‘discretionary’ means that a system of graduated sanctions is not required to be imposed by each and every juvenile court in a State or unit of local government.

“(2) SANCTIONS.—The term ‘sanctions’ means tangible, proportional consequences that hold the juvenile offender accountable for the offense committed. A sanction may include counseling, restitution, community service, a fine, supervised probation, or confinement.

“SEC. 1803. ALLOCATION AND DISTRIBUTION OF FUNDS.

42 USC
3796ee-3.

“(a) STATE ALLOCATION.—

“(1) IN GENERAL.—In accordance with regulations promulgated pursuant to this part and except as provided in paragraph (3), the Attorney General shall allocate—

“(A) 0.50 percent for each State; and

“(B) of the total funds remaining after the allocation under subparagraph (A), to each State, an amount which bears the same ratio to the amount of remaining funds described in this subparagraph as the population of people under the age of 18 living in such State for the most recent calendar year in which such data is available bears to the population of people under the age of 18 of all the States for such fiscal year.

“(2) PROHIBITION.—No funds allocated to a State under this subsection or received by a State for distribution under subsection (b) may be distributed by the Attorney General or by the State involved for any program other than a program contained in an approved application.

“(b) LOCAL DISTRIBUTION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each State which receives funds under subsection (a)(1) in a fiscal year shall distribute among units of local government, for the purposes specified in section 1801, not less than 75 percent of such amounts received.

“(2) WAIVER.—If a State submits to the Attorney General an application for waiver that demonstrates and certifies to the Attorney General that—

“(A) the State’s juvenile justice expenditures in the fiscal year preceding the date in which an application is submitted under this part (the ‘State percentage’) is more than 25 percent of the aggregate amount of juvenile justice expenditures by the State and its eligible units of local government; and

“(B) the State has consulted with as many units of local government in such State, or organizations representing such units, as practicable regarding the State’s calculation of expenditures under subparagraph (A), the State’s application for waiver under this paragraph, and the State’s proposed uses of funds.

“(3) ALLOCATION.—In making the distribution under paragraph (1), the State shall allocate to such units of local government an amount which bears the same ratio to the aggregate amount of such funds as—

“(A) the sum of—

“(i) the product of—

“(I) three-quarters; multiplied by

“(II) the average juvenile justice expenditure for such unit of local government for the 3 most recent calendar years for which such data is available; plus

“(ii) the product of—

“(I) one-quarter; multiplied by

“(II) the average annual number of part 1 violent crimes in such unit of local government for the 3 most recent calendar years for which such data is available, bears to—

“(B) the sum of the products determined under subparagraph (A) for all such units of local government in the State.

“(4) EXPENDITURES.—The allocation any unit of local government shall receive under paragraph (3) for a payment period shall not exceed 100 percent of juvenile justice expenditures of the unit for such payment period.

“(5) REALLOCATION.—The amount of any unit of local government’s allocation that is not available to such unit by operation of paragraph (4) shall be available to other units of local government that are not affected by such operation in accordance with this subsection.

“(c) UNAVAILABILITY OF DATA FOR UNITS OF LOCAL GOVERNMENT.—If the State has reason to believe that the reported rate of part 1 violent crimes or juvenile justice expenditures for a unit of local government is insufficient or inaccurate, the State shall—

“(1) investigate the methodology used by the unit to determine the accuracy of the submitted data; and

“(2) if necessary, use the best available comparable data regarding the number of violent crimes or juvenile justice expenditures for the relevant years for the unit of local government.

“(d) LOCAL GOVERNMENT WITH ALLOCATIONS LESS THAN \$10,000.—If under this section a unit of local government is allocated less than \$10,000 for a payment period, the amount allotted

shall be expended by the State on services to units of local government whose allotment is less than such amount in a manner consistent with this part.

“(e) DIRECT GRANTS TO SPECIALLY QUALIFIED UNITS.—

“(1) IN GENERAL.—If a State does not qualify or apply for funds reserved for allocation under subsection (a) by the application deadline established by the Attorney General, the Attorney General shall reserve not more than 75 percent of the allocation that the State would have received under subsection (a) for such fiscal year to provide grants to specially qualified units which meet the requirements for funding under section 1802.

“(2) AWARD BASIS.—In addition to the qualification requirements for direct grants for specially qualified units the Attorney General may use the average amount allocated by the States to units of local government as a basis for awarding grants under this section.

“SEC. 1804. GUIDELINES.

42 USC
3796ee-4.

“(a) IN GENERAL.—The Attorney General shall issue guidelines establishing procedures under which a State or specifically qualified unit of local government that receives funds under section 1803 is required to provide notice to the Attorney General regarding the proposed use of funds made available under this part.

“(b) ADVISORY BOARD.—

“(1) IN GENERAL.—The guidelines referred to in subsection (a) shall include a requirement that such eligible State or unit of local government establish and convene an advisory board to recommend a coordinated enforcement plan for the use of such funds.

“(2) MEMBERSHIP.—The board shall include representation from, if appropriate—

“(A) the State or local police department;

“(B) the local sheriff's department;

“(C) the State or local prosecutor's office;

“(D) the State or local juvenile court;

“(E) the State or local probation office;

“(F) the State or local educational agency;

“(G) a State or local social service agency;

“(H) a nonprofit, nongovernmental victim advocacy organization; and

“(I) a nonprofit, religious, or community group.

“SEC. 1805. PAYMENT REQUIREMENTS.

42 USC
3796ee-5.
Deadlines.

“(a) TIMING OF PAYMENTS.—The Attorney General shall pay to each State or specifically qualified unit of local government that receives funds under section 1803 that has submitted an application under this part the amount awarded to such State or unit of local government not later than the later of—

“(1) the date that is 180 days after the date that the amount is available; or

“(2) the first day of the payment period if the State has provided the Attorney General with the assurances required by subsection (c).

“(b) REPAYMENT OF UNEXPENDED AMOUNTS.—

“(1) REPAYMENT REQUIRED.—From amounts awarded under this part, a State or specially qualified unit shall repay to the Attorney General, before the expiration of the 36-month

period beginning on the date of the award, any amount that is not expended by such State or unit.

“(2) EXTENSION.—The Attorney General may adopt policies and procedures providing for a one-time extension, by not more than 12 months, of the period referred to in paragraph (1).

“(3) PENALTY FOR FAILURE TO REPAY.—If the amount required to be repaid is not repaid, the Attorney General shall reduce payment in future payment periods accordingly.

“(4) DEPOSIT OF AMOUNTS REPAID.—Amounts received by the Attorney General as repayments under this subsection shall be deposited in a designated fund for future payments to States and specially qualified units.

“(c) ADMINISTRATIVE COSTS.—A State or unit of local government that receives funds under this part may use not more than 5 percent of such funds to pay for administrative costs.

“(d) NONSUPPLANTING REQUIREMENT.—Funds made available under this part to States and units of local government shall not be used to supplant State or local funds as the case may be, but shall be used to increase the amount of funds that would, in the absence of funds made available under this part, be made available from State or local sources, as the case may be.

“(e) MATCHING FUNDS.—

“(1) IN GENERAL.—The Federal share of a grant received under this part may not exceed 90 percent of the total program costs.

“(2) CONSTRUCTION OF FACILITIES.—Notwithstanding paragraph (1), with respect to the cost of constructing juvenile detention or correctional facilities, the Federal share of a grant received under this part may not exceed 50 percent of approved cost.

42 USC
3796ee-6.

“SEC. 1806. UTILIZATION OF PRIVATE SECTOR.

“Funds or a portion of funds allocated under this part may be used by a State or unit of local government that receives a grant under this part to contract with private, nonprofit entities, or community-based organizations to carry out the purposes specified under section 1801(b).

42 USC
3796ee-7.

“SEC. 1807. ADMINISTRATIVE PROVISIONS.

“(a) IN GENERAL.—A State or specially qualified unit that receives funds under this part shall—

“(1) establish a trust fund in which the government will deposit all payments received under this part;

“(2) use amounts in the trust fund (including interest) during the period specified in section 1805(b)(1) and any extension of that period under section 1805(b)(2);

“(3) designate an official of the State or specially qualified unit to submit reports as the Attorney General reasonably requires, in addition to the annual reports required under this part; and

“(4) spend the funds only for the purpose of strengthening the juvenile justice system.

“(b) TITLE I PROVISIONS.—Except as otherwise provided, the administrative provisions of part H shall apply to this part and for purposes of this section any reference in such provisions to title I shall be deemed to include a reference to this part.

“SEC. 1808. ASSESSMENT REPORTS.42 USC
3796ee-8.**“(a) REPORTS TO ATTORNEY GENERAL.—**

“(1) IN GENERAL.—Except as provided in paragraph (4), for each fiscal year for which a grant or subgrant is awarded under this part, each State or specially qualified unit of local government that receives such a grant shall submit to the Attorney General a grant report, and each unit of local government that receives such a subgrant shall submit to the State a subgrant report, at such time and in such manner as the Attorney General may reasonably require.

“(2) GRANT REPORT.—Each grant report required by paragraph (1) shall include—

“(A) a summary of the activities carried out with such grant;

“(B) if such activities included any subgrant, a summary of the activities carried out with each such subgrant; and

“(C) an assessment of the effectiveness of such activities on achieving the purposes of this part.

“(3) SUBGRANT REPORT.—Each subgrant report required by paragraph (1) shall include—

“(A) a summary of the activities carried out with such subgrant; and

“(B) an assessment of the effectiveness of such activities on achieving the purposes of this part.

“(4) WAIVERS.—The Attorney General may waive the requirement of an assessment in paragraph (2)(C) for a State or specially qualified unit of local government, or in paragraph (3)(B) for a unit of local government, if the Attorney General determines that—

“(A) the nature of the activities are such that assessing their effectiveness would not be practical or insightful;

“(B) the amount of the grant or subgrant is such that carrying out the assessment would not be an effective use of those amounts; or

“(C) the resources available to the State or unit are such that carrying out the assessment would pose a financial hardship on the State or unit.

“(b) REPORTS TO CONGRESS.—Not later than 120 days after the last day of each fiscal year for which 1 or more grants are awarded under this part, the Attorney General shall submit to Congress a report, which shall include—

Deadline.

“(1) a summary of the information provided under subsection (a);

“(2) an assessment by the Attorney General of the grant program carried out under this part; and

“(3) such other information as the Attorney General considers appropriate.

“SEC. 1809. DEFINITIONS.42 USC
3796ee-9.**“In this part:**

“(1) UNIT OF LOCAL GOVERNMENT.—The term ‘unit of local government’ means—

“(A) a county, township, city, or political subdivision of a county, township, or city, that is a unit of local government as determined by the Secretary of Commerce for general statistical purposes;

“(B) any law enforcement district or judicial enforcement district that—

“(i) is established under applicable State law; and

“(ii) has the authority, in a manner independent of other State entities, to establish a budget and raise revenues; and

“(C) the District of Columbia and the recognized governing body of an Indian tribe or Alaskan Native village that carries out substantial governmental duties and powers.

“(2) SPECIALLY QUALIFIED UNIT.—The term ‘specially qualified unit’ means a unit of local government which may receive funds under this part only in accordance with section 1803(e).

“(3) STATE.—The term ‘State’ means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands, except that—

“(A) the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands (the ‘partial States’) shall collectively be considered as 1 State; and

“(B) for purposes of section 1803(a), the amount allocated to a partial State shall bear the same proportion to the amount collectively allocated to the partial States as the population of the partial State bears to the collective population of the partial States.

“(4) JUVENILE.—The term ‘juvenile’ means an individual who is 17 years of age or younger.

“(5) JUVENILE JUSTICE EXPENDITURES.—The term ‘juvenile justice expenditures’ means expenditures in connection with the juvenile justice system, including expenditures in connection with such system to carry out—

“(A) activities specified in section 1801(b); and

“(B) other activities associated with prosecutorial and judicial services and corrections as reported to the Bureau of the Census for the fiscal year preceding the fiscal year for which a determination is made under this part.

“(6) PART 1 VIOLENT CRIMES.—The term ‘part 1 violent crimes’ means murder and nonnegligent manslaughter, forcible rape, robbery, and aggravated assault as reported to the Federal Bureau of Investigation for purposes of the Uniform Crime Reports.

42 USC
3796ee–10.

“SEC. 1810. AUTHORIZATION OF APPROPRIATIONS.

“(a) IN GENERAL.—There are authorized to be appropriated to carry out this part, \$350,000,000 for each of fiscal years 2002 through 2005.

“(b) OVERSIGHT ACCOUNTABILITY AND ADMINISTRATION.—

“(1) IN GENERAL.—Of the amount authorized to be appropriated under section 261 of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.), there shall be available to the Attorney General, for each of the fiscal years 2002 through 2004 (as applicable), to remain available until expended—

“(A) not more than 2 percent of that amount, for research, evaluation, and demonstration consistent with this part;

“(B) not more than 2 percent of that amount, for training and technical assistance; and

“(C) not more than 1 percent, for administrative costs to carry out the purposes of this part.

“(2) OVERSIGHT PLAN.—The Attorney General shall establish and execute an oversight plan for monitoring the activities of grant recipients.

“(c) TRIBAL SET-ASIDE.—Of the amounts appropriated under subsection (a), 2 percent shall be made available for programs that receive grants under section 1801A.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the first day of the first fiscal year that begins after the date of enactment of this Act.

42 USC 3796ee
note.

(c) TRANSITION OF JUVENILE ACCOUNTABILITY INCENTIVE BLOCK GRANTS PROGRAM.—For each grant made from amounts made available for the Juvenile Accountability Incentive Block Grants program (as described under the heading “VIOLENT CRIME REDUCTION PROGRAMS, STATE AND LOCAL LAW ENFORCEMENT ASSISTANCE” in the Department of Justice Appropriations Act, 2000 (as enacted by Public Law 106–113; 113 Stat. 1537–14)), the grant award shall remain available to the grant recipient for not more than 36 months after the date of receipt of the grant.

Subtitle B—Juvenile Justice and Delinquency Prevention Act of 2002

Juvenile Justice
and Delinquency
Prevention Act of
2002.

SEC. 12201. SHORT TITLE.

This subtitle may be cited as the “Juvenile Justice and Delinquency Prevention Act of 2002”.

42 USC 5601
note.

SEC. 12202. FINDINGS.

Section 101 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended to read as follows:

“FINDINGS

“SEC. 101. (a) The Congress finds the following:

“(1) Although the juvenile violent crime arrest rate in 1999 was the lowest in the decade, there remains a consensus that the number of crimes and the rate of offending by juveniles nationwide is still too high.

“(2) According to the Office of Juvenile Justice and Delinquency Prevention, allowing 1 youth to leave school for a life of crime and of drug abuse costs society \$1,700,000 to \$2,300,000 annually.

“(3) One in every 6 individuals (16.2 percent) arrested for committing violent crime in 1999 was less than 18 years of age. In 1999, juveniles accounted for 9 percent of murder arrests, 17 percent of forcible rape arrests, 25 percent of robbery arrest, 14 percent of aggravated assault arrests, and 24 percent of weapons arrests.

“(4) More than ½ of juvenile murder victims are killed with firearms. Of the nearly 1,800 murder victims less than 18 years of age, 17 percent of the victims less than 13 years of age were murdered with a firearm, and 81 percent of the victims 13 years of age or older were killed with a firearm.

“(5) Juveniles accounted for 13 percent of all drug abuse violation arrests in 1999. Between 1990 and 1999, juvenile arrests for drug abuse violations rose 132 percent.

“(6) Over the last 3 decades, youth gang problems have increased nationwide. In the 1970’s, 19 States reported youth gang problems. By the late 1990’s, all 50 States and the District of Columbia reported gang problems. For the same period, the number of cities reporting youth gang problems grew 843 percent, and the number of counties reporting gang problems increased more than 1,000 percent.

“(7) According to a national crime survey of individuals 12 years of age or older during 1999, those 12 to 19 years old are victims of violent crime at higher rates than individuals in all other age groups. Only 30.8 percent of these violent victimizations were reported by youth to police in 1999.

“(8) One-fifth of juveniles 16 years of age who had been arrested were first arrested before attaining 12 years of age. Juveniles who are known to the juvenile justice system before attaining 13 years of age are responsible for a disproportionate share of serious crimes and violence.

“(9) The increase in the arrest rates for girls and young juvenile offenders has changed the composition of violent offenders entering the juvenile justice system.

“(10) These problems should be addressed through a 2-track common sense approach that addresses the needs of individual juveniles and society at large by promoting—

“(A) quality prevention programs that—

“(i) work with juveniles, their families, local public agencies, and community-based organizations, and take into consideration such factors as whether or not juveniles have been the victims of family violence (including child abuse and neglect); and

“(ii) are designed to reduce risks and develop competencies in at-risk juveniles that will prevent, and reduce the rate of, violent delinquent behavior; and

“(B) programs that assist in holding juveniles accountable for their actions and in developing the competencies necessary to become responsible and productive members of their communities, including a system of graduated sanctions to respond to each delinquent act, requiring juveniles to make restitution, or perform community service, for the damage caused by their delinquent acts, and methods for increasing victim satisfaction with respect to the penalties imposed on juveniles for their acts.

“(11) Coordinated juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter can help prevent juveniles from becoming delinquent and help delinquent youth return to a productive life.

“(b) Congress must act now to reform this program by focusing on juvenile delinquency prevention programs, as well as programs that hold juveniles accountable for their acts and which provide opportunities for competency development. Without true reform, the juvenile justice system will not be able to overcome the challenges it will face in the coming years when the number of juveniles is expected to increase by 18 percent between 2000 and 2030.”.

SEC. 12203. PURPOSE.

Section 102 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5602) is amended to read as follows:

“PURPOSES

“SEC. 102. The purposes of this title and title II are—

“(1) to support State and local programs that prevent juvenile involvement in delinquent behavior;

“(2) to assist State and local governments in promoting public safety by encouraging accountability for acts of juvenile delinquency; and

“(3) to assist State and local governments in addressing juvenile crime through the provision of technical assistance, research, training, evaluation, and the dissemination of information on effective programs for combating juvenile delinquency.”.

SEC. 12204. DEFINITIONS.

Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (3) by striking “to help prevent juvenile delinquency” and inserting “designed to reduce known risk factors for juvenile delinquent behavior, provides activities that build on protective factors for, and develop competencies in, juveniles to prevent, and reduce the rate of, delinquent juvenile behavior”;

(2) in paragraph (4) by inserting “title I of” before “the Omnibus” each place it appears,

(3) in paragraph (7) by striking “the Trust Territory of the Pacific Islands,”

(4) in paragraph (12)(B) by striking “, of any nonoffender,”

(5) in paragraph (13)(B) by striking “, any nonoffender,”

(6) in paragraph (14) by inserting “drug trafficking,” after “assault,”

(7) in paragraph (16)—

(A) in subparagraph (A) by adding “and” at the end, and

(B) by striking subparagraph (C),

(8) in paragraph (22)—

(A) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively, and

(B) by striking “and” at the end,

(9) in paragraph (23) by striking the period at the end and inserting a semicolon, and

(10) by adding at the end the following:

“(24) the term ‘graduated sanctions’ means an accountability-based, graduated series of sanctions (including incentives, treatment, and services) applicable to juveniles within the juvenile justice system to hold such juveniles accountable for their actions and to protect communities from the effects of juvenile delinquency by providing appropriate sanctions for every act for which a juvenile is adjudicated delinquent, by inducing their law-abiding behavior, and by preventing their subsequent involvement with the juvenile justice system;

“(25) the term ‘contact’ means the degree of interaction allowed between juvenile offenders in a secure custody status and incarcerated adults under section 31.303(d)(1)(i) of title

28, Code of Federal Regulations, as in effect on December 10, 1996;

“(26) the term ‘adult inmate’ means an individual who—

“(A) has reached the age of full criminal responsibility under applicable State law; and

“(B) has been arrested and is in custody for or awaiting trial on a criminal charge, or is convicted of a criminal offense;

“(27) the term ‘violent crime’ means—

“(A) murder or nonnegligent manslaughter, forcible rape, or robbery, or

“(B) aggravated assault committed with the use of a firearm;

“(28) the term ‘collocated facilities’ means facilities that are located in the same building, or are part of a related complex of buildings located on the same grounds; and

“(29) the term ‘related complex of buildings’ means 2 or more buildings that share—

“(A) physical features, such as walls and fences, or services beyond mechanical services (heating, air conditioning, water and sewer); or

“(B) the specialized services that are allowable under section 31.303(e)(3)(i)(C)(3) of title 28 of the Code of Federal Regulations, as in effect on December 10, 1996.”.

SEC. 12205. CONCENTRATION OF FEDERAL EFFORT.

Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) in subsection (b)—

(A) in paragraph (3) by striking “and of the prospective” and all that follows through “administered”,

(B) in paragraph (5) by striking “parts C and D” each place it appears and inserting “parts D and E”, and

(C) by amending paragraph (7) to read as follows:

“(7) not later than 1 year after the date of the enactment of this paragraph, issue model standards for providing mental health care to incarcerated juveniles.”,

(2) in subsection (c) by striking “and reports” and all that follows through “this part”, and inserting “as may be appropriate to prevent the duplication of efforts, and to coordinate activities, related to the prevention of juvenile delinquency”,

(3) by amending subsection (d) to read as follows:

“(d) The Administrator shall have the sole authority to delegate any of the functions of the Administrator under this Act.”;

(4) by striking subsection (i), and

(5) by redesignating subsection (h) as subsection (f).

SEC. 12206. COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

Section 206(c)(2)(B) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)(2)(B)) is amended by striking “Education and Labor” and inserting “Education and the Workforce”.

SEC. 12207. ANNUAL REPORT.

Section 207 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5617) is amended by striking paragraphs (4) and (5), and inserting the following:

“(4) An evaluation of the programs funded under this title and their effectiveness in reducing the incidence of juvenile delinquency, particularly violent crime, committed by juveniles.”.

SEC. 12208. ALLOCATION.

Section 222 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by striking “(other than parts D and E)”,

(II) by striking “amount, up to \$400,000,” and inserting “amount up to \$400,000”,

(III) by striking “1992” the 1st place it appears and inserting “2000”,

(IV) by striking “1992” the last place it appears and inserting “2000”,

(V) by striking “the Trust Territory of the Pacific Islands,” and

(VI) by striking “amount, up to \$100,000,” and inserting “amount up to \$100,000”,

(ii) in subparagraph (B)—

(I) by striking “(other than part D)”,

(II) by striking “\$400,000” and inserting “\$600,000”,

(III) by striking “or such greater amount, up to \$600,000” and all that follows through “section 299(a) (1) and (3)”,

(IV) by striking “the Trust Territory of the Pacific Islands,”

(V) by striking “amount, up to \$100,000,” and inserting “amount up to \$100,000”, and

(VI) by striking “1992” and inserting “2000”,

(B) in paragraph (3)—

(i) by striking “allot” and inserting “allocate”, and

(ii) by striking “1992” each place it appears and inserting “2000”, and

(2) in subsection (b) by striking “the Trust Territory of the Pacific Islands,”.

SEC. 12209. STATE PLANS.

Section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) is amended—

(1) in subsection (a)—

(A) in the 2d sentence by striking “and challenge” and all that follows through “part E”, and inserting “, projects, and activities”,

(B) in paragraph (3)—

(i) by striking “, which—” and inserting “that—”,

(ii) in subparagraph (A)(i) by striking “or the administration of juvenile justice” and inserting “, the administration of juvenile justice, or the reduction of juvenile delinquency”, and

(iii) in subparagraph (D)—

(I) in clause (i) by inserting “and” at the end, and

(II) in clause (ii) by striking “paragraphs” and all that follows through “part E”, and inserting “paragraphs (11), (12), and (13)”,

(C) in paragraph (5)—

(i) in the matter preceding subparagraph (A) by striking “, other than” and inserting “reduced by the percentage (if any) specified by the State under the authority of paragraph (25) and excluding”, and

(ii) in subparagraph (C) by striking “paragraphs (12)(A), (13), and (14)” and inserting “paragraphs (11), (12), and (13)”,

(D) by striking paragraph (6),

(E) in paragraph (7) by inserting “, including in rural areas” before the semicolon at the end,

(F) in paragraph (8)—

(i) in subparagraph (A)—

(I) by striking “for (i)” and all that follows through “relevant jurisdiction”, and inserting “for an analysis of juvenile delinquency problems in, and the juvenile delinquency control and delinquency prevention needs (including educational needs) of, the State”, and

(II) by striking “of the jurisdiction; (ii)” and all that follows through the semicolon at the end, and inserting “of the State; and”,

(ii) by amending subparagraph (B) to read as follows:

“(B) contain—

“(i) a plan for providing needed gender-specific services for the prevention and treatment of juvenile delinquency;

“(ii) a plan for providing needed services for the prevention and treatment of juvenile delinquency in rural areas; and

“(iii) a plan for providing needed mental health services to juveniles in the juvenile justice system, including information on how such plan is being implemented and how such services will be targeted to those juveniles in such system who are in greatest need of such services;”, and

(iii) by striking subparagraphs (C) and (D),

(G) by amending paragraph (9) to read as follows:

“(9) provide for the coordination and maximum utilization of existing juvenile delinquency programs, programs operated by public and private agencies and organizations, and other related programs (such as education, special education, recreation, health, and welfare programs) in the State;”,

(H) in paragraph (10)—

(i) in subparagraph (A)—

(I) by striking “, specifically” and inserting “including”,

(II) by striking clause (i), and

(III) redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively,

(ii) by amending subparagraph (D) to read as follows:

“(D) programs that provide treatment to juvenile offenders who are victims of child abuse or neglect, and

to their families, in order to reduce the likelihood that such juvenile offenders will commit subsequent violations of law;”,

(iii) in subparagraph (E)—

(I) by redesignating clause (ii) as clause (iii),
and

(II) by striking “juveniles, provided” and all that follows through “provides; and”, and inserting the following:

“juveniles—

“(i) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations;

“(ii) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency; and”,

(iv) by amending subparagraph (F) to read as follows:

“(F) expanding the use of probation officers—

“(i) particularly for the purpose of permitting non-violent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

“(ii) to ensure that juveniles follow the terms of their probation;”,

(v) by amending subparagraph (G) to read as follows:

“(G) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officials, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;”,

(vii) in subparagraph (H) by striking “handicapped youth” and inserting “juveniles with disabilities”,

(viii) by striking subparagraph (K),

(ix) in subparagraph (L)—

(I) in clause (iv) by adding “and” at the end,

(II) in clause (v) by striking “and” at the end,

and

(III) by striking clause (vi),

(x) in subparagraph (M) by striking “boot camps”,

(xi) by amending subparagraph (N) to read as follows:

“(N) community-based programs and services to work with juveniles, their parents, and other family members during and after incarceration in order to strengthen families so that such juveniles may be retained in their homes;”,

(xii) in subparagraph (O)—

(I) in striking “cultural” and inserting “other”,
and

(II) by striking the period at the end and
inserting a semicolon,

(xiii) by redesignating subparagraphs (L), (M), (N),
and (O) as subparagraphs (K), (L), (M), and (N), respec-
tively; and

(xiv) by adding at the end the following:

“(O) programs designed to prevent and to reduce hate
crimes committed by juveniles;

“(P) after-school programs that provide at-risk juve-
niles and juveniles in the juvenile justice system with
a range of age-appropriate activities, including tutoring,
mentoring, and other educational and enrichment activi-
ties;

“(Q) community-based programs that provide follow-
up post-placement services to adjudicated juveniles, to pro-
mote successful reintegration into the community;

“(R) projects designed to develop and implement pro-
grams to protect the rights of juveniles affected by the
juvenile justice system; and

“(S) programs designed to provide mental health serv-
ices for incarcerated juveniles suspected to be in need of
such services, including assessment, development of
individualized treatment plans, and discharge plans.”,

(I) by amending paragraph (12) to read as follows:

“(12) shall, in accordance with rules issued by the Adminis-
trator, provide that—

“(A) juveniles who are charged with or who have com-
mitted an offense that would not be criminal if committed
by an adult, excluding—

“(i) juveniles who are charged with or who have
committed a violation of section 922(x)(2) of title 18,
United States Code, or of a similar State law;

“(ii) juveniles who are charged with or who have
committed a violation of a valid court order; and

“(iii) juveniles who are held in accordance with
the Interstate Compact on Juveniles as enacted by
the State;

shall not be placed in secure detention facilities or secure
correctional facilities; and

“(B) juveniles—

“(i) who are not charged with any offense; and

“(ii) who are—

“(I) aliens; or

“(II) alleged to be dependent, neglected, or
abused;

shall not be placed in secure detention facilities or secure
correctional facilities;”,

(J) by amending paragraph (13) to read as follows:

“(13) provide that—

“(A) juveniles alleged to be or found to be delinquent
or juveniles within the purview of paragraph (11) will
not be detained or confined in any institution in which
they have contact with adult inmates; and

“(B) there is in effect in the State a policy that requires individuals who work with both such juveniles and such adult inmates, including in collocated facilities, have been trained and certified to work with juveniles;”;

(K) by amending paragraph (14) to read as follows:

“(14) provide that no juvenile will be detained or confined in any jail or lockup for adults except—

“(A) juveniles who are accused of nonstatus offenses and who are detained in such jail or lockup for a period not to exceed 6 hours—

“(i) for processing or release;

“(ii) while awaiting transfer to a juvenile facility;

or

“(iii) in which period such juveniles make a court appearance;

and only if such juveniles do not have contact with adult inmates and only if there is in effect in the State a policy that requires individuals who work with both such juveniles and adult inmates in collocated facilities have been trained and certified to work with juveniles;

“(B) juveniles who are accused of nonstatus offenses, who are awaiting an initial court appearance that will occur within 48 hours after being taken into custody (excluding Saturdays, Sundays, and legal holidays), and who are detained in a jail or lockup—

“(i) in which—

“(I) such juveniles do not have contact with adult inmates; and

“(II) there is in effect in the State a policy that requires individuals who work with both such juveniles and adults inmates in collocated facilities have been trained and certified to work with juveniles; and

“(ii) that—

“(I) is located outside a metropolitan statistical area (as defined by the Office of Management and Budget) and has no existing acceptable alternative placement available;

“(II) is located where conditions of distance to be traveled or the lack of highway, road, or transportation do not allow for court appearances within 48 hours (excluding Saturdays, Sundays, and legal holidays) so that a brief (not to exceed an additional 48 hours) delay is excusable; or

“(III) is located where conditions of safety exist (such as severe adverse, life-threatening weather conditions that do not allow for reasonably safe travel), in which case the time for an appearance may be delayed until 24 hours after the time that such conditions allow for reasonable safe travel;”;

(L) in paragraph (15)—

(i) by striking “paragraph (12)(A), paragraph (13), and paragraph (14)” and inserting “paragraphs (11), (12), and (13)”, and

(ii) by striking “paragraph (12)(A) and paragraph (13)” and inserting “paragraphs (11) and (12)”,

(M) in paragraph (16) by striking “mentally, emotionally, or physically handicapping conditions” and inserting “disability”,

(N) by amending paragraph (19) to read as follows: “(19) provide assurances that—

“(A) any assistance provided under this Act will not cause the displacement (including a partial displacement, such as a reduction in the hours of nonovertime work, wages, or employment benefits) of any currently employed employee;

“(B) activities assisted under this Act will not impair an existing collective bargaining relationship, contract for services, or collective bargaining agreement; and

“(C) no such activity that would be inconsistent with the terms of a collective bargaining agreement shall be undertaken without the written concurrence of the labor organization involved;”,

(O) by amending paragraph (22) to read as follows: “(22) provide that the State agency designated under paragraph (1) will—

“(A) to the extent practicable give priority in funding to programs and activities that are based on rigorous, systematic, and objective research that is scientifically based;

“(B) from time to time, but not less than annually, review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of State and local needs, that it considers necessary; and

“(C) not expend funds to carry out a program if the recipient of funds who carried out such program during the preceding 2-year period fails to demonstrate, before the expiration of such 2-year period, that such program achieved substantial success in achieving the goals specified in the application submitted by such recipient to the State agency;”,

(P) by amending paragraph (23) to read as follows: “(23) address juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system;”,

(Q) by amending paragraph (24) to read as follows: “(24) provide that if a juvenile is taken into custody for violating a valid court order issued for committing a status offense—

“(A) an appropriate public agency shall be promptly notified that such juvenile is held in custody for violating such order;

Deadline.

“(B) not later than 24 hours during which such juvenile is so held, an authorized representative of such agency shall interview, in person, such juvenile; and

Deadline.

“(C) not later than 48 hours during which such juvenile is so held—

“(i) such representative shall submit an assessment to the court that issued such order, regarding the immediate needs of such juvenile; and

“(ii) such court shall conduct a hearing to determine—

“(I) whether there is reasonable cause to believe that such juvenile violated such order; and

“(II) the appropriate placement of such juvenile pending disposition of the violation alleged;”,

(R) in paragraph (25)—

(i) by striking “1992” and inserting “2000”, and

(ii) by striking the period at the end and inserting a semicolon,

(S) by redesignating paragraphs (7) through (25) as paragraphs (6) through (24), respectively, and

(T) by adding at the end the following:

“(25) specify a percentage (if any), not to exceed 5 percent, of funds received by the State under section 222 (other than funds made available to the State advisory group under section 222(d)) that the State will reserve for expenditure by the State to provide incentive grants to units of general local government that reduce the caseload of probation officers within such units;

“(26) provide that the State, to the maximum extent practicable, will implement a system to ensure that if a juvenile is before a court in the juvenile justice system, public child welfare records (including child protective services records) relating to such juvenile that are on file in the geographical area under the jurisdiction of such court will be made known to such court;

“(27) establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing and implementing treatment plans for juvenile offenders; and

“(28) provide assurances that juvenile offenders whose placement is funded through section 472 of the Social Security Act (42 U.S.C. 672) receive the protections specified in section 471 of such Act (42 U.S.C. 671), including a case plan and case plan review as defined in section 475 of such Act (42 U.S.C. 675).”

(2) by amending subsection (c) to read as follows:

“(c) If a State fails to comply with any of the applicable requirements of paragraphs (11), (12), (13), and (22) of subsection (a) in any fiscal year beginning after September 30, 2001, then—

“(1) subject to paragraph (2), the amount allocated to such State under section 222 for the subsequent fiscal year shall be reduced by not less than 20 percent for each such paragraph with respect to which the failure occurs, and

“(2) the State shall be ineligible to receive any allocation under such section for such fiscal year unless—

“(A) the State agrees to expend 50 percent of the amount allocated to the State for such fiscal year to achieve compliance with any such paragraph with respect to which the State is in noncompliance; or

“(B) the Administrator determines that the State—

“(i) has achieved substantial compliance with such applicable requirements with respect to which the State was not in compliance; and

“(ii) has made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance with such applicable requirements within a reasonable time.”,

(3) in subsection (d)—

(A) by striking “allotment” and inserting “allocation”, and

(B) by striking “subsection (a) (12)(A), (13), (14) and (23)” each place it appears and inserting “paragraphs (11), (12), (13), and (22) of subsection (a)”, and

(4) by adding at the end the following:

“(e) Notwithstanding any other provision of law, the Administrator shall establish appropriate administrative and supervisory board membership requirements for a State agency designated under subsection (a)(1) and permit the State advisory group appointed under subsection (a)(3) to operate as the supervisory board for such agency, at the discretion of the chief executive officer of the State.

“(f) TECHNICAL ASSISTANCE.—

“(1) IN GENERAL.—The Administrator shall provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under subsection (a)(3) to assist such organization to carry out the functions specified in paragraph (2).

“(2) ASSISTANCE.—To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

“(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;

“(B) disseminating information, data, standards, advanced techniques, and program models;

“(C) reviewing Federal policies regarding juvenile justice and delinquency prevention;

“(D) advising the Administrator with respect to particular functions or aspects of the work of the Office; and

“(E) advising the President and Congress with regard to State perspectives on the operation of the Office and Federal legislation pertaining to juvenile justice and delinquency prevention.”.

SEC. 12210. JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) by striking parts C, D, E, F, G, and H,

(2) by striking the 1st part I,

(3) by redesignating the 2d part I as part F, and

(4) by inserting after part B the following:

“PART C—JUVENILE DELINQUENCY PREVENTION BLOCK GRANT PROGRAM

42 USC 5651
et seq.
42 USC 5667g—
5667g-5.

42 USC 5651.

“SEC. 241. AUTHORITY TO MAKE GRANTS.

“(a) GRANTS TO ELIGIBLE STATES.—The Administrator may make grants to eligible States, from funds allocated under section 242, for the purpose of providing financial assistance to eligible

entities to carry out projects designed to prevent juvenile delinquency, including—

“(1) projects that provide treatment (including treatment for mental health problems) to juvenile offenders, and juveniles who are at risk of becoming juvenile offenders, who are victims of child abuse or neglect or who have experienced violence in their homes, at school, or in the community, and to their families, in order to reduce the likelihood that such juveniles will commit violations of law;

“(2) educational projects or supportive services for delinquent or other juveniles—

“(A) to encourage juveniles to remain in elementary and secondary schools or in alternative learning situations in educational settings;

“(B) to provide services to assist juveniles in making the transition to the world of work and self-sufficiency;

“(C) to assist in identifying learning difficulties (including learning disabilities);

“(D) to prevent unwarranted and arbitrary suspensions and expulsions;

“(E) to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

“(F) which assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other juveniles with disabilities;

“(G) which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies; or

“(H) to provide services to juveniles with serious mental and emotional disturbances (SED) in need of mental health services;

“(3) projects which expand the use of probation officers—

“(A) particularly for the purpose of permitting non-violent juvenile offenders (including status offenders) to remain at home with their families as an alternative to incarceration or institutionalization; and

“(B) to ensure that juveniles follow the terms of their probation;

“(4) counseling, training, and mentoring programs, which may be in support of academic tutoring, vocational and technical training, and drug and violence prevention counseling, that are designed to link at-risk juveniles, juvenile offenders, or juveniles who have a parent or legal guardian who is or was incarcerated in a Federal, State, or local correctional facility or who is otherwise under the jurisdiction of a Federal, State, or local criminal justice system, particularly juveniles residing in low-income and high-crime areas and juveniles experiencing educational failure, with responsible individuals (such as law enforcement officers, Department of Defense personnel, individuals working with local businesses, and individuals working with community-based and faith-based organizations and agencies) who are properly screened and trained;

“(5) community-based projects and services (including literacy and social service programs) which work with juvenile offenders and juveniles who are at risk of becoming juvenile offenders, including those from families with limited English-

speaking proficiency, their parents, their siblings, and other family members during and after incarceration of the juvenile offenders, in order to strengthen families, to allow juvenile offenders to be retained in their homes, and to prevent the involvement of other juvenile family members in delinquent activities;

“(6) projects designed to provide for the treatment (including mental health services) of juveniles for dependence on or abuse of alcohol, drugs, or other harmful substances;

“(7) projects which leverage funds to provide scholarships for postsecondary education and training for low-income juveniles who reside in neighborhoods with high rates of poverty, violence, and drug-related crimes;

“(8) projects which provide for an initial intake screening of each juvenile taken into custody—

“(A) to determine the likelihood that such juvenile will commit a subsequent offense; and

“(B) to provide appropriate interventions (including mental health services) to prevent such juvenile from committing subsequent offenses;

“(9) projects (including school- or community-based projects) that are designed to prevent, and reduce the rate of, the participation of juveniles in gangs that commit crimes (particularly violent crimes), that unlawfully use firearms and other weapons, or that unlawfully traffic in drugs and that involve, to the extent practicable, families and other community members (including law enforcement personnel and members of the business community) in the activities conducted under such projects;

“(10) comprehensive juvenile justice and delinquency prevention projects that meet the needs of juveniles through the collaboration of the many local service systems juveniles encounter, including schools, courts, law enforcement agencies, child protection agencies, mental health agencies, welfare services, health care agencies (including collaboration on appropriate prenatal care for pregnant juvenile offenders), private nonprofit agencies, and public recreation agencies offering services to juveniles;

“(11) to develop, implement, and support, in conjunction with public and private agencies, organizations, and businesses, projects for the employment of juveniles and referral to job training programs (including referral to Federal job training programs);

“(12) delinquency prevention activities which involve youth clubs, sports, recreation and parks, peer counseling and teaching, the arts, leadership development, community service, volunteer service, before- and after-school programs, violence prevention activities, mediation skills training, camping, environmental education, ethnic or cultural enrichment, tutoring, and academic enrichment;

“(13) to establish policies and systems to incorporate relevant child protective services records into juvenile justice records for purposes of establishing treatment plans for juvenile offenders;

“(14) programs that encourage social competencies, problem-solving skills, and communication skills, youth leadership, and civic involvement;

“(15) programs that focus on the needs of young girls at-risk of delinquency or status offenses;

“(16) projects which provide for—

“(A) an assessment by a qualified mental health professional of incarcerated juveniles who are suspected to be in need of mental health services;

“(B) the development of an individualized treatment plan for those incarcerated juveniles determined to be in need of such services;

“(C) the inclusion of a discharge plan for incarcerated juveniles receiving mental health services that addresses aftercare services; and

“(D) all juveniles receiving psychotropic medications to be under the care of a licensed mental health professional;

“(17) after-school programs that provide at-risk juveniles and juveniles in the juvenile justice system with a range of age-appropriate activities, including tutoring, mentoring, and other educational and enrichment activities;

“(18) programs related to the establishment and maintenance of a school violence hotline, based on a public-private partnership, that students and parents can use to report suspicious, violent, or threatening behavior to local school and law enforcement authorities;

“(19) programs (excluding programs to purchase guns from juveniles) designed to reduce the unlawful acquisition and illegal use of guns by juveniles, including partnerships between law enforcement agencies, health professionals, school officials, firearms manufacturers, consumer groups, faith-based groups and community organizations;

“(20) programs designed to prevent animal cruelty by juveniles and to counsel juveniles who commit animal cruelty offenses, including partnerships among law enforcement agencies, animal control officers, social services agencies, and school officials;

“(21) programs that provide suicide prevention services for incarcerated juveniles and for juveniles leaving the incarceration system;

“(22) programs to establish partnerships between State educational agencies and local educational agencies for the design and implementation of character education and training programs that reflect the values of parents, teachers, and local communities, and incorporate elements of good character, including honesty, citizenship, courage, justice, respect, personal responsibility, and trustworthiness;

“(23) programs that foster strong character development in at-risk juveniles and juveniles in the juvenile justice system;

“(24) local programs that provide for immediate psychological evaluation and follow-up treatment (including evaluation and treatment during a mandatory holding period for not less than 24 hours) for juveniles who bring a gun on school grounds without permission from appropriate school authorities; and

“(25) other activities that are likely to prevent juvenile delinquency.

“(b) GRANTS TO ELIGIBLE INDIAN TRIBES.—The Administrator may make grants to eligible Indian tribes from funds allocated

under section 242(b), to carry out projects of the kinds described in subsection (a).

42 USC 5652.

“SEC. 242. ALLOCATION.

“(a) ALLOCATION AMONG ELIGIBLE STATES.—Subject to subsection (b), funds appropriated to carry out this part shall be allocated among eligible States proportionately based on the population that is less than 18 years of age in the eligible States.

“(b) ALLOCATION AMONG INDIAN TRIBES COLLECTIVELY.—Before allocating funds under subsection (a) among eligible States, the Administrator shall allocate among eligible Indian tribes as determined under section 246(a), an aggregate amount equal to the amount such tribes would be allocated under subsection (a), and without regard to this subsection, if such tribes were treated collectively as an eligible State.

42 USC 5653.

“SEC. 243. ELIGIBILITY OF STATES.

“(a) APPLICATION.—To be eligible to receive a grant under section 241, a State shall submit to the Administrator an application that contains the following:

“(1) An assurance that the State will use—

“(A) not more than 5 percent of such grant, in the aggregate, for—

“(i) the costs incurred by the State to carry out this part; and

“(ii) to evaluate, and provide technical assistance relating to, projects and activities carried out with funds provided under this part; and

“(B) the remainder of such grant to make grants under section 244.

“(2) An assurance that, and a detailed description of how, such grant will supplement, and not supplant State and local efforts to prevent juvenile delinquency.

“(3) An assurance that such application was prepared after consultation with and participation by the State advisory group, community-based organizations, and organizations in the local juvenile justice system, that carry out programs, projects, or activities to prevent juvenile delinquency.

“(4) An assurance that the State advisory group will be afforded the opportunity to review and comment on all grant applications submitted to the State agency.

“(5) An assurance that each eligible entity described in section 244 that receives an initial grant under section 244 to carry out a project or activity shall also receive an assurance from the State that such entity will receive from the State, for the subsequent fiscal year to carry out such project or activity, a grant under such section in an amount that is proportional, based on such initial grant and on the amount of the grant received under section 241 by the State for such subsequent fiscal year, but that does not exceed the amount specified for such subsequent fiscal year in such application as approved by the State.

“(6) Such other information and assurances as the Administrator may reasonably require by rule.

“(b) APPROVAL OF APPLICATIONS.—

“(1) APPROVAL REQUIRED.—Subject to paragraph (2), the Administrator shall approve an application, and amendments

to such application submitted in subsequent fiscal years, that satisfy the requirements of subsection (a).

“(2) LIMITATION.—The Administrator may not approve such application (including amendments to such application) for a fiscal year unless—

“(A)(i) the State submitted a plan under section 223 for such fiscal year; and

“(ii) such plan is approved by the Administrator for such fiscal year; or

“(B) the Administrator waives the application of subparagraph (A) to such State for such fiscal year, after finding good cause for such a waiver.

“SEC. 244. GRANTS FOR LOCAL PROJECTS.

42 USC 5654.

“(a) GRANTS BY STATES.—Using a grant received under section 241, a State may make grants to eligible entities whose applications are received by the State, and reviewed by the State advisory group, to carry out projects and activities described in section 241.

“(b) SPECIAL CONSIDERATION.—For purposes of making grants under subsection (a), the State shall give special consideration to eligible entities that—

“(1) propose to carry out such projects in geographical areas in which there is—

“(A) a disproportionately high level of serious crime committed by juveniles; or

“(B) a recent rapid increase in the number of nonstatus offenses committed by juveniles;

“(2)(A) agreed to carry out such projects or activities that are multidisciplinary and involve more than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles; or

“(B) represent communities that have a comprehensive plan designed to identify at-risk juveniles and to prevent or reduce the rate of juvenile delinquency, and that involve other entities operated by individuals who have a demonstrated history of involvement in activities designed to prevent juvenile delinquency; and

“(3) the amount of resources (in cash or in kind) such entities will provide to carry out such projects and activities.

“SEC. 245. ELIGIBILITY OF ENTITIES.

42 USC 5655.

“(a) ELIGIBILITY.—Except as provided in subsection (b), to be eligible to receive a grant under section 244, a unit of general purpose local government, acting jointly with not fewer than 2 private nonprofit agencies, organizations, and institutions that have experience dealing with juveniles, shall submit to the State an application that contains the following:

“(1) An assurance that such applicant will use such grant, and each such grant received for the subsequent fiscal year, to carry out throughout a 2-year period a project or activity described in reasonable detail, and of a kind described in one or more of paragraphs (1) through (25) of section 241(a) as specified in, such application.

“(2) A statement of the particular goals such project or activity is designed to achieve, and the methods such entity will use to achieve, and assess the achievement of, each of such goals.

“(3) A statement identifying the research (if any) such entity relied on in preparing such application.

“(b) LIMITATION.—If an eligible entity that receives a grant under section 244 to carry out a project or activity for a 2-year period, and receives technical assistance from the State or the Administrator after requesting such technical assistance (if any), fails to demonstrate, before the expiration of such 2-year period, that such project or such activity has achieved substantial success in achieving the goals specified in the application submitted by such entity to receive such grants, then such entity shall not be eligible to receive any subsequent grant under such section to continue to carry out such project or activity.

42 USC 5656.

“SEC. 246. GRANTS TO INDIAN TRIBES.

“(a) ELIGIBILITY.—

“(1) APPLICATION.—To be eligible to receive a grant under section 241(b), an Indian tribe shall submit to the Administrator an application in accordance with this section, in such form and containing such information as the Administrator may require by rule.

“(2) PLANS.—Such application shall include a plan for conducting programs, projects, and activities described in section 241(a), which plan shall—

“(A) provide evidence that the applicant Indian tribe performs law enforcement functions (as determined by the Secretary of the Interior);

“(B) identify the juvenile justice and delinquency problems and juvenile delinquency prevention needs to be addressed by activities conducted with funds provided by the grant for which such application is submitted, by the Indian tribe in the geographical area under the jurisdiction of the Indian tribe;

“(C) provide for fiscal control and accounting procedures that—

“(i) are necessary to ensure the prudent use, proper disbursement, and accounting of grants received by applicants under this section; and

“(ii) are consistent with the requirement specified in subparagraph (B); and

“(D) comply with the requirements specified in section 223(a) (excluding any requirement relating to consultation with a State advisory group) and with the requirements specified in section 222(c); and

“(E) contain such other information, and be subject to such additional requirements, as the Administrator may reasonably require by rule to ensure the effectiveness of the projects for which grants are made under section 241(b).

“(b) FACTORS FOR CONSIDERATION.—For the purpose of selecting eligible applicants to receive grants under section 241(b), the Administrator shall consider—

“(1) the resources that are available to each applicant Indian tribe that will assist, and be coordinated with, the overall juvenile justice system of the Indian tribe; and

“(2) with respect to each such applicant—

“(A) the juvenile population; and

“(B) the population and the entities that will be served by projects proposed to be carried out with the grant for which the application is submitted.

“(c) GRANT PROCESS.—

“(1) SELECTION OF GRANT RECIPIENTS.—

“(A) SELECTION REQUIREMENTS.—Except as provided in paragraph (2), the Administrator shall—

“(i) make grants under this section on a competitive basis; and

“(ii) specify in writing to each applicant selected to receive a grant under this section, the terms and conditions on which such grant is made to such applicant.

“(B) PERIOD OF GRANT.—A grant made under this section shall be available for expenditure during a 2-year period.

“(2) EXCEPTION.—If—

“(A) in the 2-year period for which a grant made under this section shall be expended, the recipient of such grant applies to receive a subsequent grant under this section; and

“(B) the Administrator determines that such recipient performed during the year preceding the 2-year period for which such recipient applies to receive such subsequent grant satisfactorily and in accordance with the terms and conditions applicable to the grant received;

then the Administrator may waive the application of the competition-based requirement specified in paragraph (1)(A)(i) and may allow the applicant to incorporate by reference in the current application the text of the plan contained in the recipient's most recent application previously approved under this section.

“(3) AUTHORITY TO MODIFY APPLICATION PROCESS FOR SUBSEQUENT GRANTS.—The Administrator may modify by rule the operation of subsection (a) with respect to the submission and contents of applications for subsequent grants described in paragraph (2).

“(d) REPORTING REQUIREMENT.—Each Indian tribe that receives a grant under this section shall be subject to the fiscal accountability provisions of section 5(f)(1) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c(f)(1)), relating to the submission of a single-agency audit report required by chapter 75 of title 31, United States Code.

“(e) MATCHING REQUIREMENT.—(1) Funds appropriated for the activities of any agency of an Indian tribal government or the Bureau of Indian Affairs performing law enforcement functions on any Indian lands may be used to provide the non-Federal share of any program or project with a matching requirement funded under this section.

“(2) Paragraph (1) shall not apply with respect to funds appropriated before the date of the enactment of the Juvenile Justice and Delinquency Prevention Act of 2002.

“(3) If the Administrator determines that an Indian tribe does not have sufficient funds available to meet the non-Federal share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.”.

SEC. 12211. RESEARCH; EVALUATION; TECHNICAL ASSISTANCE; TRAINING.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part C, as added by section 12510, the following:

**“PART D—RESEARCH; EVALUATION;
TECHNICAL ASSISTANCE; TRAINING**

42 USC 5661.

“SEC. 251. RESEARCH AND EVALUATION; STATISTICAL ANALYSES; INFORMATION DISSEMINATION.

“(a) RESEARCH AND EVALUATION.—(1) The Administrator may—

“(A) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

“(B) conduct research or evaluation in juvenile justice matters, for the purpose of providing research and evaluation relating to—

“(i) the prevention, reduction, and control of juvenile delinquency and serious crime committed by juveniles;

“(ii) the link between juvenile delinquency and the incarceration of members of the families of juveniles;

“(iii) successful efforts to prevent first-time minor offenders from committing subsequent involvement in serious crime;

“(iv) successful efforts to prevent recidivism;

“(v) the juvenile justice system;

“(vi) juvenile violence;

“(vii) appropriate mental health services for juveniles and youth at risk of participating in delinquent activities;

“(viii) reducing the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups;

“(ix) evaluating services, treatment, and aftercare placement of juveniles who were under the care of the State child protection system before their placement in the juvenile justice system;

“(x) determining—

“(I) the frequency, seriousness, and incidence of drug use by youth in schools and communities in the States using, if appropriate, data submitted by the States pursuant to this subparagraph and subsection (b); and

“(II) the frequency, degree of harm, and morbidity of violent incidents, particularly firearm-related injuries and fatalities, by youth in schools and communities in the States, including information with respect to—

“(aa) the relationship between victims and perpetrators;

“(bb) demographic characteristics of victims and perpetrators; and

“(cc) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation; and

“(xi) other purposes consistent with the purposes of this title and title I.

“(2) The Administrator shall ensure that an equitable amount of funds available to carry out paragraph (1)(B) is used for research and evaluation relating to the prevention of juvenile delinquency.

“(3) Nothing in this subsection shall be construed to permit the development of a national database of personally identifiable information on individuals involved in studies, or in data-collection efforts, carried out under paragraph (1)(B)(x).

“(4) Not later than 1 year after the date of enactment of this paragraph, the Administrator shall conduct a study with respect to juveniles who, prior to placement in the juvenile justice system, were under the care or custody of the State child welfare system, and to juveniles who are unable to return to their family after completing their disposition in the juvenile justice system and who remain wards of the State. Such study shall include—

“(A) the number of juveniles in each category;

“(B) the extent to which State juvenile justice systems and child welfare systems are coordinating services and treatment for such juveniles;

“(C) the Federal and local sources of funds used for placements and post-placement services;

“(D) barriers faced by State in providing services to these juveniles;

“(E) the types of post-placement services used;

“(F) the frequency of case plans and case plan reviews; and

“(G) the extent to which case plans identify and address permanency and placement barriers and treatment plans.

“(b) STATISTICAL ANALYSES.—The Administrator may—

“(1) plan and identify the purposes and goals of all agreements carried out with funds provided under this subsection; and

“(2) undertake statistical work in juvenile justice matters, for the purpose of providing for the collection, analysis, and dissemination of statistical data and information relating to juvenile delinquency and serious crimes committed by juveniles, to the juvenile justice system, to juvenile violence, and to other purposes consistent with the purposes of this title and title I.

“(c) GRANT AUTHORITY AND COMPETITIVE SELECTION PROCESS.—The Administrator may make grants and enter into contracts with public or private agencies, organizations, or individuals and shall use a competitive process, established by rule by the Administrator, to carry out subsections (a) and (b).

“(d) IMPLEMENTATION OF AGREEMENTS.—A Federal agency that makes an agreement under subsections (a)(1)(B) and (b)(2) with the Administrator may carry out such agreement directly or by making grants to or contracts with public and private agencies, institutions, and organizations.

“(e) INFORMATION DISSEMINATION.—The Administrator may—

“(1) review reports and data relating to the juvenile justice system in the United States and in foreign nations (as appropriate), collect data and information from studies and research into all aspects of juvenile delinquency (including the causes, prevention, and treatment of juvenile delinquency) and serious crimes committed by juveniles;

“(2) establish and operate, directly or by contract, a clearinghouse and information center for the preparation, publication, and dissemination of information relating to juvenile delinquency, including State and local prevention and treatment programs, plans, resources, and training and technical assistance programs; and

“(3) make grants and contracts with public and private agencies, institutions, and organizations, for the purpose of disseminating information to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, the courts, corrections, schools, and related services, in the establishment, implementation, and operation of projects and activities for which financial assistance is provided under this title.

42 USC 5662.

“SEC. 252. TRAINING AND TECHNICAL ASSISTANCE.

“(a) TRAINING.—The Administrator may—

“(1) develop and carry out projects for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102; and

“(2) make grants to and contracts with public and private agencies, institutions, and organizations for the purpose of training representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, to carry out the purposes specified in section 102.

“(b) TECHNICAL ASSISTANCE.—The Administrator may—

“(1) develop and implement projects for the purpose of providing technical assistance to representatives and personnel of public and private agencies and organizations, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title; and

“(2) make grants to and contracts with public and private agencies, institutions, and organizations, for the purpose of providing technical assistance to representatives and personnel of public and private agencies, including practitioners in juvenile justice, law enforcement, courts (including model juvenile and family courts), corrections, schools, and related services, in the establishment, implementation, and operation of programs, projects, and activities for which financial assistance is provided under this title.

“(c) TRAINING AND TECHNICAL ASSISTANCE TO MENTAL HEALTH PROFESSIONALS AND LAW ENFORCEMENT PERSONNEL.—The Administrator shall provide training and technical assistance to mental health professionals and law enforcement personnel (including public defenders, police officers, probation officers, judges, parole officials, and correctional officers) to address or to promote the development, testing, or demonstration of promising or innovative models (including model juvenile and family courts), programs, or delivery systems that address the needs of juveniles who are

alleged or adjudicated delinquent and who, as a result of such status, are placed in secure detention or confinement or in non-secure residential placements.”.

SEC. 12212. DEMONSTRATION PROJECTS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended by inserting after part D, as added by section 12511, the following:

“PART E—DEVELOPING, TESTING, AND DEMONSTRATING PROMISING NEW INITIATIVES AND PROGRAMS

“SEC. 261. GRANTS AND PROJECTS.

42 USC 5665.

“(a) **AUTHORITY TO MAKE GRANTS.**—The Administrator may make grants to and contracts with States, units of general local government, Indian tribal governments, public and private agencies, organizations, and individuals, or combinations thereof, to carry out projects for the development, testing, and demonstration of promising initiatives and programs for the prevention, control, or reduction of juvenile delinquency. The Administrator shall ensure that, to the extent reasonable and practicable, such grants are made to achieve an equitable geographical distribution of such projects throughout the United States.

“(b) **USE OF GRANTS.**—A grant made under subsection (a) may be used to pay all or part of the cost of the project for which such grant is made.

“SEC. 262. GRANTS FOR TECHNICAL ASSISTANCE.

42 USC 5666.

“The Administrator may make grants to and contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local government, Indian tribal governments, local private entities or agencies, or any combination thereof, to carry out the projects for which grants are made under section 261.

“SEC. 263. ELIGIBILITY.

42 USC 5667.

“To be eligible to receive a grant made under this part, a public or private agency, Indian tribal government, organization, institution, individual, or combination thereof shall submit an application to the Administrator at such time, in such form, and containing such information as the Administrator may reasonably require by rule.

“SEC. 264. REPORTS.

42 USC 5668.

“Recipients of grants made under this part shall submit to the Administrator such reports as may be reasonably requested by the Administrator to describe progress achieved in carrying out the projects for which such grants are made.”.

SEC. 12213. AUTHORIZATION OF APPROPRIATIONS.

Section 299 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671) is amended—

(1) by striking subsection (e), and

(2) by striking subsections (a), (b), and (c), and inserting the following:

“(a) AUTHORIZATION OF APPROPRIATIONS FOR TITLE II (EXCLUDING PARTS C AND E).—(1) There are authorized to be appropriated to carry out this title such sums as may be appropriate for fiscal years 2003, 2004, 2005, 2006, and 2007.

“(2) Of such sums as are appropriated for a fiscal year to carry out this title (other than parts C and E)—

“(A) not more than 5 percent shall be available to carry out part A;

“(B) not less than 80 percent shall be available to carry out part B; and

“(C) not more than 15 percent shall be available to carry out part D.

“(b) AUTHORIZATION OF APPROPRIATIONS FOR PART C.—There are authorized to be appropriated to carry out part C such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.

“(c) AUTHORIZATION OF APPROPRIATIONS FOR PART E.—There are authorized to be appropriated to carry out part E, and authorized to remain available until expended, such sums as may be necessary for fiscal years 2003, 2004, 2005, 2006, and 2007.”.

SEC. 12214. ADMINISTRATIVE AUTHORITY.

Section 299A of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5672) is amended—

(1) in subsection (d) by striking “as are consistent with the purpose of this Act” and inserting “only to the extent necessary to ensure that there is compliance with the specific requirements of this title or to respond to requests for clarification and guidance relating to such compliance”, and

(2) by adding at the end the following:

“(e) If a State requires by law compliance with the requirements described in paragraphs (11), (12), and (13) of section 223(a), then for the period such law is in effect in such State such State shall be rebuttably presumed to satisfy such requirements.”.

SEC. 12215. USE OF FUNDS.

Section 299C(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5674(c)) is amended to read as follows:

“(c) No funds may be paid under this title to a residential program (excluding a program in a private residence) unless—

“(1) there is in effect in the State in which such placement or care is provided, a requirement that the provider of such placement or such care may be licensed only after satisfying, at a minimum, explicit standards of discipline that prohibit neglect, and physical and mental abuse, as defined by State law;

“(2) such provider is licensed as described in paragraph (1) by the State in which such placement or care is provided; and

“(3) in a case involving a provider located in a State that is different from the State where the order for placement originates, the chief administrative officer of the public agency or the officer of the court placing the juvenile certifies that such provider—

“(A) satisfies the originating State’s explicit licensing standards of discipline that prohibit neglect, physical and mental abuse, and standards for education and health care as defined by that State’s law; and

“(B) otherwise complies with the Interstate Compact on the Placement of Children as entered into by such other State.”.

SEC. 12216. LIMITATIONS ON USE OF FUNDS.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510, is amended adding at the end the following:

“SEC. 299F. LIMITATIONS ON USE OF FUNDS.

42 USC 5677.

“None of the funds made available to carry out this title may be used to advocate for, or support, the unsecured release of juveniles who are charged with a violent crime.”.

SEC. 12217. RULES OF CONSTRUCTION.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by section 12516, is amended adding at the end the following:

“SEC. 299G. RULES OF CONSTRUCTION.

42 USC 5678.

“Nothing in this title or title I shall be construed—

“(1) to prevent financial assistance from being awarded through grants under this title to any otherwise eligible organization; or

“(2) to modify or affect any Federal or State law relating to collective bargaining rights of employees.”.

SEC. 12218. LEASING SURPLUS FEDERAL PROPERTY.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516 and 12517, is amended adding at the end the following:

“SEC. 299H. LEASING SURPLUS FEDERAL PROPERTY.

42 USC 5679.

“The Administrator may receive surplus Federal property (including facilities) and may lease such property to States and units of general local government for use in or as facilities for juvenile offenders, or for use in or as facilities for delinquency prevention and treatment activities.”.

SEC. 12219. ISSUANCE OF RULES.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516, 12517, and 12518, is amended adding at the end the following:

“SEC. 299I. ISSUANCE OF RULES.

42 USC 5680.

“The Administrator shall issue rules to carry out this title, including rules that establish procedures and methods for making grants and contracts, and distributing funds available, to carry out this title.”.

SEC. 12220. CONTENT OF MATERIALS.

Part F of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671 et seq.), as so redesignated by section 12510 and amended by sections 12516, 12517, 12518, and 12519, is amended by adding at the end the following:

42 USC 5681.

“SEC. 299J. CONTENT OF MATERIALS.

“Materials produced, procured, or distributed both using funds appropriated to carry out this Act and for the purpose of preventing hate crimes that result in acts of physical violence, shall not recommend or require any action that abridges or infringes upon the constitutionally protected rights of free speech, religion, or equal protection of juveniles or of their parents or legal guardians.”.

SEC. 12221. TECHNICAL AND CONFORMING AMENDMENTS.

42 USC 5612.

(a) TECHNICAL AMENDMENTS.—The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601 et seq.) is amended—

42 USC 5631.

42 USC 5675.

(1) in section 202(b) by striking “prescribed for GS-18 of the General Schedule by section 5332” and inserting “payable under section 5376”,

(2) in section 221(b)(2) by striking the last sentence,

(3) in section 299D by striking subsection (d), and

(4) by striking title IV, as originally enacted by Public Law 93-415 (88 Stat. 1132-1143).

42 USC 13002.

42 USC 13003.

42 USC 13013.

42 USC 13023.

(b) CONFORMING AMENDMENTS.—(1) The Victims of Child Abuse Act of 1990 (42 U.S.C. 13001 et seq.) is amended—

(A) in section 214(b)(1) by striking “262, 293, and 296 of subpart II of title II” and inserting “299B and 299E”,

(B) in section 214A(c)(1) by striking “262, 293, and 296 of subpart II of title II” and inserting “299B and 299E”,

(C) in section 217(c)(1) by striking “sections 262, 293, and 296 of subpart II of title II” and inserting “sections 299B and 299E”, and

(D) in section 223(c) by striking “section 262, 293, and 296” and inserting “sections 262, 299B, and 299E”.

(2) Section 404(a)(5)(E) of the Missing Children’s Assistance Act (42 U.S.C. 5773) is amended by striking “section 313” and inserting “section 331”.

SEC. 12222. INCENTIVE GRANTS FOR LOCAL DELINQUENCY PREVENTION PROGRAMS.

(a) AMENDMENT.—Title V of the of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5781-5785), as added by Public Law 102-586, is amended to read as follows:

Incentive Grants
for Local
Delinquency
Prevention
Programs Act of
2002.

**“TITLE V—INCENTIVE GRANTS FOR
LOCAL DELINQUENCY PREVENTION
PROGRAMS**

42 USC 5601
note.

“SEC. 501. SHORT TITLE.

“This title may be cited as the ‘Incentive Grants for Local Delinquency Prevention Programs Act of 2002’.

42 USC 5781
note.

“SEC. 502. DEFINITION.

“In this title, the term ‘State advisory group’ means the advisory group appointed by the chief executive officer of a State under a plan described in section 223(a).

42 USC 5782.

“SEC. 503. DUTIES AND FUNCTIONS OF THE ADMINISTRATOR.

“The Administrator shall—

“(1) issue such rules as are necessary or appropriate to carry out this title;

“(2) make such arrangements as are necessary and appropriate to facilitate coordination and policy development among all activities funded through the Department of Justice relating to delinquency prevention (including the preparation of an annual comprehensive plan for facilitating such coordination and policy development);

“(3) provide adequate staff and resources necessary to properly carry out this title; and

“(4) not later than 180 days after the end of each fiscal year, submit a report to the chairman of the Committee on Education and the Workforce of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate—

Deadline.

“(A) describing activities and accomplishments of grant activities funded under this title;

“(B) describing procedures followed to disseminate grant activity products and research findings;

“(C) describing activities conducted to develop policy and to coordinate Federal agency and interagency efforts related to delinquency prevention; and

“(D) identifying successful approaches and making recommendations for future activities to be conducted under this title.

“SEC. 504. GRANTS FOR DELINQUENCY PREVENTION PROGRAMS.

42 USC 5783.

“(a) **PURPOSES.**—The Administrator may make grants to a State, to be transmitted through the State advisory group to units of local government that meet the requirements of subsection (b), for delinquency prevention programs and activities for juveniles who have had contact with the juvenile justice system or who are likely to have contact with the juvenile justice system, including the provision to juveniles and their families of—

“(1) alcohol and substance abuse prevention services;

“(2) tutoring and remedial education, especially in reading and mathematics;

“(3) child and adolescent health and mental health services;

“(4) recreation services;

“(5) leadership and youth development activities;

“(6) the teaching that people are and should be held accountable for their actions;

“(7) assistance in the development of job training skills; and

“(8) other data-driven evidence based prevention programs.

“(b) **ELIGIBILITY.**—The requirements of this subsection are met with respect to a unit of general local government if—

“(1) the unit is in compliance with the requirements of part B of title II;

“(2) the unit has submitted to the State advisory group a minimum 3-year comprehensive plan outlining the unit’s local front end plans for investment for delinquency prevention and early intervention activities;

“(3) the unit has included in its application to the Administrator for formula grant funds a summary of the minimum 3-year comprehensive plan described in paragraph (2);

“(4) pursuant to its minimum 3-year comprehensive plan, the unit has appointed a local policy board of not fewer than

15 and not more than 21 members, with balanced representation of public agencies and private nonprofit organizations serving juveniles, their families, and business and industry;

“(5) the unit has, in order to aid in the prevention of delinquency, included in its application a plan for the coordination of services to at-risk juveniles and their families, including such programs as nutrition, energy assistance, and housing;

“(6) the local policy board is empowered to make all recommendations for distribution of funds and evaluation of activities funded under this title; and

“(7) the unit or State has agreed to provide a 50 percent match of the amount of the grant, including the value of in-kind contributions, to fund the activity.

“(c) **PRIORITY.**—In considering grant applications under this section, the Administrator shall give priority to applicants that demonstrate ability in—

“(1) plans for service and agency coordination and collaboration including the colocation of services;

“(2) innovative ways to involve the private nonprofit and business sector in delinquency prevention activities;

“(3) developing or enhancing a statewide subsidy program to local governments that is dedicated to early intervention and delinquency prevention;

“(4) coordinating and collaborating with programs established in local communities for delinquency prevention under part C of this subtitle; and

“(5) developing data-driven prevention plans, employing evidence-based prevention strategies, and conducting program evaluations to determine impact and effectiveness.

42 USC 5784.

“SEC. 505. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to carry out this title such sums as may be necessary for fiscal years 2004, 2005, 2006, 2007, and 2008.”.

42 USC 5781
note.

(b) **EFFECTIVE DATE; APPLICATION OF AMENDMENT.**—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall not apply with respect to grants made before such date.

42 USC 5601
note.

SEC. 12223. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) **EFFECTIVE DATE.**—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

(b) **APPLICATION OF AMENDMENTS.**—The amendments made by this Act shall apply only with respect to fiscal years beginning after September 30, 2002.

Subtitle C—Juvenile Disposition Hearing

SEC. 12301. JUVENILE DISPOSITION HEARING.

Section 5037 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in the second sentence—

(i) by striking “enter an order of restitution pursuant to section 3556,”; and

(ii) by inserting after “official detention” the following: “which may include a term of juvenile delinquent supervision to follow detention”; and

(B) by inserting after the second sentence the following:

“In addition, the court may enter an order of restitution pursuant to section 3556.”;

(2) in subsection (b)—

(A) by striking the last sentence; and

(B) by adding at the end the following:

“The provisions dealing with probation set forth in sections 3563 and 3564 are applicable to an order placing a juvenile on probation. If the juvenile violates a condition of probation at any time prior to the expiration or termination of the term of probation, the court may, after a dispositional hearing and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to section 994 of title 28, revoke the term of probation and order a term of official detention. The term of official detention authorized upon revocation of probation shall not exceed the terms authorized in section 5037(c)(2) (A) and (B). The application of sections 5037(c)(2) (A) and (B) shall be determined based upon the age of the juvenile at the time of the disposition of the revocation proceeding. If a juvenile is over the age of 21 years old at the time of the revocation proceeding, the mandatory revocation provisions of section 3565(b) are applicable. A disposition of a juvenile who is over the age of 21 years shall be in accordance with the provisions of section 5037(c)(2), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of official detention may continue beyond the juvenile’s 26th birthday, and in any other case, no term of official detention may continue beyond the juvenile’s 24th birthday. A term of official detention may include a term of juvenile delinquent supervision.”;

(3) in subsection (c)(1)—

(A) in subparagraph (A), by striking “or”;

(B) by redesignating subparagraph (B) as subparagraph (C); and

(C) by inserting after subparagraph (A) the following:

“(B) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or”;

(4) in subsection (c)(2)(A), by striking “five years; or” and inserting: “the lesser of—

“(i) five years; or

“(ii) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or”;

(5) in subsection (c)(2)(B)—

(A) in clause (i), by striking “or”;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

“(ii) the maximum of the guideline range, pursuant to section 994 of title 28, applicable to an otherwise

similarly situated adult defendant unless the court finds an aggravating factor to warrant an upward departure from the otherwise applicable guideline range; or”;

(6) by redesignating subsection (d) as subsection (e); and

(7) by inserting after subsection (c) the following:

“(d)(1) The court, in ordering a term of official detention, may include the requirement that the juvenile be placed on a term of juvenile delinquent supervision after official detention.

“(2) The term of juvenile delinquent supervision that may be ordered for a juvenile found to be a juvenile delinquent may not extend—

“(A) in the case of a juvenile who is less than 18 years old, a term that extends beyond the date when the juvenile becomes 21 years old; or

“(B) in the case of a juvenile who is between 18 and 21 years old, a term that extends beyond the maximum term of official detention set forth in section 5037(c)(2) (A) and (B), less the term of official detention ordered.

“(3) The provisions dealing with probation set forth in sections 3563 and 3564 are applicable to an order placing a juvenile on juvenile delinquent supervision.

“(4) The court may modify, reduce, or enlarge the conditions of juvenile delinquent supervision at any time prior to the expiration or termination of the term of supervision after a dispositional hearing and after consideration of the provisions of section 3563 regarding the initial setting of the conditions of probation.

“(5) If the juvenile violates a condition of juvenile delinquent supervision at any time prior to the expiration or termination of the term of supervision, the court may, after a dispositional hearing and after considering any pertinent policy statements promulgated by the Sentencing Commission pursuant to section 994 of title 18, revoke the term of supervision and order a term of official detention. The term of official detention which is authorized upon revocation of juvenile delinquent supervision shall not exceed the term authorized in section 5037(c)(2) (A) and (B), less any term of official detention previously ordered. The application of sections 5037(c)(2) (A) and (B) shall be determined based upon the age of the juvenile at the time of the disposition of the revocation proceeding. If a juvenile is over the age of 21 years old at the time of the revocation proceeding, the mandatory revocation provisions of section 3565(b) are applicable. A disposition of a juvenile who is over the age of 21 years old shall be in accordance with the provisions of section 5037(c)(2), except that in the case of a juvenile who if convicted as an adult would be convicted of a Class A, B, or C felony, no term of official detention may continue beyond the juvenile’s 26th birthday, and in any other case, no term of official detention may continue beyond the juvenile’s 24th birthday.

“(6) When a term of juvenile delinquent supervision is revoked and the juvenile is committed to official detention, the court may include a requirement that the juvenile be placed on a term of juvenile delinquent supervision. Any term of juvenile delinquent supervision ordered following revocation for a juvenile who is over the age of 21 years old at the time of the revocation proceeding shall be in accordance with the provisions of section 5037(d)(1), except that in the case of a juvenile who if convicted as an adult

would be convicted of a Class A, B, or C felony, no term of juvenile delinquent supervision may continue beyond the juvenile's 26th birthday, and in any other case, no term of juvenile delinquent supervision may continue beyond the juvenile's 24th birthday.”.

TITLE III—INTELLECTUAL PROPERTY

Subtitle A—Patent and Trademark Office Authorization

Patent and
Trademark Office
Authorization
Act of 2002.

SEC. 13101. SHORT TITLE.

This subtitle may be cited as the “Patent and Trademark Office Authorization Act of 2002”.

SEC. 13102. AUTHORIZATION OF AMOUNTS AVAILABLE TO THE PATENT AND TRADEMARK OFFICE.

35 USC 42 note.

(a) IN GENERAL.—There are authorized to be appropriated to the United States Patent and Trademark Office for salaries and necessary expenses for each of the fiscal years 2003 through 2008 an amount equal to the fees estimated by the Secretary of Commerce to be collected in each such fiscal year, respectively, under—

(1) title 35, United States Code; and

(2) the Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946 (15 U.S.C. 1051 et seq.) (commonly referred to as the Trademark Act of 1946).

(b) ESTIMATES.—Not later than February 15, of each fiscal year, the Undersecretary of Commerce for Intellectual Property and the Director of the Patent and Trademark Office (in this subtitle referred to as the Director) shall submit an estimate of all fees referred to under subsection (a) to be collected in the next fiscal year to the chairman and ranking member of—

Deadline.

(1) the Committees on Appropriations and Judiciary of the Senate; and

(2) the Committees on Appropriations and Judiciary of the House of Representatives.

SEC. 13103. ELECTRONIC FILING AND PROCESSING OF PATENT AND TRADEMARK APPLICATIONS.

35 USC 2 note.

(a) ELECTRONIC FILING AND PROCESSING.—The Director shall, beginning not later than 90 days after the date of enactment of this Act, and during the 3-year period thereafter, develop an electronic system for the filing and processing of patent and trademark applications, that—

Deadline.

(1) is user friendly; and

(2) includes the necessary infrastructure—

(A) to allow examiners and applicants to send all communications electronically; and

(B) to allow the Office to process, maintain, and search electronically the contents and history of each application.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of amounts authorized under section 13102, there is authorized to be appropriated to carry out subsection (a) of this section not more than \$50,000,000

for each of fiscal years 2003, 2004, and 2005. Amounts made available pursuant to this subsection shall remain available until expended.

SEC. 13104. STRATEGIC PLAN.

(a) DEVELOPMENT OF PLAN.—

(1) IN GENERAL.—The Director shall, in close consultation with the Patent Public Advisory Committee and the Trademark Public Advisory Committee, develop a strategic plan that sets forth the goals and methods by which the United States Patent and Trademark Office will, during the 5-year period beginning on January 1, 2003—

(A) enhance patent and trademark quality;

(B) reduce patent and trademark pendency; and

(C) develop and implement an effective electronic system for use by the Patent and Trademark Office and the public for all aspects of the patent and trademark processes, including, in addition to the elements set forth in section 13103, searching, examining, communicating, publishing, and making publicly available, patents and trademark registrations.

(2) CONTENTS AND CONSULTATION.—The strategic plan shall include milestones and objective and meaningful criteria for evaluating the progress and successful achievement of the plan. The Director shall consult with the Public Advisory Committees with respect to the development of each aspect of the strategic plan.

Deadline.

(b) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 4 months after the date of enactment of this Act, the Director shall submit the plan developed under subsection (a) to the Committees on the Judiciary of the Senate and the House of Representatives.

SEC. 13105. DETERMINATION OF SUBSTANTIAL NEW QUESTION OF PATENTABILITY IN REEXAMINATION PROCEEDINGS.

(a) IN GENERAL.—Sections 303(a) and 312(a) of title 35, United States Code, are each amended by adding at the end the following: “The existence of a substantial new question of patentability is not precluded by the fact that a patent or printed publication was previously cited by or to the Office or considered by the Office.”.

35 USC 303 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any determination of the Director of the United States Patent and Trademark Office that is made under section 303(a) or 312(a) of title 35, United States Code, on or after the date of enactment of this Act.

SEC. 13106. APPEALS IN INTER PARTES REEXAMINATION PROCEEDINGS.

(a) APPEALS BY THIRD-PARTY REQUESTER IN PROCEEDINGS.—Section 315(b) of title 35, United States Code, is amended to read as follows:

“(b) THIRD-PARTY REQUESTER.—A third-party requester—

“(1) may appeal under the provisions of section 134, and may appeal under the provisions of sections 141 through 144, with respect to any final decision favorable to the patentability of any original or proposed amended or new claim of the patent; and

“(2) may, subject to subsection (c), be a party to any appeal taken by the patent owner under the provisions of section 134 or sections 141 through 144.”

(b) APPEAL TO BOARD OF PATENT APPEALS AND INTERFERENCES.—Section 134(c) of title 35, United States Code, is amended by striking the last sentence.

(c) APPEAL TO COURT OF APPEALS FOR THE FEDERAL CIRCUIT.—Section 141 of title 35, United States Code, is amended in the third sentence by inserting “, or a third-party requester in an inter partes reexamination proceeding, who is” after “patent owner”.

(d) EFFECTIVE DATE.—The amendments made by this section apply with respect to any reexamination proceeding commenced on or after the date of enactment of this Act.

35 USC 134 note.

Subtitle B—Intellectual Property and High Technology Technical Amendments

Intellectual Property and High Technology Technical Amendments Act of 2002.

35 USC 1 note.

SEC. 13201. SHORT TITLE.

This subtitle may be cited as the “Intellectual Property and High Technology Technical Amendments Act of 2002”.

SEC. 13202. CLARIFICATION OF REEXAMINATION PROCEDURE ACT OF 1999; TECHNICAL AMENDMENTS.

(a) OPTIONAL INTER PARTES REEXAMINATION PROCEDURES.—Title 35, United States Code, is amended as follows:

(1) Section 311 is amended—

(A) in subsection (a), by striking “person” and inserting “third-party requester”; and

(B) in subsection (c), by striking “Unless the requesting person is the owner of the patent, the” and inserting “The”.

(2) Section 312 is amended—

(A) in subsection (a), by striking the second sentence; and

(B) in subsection (b), by striking “, if any”.

(3) Section 314(b)(1) is amended—

(A) by striking “(1) This” and all that follows through “(2)” and inserting “(1)”;

(B) by striking “the third-party requester shall receive a copy” and inserting “the Office shall send to the third-party requester a copy”; and

(C) by redesignating paragraph (3) as paragraph (2).

(4) Section 315(c) is amended by striking “United States Code,”.

(5) Section 317 is amended—

(A) in subsection (a), by striking “patent owner nor the third-party requester, if any, nor privies of either” and inserting “third-party requester nor its privies”; and

(B) in subsection (b), by striking “United States Code,”.

(b) CONFORMING AMENDMENTS.—

(1) APPEAL TO THE BOARD OF PATENT APPEALS AND INTERFERENCES.—Subsections (a), (b), and (c) of section 134 of title 35, United States Code, are each amended by striking “administrative patent judge” each place it appears and inserting “primary examiner”.

(2) PROCEEDING ON APPEAL.—Section 143 of title 35, United States Code, is amended by amending the third sentence to

read as follows: “In an ex parte case or any reexamination case, the Director shall submit to the court in writing the grounds for the decision of the Patent and Trademark Office, addressing all the issues involved in the appeal. The court shall, before hearing an appeal, give notice of the time and place of the hearing to the Director and the parties in the appeal.”.

(c) CLERICAL AMENDMENTS.—

(1) Section 4604(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106-113, is amended by striking “Part 3” and inserting “Part III”.

35 USC 311-318.

(2) Section 4604(b) of that Act is amended by striking “title 25” and inserting “title 35”.

Applicability.
35 USC 134 note.

(d) EFFECTIVE DATE.—The amendments made by section 4605 (b), (c), and (e) of the Intellectual Property and Communications Omnibus Reform Act, as enacted by section 1000(a)(9) of Public Law 106-113, shall apply to any reexamination filed in the United States Patent and Trademark Office on or after the date of enactment of Public Law 106-113.

SEC. 13203. PATENT AND TRADEMARK EFFICIENCY ACT AMENDMENTS.

(a) DEPUTY COMMISSIONER.—

(1) Section 17(b) of the Act of July 5, 1946 (commonly referred to as the “Trademark Act of 1946”) (15 U.S.C. 1067(b)), is amended by inserting “the Deputy Commissioner,” after “Commissioner,”.

(2) Section 6(a) of title 35, United States Code, is amended by inserting “the Deputy Commissioner,” after “Commissioner,”.

(b) PUBLIC ADVISORY COMMITTEES.—Section 5 of title 35, United States Code, is amended—

(1) in subsection (i), by inserting “, privileged,” after “personnel”; and

(2) by adding at the end the following new subsection: “(j) INAPPLICABILITY OF PATENT PROHIBITION.—Section 4 shall not apply to voting members of the Advisory Committees.”.

(c) MISCELLANEOUS.—Section 153 of title 35, United States Code, is amended by striking “and attested by an officer of the Patent and Trademark Office designated by the Director,”.

SEC. 13204. DOMESTIC PUBLICATION OF FOREIGN FILED PATENT APPLICATIONS ACT OF 1999 AMENDMENTS.

Section 154(d)(4)(A) of title 35, United States Code, as in effect on November 29, 2000, is amended—

(1) by striking “on which the Patent and Trademark Office receives a copy of the” and inserting “of”; and

(2) by striking “international application” the last place it appears and inserting “publication”.

SEC. 13205. DOMESTIC PUBLICATION OF PATENT APPLICATIONS PUBLISHED ABROAD.

Subtitle E of title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106-113, is amended as follows:

35 USC 102.

(1) Section 4505 is amended to read as follows:

“SEC. 4505. PRIOR ART EFFECT OF PUBLISHED APPLICATIONS.

“Section 102(e) of title 35, United States Code, is amended to read as follows:

“(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language; or’.”.

(2) Section 4507 is amended—

(A) in paragraph (1), by striking “Section 11” and inserting “Section 10”; 35 USC 10.

(B) in paragraph (2), by striking “Section 12” and inserting “Section 11”. 35 USC 11.

(C) in paragraph (3), by striking “Section 13” and inserting “Section 12”; 35 USC 12.

(D) in paragraph (4), by striking “12 and 13” and inserting “11 and 12”;

(E) in section 374 of title 35, United States Code, as amended by paragraph (10), by striking “confer the same rights and shall have the same effect under this title as an application for patent published” and inserting “be deemed a publication”; and 35 USC 374.

(F) by adding at the end the following:

“(12) The item relating to section 374 in the table of contents for chapter 37 of title 35, United States Code, is amended to read as follows:

“‘374. Publication of international application.’”.

(3) Section 4508 is amended to read as follows:

35 USC 10 note.

“SEC. 4508. EFFECTIVE DATE.

“Except as otherwise provided in this section, sections 4502 through 4504 and 4506 through 4507, and the amendments made by such sections, shall be effective as of November 29, 2000, and shall apply only to applications (including international applications designating the United States) filed on or after that date. The amendments made by section 4504 shall additionally apply to any pending application filed before November 29, 2000, if such pending application is published pursuant to a request of the applicant under such procedures as may be established by the Director. Except as otherwise provided in this section, the amendments made by section 4505 shall be effective as of November 29, 2000 and shall apply to all patents and all applications for patents pending on or filed after November 29, 2000. Patents resulting from an international application filed before November 29, 2000 and applications published pursuant to section 122(b) or Article 21(2) of the treaty defined in section 351(a) resulting from an international application filed before November 29, 2000 shall not be effective as prior art as of the filing date of the international application; however, such patents shall be effective as prior art in accordance with section 102(e) in effect on November 28, 2000.”.

SEC. 13206. MISCELLANEOUS CLERICAL AMENDMENTS.

(a) **AMENDMENTS TO TITLE 35.**—The following provisions of title 35, United States Code, are amended:

(1) Section 2(b) is amended in paragraphs (2)(B) and (4)(B), by striking “, United States Code”.

(2) Section 3 is amended—

(A) in subsection (a)(2)(B), by striking “United States Code,”;

(B) in subsection (b)(2)—

(i) in the first sentence of subparagraph (A), by striking “, United States Code”;

(ii) in the first sentence of subparagraph (B)—

(I) by striking “United States Code,”; and

(II) by striking “, United States Code”;

(iii) in the second sentence of subparagraph (B)—

(I) by striking “United States Code,”; and

(II) by striking “, United States Code.” and

inserting a period;

(iv) in the last sentence of subparagraph (B), by striking “, United States Code”; and

(v) in subparagraph (C), by striking “, United States Code”; and

(C) in subsection (c)—

(i) in the subsection caption, by striking “, UNITED STATES CODE”; and

(ii) by striking “United States Code,”.

(3) Section 5 is amended in subsections (e) and (g), by striking “, United States Code” each place it appears.

(4) The table of chapters for part I is amended in the item relating to chapter 3, by striking “**before**” and inserting “**Before**”.

(5) The item relating to section 21 in the table of contents for chapter 2 is amended to read as follows:

“21. Filing date and day for taking action.”.

(6) The item relating to chapter 12 in the table of chapters for part II is amended to read as follows:

“**12. Examination of Application** **131**”.

(7) The item relating to section 116 in the table of contents for chapter 11 is amended to read as follows:

“116. Inventors.”.

(8) Section 154(b)(4) is amended by striking “, United States Code,”.

(9) Section 156 is amended—

(A) in subsection (b)(3)(B), by striking “paragraphs” and inserting “paragraph”;

(B) in subsection (d)(2)(B)(i), by striking “below the office” and inserting “below the Office”; and

(C) in subsection (g)(6)(B)(iii), by striking “submitted” and inserting “submitted”.

(10) The item relating to section 183 in the table of contents for chapter 17 is amended by striking “of” and inserting “to”.

(11) Section 185 is amended by striking the second period at the end of the section.

(12) Section 201(a) is amended—

- (A) by striking “United States Code,”; and
- (B) by striking “5, United States Code.” and inserting “5.”.
- (13) Section 202 is amended—
 - (A) in subsection (b)(4), by striking “last paragraph of section 203(2)” and inserting “section 203(b)”;
 - and
 - (B) in subsection (c)—
 - (i) in paragraph (4), by striking “rights;” and inserting “rights,”; and
 - (ii) in paragraph (5), by striking “of the United States Code”.
- (14) Section 203 is amended—
 - (A) in paragraph (2)—
 - (i) by striking “(2)” and inserting “(b)”;
 - (ii) by striking the quotation marks and comma before “as appropriate”; and
 - (iii) by striking “paragraphs (a) and (c)” and inserting “paragraphs (1) and (3) of subsection (a)”;
 - and
 - (B) in the first paragraph—
 - (i) by striking “(a)”, “(b)”, “(c)”, and “(d)” and inserting “(1)”, “(2)”, “(3)”, and “(4)”, respectively; and
 - (ii) by striking “(1.” and inserting “(a)”.
- (15) Section 209 is amended in subsections (d)(2) and (f), by striking “of the United States Code”.
- (16) Section 210 is amended—
 - (A) in subsection (a)—
 - (i) in paragraph (11), by striking “5901” and inserting “5908”; and
 - (ii) in paragraph (20) by striking “178(j)” and inserting “178j”; and
 - (B) in subsection (c)—
 - (i) by striking “paragraph 202(c)(4)” and inserting “section 202(c)(4)”;
 - and
 - (ii) by striking “title..” and inserting “title.”.
- (17) The item relating to chapter 29 in the table of chapters for part III is amended by inserting a comma after “**Patent**”.
- (18) The item relating to section 256 in the table of contents for chapter 25 is amended to read as follows:

“256. Correction of named inventor.”.

- (19) Section 294 is amended—
 - (A) in subsection (b), by striking “United States Code,”; and
 - and
 - (B) in subsection (c), in the second sentence by striking “court to” and inserting “court of”.
- (20) Section 371(d) is amended by adding at the end a period.
- (21) Paragraphs (1), (2), and (3) of section 376(a) are each amended by striking the semicolon and inserting a period.
- (b) OTHER AMENDMENTS.—
 - (1) Section 4732(a) of the Intellectual Property and Communications Omnibus Reform Act of 1999 is amended—
 - (A) in paragraph (9)(A)(ii), by inserting “in subsection (b),” after “(ii)”;
 - and

35 USC 303.

35 USC 7 *et seq.*

(B) in paragraph (10)(A), by inserting after “title 35, United States Code,” the following: “other than sections 1 through 6 (as amended by chapter 1 of this subtitle);”.

35 USC 119.

(2) Section 4802(1) of that Act is amended by inserting “to” before “citizens”.

35 USC 10.

(3) Section 4804 of that Act is amended—

(A) in subsection (b), by striking “11(a)” and inserting “10(a)”; and

35 USC 12.

(B) in subsection (c), by striking “13” and inserting “12”.

35 USC 382.

(4) Section 4402(b)(1) of that Act is amended by striking “in the fourth paragraph”.

SEC. 13207. TECHNICAL CORRECTIONS IN TRADEMARK LAW.

(a) AWARD OF DAMAGES.—Section 35(a) of the Act of July 5, 1946 (commonly referred to as the “Trademark Act of 1946”) (15 U.S.C. 1117(a)), is amended by striking “a violation under section 43(a), (c), or (d),” and inserting “a violation under section 43(a) or (d),”.

(b) ADDITIONAL TECHNICAL AMENDMENTS.—The Trademark Act of 1946 is further amended as follows:

(1) Section 1(d)(1) (15 U.S.C. 1051(d)(1)) is amended in the first sentence by striking “specifying the date of the applicant’s first use” and all that follows through the end of the sentence and inserting “specifying the date of the applicant’s first use of the mark in commerce and those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce.”.

(2) Section 1(e) (15 U.S.C. 1051(e)) is amended to read as follows:

“(e) If the applicant is not domiciled in the United States the applicant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.”.

(3) Section 8(f) (15 U.S.C. 1058(f)) is amended to read as follows:

“(f) If the registrant is not domiciled in the United States, the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name

and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.”

(4) Section 9(c) (15 U.S.C. 1059(c)) is amended to read as follows:

“(c) If the registrant is not domiciled in the United States the registrant may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the registrant does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served on the Director.”

(5) Subsections (a) and (b) of section 10 (15 U.S.C. 1060(a) and (b)) are amended to read as follows:

“(a)(1) A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. Notwithstanding the preceding sentence, no application to register a mark under section 1(b) shall be assignable prior to the filing of an amendment under section 1(c) to bring the application into conformity with section 1(a) or the filing of the verified statement of use under section 1(d), except for an assignment to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing.

“(2) In any assignment authorized by this section, it shall not be necessary to include the good will of the business connected with the use of and symbolized by any other mark used in the business or by the name or style under which the business is conducted.

“(3) Assignments shall be by instruments in writing duly executed. Acknowledgment shall be prima facie evidence of the execution of an assignment, and when the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office, the record shall be prima facie evidence of execution.

“(4) An assignment shall be void against any subsequent purchaser for valuable consideration without notice, unless the prescribed information reporting the assignment is recorded in the United States Patent and Trademark Office within 3 months after the date of the assignment or prior to the subsequent purchase.

“(5) The United States Patent and Trademark Office shall maintain a record of information on assignments, in such form as may be prescribed by the Director.

“(b) An assignee not domiciled in the United States may designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark. Such notices or process may be served

upon the person so designated by leaving with that person or mailing to that person a copy thereof at the address specified in the last designation so filed. If the person so designated cannot be found at the address given in the last designation, or if the assignee does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person resident in the United States on whom may be served notices or process in proceedings affecting the mark, such notices or process may be served upon the Director.”.

(6) Section 23(c) (15 U.S.C. 1091(c)) is amended by striking the second comma after “numeral”.

(7) Section 33(b)(8) (15 U.S.C. 1115(b)(8)) is amended by aligning the text with paragraph (7).

(8) Section 34(d)(1)(A) (15 U.S.C. 1116(d)(1)(A)) is amended by striking “section 110” and all that follows through “(36 U.S.C. 380)” and inserting “section 220506 of title 36, United States Code,”.

(9) Section 34(d)(1)(B)(ii) (15 U.S.C. 1116(d)(1)(B)(ii)) is amended by striking “section 110” and all that follows through “(36 U.S.C. 380)” and inserting “section 220506 of title 36, United States Code”.

(10) Section 34(d)(11) is amended by striking “6621 of the Internal Revenue Code of 1954” and inserting “6621(a)(2) of the Internal Revenue Code of 1986”.

(11) Section 35(b) (15 U.S.C. 1117(b)) is amended—

(A) by striking “section 110” and all that follows through “(36 U.S.C. 380)” and inserting “section 220506 of title 36, United States Code,”; and

(B) by striking “6621 of the Internal Revenue Code of 1954” and inserting “6621(a)(2) of the Internal Revenue Code of 1986”.

(12) Section 44(e) (15 U.S.C. 1126(e)) is amended by striking “a certification” and inserting “a true copy, a photocopy, a certification,”.

SEC. 13208. PATENT AND TRADEMARK FEE CLERICAL AMENDMENT.

The Patent and Trademark Fee Fairness Act of 1999 (113 Stat. 1537–546 et seq.), as enacted by section 1000(a)(9) of Public Law 106–113, is amended in section 4203, by striking “111(a)” and inserting “1113(a)”.

15 USC 1113
note.

SEC. 13209. COPYRIGHT RELATED CORRECTIONS TO 1999 OMNIBUS REFORM ACT.

Title I of the Intellectual Property and Communications Omnibus Reform Act of 1999, as enacted by section 1000(a)(9) of Public Law 106–113, is amended as follows:

17 USC 119.

(1) Section 1007 is amended—

(A) in paragraph (2), by striking “paragraph (2)” and inserting “paragraph (2)(A)”; and

(B) in paragraph (3), by striking “1005(e)” and inserting “1005(d)”.

17 USC 119.

(2) Section 1006(b) is amended by striking “119(b)(1)(B)(iii)” and inserting “119(b)(1)(B)(ii)”.

(3)(A) Section 1006(a) is amended—

(i) in paragraph (1), by adding “and” after the semicolon;

(ii) by striking paragraph (2); and

(iii) by redesignating paragraph (3) as paragraph (2).

- (B) Section 1011(b)(2)(A) is amended to read as follows:
“(A) in paragraph (1), by striking ‘primary transmission made by a superstation and embodying a performance or display of a work’ and inserting ‘performance or display of a work embodied in a primary transmission made by a superstation or by the Public Broadcasting Service satellite feed’;”.

SEC. 13210. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

- (1) Section 119(a)(6) is amended by striking “of performance” and inserting “of a performance”.

- (2)(A) The section heading for section 122 is amended by striking “**rights; secondary**” and inserting “**rights: Secondary**”.

- (B) The item relating to section 122 in the table of contents for chapter 1 is amended to read as follows:

“122. Limitations on exclusive rights: Secondary transmissions by satellite carriers within local markets.”.

- (3)(A) The section heading for section 121 is amended by striking “**reproduction**” and inserting “**Reproduction**”.

- (B) The item relating to section 121 in the table of contents for chapter 1 is amended by striking “reproduction” and inserting “Reproduction”.

- (4)(A) Section 106 is amended by striking “107 through 121” and inserting “107 through 122”.

- (B) Section 501(a) is amended by striking “106 through 121” and inserting “106 through 122”.

- (C) Section 511(a) is amended by striking “106 through 121” and inserting “106 through 122”.

- (5) Section 101 is amended—

(A) by moving the definition of “computer program” so that it appears after the definition of “compilation”; and

(B) by moving the definition of “registration” so that it appears after the definition of “publicly”.

- (6) Section 110(4)(B) is amended in the matter preceding clause (i) by striking “conditions,” and inserting “conditions.”.

- (7) Section 118(b)(1) is amended in the second sentence by striking “to it”.

- (8) Section 119(b)(1)(A) is amended—

(A) by striking “transmitted” and inserting “retransmitted”; and

(B) by striking “transmissions” and inserting “retransmissions”.

- (9) Section 203(a)(2) is amended—

(A) in subparagraph (A)—

(i) by striking “(A) the” and inserting “(A) The”; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking “(B) the” and inserting “(B) The”; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking “(C) the” and inserting “(C) The”.

(10) Section 304(c)(2) is amended—

(A) in subparagraph (A)—

(i) by striking “(A) the” and inserting “(A) The”; and

(ii) by striking the semicolon at the end and inserting a period;

(B) in subparagraph (B)—

(i) by striking “(B) the” and inserting “(B) The”; and

(ii) by striking the semicolon at the end and inserting a period; and

(C) in subparagraph (C), by striking “(C) the” and inserting “(C) The”.

(11) The item relating to section 903 in the table of contents for chapter 9 is amended by striking “licensure” and inserting “licensing”.

SEC. 13211. OTHER COPYRIGHT RELATED TECHNICAL AMENDMENTS.

(a) AMENDMENT TO TITLE 18.—Section 2319(e)(2) of title 18, United States Code, is amended by striking “107 through 120” and inserting “107 through 122”.

(b) STANDARD REFERENCE DATA.—(1) Section 105(f) of Public Law 94-553 is amended by striking “section 290(e) of title 15” and inserting “section 6 of the Standard Reference Data Act (15 U.S.C. 290e)”.

(2) Section 6(a) of the Standard Reference Data Act (15 U.S.C. 290e) is amended by striking “Notwithstanding” and all that follows through “United States Code,” and inserting “Notwithstanding the limitations under section 105 of title 17, United States Code,”.

Technology,
Education, and
Copyright
Harmonization
Act of 2002.

Subtitle C—Educational Use Copyright Exemption

SEC. 13301. EDUCATIONAL USE COPYRIGHT EXEMPTION.

17 USC 101 note.

(a) SHORT TITLE.—This subtitle may be cited as the “Technology, Education, and Copyright Harmonization Act of 2002”.

(b) EXEMPTION OF CERTAIN PERFORMANCES AND DISPLAYS FOR EDUCATIONAL USES.—Section 110 of title 17, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) except with respect to a work produced or marketed primarily for performance or display as part of mediated instructional activities transmitted via digital networks, or a performance or display that is given by means of a copy or phonorecord that is not lawfully made and acquired under this title, and the transmitting government body or accredited nonprofit educational institution knew or had reason to believe was not lawfully made and acquired, the performance of a nondramatic literary or musical work or reasonable and limited portions of any other work, or display of a work in an amount comparable to that which is typically displayed in the course of a live classroom session, by or in the course of a transmission, if—

“(A) the performance or display is made by, at the direction of, or under the actual supervision of an instructor as an integral part of a class session offered as a regular part of the systematic mediated instructional activities of a governmental body or an accredited nonprofit educational institution;

“(B) the performance or display is directly related and of material assistance to the teaching content of the transmission;

“(C) the transmission is made solely for, and, to the extent technologically feasible, the reception of such transmission is limited to—

“(i) students officially enrolled in the course for which the transmission is made; or

“(ii) officers or employees of governmental bodies as a part of their official duties or employment; and

“(D) the transmitting body or institution—

“(i) institutes policies regarding copyright, provides informational materials to faculty, students, and relevant staff members that accurately describe, and promote compliance with, the laws of the United States relating to copyright, and provides notice to students that materials used in connection with the course may be subject to copyright protection; and

“(ii) in the case of digital transmissions—

“(I) applies technological measures that reasonably prevent—

“(aa) retention of the work in accessible form by recipients of the transmission from the transmitting body or institution for longer than the class session; and

“(bb) unauthorized further dissemination of the work in accessible form by such recipients to others; and

“(II) does not engage in conduct that could reasonably be expected to interfere with technological measures used by copyright owners to prevent such retention or unauthorized further dissemination;” and

(2) by adding at the end the following:

“In paragraph (2), the term ‘mediated instructional activities’ with respect to the performance or display of a work by digital transmission under this section refers to activities that use such work as an integral part of the class experience, controlled by or under the actual supervision of the instructor and analogous to the type of performance or display that would take place in a live classroom setting. The term does not refer to activities that use, in 1 or more class sessions of a single course, such works as textbooks, course packs, or other material in any media, copies or phonorecords of which are typically purchased or acquired by the students in higher education for their independent use and retention or are typically purchased or acquired for elementary and secondary students for their possession and independent use.

“For purposes of paragraph (2), accreditation—

“(A) with respect to an institution providing post-secondary education, shall be as determined by a regional

or national accrediting agency recognized by the Council on Higher Education Accreditation or the United States Department of Education; and

“(B) with respect to an institution providing elementary or secondary education, shall be as recognized by the applicable state certification or licensing procedures.

“For purposes of paragraph (2), no governmental body or accredited nonprofit educational institution shall be liable for infringement by reason of the transient or temporary storage of material carried out through the automatic technical process of a digital transmission of the performance or display of that material as authorized under paragraph (2). No such material stored on the system or network controlled or operated by the transmitting body or institution under this paragraph shall be maintained on such system or network in a manner ordinarily accessible to anyone other than anticipated recipients. No such copy shall be maintained on the system or network in a manner ordinarily accessible to such anticipated recipients for a longer period than is reasonably necessary to facilitate the transmissions for which it was made.”.

(c) EPHEMERAL RECORDINGS.—

(1) IN GENERAL.—Section 112 of title 17, United States Code, is amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

“(f)(1) Notwithstanding the provisions of section 106, and without limiting the application of subsection (b), it is not an infringement of copyright for a governmental body or other nonprofit educational institution entitled under section 110(2) to transmit a performance or display to make copies or phonorecords of a work that is in digital form and, solely to the extent permitted in paragraph (2), of a work that is in analog form, embodying the performance or display to be used for making transmissions authorized under section 110(2), if—

“(A) such copies or phonorecords are retained and used solely by the body or institution that made them, and no further copies or phonorecords are reproduced from them, except as authorized under section 110(2); and

“(B) such copies or phonorecords are used solely for transmissions authorized under section 110(2).

“(2) This subsection does not authorize the conversion of print or other analog versions of works into digital formats, except that such conversion is permitted hereunder, only with respect to the amount of such works authorized to be performed or displayed under section 110(2), if—

“(A) no digital version of the work is available to the institution; or

“(B) the digital version of the work that is available to the institution is subject to technological protection measures that prevent its use for section 110(2).”.

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 802(c) of title 17, United States Code, is amended in the third sentence by striking “section 112(f)” and inserting “section 112(g)”.

(d) PATENT AND TRADEMARK OFFICE REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act and after a period for public comment,

Deadline.

the Undersecretary of Commerce for Intellectual Property, after consultation with the Register of Copyrights, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report describing technological protection systems that have been implemented, are available for implementation, or are proposed to be developed to protect digitized copyrighted works and prevent infringement, including upgradeable and self-repairing systems, and systems that have been developed, are being developed, or are proposed to be developed in private voluntary industry-led entities through an open broad based consensus process. The report submitted to the Committees shall not include any recommendations, comparisons, or comparative assessments of any commercially available products that may be mentioned in the report.

(2) LIMITATIONS.—The report under this subsection—

(A) is intended solely to provide information to Congress; and

(B) shall not be construed to affect in any way, either directly or by implication, any provision of title 17, United States Code, including the requirements of clause (ii) of section 110(2)(D) of that title (as added by this subtitle), or the interpretation or application of such provisions, including evaluation of the compliance with that clause by any governmental body or nonprofit educational institution.

Subtitle D—Madrid Protocol Implementation

Madrid Protocol
Implementation
Act.

SEC. 13401. SHORT TITLE.

This subtitle may be cited as the “Madrid Protocol Implementation Act”.

15 USC 1051
note.

SEC. 13402. PROVISIONS TO IMPLEMENT THE PROTOCOL RELATING TO THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS.

The Act entitled “An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes”, approved July 5, 1946, as amended (15 U.S.C. 1051 and following) (commonly referred to as the “Trademark Act of 1946”) is amended by adding after section 51 the following:

“TITLE XII—THE MADRID PROTOCOL

“SEC. 60. DEFINITIONS.

15 USC 1141.

“In this title:

“(1) BASIC APPLICATION.—The term ‘basic application’ means the application for the registration of a mark that has been filed with an Office of a Contracting Party and that constitutes the basis for an application for the international registration of that mark.

“(2) BASIC REGISTRATION.—The term ‘basic registration’ means the registration of a mark that has been granted by an Office of a Contracting Party and that constitutes the basis

for an application for the international registration of that mark.

“(3) CONTRACTING PARTY.—The term ‘Contracting Party’ means any country or inter-governmental organization that is a party to the Madrid Protocol.

“(4) DATE OF RECORDAL.—The term ‘date of recordal’ means the date on which a request for extension of protection, filed after an international registration is granted, is recorded on the International Register.

“(5) DECLARATION OF BONA FIDE INTENTION TO USE THE MARK IN COMMERCE.—The term ‘declaration of bona fide intention to use the mark in commerce’ means a declaration that is signed by the applicant for, or holder of, an international registration who is seeking extension of protection of a mark to the United States and that contains a statement that—

“(A) the applicant or holder has a bona fide intention to use the mark in commerce;

“(B) the person making the declaration believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the declaration, to be entitled to use the mark in commerce; and

“(C) no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, firm, corporation, or association, to cause confusion, mistake, or deception.

“(6) EXTENSION OF PROTECTION.—The term ‘extension of protection’ means the protection resulting from an international registration that extends to the United States at the request of the holder of the international registration, in accordance with the Madrid Protocol.

“(7) HOLDER OF AN INTERNATIONAL REGISTRATION.—A ‘holder’ of an international registration is the natural or juristic person in whose name the international registration is recorded on the International Register.

“(8) INTERNATIONAL APPLICATION.—The term ‘international application’ means an application for international registration that is filed under the Madrid Protocol.

“(9) INTERNATIONAL BUREAU.—The term ‘International Bureau’ means the International Bureau of the World Intellectual Property Organization.

“(10) INTERNATIONAL REGISTER.—The term ‘International Register’ means the official collection of data concerning international registrations maintained by the International Bureau that the Madrid Protocol or its implementing regulations require or permit to be recorded.

“(11) INTERNATIONAL REGISTRATION.—The term ‘international registration’ means the registration of a mark granted under the Madrid Protocol.

“(12) INTERNATIONAL REGISTRATION DATE.—The term ‘international registration date’ means the date assigned to the international registration by the International Bureau.

“(13) MADRID PROTOCOL.—The term ‘Madrid Protocol’ means the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks, adopted at Madrid, Spain, on June 27, 1989.

“(14) NOTIFICATION OF REFUSAL.—The term ‘notification of refusal’ means the notice sent by the United States Patent and Trademark Office to the International Bureau declaring that an extension of protection cannot be granted.

“(15) OFFICE OF A CONTRACTING PARTY.—The term ‘Office of a Contracting Party’ means—

“(A) the office, or governmental entity, of a Contracting Party that is responsible for the registration of marks; or

“(B) the common office, or governmental entity, of more than 1 Contracting Party that is responsible for the registration of marks and is so recognized by the International Bureau.

“(16) OFFICE OF ORIGIN.—The term ‘office of origin’ means the Office of a Contracting Party with which a basic application was filed or by which a basic registration was granted.

“(17) OPPOSITION PERIOD.—The term ‘opposition period’ means the time allowed for filing an opposition in the United States Patent and Trademark Office, including any extension of time granted under section 13.

“SEC. 61. INTERNATIONAL APPLICATIONS BASED ON UNITED STATES APPLICATIONS OR REGISTRATIONS. 15 USC 1141a.

“(a) IN GENERAL.—The owner of a basic application pending before the United States Patent and Trademark Office, or the owner of a basic registration granted by the United States Patent and Trademark Office may file an international application by submitting to the United States Patent and Trademark Office a written application in such form, together with such fees, as may be prescribed by the Director.

“(b) QUALIFIED OWNERS.—A qualified owner, under subsection (a), shall—

“(1) be a national of the United States;

“(2) be domiciled in the United States; or

“(3) have a real and effective industrial or commercial establishment in the United States.

“SEC. 62. CERTIFICATION OF THE INTERNATIONAL APPLICATION. 15 USC 1141b.

“(a) CERTIFICATION PROCEDURE.—Upon the filing of an application for international registration and payment of the prescribed fees, the Director shall examine the international application for the purpose of certifying that the information contained in the international application corresponds to the information contained in the basic application or basic registration at the time of the certification.

“(b) TRANSMITTAL.—Upon examination and certification of the international application, the Director shall transmit the international application to the International Bureau.

“SEC. 63. RESTRICTION, ABANDONMENT, CANCELLATION, OR EXPIRATION OF A BASIC APPLICATION OR BASIC REGISTRATION. 15 USC 1141c.

“With respect to an international application transmitted to the International Bureau under section 62, the Director shall notify the International Bureau whenever the basic application or basic

registration which is the basis for the international application has been restricted, abandoned, or canceled, or has expired, with respect to some or all of the goods and services listed in the international registration—

“(1) within 5 years after the international registration date;

or

“(2) more than 5 years after the international registration date if the restriction, abandonment, or cancellation of the basic application or basic registration resulted from an action that began before the end of that 5-year period.

15 USC 1141d.

“SEC. 64. REQUEST FOR EXTENSION OF PROTECTION SUBSEQUENT TO INTERNATIONAL REGISTRATION.

“The holder of an international registration that is based upon a basic application filed with the United States Patent and Trademark Office or a basic registration granted by the Patent and Trademark Office may request an extension of protection of its international registration by filing such a request—

“(1) directly with the International Bureau; or

“(2) with the United States Patent and Trademark Office for transmittal to the International Bureau, if the request is in such form, and contains such transmittal fee, as may be prescribed by the Director.

15 USC 1141e.

“SEC. 65. EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES UNDER THE MADRID PROTOCOL.

“(a) IN GENERAL.—Subject to the provisions of section 68, the holder of an international registration shall be entitled to the benefits of extension of protection of that international registration to the United States to the extent necessary to give effect to any provision of the Madrid Protocol.

“(b) IF THE UNITED STATES IS OFFICE OF ORIGIN.—Where the United States Patent and Trademark Office is the office of origin for a trademark application or registration, any international registration based on such application or registration cannot be used to obtain the benefits of the Madrid Protocol in the United States.

15 USC 1141f.

“SEC. 66. EFFECT OF FILING A REQUEST FOR EXTENSION OF PROTECTION OF AN INTERNATIONAL REGISTRATION TO THE UNITED STATES.

“(a) REQUIREMENT FOR REQUEST FOR EXTENSION OF PROTECTION.—A request for extension of protection of an international registration to the United States that the International Bureau transmits to the United States Patent and Trademark Office shall be deemed to be properly filed in the United States if such request, when received by the International Bureau, has attached to it a declaration of bona fide intention to use the mark in commerce that is verified by the applicant for, or holder of, the international registration.

“(b) EFFECT OF PROPER FILING.—Unless extension of protection is refused under section 68, the proper filing of the request for extension of protection under subsection (a) shall constitute constructive use of the mark, conferring the same rights as those specified in section 7(c), as of the earliest of the following:

“(1) The international registration date, if the request for extension of protection was filed in the international application.

“(2) The date of recordal of the request for extension of protection, if the request for extension of protection was made after the international registration date.

“(3) The date of priority claimed pursuant to section 67.

“SEC. 67. RIGHT OF PRIORITY FOR REQUEST FOR EXTENSION OF PROTECTION TO THE UNITED STATES. 15 USC 1141g.

“The holder of an international registration with a request for an extension of protection to the United States shall be entitled to claim a date of priority based on a right of priority within the meaning of Article 4 of the Paris Convention for the Protection of Industrial Property if—

“(1) the request for extension of protection contains a claim of priority; and

“(2) the date of international registration or the date of the recordal of the request for extension of protection to the United States is not later than 6 months after the date of the first regular national filing (within the meaning of Article 4(A)(3) of the Paris Convention for the Protection of Industrial Property) or a subsequent application (within the meaning of Article 4(C)(4) of the Paris Convention for the Protection of Industrial Property).

“SEC. 68. EXAMINATION OF AND OPPOSITION TO REQUEST FOR EXTENSION OF PROTECTION; NOTIFICATION OF REFUSAL. 15 USC 1141h.

“(a) EXAMINATION AND OPPOSITION.—(1) A request for extension of protection described in section 66(a) shall be examined as an application for registration on the Principal Register under this Act, and if on such examination it appears that the applicant is entitled to extension of protection under this title, the Director shall cause the mark to be published in the Official Gazette of the United States Patent and Trademark Office.

“(2) Subject to the provisions of subsection (c), a request for extension of protection under this title shall be subject to opposition under section 13.

“(3) Extension of protection shall not be refused on the ground that the mark has not been used in commerce.

“(4) Extension of protection shall be refused to any mark not registrable on the Principal Register.

“(b) NOTIFICATION OF REFUSAL.—If, a request for extension of protection is refused under subsection (a), the Director shall declare in a notification of refusal (as provided in subsection (c)) that the extension of protection cannot be granted, together with a statement of all grounds on which the refusal was based.

“(c) NOTICE TO INTERNATIONAL BUREAU.—(1) Within 18 months after the date on which the International Bureau transmits to the Patent and Trademark Office a notification of a request for extension of protection, the Director shall transmit to the International Bureau any of the following that applies to such request:

“(A) A notification of refusal based on an examination of the request for extension of protection.

“(B) A notification of refusal based on the filing of an opposition to the request.

“(C) A notification of the possibility that an opposition to the request may be filed after the end of that 18-month period.

“(2) If the Director has sent a notification of the possibility of opposition under paragraph (1)(C), the Director shall, if

applicable, transmit to the International Bureau a notification of refusal on the basis of the opposition, together with a statement of all the grounds for the opposition, within 7 months after the beginning of the opposition period or within 1 month after the end of the opposition period, whichever is earlier.

“(3) If a notification of refusal of a request for extension of protection is transmitted under paragraph (1) or (2), no grounds for refusal of such request other than those set forth in such notification may be transmitted to the International Bureau by the Director after the expiration of the time periods set forth in paragraph (1) or (2), as the case may be.

“(4) If a notification specified in paragraph (1) or (2) is not sent to the International Bureau within the time period set forth in such paragraph, with respect to a request for extension of protection, the request for extension of protection shall not be refused and the Director shall issue a certificate of extension of protection pursuant to the request.

“(d) DESIGNATION OF AGENT FOR SERVICE OF PROCESS.—In responding to a notification of refusal with respect to a mark, the holder of the international registration of the mark may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served. Such notices or process may be served upon the person designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

15 USC 1141i.

“SEC. 69. EFFECT OF EXTENSION OF PROTECTION.

“(a) ISSUANCE OF EXTENSION OF PROTECTION.—Unless a request for extension of protection is refused under section 68, the Director shall issue a certificate of extension of protection pursuant to the request and shall cause notice of such certificate of extension of protection to be published in the Official Gazette of the United States Patent and Trademark Office.

“(b) EFFECT OF EXTENSION OF PROTECTION.—From the date on which a certificate of extension of protection is issued under subsection (a)—

“(1) such extension of protection shall have the same effect and validity as a registration on the Principal Register; and

“(2) the holder of the international registration shall have the same rights and remedies as the owner of a registration on the Principal Register.

15 USC 1141j.

“SEC. 70. DEPENDENCE OF EXTENSION OF PROTECTION TO THE UNITED STATES ON THE UNDERLYING INTERNATIONAL REGISTRATION.

“(a) EFFECT OF CANCELLATION OF INTERNATIONAL REGISTRATION.—If the International Bureau notifies the United States Patent and Trademark Office of the cancellation of an international registration with respect to some or all of the goods and services listed in the international registration, the Director shall cancel

any extension of protection to the United States with respect to such goods and services as of the date on which the international registration was canceled.

“(b) EFFECT OF FAILURE TO RENEW INTERNATIONAL REGISTRATION.—If the International Bureau does not renew an international registration, the corresponding extension of protection to the United States shall cease to be valid as of the date of the expiration of the international registration.

“(c) TRANSFORMATION OF AN EXTENSION OF PROTECTION INTO A UNITED STATES APPLICATION.—The holder of an international registration canceled in whole or in part by the International Bureau at the request of the office of origin, under article 6(4) of the Madrid Protocol, may file an application, under section 1 or 44 of this Act, for the registration of the same mark for any of the goods and services to which the cancellation applies that were covered by an extension of protection to the United States based on that international registration. Such an application shall be treated as if it had been filed on the international registration date or the date of recordal of the request for extension of protection with the International Bureau, whichever date applies, and, if the extension of protection enjoyed priority under section 67 of this title, shall enjoy the same priority. Such an application shall be entitled to the benefits conferred by this subsection only if the application is filed not later than 3 months after the date on which the international registration was canceled, in whole or in part, and only if the application complies with all the requirements of this Act which apply to any application filed pursuant to section 1 or 44.

Deadline.

“SEC. 71. AFFIDAVITS AND FEES.

15 USC 1141k.

“(a) REQUIRED AFFIDAVITS AND FEES.—An extension of protection for which a certificate of extension of protection has been issued under section 69 shall remain in force for the term of the international registration upon which it is based, except that the extension of protection of any mark shall be canceled by the Director—

“(1) at the end of the 6-year period beginning on the date on which the certificate of extension of protection was issued by the Director, unless within the 1-year period preceding the expiration of that 6-year period the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; and

“(2) at the end of the 10-year period beginning on the date on which the certificate of extension of protection was issued by the Director, and at the end of each 10-year period thereafter, unless—

“(A) within the 6-month period preceding the expiration of such 10-year period the holder of the international registration files in the United States Patent and Trademark Office an affidavit under subsection (b) together with a fee prescribed by the Director; or

“(B) within 3 months after the expiration of such 10-year period, the holder of the international registration files in the Patent and Trademark Office an affidavit under subsection (b) together with the fee described in subparagraph (A) and the surcharge prescribed by the Director.

Deadline.

“(b) CONTENTS OF AFFIDAVIT.—The affidavit referred to in subsection (a) shall set forth those goods or services recited in the extension of protection on or in connection with which the mark is in use in commerce and the holder of the international registration shall attach to the affidavit a specimen or facsimile showing the current use of the mark in commerce, or shall set forth that any nonuse is due to special circumstances which excuse such nonuse and is not due to any intention to abandon the mark. Special notice of the requirement for such affidavit shall be attached to each certificate of extension of protection.

“(c) NOTIFICATION.—The Director shall notify the holder of the international registration who files 1 of the affidavits of the Director’s acceptance or refusal thereof and, in case of a refusal, the reasons therefor.

“(d) SERVICE OF NOTICE OR PROCESS.—The holder of the international registration of the mark may designate, by a document filed in the United States Patent and Trademark Office, the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served. Such notices or process may be served upon the person so designated by leaving with that person, or mailing to that person, a copy thereof at the address specified in the last designation so filed. If the person designated cannot be found at the address given in the last designation, or if the holder does not designate by a document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States for service of notices or process in proceedings affecting the mark, the notice or process may be served on the Director.

15 USC 1141l.

“SEC. 72. ASSIGNMENT OF AN EXTENSION OF PROTECTION.

“An extension of protection may be assigned, together with the goodwill associated with the mark, only to a person who is a national of, is domiciled in, or has a bona fide and effective industrial or commercial establishment either in a country that is a Contracting Party or in a country that is a member of an intergovernmental organization that is a Contracting Party.

15 USC 1141m.

“SEC. 73. INCONTESTABILITY.

“The period of continuous use prescribed under section 15 for a mark covered by an extension of protection issued under this title may begin no earlier than the date on which the Director issues the certificate of the extension of protection under section 69, except as provided in section 74.

15 USC 1141n.

“SEC. 74. RIGHTS OF EXTENSION OF PROTECTION.

“When a United States registration and a subsequently issued certificate of extension of protection to the United States are owned by the same person, identify the same mark, and list the same goods or services, the extension of protection shall have the same rights that accrued to the registration prior to issuance of the certificate of extension of protection.”.

15 USC 1141
note.

SEC. 13403. EFFECTIVE DATE.

This subtitle and the amendments made by this subtitle shall take effect on the later of—

(1) the date on which the Madrid Protocol (as defined in section 60 of the Trademark Act of 1946) enters into force with respect to the United States; or

(2) the date occurring 1 year after the date of enactment of this Act.

TITLE IV—ANTITRUST TECHNICAL CORRECTIONS ACT OF 2002

Antitrust
Technical
Corrections Act
of 2002.

SEC. 14101. SHORT TITLE.

This title may be cited as the “Antitrust Technical Corrections Act of 2002”.

15 USC 1 note.

SEC. 14102. AMENDMENTS.

(a) PANAMA CANAL ACT.—Section 11 of the Panama Canal Act (37 Stat. 566; 15 U.S.C. 31) is amended by striking the undesignated paragraph that begins “No vessel permitted”.

(b) SHERMAN ACT.—Section 3 of the Sherman Act (15 U.S.C. 3) is amended—

(1) by inserting “(a)” after “SEC. 3.”; and

(2) by adding at the end the following:

“(b) Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce in any Territory of the United States or of the District of Columbia, or between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia, and any State or States or foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$10,000,000 if a corporation, or, if any other person, \$350,000, or by imprisonment not exceeding three years, or by both said punishments, in the discretion of the court.”.

(c) WILSON TARIFF ACT.—

(1) TECHNICAL AMENDMENT.—The Wilson Tariff Act (28 Stat. 509; 15 U.S.C. 8 et seq.) is amended—

(A) by striking section 77; and

(B) in section 78—

(i) by striking “76, and 77” and inserting “and 76”; and

(ii) by redesignating such section as section 77.

(2) CONFORMING AMENDMENTS TO OTHER LAWS.—

(A) CLAYTON ACT.—Subsection (a) of the 1st section of the Clayton Act (15 U.S.C. 12(a)) is amended by striking “seventy-seven” and inserting “seventy-six”.

(B) FEDERAL TRADE COMMISSION ACT.—Section 4 of the Federal Trade Commission Act (15 U.S.C. 44) is amended by striking “77” and inserting “76”.

(C) PACKERS AND STOCKYARDS ACT, 1921.—Section 405(a) of the Packers and Stockyards Act, 1921 (7 U.S.C. 225(a)) is amended by striking “77” and inserting “76”.

(D) ATOMIC ENERGY ACT OF 1954.—Section 105 of the Atomic Energy Act of 1954 (42 U.S.C. 2135) is amended by striking “seventy-seven” and inserting “seventy-six”.

(E) DEEP SEABED HARD MINERAL RESOURCES ACT.—Section 103(d)(7) of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1413(d)(7)) is amended by striking “77” and inserting “76”.

15 USC 15 note.
15 USC 8 note.

(d) CLAYTON ACT.—The first section 27 of the Clayton Act (15 U.S.C. 27) is redesignated as section 28 and is transferred so as to appear at the end of such Act.

15 USC 1 note. (e) YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT.—Section 5(a)(2) of the Year 2000 Information and Readiness Disclosure Act (Public Law 105-271) is amended by inserting a period after “failure”.

(f) ACT OF MARCH 3, 1913.—The Act of March 3, 1913 (chapter 114, 37 Stat. 731; 15 U.S.C. 30) is repealed.

49 USC 41309 note. (g) REPEAL.—Section 116 of the Act of November 19, 2001 is repealed.

15 USC 3 note. **SEC. 14103. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle and the amendments made by this subtitle shall take effect on the date of enactment of this Act.

(b) APPLICATION TO CASES.—(1) Section 14102(f) shall apply to cases pending on or after the date of the enactment of this Act.

(2) The amendments made by subsections (a), (b), and (c) of section 14102 shall apply only with respect to cases commenced on or after the date of enactment of this Act.

Approved November 2, 2002.

LEGISLATIVE HISTORY—H.R. 2215 (S. 1319):

HOUSE REPORTS: Nos. 107-125 (Comm. on the Judiciary) and 107-685 (Comm. of Conference).

SENATE REPORTS: No. 107-96 accompanying S. 1319 (Comm. on the Judiciary).

CONGRESSIONAL RECORD:

Vol. 147 (2001): July 23, considered and passed House.

Dec. 20, considered and passed Senate, amended.

Vol. 148 (2002): Sept. 26, House agreed to conference report.

Oct. 1, 3, Senate considered and agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Nov. 2, Presidential statement.



Public Law 107–274
107th Congress

An Act

To establish new nonimmigrant classes for border commuter students.

Nov. 2, 2002

[H.R. 4967]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Border Commuter Student Act of 2002”.

Border
Commuter
Student Act of
2002.
8 USC 1101 note.

SEC. 2. ESTABLISHMENT OF BORDER COMMUTER NONIMMIGRANT CLASS.

(a) **CLASS FOR ACADEMIC OR LANGUAGE STUDIES.**—Section 101(a)(15)(F) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F)) is amended by striking “and (ii)” and all that follows through the end of subparagraph (F) and inserting the following: “(ii) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) except that the alien’s qualifications for and actual course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;”.

(b) **CLASS FOR VOCATIONAL OR NONACADEMIC STUDIES.**—Section 101(a)(15)(M) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(M)) is amended by striking “and (ii)” and all that follows through the end of subparagraph (M) and inserting the following: “(ii) the alien spouse and minor children of any alien described in clause (i) if accompanying or following to join such an alien, and (iii) an alien who is a national of Canada or Mexico, who maintains actual residence and place of abode in the country of nationality, who is described in clause (i) except that the alien’s course of study may be full or part-time, and who commutes to the United States institution or place of study from Canada or Mexico;”.

(c) **LIMITATION.**—Section 214(m) of the Immigration and Nationality Act (8 U.S.C. 1184(m); as redesignated by section 107(e)(2)(A) of Public Law 106–386) is amended by striking “section

101(a)(15)(F)(i)” both places it appears and inserting “clause (i) or (iii) of section 101(a)(15)(F)”.

Approved November 2, 2002.

LEGISLATIVE HISTORY—H.R. 4967:

HOUSE REPORTS: No. 107–753 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 15, considered and passed House.

Oct. 16, considered and passed Senate.



Public Law 107–275
107th Congress

An Act

To consolidate all black lung benefit responsibility under a single official, and for other purposes.

Nov. 2, 2002
[H.R. 5542]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Black Lung Consolidation of Administrative Responsibility Act”.

Black Lung
Consolidation of
Administrative
Responsibility
Act.
Government
organization.
30 USC 801 note.

SEC. 2. TRANSFER OF PART B BLACK LUNG BENEFIT RESPONSIBILITIES FROM COMMISSIONER OF SOCIAL SECURITY TO SECRETARY OF LABOR.

(a) IN GENERAL.—Part B of the Black Lung Benefits Act (30 U.S.C. 921 et seq.) other than section 415(b) (30 U.S.C. 925(b)) is amended by striking “Commissioner of Social Security” each place such term appears and inserting “Secretary”.

30 USC 921–924.

(b) CONFORMING AMENDMENTS.—

(1) Section 402 of such Act (30 U.S.C. 902) is amended—

(A) in subsection (c), by striking “where used in part C” and inserting “, except where expressly otherwise provided,”;

(B) in subsection (f)(1), by inserting after “Secretary of Health, Education, and Welfare” the following: “, which were in effect on the date of enactment of the Black Lung Consolidation of Administrative Responsibilities Act,”;

(C) in subsection (f)(2)—

(i) by striking “which is subject to review by the Secretary of Health, Education, and Welfare,” and inserting “arising under part B”; and

(ii) by striking the comma after “Secretary of Labor”; and

(D) in subsection (i), by amending paragraph (1) to read as follows:

“(1) for benefits under part B that was denied by the official responsible for administration of such part; or”.

(2) Section 413(b) of such Act (30 U.S.C. 923(b)) is amended by striking “In carrying out the provisions of this part” and all that follows through “Social Security Act, but no” and inserting “No”.

(3) Section 415 of such Act (30 U.S.C. 925) is amended—

(A) in subsection (a)—

(i) by striking paragraph (2);

(ii) by redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(iii) in paragraph (4) (as so redesignated), by striking “paragraph 4” and inserting “paragraph (2)”; and

(B) in subsection (b), by striking “, after consultation with the Commissioner of Social Security,”.

(4) Section 426 of such Act (30 U.S.C. 936) is amended—

(A) in subsection (a), by striking “, the Commissioner of Social Security,”; and

(B) in subsection (b), by amending the first sentence to read as follows: “At the end of fiscal year 2003 and each succeeding fiscal year, the Secretary of Labor shall submit to the Congress an annual report on the subject matter of parts B and C of this title.”.

(5) Public Law 94-504 (30 U.S.C. 932a) is amended by striking “under part C” and inserting “under part B or part C”.

(c) REPEAL OF OBSOLETE PROVISIONS.—The following provisions of law are repealed:

(1) Section 435 of the Black Lung Benefits Act (30 U.S.C. 945).

(2) Sections 11 and 19 of the Black Lung Benefits Reform Act of 1977 (30 U.S.C. 924a, 904).

30 USC 921 note. **SEC. 3. TRANSITIONAL PROVISIONS.**

(a) APPLICABILITY.—This section shall apply to the transfer of all functions relating to the administration of part B of subchapter IV (30 U.S.C. 901 et seq.) from the Commissioner of Social Security (hereinafter in this section referred to as the “Commissioner”) to the Secretary of Labor, as provided by this Act.

(b) TRANSFER OF ASSETS, LIABILITIES, ETC.—

(1) The Commissioner shall transfer to the Secretary of Labor all property and records that the Director of the Office of Management and Budget determines relate to the functions transferred to the Secretary of Labor by this Act or amendments made by this Act.

Applicability.

(2) Section 1531 of title 31, United States Code, shall apply in carrying out this Act and amendments made by this Act, except that, for purposes of carrying out this Act and amendments made by this Act, the functions of the President under section 1531(b) shall be performed by the Director of the Office of Management and Budget unless otherwise directed by the President.

(c) CONTINUATION OF ORDERS, DETERMINATIONS, ETC.—

(1) This Act shall not affect the validity of any order, determination, rule, regulation, operating procedure (to the extent applicable to the Secretary of Labor), or contract that—

(A) relates to a function transferred by this Act; and

(B) is in effect on the date this Act takes effect.

(2) Any order, determination, rule, regulation, operating procedure, or contract described in paragraph (1) shall—

(A) apply on and after the effective date of this Act to the Secretary of Labor; and

(B) continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(d) CONTINUATION OF ADMINISTRATIVE PROCEEDINGS.—

(1) Any proceeding before the Commissioner involving the functions transferred by this Act that is pending on the date this Act takes effect shall continue before the Secretary of Labor, except as provided in paragraph (2).

(2) Any proceeding pending before an Administrative Law Judge or the Appeals Council pursuant to part B and the applicable regulations of the Secretary of Health and Human Services shall continue before the Commissioner consistent with the following provisions:

(A) Any proceeding described in this paragraph shall continue as if this Act had not been enacted, and shall include all rights to hearing, administrative review, and judicial review available under part B and the applicable regulations of the Secretary of Health and Human Services.

(B) Any decision, order, or other determination issued in any proceeding described in this subsection shall apply to the Secretary of Labor and continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(C) Nothing in this paragraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(3) Any proceeding before the Secretary of Labor involving the functions transferred by this Act shall be subject to the statutory requirements for notice, hearing, action upon the record, administrative review, and judicial review that apply to similar proceedings before the Commissioner conducted prior to the enactment of this Act.

(e) CONTINUATION OF ACTIONS AND CAUSES OF ACTION.—

(1) Except as provided in paragraphs (2) and (3), this Act shall not abrogate, terminate, or otherwise affect any action or cause of action, that—

(A) relates to a function transferred by this Act; and

(B) is pending or otherwise in existence on the date this Act takes effect.

(2) Any action pending before the Commissioner or any court on the date this Act takes effect that involves a function transferred by this Act shall continue before the Commissioner or court consistent with the following provisions:

(A) Any proceeding described in this paragraph shall continue as if this Act had not been enacted.

(B) Any decision, order, or other determination issued in any proceeding subject to this paragraph shall apply to the Secretary of Labor and continue in effect, according to its terms, until it is modified, superseded, terminated, or otherwise deprived of legal effect by the Secretary of Labor, a court of competent jurisdiction, or operation of law.

(3) Any cause of action by or against the Commissioner that exists on the date this Act takes effect and involves any function transferred by this Act may be asserted by or against the Secretary of Labor or the United States.

(f) CONTINUATION OF ACTIONS AGAINST OFFICERS.—No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of the Social Security Administration, and relating to a function transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against the Social Security Administration, or by or against any officer thereof in his official capacity, relating to a function transferred by this Act, shall abate by reason of enactment of this Act.

(g) PRESERVATION OF PENALTIES, ETC.—The transfer of functions under this Act shall not release or extinguish any penalty, forfeiture, liability, prosecution, investigation, or right to initiate a future investigation or prosecution involving any function transferred by this Act.

30 USC 902 note.

SEC. 4. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall take effect 90 days after the date of enactment of this Act.

Approved November 2, 2002.

LEGISLATIVE HISTORY—H.R. 5542:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 7, 9, considered and passed House.

Oct. 16, considered and passed Senate.



Public Law 107–276
107th Congress

An Act

To amend section 527 of the Internal Revenue Code of 1986 to eliminate notification and return requirements for State and local party committees and candidate committees and avoid duplicate reporting by certain State and local political committees of information required to be reported and made publicly available under State law, and for other purposes.

Nov. 2, 2002
[H.R. 5596]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM NOTIFICATION REQUIREMENTS.

(a) **EXEMPTION FROM NOTIFICATION REQUIREMENTS.**—Paragraph (5) of section 527(i) of the Internal Revenue Code of 1986 (relating to organizations must notify Secretary that they are section 527 organizations) is amended by striking “or” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, or”, and by adding at the end the following:

“(C) which is a political committee of a State or local candidate or which is a State or local committee of a political party.”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect as if included in the amendments made by Public Law 106–230.

SEC. 2. EXEMPTION FOR CERTAIN STATE AND LOCAL POLITICAL COMMITTEES FROM REPORTING REQUIREMENTS.

(a) **IN GENERAL.**—Section 527(j)(5) of the Internal Revenue Code of 1986 (relating to coordination with other requirements) is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

“(C) to any organization which is a qualified State or local political organization.”.

(b) **QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.**—Subsection (e) of section 527 of the Internal Revenue Code of 1986 (relating to other definitions) is amended by adding at the end the following new paragraph:

“(5) **QUALIFIED STATE OR LOCAL POLITICAL ORGANIZATION.**—

“(A) **IN GENERAL.**—The term ‘qualified State or local political organization’ means a political organization—

“(i) all the exempt functions of which are solely for the purposes of influencing or attempting to influence the selection, nomination, election, or appointment

of any individual to any State or local public office or office in a State or local political organization,

“(ii) which is subject to State law that requires the organization to report (and it so reports)—

“(I) information regarding each separate expenditure from and contribution to such organization, and

“(II) information regarding the person who makes such contribution or receives such expenditure,

which would otherwise be required to be reported under this section, and

“(iii) with respect to which the reports referred to in clause (ii) are (I) made public by the agency with which such reports are filed, and (II) made publicly available for inspection by the organization in the manner described in section 6104(d).

“(B) CERTAIN STATE LAW DIFFERENCES DISREGARDED.—An organization shall not be treated as failing to meet the requirements of subparagraph (A)(ii) solely by reason of 1 or more of the following:

“(i) The minimum amount of any expenditure or contribution required to be reported under State law is not more than \$300 greater than the minimum amount required to be reported under subsection (j).

“(ii) The State law does not require the organization to identify 1 or more of the following:

“(I) The employer of any person who makes contributions to the organization.

“(II) The occupation of any person who makes contributions to the organization.

“(III) The employer of any person who receives expenditures from the organization.

“(IV) The occupation of any person who receives expenditures from the organization.

“(V) The purpose of any expenditure of the organization.

“(VI) The date any contribution was made to the organization.

“(VII) The date of any expenditure of the organization.

“(C) DE MINIMIS ERRORS.—An organization shall not fail to be treated as a qualified State or local political organization solely because such organization makes de minimis errors in complying with the State reporting requirements and the public inspection requirements described in subparagraph (A) as long as the organization corrects such errors within a reasonable period after the organization becomes aware of such errors.

“(D) PARTICIPATION OF FEDERAL CANDIDATE OR OFFICE HOLDER.—The term ‘qualified State or local political organization’ shall not include any organization otherwise described in subparagraph (A) if a candidate for nomination or election to Federal elective public office or an individual who holds such office—

“(i) controls or materially participates in the direction of the organization,

“(ii) solicits contributions to the organization (unless the Secretary determines that such solicitations resulted in de minimis contributions and were made without the prior knowledge and consent, whether explicit or implicit, of the organization or its officers, directors, agents, or employees), or

“(iii) directs, in whole or in part, disbursements by the organization.”

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106-230. 26 USC 527 note.

SEC. 3. EXEMPTION FROM ANNUAL RETURN REQUIREMENTS.

(a) **INCOME TAX RETURNS REQUIRED ONLY FOR POLITICAL ORGANIZATION TAXABLE INCOME.**—Paragraph (6) of section 6012(a) of the Internal Revenue Code of 1986 (relating to persons required to make returns of income) is amended by striking “or which has” and all that follows through “section”. 26 USC 6012.

(b) **INCOME TAX RETURNS NOT SUBJECT TO DISCLOSURE.**—

(1) **DISCLOSURE BY THE SECRETARY.**—Subsection (b) of section 6104 of such Code (relating to disclosure by the Secretary of annual information returns) is amended by striking “6012(a)(6),”. 26 USC 6104.

(2) **PUBLIC INSPECTION.**—Subsection (d) of section 6104 of such Code (relating to public inspection of certain annual returns) is amended—

(A) in paragraph (1)(A)(i) by striking “or section 6012(a)(6) (relating to returns by political organizations)”, and

(B) in subparagraph (2) by striking “or section 6012(a)(6)”.

(c) **INFORMATION RETURNS.**—Subsection (g) of section 6033 of such Code (relating to returns required by political organizations) is amended to read as follows: 26 USC 6033.

“(g) **RETURNS REQUIRED BY POLITICAL ORGANIZATIONS.**—

“(1) **IN GENERAL.**—This section shall apply to a political organization (as defined by section 527(e)(1)) which has gross receipts of \$25,000 or more for the taxable year. In the case of a political organization which is a qualified State or local political organization (as defined in section 527(e)(5)), the preceding sentence shall be applied by substituting ‘\$100,000’ for ‘\$25,000’. Applicability.

“(2) **ANNUAL RETURNS.**—Political organizations described in paragraph (1) shall file an annual return—

“(A) containing the information required, and complying with the other requirements, under subsection (a)(1) for organizations exempt from taxation under section 501(a), with such modifications as the Secretary considers appropriate to require only information which is necessary for the purposes of carrying out section 527, and

“(B) containing such other information as the Secretary deems necessary to carry out the provisions of this subsection.

“(3) **MANDATORY EXCEPTIONS FROM FILING.**—Paragraph (2) shall not apply to an organization—

“(A) which is a State or local committee of a political party, or political committee of a State or local candidate,

“(B) which is a caucus or association of State or local officials,

“(C) which is an authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for Federal office,

“(D) which is a national committee (as defined in section 301(14) of the Federal Election Campaign Act of 1971) of a political party,

“(E) which is a United States House of Representatives or United States Senate campaign committee of a political party committee,

“(F) which is required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act), or

“(G) to which section 527 applies for the taxable year solely by reason of subsection (f)(1) of such section.

“(4) DISCRETIONARY EXCEPTION.—The Secretary may relieve any organization required under paragraph (2) to file an information return from filing such a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws.”.

26 USC 6012
note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by Public Law 106-230.

Public
information.
26 USC 527 note.

SEC. 4. NOTIFICATION OF INTERACTION OF REPORTING REQUIREMENTS.

(a) IN GENERAL.—The Secretary of the Treasury, in consultation with the Federal Election Commission, shall publicize—

- (1) the effect of the amendments made by this Act, and
- (2) the interaction of requirements to file a notification or report under section 527 of the Internal Revenue Code of 1986 and reports under the Federal Election Campaign Act of 1971.

(b) INFORMATION.—Information provided under subsection (a) shall be included in any appropriate form, instruction, notice, or other guidance issued to the public by the Secretary of the Treasury or the Federal Election Commission regarding reporting requirements of political organizations (as defined in section 527 of the Internal Revenue Code of 1986) or reporting requirements under the Federal Election Campaign Act of 1971.

SEC. 5. WAIVER OF FILING AMOUNTS.

26 USC 527.

(a) WAIVER OF FILING AMOUNTS.—Section 527 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(k) AUTHORITY TO WAIVE.—The Secretary may waive all or any portion of the—

- “(1) tax assessed on an organization by reason of the failure of the organization to comply with the requirements of subsection (i), or

“(2) amount imposed under subsection (j) for a failure to comply with the requirements thereof, on a showing that such failure was due to reasonable cause and not due to willful neglect.”.

26 USC 527 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any tax assessed or amount imposed after June 30, 2000.

SEC. 6. MODIFICATIONS TO SECTION 527 ORGANIZATION DISCLOSURE PROVISIONS.

(a) **UNSEGREGATED FUNDS NOT TO AVOID TAX.**—Paragraph (4) of section 527(i) of the Internal Revenue Code of 1986 (relating to failure to notify) is amended by adding at the end the following new sentence: “For purposes of the preceding sentence, the term ‘exempt function income’ means any amount described in a subparagraph of subsection (c)(3), whether or not segregated for use for an exempt function.” 26 USC 527.

(b) **PROCEDURES FOR ASSESSMENT AND COLLECTION OF AMOUNTS.**—Paragraph (1) of section 527(j) of the Internal Revenue Code of 1986 (relating to required disclosure of expenditures and contributions) is amended by adding at the end the following new sentence: “For purposes of subtitle F, the amount imposed by this paragraph shall be assessed and collected in the same manner as penalties imposed by section 6652(c).”

(c) **DUPLICATE WRITTEN FILINGS NOT REQUIRED.**—Subparagraph (A) of section 527(i)(1) of the Internal Revenue Code of 1986 is amended by striking “, electronically and in writing,” and inserting “electronically”.

(d) **APPLICATION OF FRAUD PENALTY.**—Section 7207 of the Internal Revenue Code of 1986 (relating to fraudulent returns, statements, and other documents) is amended by striking “pursuant to subsection (b) of section 6047 or pursuant to subsection (d) of section 6104” and inserting “pursuant to section 6047(b), section 6104(d), or subsection (i) or (j) of section 527”. 26 USC 7207.

(e) **CONTENTS AND FILING OF REPORT.**—

(1) **CONTENTS.**—Section 527(j)(3) of the Internal Revenue Code of 1986 (relating to contents of report) is amended—

(A) by inserting “, date, and purpose” after “The amount” in subparagraph (A), and

(B) by inserting “and date” after “the amount” in subparagraph (B).

(2) **ELECTRONIC FILING.**—Section 527(j) of such Code is amended by adding at the end the following new paragraph:

“(7) **ELECTRONIC FILING.**—Any report required under paragraph (2) with respect to any calendar year shall be filed in electronic form if the organization has, or has reason to expect to have, contributions exceeding \$50,000 or expenditures exceeding \$50,000 in such calendar year.”

(3) **ELECTRONIC FILING AND ACCESS OF REQUIRED DISCLOSURES.**—Section 527 of such Code, as amended by section 5(a), is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

“(k) **PUBLIC AVAILABILITY OF NOTICES AND REPORTS.**—

“(1) **IN GENERAL.**—The Secretary shall make any notice described in subsection (i)(1) or report described in subsection (j)(7) available for public inspection on the Internet not later than 48 hours after such notice or report has been filed (in addition to such public availability as may be made under section 6104(d)(7)). Deadline.

“(2) **ACCESS.**—The Secretary shall make the entire database of notices and reports which are made available to the public under paragraph (1) searchable by the following items (to the extent the items are required to be included in the notices and reports):

“(A) Names, States, zip codes, custodians of records, directors, and general purposes of the organizations.

“(B) Entities related to the organizations.

“(C) Contributors to the organizations.

“(D) Employers of such contributors.

“(E) Recipients of expenditures by the organizations.

“(F) Ranges of contributions and expenditures.

“(G) Time periods of the notices and reports.

Such database shall be downloadable.”

26 USC 527. (f) CONTENTS OF NOTICE.—Section 527(i)(3) of the Internal Revenue Code of 1986 (relating to contents of notice) is amended by striking “and” at the end of subparagraph (D), by redesignating subparagraph (E) as subparagraph (F), and by inserting after subparagraph (D) the following new subparagraph:

“(E) whether the organization intends to claim an exemption from the requirements of subsection (j) or section 6033, and”.

(g) TIMING OF NOTICE IN CASE OF MATERIAL CHANGE.—

(1) IN GENERAL.—Subparagraph (B) of section 527(i)(1) of the Internal Revenue Code of 1986 (relating to general notification requirement) is amended by inserting “or, in the case of any material change in the information required under paragraph (3), for the period beginning on the date on which the material change occurs and ending on the date on which such notice is given” after “given”.

Deadline.

(2) TIME TO GIVE NOTICE.—Section 527(i)(2) of the Internal Revenue Code of 1986 (relating to time to give notice) is amended by inserting “or, in the case of any material change in the information required under paragraph (3), not later than 30 days after such material change” after “established”.

(3) EFFECT OF FAILURE.—Paragraph (4) of section 527(i) of the Internal Revenue Code of 1986 (relating to effect of failure) is amended by inserting before the period at the end the following: “or, in the case of a failure relating to a material change, by taking into account such income and deductions only during the period beginning on the date on which the material change occurs and ending on the date on which notice is given under this subsection”.

Applicability.

(h) EFFECTIVE DATES.—

26 USC 527 note.

(1) SUBSECTIONS (a) AND (b).—The amendments made by subsections (a) and (b) shall apply to failures occurring on or after the date of the enactment of this Act.

26 USC 527 note.

(2) SUBSECTION (c).—The amendments made by subsection (c) shall take effect as if included in the amendments made by Public Law 106-230.

26 USC 7207
note.

(3) SUBSECTION (d).—The amendment made by subsection (d) shall apply to reports and notices required to be filed on or after the date of the enactment of this Act.

26 USC 527 note.

(4) SUBSECTIONS (e)(1) AND (f).—The amendments made by subsections (e)(1) and (f) shall apply to reports and notices required to be filed more than 30 days after the date of the enactment of this Act.

26 USC 527 note.

(5) SUBSECTIONS (e)(2) AND (e)(3).—The amendments made by subsections (e)(2) and (e)(3) shall apply to reports required to be filed on or after June 30, 2003.

(6) SUBSECTION (g).—

(A) IN GENERAL.—The amendments made by subsection (g) shall apply to material changes on or after the date of the enactment of this Act.

(B) TRANSITION RULE.—In the case of a material change occurring during the 30-day period beginning on the date of the enactment of this Act, a notice under section 527(i) of the Internal Revenue Code of 1986 (as amended by this Act) shall not be required to be filed under such section before the later of—

- (i) 30 days after the date of such material change,
- or
- (ii) 45 days after the date of the enactment of this Act.

SEC. 7. EFFECT OF AMENDMENTS ON EXISTING DISCLOSURES.

26 USC 6104
note.

Notices, reports, or returns that were required to be filed with the Secretary of the Treasury before the date of the enactment of the amendments made by this Act and that were disclosed by the Secretary of the Treasury consistent with the law in effect at the time of disclosure shall remain subject on and after such date to the disclosure provisions of section 6104 of the Internal Revenue Code of 1986.

Approved November 2, 2002.

LEGISLATIVE HISTORY—H.R. 5596:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 16, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–277
107th Congress

An Act

Nov. 5, 2002
[H.R. 2733]

To authorize the National Institute of Standards and Technology to work with major manufacturing industries on an initiative of standards development and implementation for electronic enterprise integration.

Enterprise
Integration Act of
2002.
15 USC 278g–5
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Enterprise Integration Act of 2002”.

15 USC 278g–5
note.

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Over 90 percent of United States companies engaged in manufacturing are small- and medium-sized businesses.

(2) Most of these manufacturers produce goods for assemblage into products of large companies.

(3) The emergence of the World Wide Web and the promulgation of international standards for product data exchange greatly accelerated the movement toward electronically integrated supply chains during the last half of the 1990’s.

(4) European and Asian countries are investing heavily in electronic enterprise standards development, and in preparing their smaller manufacturers to do business in the new environment. European efforts are well advanced in the aerospace, automotive, and shipbuilding industries and are beginning in other industries including home building, furniture manufacturing, textiles, and apparel. This investment could give overseas companies a major competitive advantage.

(5) The National Institute of Standards and Technology, because of the electronic commerce expertise in its laboratories and quality program, its long history of working cooperatively with manufacturers, and the nationwide reach of its manufacturing extension program, is in a unique position to help United States large and smaller manufacturers alike in their responses to this challenge.

(6) It is, therefore, in the national interest for the National Institute of Standards and Technology to accelerate its efforts in helping industry develop standards and enterprise integration processes that are necessary to increase efficiency and lower costs.

15 USC 278g–5
and note.

SEC. 3. ENTERPRISE INTEGRATION INITIATIVE.

(a) ESTABLISHMENT.—The Director shall establish an initiative for advancing enterprise integration within the United States. In

carrying out this section, the Director shall involve, as appropriate, the various units of the National Institute of Standards and Technology, including the National Institute of Standards and Technology laboratories (including the Building and Fire Research Laboratory), the Manufacturing Extension Partnership program established under sections 25 and 26 of the National Institute of Standards and Technology Act (15 U.S.C. 278k and 278l), and the Malcolm Baldrige National Quality Program. This initiative shall build upon ongoing efforts of the National Institute of Standards and Technology and of the private sector, shall involve consortia that include government and industry, and shall address the enterprise integration needs of each United States major manufacturing industry at the earliest possible date.

(b) **ASSESSMENT.**—For each major manufacturing industry, the Director may work with industry, trade associations, professional societies, and others as appropriate, to identify enterprise integration standardization and implementation activities underway in the United States and abroad that affect that industry and to assess the current state of enterprise integration within that industry. The Director may assist in the development of roadmaps to permit supply chains within the industry to operate as an integrated electronic enterprise. The roadmaps shall be based on voluntary consensus standards.

(c) **REPORTS.**—Within 180 days after the date of the enactment of this Act, and annually thereafter, the Director shall submit to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the National Institute of Standards and Technology's activities under subsection (b).

Deadline.

(d) **AUTHORIZED ACTIVITIES.**—In order to carry out this Act, the Director may work with industry, trade associations, professional societies, and others as appropriate—

(1) to raise awareness in the United States, including awareness by businesses that are majority owned by women, minorities, or both, of enterprise integration activities in the United States and abroad, including by the convening of conferences;

(2) on the development of enterprise integration roadmaps;

(3) to support the development, testing, promulgation, integration, adoption, and upgrading of standards related to enterprise integration including application protocols; and

(4) to provide technical assistance and, if necessary, financial support to small- and medium-sized businesses that set up pilot projects in enterprise integration.

(e) **MANUFACTURING EXTENSION PROGRAM.**—The Director shall ensure that the Manufacturing Extension Program is prepared to advise small- and medium-sized businesses on how to acquire the expertise, equipment, and training necessary to participate fully in supply chains using enterprise integration.

SEC. 4. DEFINITIONS.

For purposes of this Act—

(1) the term “automotive” means land-based engine-powered vehicles including automobiles, trucks, busses, trains, defense vehicles, farm equipment, and motorcycles;

(2) the term “Director” means the Director of the National Institute of Standards and Technology;

15 USC 278g-5
note.

(3) the term “enterprise integration” means the electronic linkage of manufacturers, assemblers, suppliers, and customers to enable the electronic exchange of product, manufacturing, and other business data among all partners in a product supply chain, and such term includes related application protocols and other related standards;

(4) the term “major manufacturing industry” includes the aerospace, automotive, electronics, shipbuilding, construction, home building, furniture, textile, and apparel industries and such other industries as the Director designates; and

(5) the term “roadmap” means an assessment of manufacturing interoperability requirements developed by an industry describing that industry’s goals related to enterprise integration, the knowledge and standards including application protocols necessary to achieve those goals, and the necessary steps, timetable, and assignment of responsibilities for acquiring the knowledge and developing the standards and protocols.

15 USC 278g-5
note.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Director to carry out functions under this Act—

- (1) \$2,000,000 for fiscal year 2002;
- (2) \$10,000,000 for fiscal year 2003;
- (3) \$15,000,000 for fiscal year 2004; and
- (4) \$20,000,000 for fiscal year 2005.

Approved November 5, 2002.

LEGISLATIVE HISTORY—H.R. 2733:

HOUSE REPORTS: No. 107-520 (Comm. on Science).

SENATE REPORTS: No. 107-319 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 11, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–278
107th Congress

An Act

To amend the International Organizations Immunities Act to provide for the applicability of that Act to the European Central Bank.

Nov. 5, 2002
[H.R. 3656]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**SECTION 1. DESIGNATION OF THE EUROPEAN CENTRAL BANK UNDER
THE INTERNATIONAL ORGANIZATIONS IMMUNITIES ACT.**

The International Organizations Immunities Act (22 U.S.C. 288 et seq.) is amended by adding at the end the following new section:

“SEC. 15. The provisions of this title may be extended to the European Central Bank in the same manner, to the same extent, and subject to the same conditions, as they may be extended to a public international organization in which the United States participates pursuant to any treaty or under the authority of any Act of Congress authorizing such participation or making an appropriation for such participation.”.

22 USC 288f–5.

Approved November 5, 2002.

LEGISLATIVE HISTORY—H.R. 3656:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 24, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–279
107th Congress

An Act

Nov. 5, 2002
[H.R. 3801]

To provide for improvement of Federal education research, statistics, evaluation, information, and dissemination, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

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- Sec. 194. Authorization of appropriations.

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- Sec. 204. Evaluations.
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- Sec. 206. Regional advisory committees.
- Sec. 207. Priorities.
- Sec. 208. Grant program for statewide, longitudinal data systems.
- Sec. 209. Authorization of appropriations.

TITLE III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

- Sec. 301. Short title.
- Sec. 302. Definitions.
- Sec. 303. Authorization of appropriations.

TITLE IV—AMENDATORY PROVISIONS

- Sec. 401. Redesignations.
- Sec. 402. Amendments to Department of Education Organization Act.
- Sec. 403. Repeals.
- Sec. 404. Conforming and technical amendments.
- Sec. 405. Orderly transition.
- Sec. 406. Impact aid.

TITLE I—EDUCATION SCIENCES REFORM

Education
Sciences Reform
Act of 2002.

SEC. 101. SHORT TITLE.

This title may be cited as the “Education Sciences Reform Act of 2002”.

20 USC 9501
note.

SEC. 102. DEFINITIONS.

20 USC 9501.

In this title:

(1) **IN GENERAL.**—The terms “elementary school”, “secondary school”, “local educational agency”, and “State educational agency” have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801) and the terms “freely associated states” and “outlying area” have the meanings given those terms in section 1121(c) of such Act (20 U.S.C. 6331(c)).

(2) **APPLIED RESEARCH.**—The term “applied research” means research—

(A) to gain knowledge or understanding necessary for determining the means by which a recognized and specific need may be met; and

(B) that is specifically directed to the advancement of practice in the field of education.

(3) **BASIC RESEARCH.**—The term “basic research” means research—

(A) to gain fundamental knowledge or understanding of phenomena and observable facts, without specific application toward processes or products; and

(B) for the advancement of knowledge in the field of education.

(4) BOARD.—The term “Board” means the National Board for Education Sciences established under section 116.

(5) BUREAU.—The term “Bureau” means the Bureau of Indian Affairs.

(6) COMPREHENSIVE CENTER.—The term “comprehensive center” means an entity established under section 203 of the Educational Technical Assistance Act of 2002.

(7) DEPARTMENT.—The term “Department” means the Department of Education.

(8) DEVELOPMENT.—The term “development” means the systematic use of knowledge or understanding gained from the findings of scientifically valid research and the shaping of that knowledge or understanding into products or processes that can be applied and evaluated and may prove useful in areas such as the preparation of materials and new methods of instruction and practices in teaching, that lead to the improvement of the academic skills of students, and that are replicable in different educational settings.

(9) DIRECTOR.—The term “Director” means the Director of the Institute of Education Sciences.

(10) DISSEMINATION.—The term “dissemination” means the communication and transfer of the results of scientifically valid research, statistics, and evaluations, in forms that are understandable, easily accessible, and usable, or adaptable for use in, the improvement of educational practice by teachers, administrators, librarians, other practitioners, researchers, parents, policymakers, and the public, through technical assistance, publications, electronic transfer, and other means.

(11) EARLY CHILDHOOD EDUCATOR.—The term “early childhood educator” means a person providing, or employed by a provider of, nonresidential child care services (including center-based, family-based, and in-home child care services) that is legally operating under State law, and that complies with applicable State and local requirements for the provision of child care services to children at any age from birth through the age at which a child may start kindergarten in that State.

(12) FIELD-INITIATED RESEARCH.—The term “field-initiated research” means basic research or applied research in which specific questions and methods of study are generated by investigators (including teachers and other practitioners) and that conforms to standards of scientifically valid research.

(13) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—The term “historically Black college or university” means a part B institution as defined in section 322 of the Higher Education Act of 1965 (20 U.S.C. 1061).

(14) INSTITUTE.—The term “Institute” means the Institute of Education Sciences established under section 111.

(15) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(16) NATIONAL RESEARCH AND DEVELOPMENT CENTER.—The term “national research and development center” means a research and development center supported under section 133(c).

(17) PROVIDER OF EARLY CHILDHOOD SERVICES.—The term “provider of early childhood services” means a public or private entity that serves young children, including—

- (A) child care providers;
- (B) Head Start agencies operating Head Start programs, and entities carrying out Early Head Start programs, under the Head Start Act (42 U.S.C. 9831 et seq.);
- (C) preschools;
- (D) kindergartens; and
- (E) libraries.

(18) SCIENTIFICALLY BASED RESEARCH STANDARDS.—(A) The term “scientifically based research standards” means research standards that—

- (i) apply rigorous, systematic, and objective methodology to obtain reliable and valid knowledge relevant to education activities and programs; and
- (ii) present findings and make claims that are appropriate to and supported by the methods that have been employed.

(B) The term includes, appropriate to the research being conducted—

- (i) employing systematic, empirical methods that draw on observation or experiment;
- (ii) involving data analyses that are adequate to support the general findings;
- (iii) relying on measurements or observational methods that provide reliable data;
- (iv) making claims of causal relationships only in random assignment experiments or other designs (to the extent such designs substantially eliminate plausible competing explanations for the obtained results);
- (v) ensuring that studies and methods are presented in sufficient detail and clarity to allow for replication or, at a minimum, to offer the opportunity to build systematically on the findings of the research;
- (vi) obtaining acceptance by a peer-reviewed journal or approval by a panel of independent experts through a comparably rigorous, objective, and scientific review; and
- (vii) using research designs and methods appropriate to the research question posed.

(19) SCIENTIFICALLY VALID EDUCATION EVALUATION.—The term “scientifically valid education evaluation” means an evaluation that—

- (A) adheres to the highest possible standards of quality with respect to research design and statistical analysis;
- (B) provides an adequate description of the programs evaluated and, to the extent possible, examines the relationship between program implementation and program impacts;
- (C) provides an analysis of the results achieved by the program with respect to its projected effects;

(D) employs experimental designs using random assignment, when feasible, and other research methodologies that allow for the strongest possible causal inferences when random assignment is not feasible; and

(E) may study program implementation through a combination of scientifically valid and reliable methods.

(20) SCIENTIFICALLY VALID RESEARCH.—The term “scientifically valid research” includes applied research, basic research, and field-initiated research in which the rationale, design, and interpretation are soundly developed in accordance with scientifically based research standards.

(21) SECRETARY.—The term “Secretary” means the Secretary of Education.

(22) STATE.—The term “State” includes (except as provided in section 158) each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the freely associated states, and the outlying areas.

(23) TECHNICAL ASSISTANCE.—The term “technical assistance” means—

(A) assistance in identifying, selecting, or designing solutions based on research, including professional development and high-quality training to implement solutions leading to—

(i) improved educational and other practices and classroom instruction based on scientifically valid research; and

(ii) improved planning, design, and administration of programs;

(B) assistance in interpreting, analyzing, and utilizing statistics and evaluations; and

(C) other assistance necessary to encourage the improvement of teaching and learning through the applications of techniques supported by scientifically valid research.

PART A—THE INSTITUTE OF EDUCATION SCIENCES

20 USC 9511.

SEC. 111. ESTABLISHMENT.

(a) ESTABLISHMENT.—There shall be in the Department the Institute of Education Sciences, to be administered by a Director (as described in section 114) and, to the extent set forth in section 116, a board of directors.

(b) MISSION.—

(1) IN GENERAL.—The mission of the Institute is to provide national leadership in expanding fundamental knowledge and understanding of education from early childhood through post-secondary study, in order to provide parents, educators, students, researchers, policymakers, and the general public with reliable information about—

(A) the condition and progress of education in the United States, including early childhood education;

(B) educational practices that support learning and improve academic achievement and access to educational opportunities for all students; and

(C) the effectiveness of Federal and other education programs.

(2) CARRYING OUT MISSION.—In carrying out the mission described in paragraph (1), the Institute shall compile statistics, develop products, and conduct research, evaluations, and wide dissemination activities in areas of demonstrated national need (including in technology areas) that are supported by Federal funds appropriated to the Institute and ensure that such activities—

(A) conform to high standards of quality, integrity, and accuracy; and

(B) are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(c) ORGANIZATION.—The Institute shall consist of the following:

(1) The Office of the Director (as described in section 114).

(2) The National Board for Education Sciences (as described in section 116).

(3) The National Education Centers, which include—

(A) the National Center for Education Research (as described in part B);

(B) the National Center for Education Statistics (as described in part C); and

(C) the National Center for Education Evaluation and Regional Assistance (as described in part D).

SEC. 112. FUNCTIONS.

20 USC 9512.

From funds appropriated under section 194, the Institute, directly or through grants, contracts, or cooperative agreements, shall—

(1) conduct and support scientifically valid research activities, including basic research and applied research, statistics activities, scientifically valid education evaluation, development, and wide dissemination;

(2) widely disseminate the findings and results of scientifically valid research in education;

(3) promote the use, development, and application of knowledge gained from scientifically valid research activities;

(4) strengthen the national capacity to conduct, develop, and widely disseminate scientifically valid research in education;

(5) promote the coordination, development, and dissemination of scientifically valid research in education within the Department and the Federal Government; and

(6) promote the use and application of research and development to improve practice in the classroom.

SEC. 113. DELEGATION.

20 USC 9513.

(a) DELEGATION OF AUTHORITY.—Notwithstanding section 412 of the Department of Education Organization Act (20 U.S.C. 3472), the Secretary shall delegate to the Director all functions for carrying out this title (other than administrative and support functions), except that—

(1) nothing in this title or in the National Assessment of Educational Progress Authorization Act (except section 302(e)(1)(J) of such Act) shall be construed to alter or diminish the role, responsibilities, or authority of the National Assessment Governing Board with respect to the National Assessment of Educational Progress (including with respect to the methodologies of the National Assessment of Educational Progress

described in section 302(e)(1)(E)) from those authorized by the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.) on the day before the date of enactment of this Act;

(2) members of the National Assessment Governing Board shall continue to be appointed by the Secretary;

(3) section 302(f)(1) of the National Assessment of Educational Progress Authorization Act shall apply to the National Assessment Governing Board in the exercise of its responsibilities under this Act;

(4) sections 115 and 116 shall not apply to the National Assessment of Educational Progress; and

(5) sections 115 and 116 shall not apply to the National Assessment Governing Board.

(b) OTHER ACTIVITIES.—The Secretary may assign the Institute responsibility for administering other activities, if those activities are consistent with—

(1) the Institute's priorities, as approved by the National Board for Education Sciences under section 116, and the Institute's mission, as described in section 111(b); or

(2) the Institute's mission, but only if those activities do not divert the Institute from its priorities.

20 USC 9514.

SEC. 114. OFFICE OF THE DIRECTOR.

(a) APPOINTMENT.—Except as provided in subsection (b)(2), the President, by and with the advice and consent of the Senate, shall appoint the Director of the Institute.

(b) TERM.—

(1) IN GENERAL.—The Director shall serve for a term of 6 years, beginning on the date of appointment of the Director.

(2) FIRST DIRECTOR.—The President, without the advice and consent of the Senate, may appoint the Assistant Secretary for the Office of Educational Research and Improvement (as such office existed on the day before the date of enactment of this Act) to serve as the first Director of the Institute.

(3) SUBSEQUENT DIRECTORS.—The Board may make recommendations to the President with respect to the appointment of a Director under subsection (a), other than a Director appointed under paragraph (2).

(c) PAY.—The Director shall receive the rate of basic pay for level II of the Executive Schedule.

(d) QUALIFICATIONS.—The Director shall be selected from individuals who are highly qualified authorities in the fields of scientifically valid research, statistics, or evaluation in education, as well as management within such areas, and have a demonstrated capacity for sustained productivity and leadership in these areas.

(e) ADMINISTRATION.—The Director shall—

(1) administer, oversee, and coordinate the activities carried out under the Institute, including the activities of the National Education Centers; and

(2) coordinate and approve budgets and operating plans for each of the National Education Centers for submission to the Secretary.

(f) DUTIES.—The duties of the Director shall include the following:

(1) To propose to the Board priorities for the Institute, in accordance with section 115(a).

(2) To ensure the methodology applied in conducting research, development, evaluation, and statistical analysis is consistent with the standards for such activities under this title.

(3) To coordinate education research and related activities carried out by the Institute with such research and activities carried out by other agencies within the Department and the Federal Government.

(4) To advise the Secretary on research, evaluation, and statistics activities relevant to the activities of the Department.

(5) To establish necessary procedures for technical and scientific peer review of the activities of the Institute, consistent with section 116(b)(3).

(6) To ensure that all participants in research conducted or supported by the Institute are afforded their privacy rights and other relevant protections as research subjects, in accordance with section 183 of this title, section 552a of title 5, United States Code, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

(7) To ensure that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(8) To undertake initiatives and programs to increase the participation of researchers and institutions that have been historically underutilized in Federal education research activities of the Institute, including historically Black colleges or universities or other institutions of higher education with large numbers of minority students.

(9) To coordinate with the Secretary to promote and provide for the coordination of research and development activities and technical assistance activities between the Institute and comprehensive centers.

(10) To solicit and consider the recommendations of education stakeholders, in order to ensure that there is broad and regular public and professional input from the educational field in the planning and carrying out of the Institute's activities.

(11) To coordinate the wide dissemination of information on scientifically valid research.

(12) To carry out and support other activities consistent with the priorities and mission of the Institute.

(g) EXPERT GUIDANCE AND ASSISTANCE.—The Director may establish technical and scientific peer-review groups and scientific program advisory committees for research and evaluations that the Director determines are necessary to carry out the requirements of this title. The Director shall appoint such personnel, except that officers and employees of the United States shall comprise no more than $\frac{1}{4}$ of the members of any such group or committee and shall not receive additional compensation for their service as members of such a group or committee. The Director shall ensure that reviewers are highly qualified and capable to appraise education research and development projects. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to a peer-review group or an advisory committee established under this subsection.

(h) REVIEW.—The Director may, when requested by other officers of the Department, and shall, when directed by the Secretary,

review the products and publications of other offices of the Department to certify that evidence-based claims about those products and publications are scientifically valid.

20 USC 9515.

SEC. 115. PRIORITIES.

(a) PROPOSAL.—The Director shall propose to the Board priorities for the Institute (taking into consideration long-term research and development on core issues conducted through the national research and development centers). The Director shall identify topics that may require long-term research and topics that are focused on understanding and solving particular education problems and issues, including those associated with the goals and requirements established in the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), such as—

(1) closing the achievement gap between high-performing and low-performing children, especially achievement gaps between minority and nonminority children and between disadvantaged children and such children's more advantaged peers; and

(2) ensuring—

(A) that all children have the ability to obtain a high-quality education (from early childhood through postsecondary education) and reach, at a minimum, proficiency on challenging State academic achievement standards and State academic assessments, particularly in mathematics, science, and reading or language arts;

(B) access to, and opportunities for, postsecondary education; and

(C) the efficacy, impact on academic achievement, and cost-effectiveness of technology use within the Nation's schools.

(b) APPROVAL.—The Board shall approve or disapprove the priorities for the Institute proposed by the Director, including any necessary revision of those priorities. The Board shall transmit any priorities so approved to the appropriate congressional committees.

(c) CONSISTENCY.—The Board shall ensure that priorities of the Institute and the National Education Centers are consistent with the mission of the Institute.

(d) PUBLIC AVAILABILITY AND COMMENT.—

(1) PRIORITIES.—Before submitting to the Board proposed priorities for the Institute, the Director shall make such priorities available to the public for comment for not less than 60 days (including by means of the Internet and through publishing such priorities in the Federal Register). The Director shall provide to the Board a copy of each such comment submitted.

(2) PLAN.—Upon approval of such priorities, the Director shall make the Institute's plan for addressing such priorities available for public comment in the same manner as under paragraph (1).

20 USC 9516.

SEC. 116. NATIONAL BOARD FOR EDUCATION SCIENCES.

(a) ESTABLISHMENT.—The Institute shall have a board of directors, which shall be known as the National Board for Education Sciences.

(b) DUTIES.—The duties of the Board shall be the following:

(1) To advise and consult with the Director on the policies of the Institute.

(2) To consider and approve priorities proposed by the Director under section 115 to guide the work of the Institute.

(3) To review and approve procedures for technical and scientific peer review of the activities of the Institute.

(4) To advise the Director on the establishment of activities to be supported by the Institute, including the general areas of research to be carried out by the National Center for Education Research.

(5) To present to the Director such recommendations as it may find appropriate for—

(A) the strengthening of education research; and

(B) the funding of the Institute.

(6) To advise the Director on the funding of applications for grants, contracts, and cooperative agreements for research, after the completion of peer review.

(7) To review and regularly evaluate the work of the Institute, to ensure that scientifically valid research, development, evaluation, and statistical analysis are consistent with the standards for such activities under this title.

(8) To advise the Director on ensuring that activities conducted or supported by the Institute are objective, secular, neutral, and nonideological and are free of partisan political influence and racial, cultural, gender, or regional bias.

(9) To solicit advice and information from those in the educational field, particularly practitioners and researchers, to recommend to the Director topics that require long-term, sustained, systematic, programmatic, and integrated research efforts, including knowledge utilization and wide dissemination of research, consistent with the priorities and mission of the Institute.

(10) To advise the Director on opportunities for the participation in, and the advancement of, women, minorities, and persons with disabilities in education research, statistics, and evaluation activities of the Institute.

(11) To recommend to the Director ways to enhance strategic partnerships and collaborative efforts among other Federal and State research agencies.

(12) To recommend to the Director individuals to serve as Commissioners of the National Education Centers.

(c) COMPOSITION.—

(1) VOTING MEMBERS.—The Board shall have 15 voting members appointed by the President, by and with the advice and consent of the Senate.

(2) ADVICE.—The President shall solicit advice regarding individuals to serve on the Board from the National Academy of Sciences, the National Science Board, and the National Science Advisor.

(3) NONVOTING EX OFFICIO MEMBERS.—The Board shall have the following nonvoting ex officio members:

(A) The Director of the Institute of Education Sciences.

(B) Each of the Commissioners of the National Education Centers.

(C) The Director of the National Institute of Child Health and Human Development.

(D) The Director of the Census.

(E) The Commissioner of Labor Statistics.

(F) The Director of the National Science Foundation.

(4) APPOINTED MEMBERSHIP.—

(A) QUALIFICATIONS.—Members appointed under paragraph (1) shall be highly qualified to appraise education research, statistics, evaluations, or development, and shall include the following individuals:

(i) Not fewer than 8 researchers in the field of statistics, evaluation, social sciences, or physical and biological sciences, which may include those researchers recommended by the National Academy of Sciences.

(ii) Individuals who are knowledgeable about the educational needs of the United States, who may include school-based professional educators, parents (including parents with experience in promoting parental involvement in education), Chief State School Officers, State postsecondary education executives, presidents of institutions of higher education, local educational agency superintendents, early childhood experts, principals, members of State or local boards of education or Bureau-funded school boards, and individuals from business and industry with experience in promoting private sector involvement in education.

(B) TERMS.—Each member appointed under paragraph (1) shall serve for a term of 4 years, except that—

(i) the terms of the initial members appointed under such paragraph shall (as determined by a random selection process at the time of appointment) be for staggered terms of—

(I) 4 years for each of 5 members;

(II) 3 years for each of 5 members; and

(III) 2 years for each of 5 members; and

(ii) no member appointed under such paragraph shall serve for more than 2 consecutive terms.

(C) UNEXPIRED TERMS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term.

(D) CONFLICT OF INTEREST.—A voting member of the Board shall be considered a special Government employee for the purposes of the Ethics in Government Act of 1978.

(5) CHAIR.—The Board shall elect a chair from among the members of the Board.

(6) COMPENSATION.—Members of the Board shall serve without pay for such service. Members of the Board who are officers or employees of the United States may not receive additional pay, allowances, or benefits by reason of their service on the Board.

(7) TRAVEL EXPENSES.—The members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(8) POWERS OF THE BOARD.—

(A) EXECUTIVE DIRECTOR.—The Board shall have an Executive Director who shall be appointed by the Board.

(B) ADDITIONAL STAFF.—The Board shall utilize such additional staff as may be appointed or assigned by the Director, in consultation with the Chair and the Executive Director.

(C) DETAIL OF PERSONNEL.—The Board may use the services and facilities of any department or agency of the Federal Government. Upon the request of the Board, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Board to assist the Board in carrying out this Act.

(D) CONTRACTS.—The Board may enter into contracts or make other arrangements as may be necessary to carry out its functions.

(E) INFORMATION.—The Board may, to the extent otherwise permitted by law, obtain directly from any executive department or agency of the Federal Government such information as the Board determines necessary to carry out its functions.

(9) MEETINGS.—The Board shall meet not less than 3 times each year. The Board shall hold additional meetings at the call of the Chair or upon the written request of not less than 6 voting members of the Board. Meetings of the Board shall be open to the public.

(10) QUORUM.—A majority of the voting members of the Board serving at the time of the meeting shall constitute a quorum.

(d) STANDING COMMITTEES.—

(1) ESTABLISHMENT.—The Board may establish standing committees—

(A) that will each serve 1 of the National Education Centers; and

(B) to advise, consult with, and make recommendations to the Director and the Commissioner of the appropriate National Education Center.

(2) MEMBERSHIP.—A majority of the members of each standing committee shall be voting members of the Board whose expertise is needed for the functioning of the committee. In addition, the membership of each standing committee may include, as appropriate—

(A) experts and scientists in research, statistics, evaluation, or development who are recognized in their discipline as highly qualified to represent such discipline and who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board;

(B) ex officio members of the Board; and

(C) policymakers and expert practitioners with knowledge of, and experience using, the results of research, evaluation, and statistics who are not members of the Board, but who may have been recommended by the Commissioner of the appropriate National Education Center and approved by the Board.

(3) DUTIES.—Each standing committee shall—

(A) review and comment, at the discretion of the Board or the standing committee, on any grant, contract, or

cooperative agreement entered into (or proposed to be entered into) by the applicable National Education Center;

(B) prepare for, and submit to, the Board an annual evaluation of the operations of the applicable National Education Center;

(C) review and comment on the relevant plan for activities to be undertaken by the applicable National Education Center for each fiscal year; and

(D) report periodically to the Board regarding the activities of the committee and the applicable National Education Center.

Deadline.

(e) **ANNUAL REPORT.**—The Board shall submit to the Director, the Secretary, and the appropriate congressional committees, not later than July 1 of each year, a report that assesses the effectiveness of the Institute in carrying out its priorities and mission, especially as such priorities and mission relate to carrying out scientifically valid research, conducting unbiased evaluations, collecting and reporting accurate education statistics, and translating research into practice.

Reports.
Deadline.

(f) **RECOMMENDATIONS.**—The Board shall submit to the Director, the Secretary, and the appropriate congressional committees a report that includes any recommendations regarding any actions that may be taken to enhance the ability of the Institute to carry out its priorities and mission. The Board shall submit an interim report not later than 3 years after the date of enactment of this Act and a final report not later than 5 years after such date of enactment.

20 USC 9517.

SEC. 117. COMMISSIONERS OF THE NATIONAL EDUCATION CENTERS.

(a) **APPOINTMENT OF COMMISSIONERS.**—

(1) **IN GENERAL.**—Except as provided in subsection (b), each of the National Education Centers shall be headed by a Commissioner appointed by the Director. In appointing Commissioners, the Director shall seek to promote continuity in leadership of the National Education Centers and shall consider individuals recommended by the Board. The Director may appoint a Commissioner to carry out the functions of a National Education Center without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) **PAY AND QUALIFICATIONS.**—Except as provided in subsection (b), each Commissioner shall—

(A) receive the rate of basic pay for level IV of the Executive Schedule; and

(B) be highly qualified in the field of education research or evaluation.

(3) **SERVICE.**—Except as provided in subsection (b), each Commissioner shall report to the Director. A Commissioner shall serve for a period of not more than 6 years, except that a Commissioner—

(A) may be reappointed by the Director; and

(B) may serve after the expiration of that Commissioner's term, until a successor has been appointed, for a period not to exceed 1 additional year.

(b) **APPOINTMENT OF COMMISSIONER FOR EDUCATION STATISTICS.**—The National Center for Education Statistics shall be headed by a Commissioner for Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall—

(1) have substantial knowledge of programs assisted by the National Center for Education Statistics;

(2) receive the rate of basic pay for level IV of the Executive Schedule; and

(3) serve for a term of 6 years, with the term to expire every sixth June 21, beginning in 2003.

(c) **COORDINATION.**—Each Commissioner of a National Education Center shall coordinate with each of the other Commissioners of the National Education Centers in carrying out such Commissioner's duties under this title.

(d) **SUPERVISION AND APPROVAL.**—Each Commissioner, except the Commissioner for Education Statistics, shall carry out such Commissioner's duties under this title under the supervision and subject to the approval of the Director.

SEC. 118. AGREEMENTS.

20 USC 9518.

The Institute may carry out research projects of common interest with entities such as the National Science Foundation and the National Institute of Child Health and Human Development through agreements with such entities that are in accordance with section 430 of the General Education Provisions Act (20 U.S.C. 1231).

SEC. 119. BIENNIAL REPORT.

20 USC 9519.

The Director shall, on a biennial basis, transmit to the President, the Board, and the appropriate congressional committees, and make widely available to the public (including by means of the Internet), a report containing the following:

(1) A description of the activities carried out by and through the National Education Centers during the prior fiscal years.

(2) A summary of each grant, contract, and cooperative agreement in excess of \$100,000 funded through the National Education Centers during the prior fiscal years, including, at a minimum, the amount, duration, recipient, purpose of the award, and the relationship, if any, to the priorities and mission of the Institute, which shall be available in a user-friendly electronic database.

(3) A description of how the activities of the National Education Centers are consistent with the principles of scientifically valid research and the priorities and mission of the Institute.

(4) Such additional comments, recommendations, and materials as the Director considers appropriate.

SEC. 120. COMPETITIVE AWARDS.

20 USC 9520.

Activities carried out under this Act through grants, contracts, or cooperative agreements, at a minimum, shall be awarded on a competitive basis and, when practicable, through a process of peer review.

**PART B—NATIONAL CENTER FOR EDUCATION
RESEARCH**

20 USC 9531.

SEC. 131. ESTABLISHMENT.

(a) **ESTABLISHMENT.**—There is established in the Institute a National Center for Education Research (in this part referred to as the “Research Center”).

(b) **MISSION.**—The mission of the Research Center is—

(1) to sponsor sustained research that will lead to the accumulation of knowledge and understanding of education, to—

(A) ensure that all children have access to a high-quality education;

(B) improve student academic achievement, including through the use of educational technology;

(C) close the achievement gap between high-performing and low-performing students through the improvement of teaching and learning of reading, writing, mathematics, science, and other academic subjects; and

(D) improve access to, and opportunity for, postsecondary education;

(2) to support the synthesis and, as appropriate, the integration of education research;

(3) to promote quality and integrity through the use of accepted practices of scientific inquiry to obtain knowledge and understanding of the validity of education theories, practices, or conditions; and

(4) to promote scientifically valid research findings that can provide the basis for improving academic instruction and lifelong learning.

20 USC 9532.

SEC. 132. COMMISSIONER FOR EDUCATION RESEARCH.

The Research Center shall be headed by a Commissioner for Education Research (in this part referred to as the “Research Commissioner”) who shall have substantial knowledge of the activities of the Research Center, including a high level of expertise in the fields of research and research management.

20 USC 9533.

SEC. 133. DUTIES.

(a) **GENERAL DUTIES.**—The Research Center shall—

(1) maintain published peer-review standards and standards for the conduct and evaluation of all research and development carried out under the auspices of the Research Center in accordance with this part;

(2) propose to the Director a research plan that—

(A) is consistent with the priorities and mission of the Institute and the mission of the Research Center and includes the activities described in paragraph (3); and

(B) shall be carried out pursuant to paragraph (4) and, as appropriate, be updated and modified;

(3) carry out specific, long-term research activities that are consistent with the priorities and mission of the Institute, and are approved by the Director;

(4) implement the plan proposed under paragraph (2) to carry out scientifically valid research that—

(A) uses objective and measurable indicators, including timelines, that are used to assess the progress and results of such research;

(B) meets the procedures for peer review established by the Director under section 114(f)(5) and the standards of research described in section 134; and

(C) includes both basic research and applied research, which shall include research conducted through field-initiated research and ongoing research initiatives;

(5) promote the use of scientifically valid research within the Federal Government, including active participation in inter-agency research projects described in section 118;

(6) ensure that research conducted under the direction of the Research Center is relevant to education practice and policy;

(7) synthesize and disseminate, through the National Center for Education Evaluation and Regional Assistance, the findings and results of education research conducted or supported by the Research Center;

(8) assist the Director in the preparation of a biennial report, as described in section 119;

(9) carry out research on successful State and local education reform activities, including those that result in increased academic achievement and in closing the achievement gap, as approved by the Director;

(10) carry out research initiatives regarding the impact of technology, including—

(A) research into how technology affects student achievement;

(B) long-term research into cognition and learning issues as they relate to the uses of technology;

(C) rigorous, peer-reviewed, large-scale, long-term, and broadly applicable empirical research that is designed to determine which approaches to the use of technology are most effective and cost-efficient in practice and under what conditions; and

(D) field-based research on how teachers implement technology and Internet-based resources in the classroom, including an understanding how these resources are being accessed, put to use, and the effectiveness of such resources; and

(11) carry out research that is rigorous, peer-reviewed, and large scale to determine which methods of mathematics and science teaching are most effective, cost efficient, and able to be applied, duplicated, and scaled up for use in elementary and secondary classrooms, including in low-performing schools, to improve the teaching of, and student achievement in, mathematics and science as required under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) ELIGIBILITY.—Research carried out under subsection (a) through contracts, grants, or cooperative agreements shall be carried out only by recipients with the ability and capacity to conduct scientifically valid research.

(c) NATIONAL RESEARCH AND DEVELOPMENT CENTERS.—

(1) SUPPORT.—In carrying out activities under subsection (a)(3), the Research Commissioner shall support not less than 8 national research and development centers. The Research

Commissioner shall assign each of the 8 national research and development centers not less than 1 of the topics described in paragraph (2). In addition, the Research Commissioner may assign each of the 8 national research and development centers additional topics of research consistent with the mission and priorities of the Institute and the mission of the Research Center.

(2) TOPICS OF RESEARCH.—The Research Commissioner shall support the following topics of research, through national research and development centers or through other means:

- (A) Adult literacy.
- (B) Assessment, standards, and accountability research.
- (C) Early childhood development and education.
- (D) English language learners research.
- (E) Improving low achieving schools.
- (F) Innovation in education reform.
- (G) State and local policy.
- (H) Postsecondary education and training.
- (I) Rural education.
- (J) Teacher quality.
- (K) Reading and literacy.

(3) DUTIES OF CENTERS.—The national research and development centers shall address areas of national need, including in educational technology areas. The Research Commissioner may support additional national research and development centers to address topics of research not described in paragraph (2) if such topics are consistent with the priorities and mission of the Institute and the mission of the Research Center. The research carried out by the centers shall incorporate the potential or existing role of educational technology, where appropriate, in achieving the goals of each center.

(4) SCOPE.—Support for a national research and development center shall be for a period of not more than 5 years, shall be of sufficient size and scope to be effective, and notwithstanding section 134(b), may be renewed without competition for not more than 5 additional years if the Director, in consultation with the Research Commissioner and the Board, determines that the research of the national research and development center—

- (A) continues to address priorities of the Institute; and
- (B) merits renewal (applying the procedures and standards established in section 134).

(5) LIMIT.—No national research and development center may be supported under this subsection for a period of more than 10 years without submitting to a competitive process for the award of the support.

(6) CONTINUATION OF AWARDS.—The Director shall continue awards made to the national research and development centers that are in effect on the day before the date of enactment of this Act in accordance with the terms of those awards and may renew them in accordance with paragraphs (4) and (5).

(7) DISAGGREGATION.—To the extent feasible, research conducted under this subsection shall be disaggregated by age, race, gender, and socioeconomic background.

SEC. 134. STANDARDS FOR CONDUCT AND EVALUATION OF RESEARCH. 20 USC 9534.

(a) **IN GENERAL.**—In carrying out this part, the Research Commissioner shall—

(1) ensure that all research conducted under the direction of the Research Center follows scientifically based research standards;

(2) develop such other standards as may be necessary to govern the conduct and evaluation of all research, development, and wide dissemination activities carried out by the Research Center to assure that such activities meet the highest standards of professional excellence;

(3) review the procedures utilized by the National Institutes of Health, the National Science Foundation, and other Federal departments or agencies engaged in research and development, and actively solicit recommendations from research organizations and members of the general public in the development of the standards described in paragraph (2); and

(4) ensure that all research complies with Federal guidelines relating to research misconduct.

(b) **PEER REVIEW.**—

(1) **IN GENERAL.**—The Director shall establish a peer review system, involving highly qualified individuals with an in-depth knowledge of the subject to be investigated, for reviewing and evaluating all applications for grants and cooperative agreements that exceed \$100,000, and for evaluating and assessing the products of research by all recipients of grants and cooperative agreements under this Act.

(2) **EVALUATION.**—The Research Commissioner shall—

(A) develop the procedures to be used in evaluating applications for research grants, cooperative agreements, and contracts, and specify the criteria and factors (including, as applicable, the use of longitudinal data linking test scores, enrollment, and graduation rates over time) which shall be considered in making such evaluations; and

(B) evaluate the performance of each recipient of an award of a research grant, contract, or cooperative agreement at the conclusion of the award.

(c) **LONG-TERM RESEARCH.**—The Research Commissioner shall ensure that not less than 50 percent of the funds made available for research for each fiscal year shall be used to fund long-term research programs of not less than 5 years, which support the priorities and mission of the Institute and the mission of the Research Center.

PART C—NATIONAL CENTER FOR EDUCATION STATISTICS

SEC. 151. ESTABLISHMENT.

20 USC 9541.

(a) **ESTABLISHMENT.**—There is established in the Institute a National Center for Education Statistics (in this part referred to as the “Statistics Center”).

(b) **MISSION.**—The mission of the Statistics Center shall be—

(1) to collect and analyze education information and statistics in a manner that meets the highest methodological standards;

(2) to report education information and statistics in a timely manner; and

(3) to collect, analyze, and report education information and statistics in a manner that—

(A) is objective, secular, neutral, and nonideological and is free of partisan political influence and racial, cultural, gender, or regional bias; and

(B) is relevant and useful to practitioners, researchers, policymakers, and the public.

20 USC 9542.

SEC. 152. COMMISSIONER FOR EDUCATION STATISTICS.

The Statistics Center shall be headed by a Commissioner for Education Statistics (in this part referred to as the “Statistics Commissioner”) who shall be highly qualified and have substantial knowledge of statistical methodologies and activities undertaken by the Statistics Center.

20 USC 9543.

SEC. 153. DUTIES.

(a) **GENERAL DUTIES.**—The Statistics Center shall collect, report, analyze, and disseminate statistical data related to education in the United States and in other nations, including—

(1) collecting, acquiring, compiling (where appropriate, on a State-by-State basis), and disseminating full and complete statistics (disaggregated by the population characteristics described in paragraph (3)) on the condition and progress of education, at the preschool, elementary, secondary, postsecondary, and adult levels in the United States, including data on—

(A) State and local education reform activities;

(B) State and local early childhood school readiness activities;

(C) student achievement in, at a minimum, the core academic areas of reading, mathematics, and science at all levels of education;

(D) secondary school completions, dropouts, and adult literacy and reading skills;

(E) access to, and opportunity for, postsecondary education, including data on financial aid to postsecondary students;

(F) teaching, including—

(i) data on in-service professional development, including a comparison of courses taken in the core academic areas of reading, mathematics, and science with courses in noncore academic areas, including technology courses; and

(ii) the percentage of teachers who are highly qualified (as such term is defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)) in each State and, where feasible, in each local educational agency and school;

(G) instruction, the conditions of the education workplace, and the supply of, and demand for, teachers;

(H) the incidence, frequency, seriousness, and nature of violence affecting students, school personnel, and other individuals participating in school activities, as well as other indices of school safety, including information regarding—

- (i) the relationship between victims and perpetrators;
 - (ii) demographic characteristics of the victims and perpetrators; and
 - (iii) the type of weapons used in incidents, as classified in the Uniform Crime Reports of the Federal Bureau of Investigation;
 - (I) the financing and management of education, including data on revenues and expenditures;
 - (J) the social and economic status of children, including their academic achievement;
 - (K) the existence and use of educational technology and access to the Internet by students and teachers in elementary schools and secondary schools;
 - (L) access to, and opportunity for, early childhood education;
 - (M) the availability of, and access to, before-school and after-school programs (including such programs during school recesses);
 - (N) student participation in and completion of secondary and postsecondary vocational and technical education programs by specific program area; and
 - (O) the existence and use of school libraries;
- (2) conducting and publishing reports on the meaning and significance of the statistics described in paragraph (1);
- (3) collecting, analyzing, cross-tabulating, and reporting, to the extent feasible, information by gender, race, ethnicity, socioeconomic status, limited English proficiency, mobility, disability, urban, rural, suburban districts, and other population characteristics, when such disaggregated information will facilitate educational and policy decisionmaking;
- (4) assisting public and private educational agencies, organizations, and institutions in improving and automating statistical and data collection activities, which may include assisting State educational agencies and local educational agencies with the disaggregation of data and with the development of longitudinal student data systems;
- (5) determining voluntary standards and guidelines to assist State educational agencies in developing statewide longitudinal data systems that link individual student data consistent with the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 183, to improve student academic achievement and close achievement gaps;
- (6) acquiring and disseminating data on educational activities and student achievement (such as the Third International Math and Science Study) in the United States compared with foreign nations;
- (7) conducting longitudinal and special data collections necessary to report on the condition and progress of education;
- (8) assisting the Director in the preparation of a biennial report, as described in section 119; and
- (9) determining, in consultation with the National Research Council of the National Academies, methodology by which States may accurately measure graduation rates (defined as the percentage of students who graduate from secondary school

with a regular diploma in the standard number of years), school completion rates, and dropout rates.

(b) TRAINING PROGRAM.—The Statistics Commissioner may establish a program to train employees of public and private educational agencies, organizations, and institutions in the use of standard statistical procedures and concepts, and may establish a fellowship program to appoint such employees as temporary fellows at the Statistics Center, in order to assist the Statistics Center in carrying out its duties.

20 USC 9544.

SEC. 154. PERFORMANCE OF DUTIES.

(a) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—In carrying out the duties under this part, the Statistics Commissioner, may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

(b) GATHERING INFORMATION.—

(1) SAMPLING.—The Statistics Commissioner may use the statistical method known as sampling (including random sampling) to carry out this part.

(2) SOURCE OF INFORMATION.—The Statistics Commissioner may, as appropriate, use information collected—

(A) from States, local educational agencies, public and private schools, preschools, institutions of higher education, vocational and adult education programs, libraries, administrators, teachers, students, the general public, and other individuals, organizations, agencies, and institutions (including information collected by States and local educational agencies for their own use); and

(B) by other offices within the Institute and by other Federal departments, agencies, and instrumentalities.

(3) COLLECTION.—The Statistics Commissioner may—

(A) enter into interagency agreements for the collection of statistics;

(B) arrange with any agency, organization, or institution for the collection of statistics; and

(C) assign employees of the Statistics Center to any such agency, organization, or institution to assist in such collection.

(4) TECHNICAL ASSISTANCE AND COORDINATION.—In order to maximize the effectiveness of Department efforts to serve the educational needs of children and youth, the Statistics Commissioner shall—

(A) provide technical assistance to the Department offices that gather data for statistical purposes; and

(B) coordinate with other Department offices in the collection of data.

(c) DURATION.—Notwithstanding any other provision of law, the grants, contracts, and cooperative agreements under this section may be awarded, on a competitive basis, for a period of not more than 5 years, and may be renewed at the discretion of the Statistics Commissioner for an additional period of not more than 5 years.

20 USC 9545.

SEC. 155. REPORTS.

(a) PROCEDURES FOR ISSUANCE OF REPORTS.—The Statistics Commissioner, shall establish procedures, in accordance with section 186, to ensure that the reports issued under this section are relevant, of high quality, useful to customers, subject to rigorous

peer review, produced in a timely fashion, and free from any partisan political influence.

(b) **REPORT ON CONDITION AND PROGRESS OF EDUCATION.**—Not later than June 1, 2003, and each June 1 thereafter, the Statistics Commissioner, shall submit to the President and the appropriate congressional committees a statistical report on the condition and progress of education in the United States.

Deadline.

(c) **STATISTICAL REPORTS.**—The Statistics Commissioner shall issue regular and, as necessary, special statistical reports on education topics, particularly in the core academic areas of reading, mathematics, and science, consistent with the priorities and the mission of the Statistics Center.

SEC. 156. DISSEMINATION.

20 USC 9546.

(a) **GENERAL REQUESTS.**—

(1) **IN GENERAL.**—The Statistics Center may furnish transcripts or copies of tables and other statistical records and make special statistical compilations and surveys for State and local officials, public and private organizations, and individuals.

(2) **COMPILATIONS.**—The Statistics Center shall provide State educational agencies, local educational agencies, and institutions of higher education with opportunities to suggest the establishment of particular compilations of statistics, surveys, and analyses that will assist those educational agencies.

(b) **CONGRESSIONAL REQUESTS.**—The Statistics Center shall furnish such special statistical compilations and surveys as the relevant congressional committees may request.

(c) **JOINT STATISTICAL PROJECTS.**—The Statistics Center may engage in joint statistical projects related to the mission of the Center, or other statistical purposes authorized by law, with non-profit organizations or agencies, and the cost of such projects shall be shared equitably as determined by the Secretary.

(d) **FEES.**—

(1) **IN GENERAL.**—Statistical compilations and surveys under this section, other than those carried out pursuant to subsections (b) and (c), may be made subject to the payment of the actual or estimated cost of such work.

(2) **FUNDS RECEIVED.**—All funds received in payment for work or services described in this subsection may be used to pay directly the costs of such work or services, to repay appropriations that initially bore all or part of such costs, or to refund excess sums when necessary.

(e) **ACCESS.**—

(1) **OTHER AGENCIES.**—The Statistics Center shall, consistent with section 183, cooperate with other Federal agencies having a need for educational data in providing access to educational data received by the Statistics Center.

(2) **INTERESTED PARTIES.**—The Statistics Center shall, in accordance with such terms and conditions as the Center may prescribe, provide all interested parties, including public and private agencies, parents, and other individuals, direct access, in the most appropriate form (including, where possible, electronically), to data collected by the Statistics Center for the purposes of research and acquiring statistical information.

20 USC 9547.

SEC. 157. COOPERATIVE EDUCATION STATISTICS SYSTEMS.

The Statistics Center may establish 1 or more national cooperative education statistics systems for the purpose of producing and maintaining, with the cooperation of the States, comparable and uniform information and data on early childhood education, elementary and secondary education, postsecondary education, adult education, and libraries, that are useful for policymaking at the Federal, State, and local levels.

20 USC 9548.

SEC. 158. STATE DEFINED.

In this part, the term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

**PART D—NATIONAL CENTER FOR EDUCATION
EVALUATION AND REGIONAL ASSISTANCE**

20 USC 9561.

SEC. 171. ESTABLISHMENT.

(a) **ESTABLISHMENT.**—There is established in the Institute a National Center for Education Evaluation and Regional Assistance.

(b) **MISSION.**—The mission of the National Center for Education Evaluation and Regional Assistance shall be—

(1) to provide technical assistance;

(2) to conduct evaluations of Federal education programs administered by the Secretary (and as time and resources allow, other education programs) to determine the impact of such programs (especially on student academic achievement in the core academic areas of reading, mathematics, and science);

(3) to support synthesis and wide dissemination of results of evaluation, research, and products developed; and

(4) to encourage the use of scientifically valid education research and evaluation throughout the United States.

(c) **GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.**—In carrying out the duties under this part, the Director may award grants, enter into contracts and cooperative agreements, and provide technical assistance.

20 USC 9562.

SEC. 172. COMMISSIONER FOR EDUCATION EVALUATION AND REGIONAL ASSISTANCE.

(a) **IN GENERAL.**—The National Center for Education Evaluation and Regional Assistance shall be headed by a Commissioner for Education Evaluation and Regional Assistance (in this part referred to as the “Evaluation and Regional Assistance Commissioner”) who is highly qualified and has demonstrated a capacity to carry out the mission of the Center and shall—

(1) conduct evaluations pursuant to section 173;

(2) widely disseminate information on scientifically valid research, statistics, and evaluation on education, particularly to State educational agencies and local educational agencies, to institutions of higher education, to the public, the media, voluntary organizations, professional associations, and other constituencies, especially with respect to information relating to, at a minimum—

(A) the core academic areas of reading, mathematics, and science;

(B) closing the achievement gap between high-performing students and low-performing students;

(C) educational practices that improve academic achievement and promote learning;

(D) education technology, including software; and

(E) those topics covered by the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before the date of enactment of this Act);

(3) make such information accessible in a user-friendly, timely, and efficient manner (including through use of a searchable Internet-based online database that shall include all topics covered in paragraph (2)(E)) to schools, institutions of higher education, educators (including early childhood educators), parents, administrators, policymakers, researchers, public and private entities (including providers of early childhood services), entities responsible for carrying out technical assistance through the Department, and the general public;

(4) support the regional educational laboratories in conducting applied research, the development and dissemination of educational research, products and processes, the provision of technical assistance, and other activities to serve the educational needs of such laboratories' regions;

(5) manage the National Library of Education described in subsection (d), and other sources of digital information on education research;

(6) assist the Director in the preparation of a biennial report, described in section 119; and

(7) award a contract for a prekindergarten through grade 12 mathematics and science teacher clearinghouse.

(b) ADDITIONAL DUTIES.—In carrying out subsection (a), the Evaluation and Regional Assistance Commissioner shall—

(1) ensure that information disseminated under this section is provided in a cost-effective, nonduplicative manner that includes the most current research findings, which may include through the continuation of individual clearinghouses authorized under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of the Goals 2000: Educate America Act; 20 U.S.C. 6001 et seq.) (as such Act existed on the day before the date of enactment of this Act);

(2) describe prominently the type of scientific evidence that is used to support the findings that are disseminated;

(3) explain clearly the scientifically appropriate and inappropriate uses of—

(A) the findings that are disseminated; and

(B) the types of evidence used to support those findings;

and

(4) respond, as appropriate, to inquiries from schools, educators, parents, administrators, policymakers, researchers, public and private entities, and entities responsible for carrying out technical assistance.

(c) CONTINUATION.—The Director shall continue awards for the support of the Educational Resources Information Center Clearinghouses and contracts for regional educational laboratories (established under subsections (f) and (h) of section 941 of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f) and (h)) (as such awards were in effect

on the day before the date of enactment of this Act)) for the duration of those awards, in accordance with the terms and agreements of such awards.

(d) NATIONAL LIBRARY OF EDUCATION.—

(1) ESTABLISHMENT.—There is established within the National Center for Education Evaluation and Regional Assistance a National Library of Education that shall—

(A) be headed by an individual who is highly qualified in library science;

(B) collect and archive information;

(C) provide a central location within the Federal Government for information about education;

(D) provide comprehensive reference services on matters related to education to employees of the Department of Education and its contractors and grantees, other Federal employees, and members of the public; and

(E) promote greater cooperation and resource sharing among providers and repositories of education information in the United States.

(2) INFORMATION.—The information collected and archived by the National Library of Education shall include—

(A) products and publications developed through, or supported by, the Institute; and

(B) other relevant and useful education-related research, statistics, and evaluation materials and other information, projects, and publications that are—

(i) consistent with—

(I) scientifically valid research; or

(II) the priorities and mission of the Institute;

and

(ii) developed by the Department, other Federal agencies, or entities (including entities supported under the Educational Technical Assistance Act of 2002 and the Educational Resources Information Center Clearinghouses (established under section 941(f) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6041(f)) (as such provision was in effect on the day before the date of enactment of this Act))).

20 USC 9563.

SEC. 173. EVALUATIONS.

(a) IN GENERAL.—

(1) REQUIREMENTS.—In carrying out its missions, the National Center for Education Evaluation and Regional Assistance may—

(A) conduct or support evaluations consistent with the Center's mission as described in section 171(b);

(B) evaluate programs under title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(C) to the extent practicable, examine evaluations conducted or supported by others in order to determine the quality and relevance of the evidence of effectiveness generated by those evaluations, with the approval of the Director;

(D) coordinate the activities of the National Center for Education Evaluation and Regional Assistance with other evaluation activities in the Department;

(E) review and, where feasible, supplement Federal education program evaluations, particularly those by the Department, to determine or enhance the quality and relevance of the evidence generated by those evaluations;

(F) establish evaluation methodology; and

(G) assist the Director in the preparation of the biennial report, as described in section 119.

(2) **ADDITIONAL REQUIREMENTS.**—Each evaluation conducted by the National Center for Education Evaluation and Regional Assistance pursuant to paragraph (1) shall—

(A) adhere to the highest possible standards of quality for conducting scientifically valid education evaluation; and

(B) be subject to rigorous peer-review.

(b) **ADMINISTRATION OF EVALUATIONS UNDER TITLE I OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.**—The Evaluation and Regional Assistance Commissioner, consistent with the mission of the National Center for Education Evaluation and Regional Assistance under section 171(b), shall administer all operations and contracts associated with evaluations authorized by part E of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6491 et seq.) and administered by the Department as of the date of enactment of this Act.

SEC. 174. REGIONAL EDUCATIONAL LABORATORIES FOR RESEARCH, DEVELOPMENT, DISSEMINATION, AND TECHNICAL ASSISTANCE. 20 USC 9564.

(a) **REGIONAL EDUCATIONAL LABORATORIES.**—The Director shall enter into contracts with entities to establish a networked system of 10 regional educational laboratories that serve the needs of each region of the United States in accordance with the provisions of this section. The amount of assistance allocated to each laboratory by the Evaluation and Regional Assistance Commissioner shall reflect the number of local educational agencies and the number of school-age children within the region served by such laboratory, as well as the cost of providing services within the geographic area encompassed by the region. Contracts.

(b) **REGIONS.**—The regions served by the regional educational laboratories shall be the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such provision existed on the day before the date of enactment of this Act).

(c) **ELIGIBLE APPLICANTS.**—The Director may enter into contracts under this section with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in this section, including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before the date of enactment of this Act) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107-110)).

(d) APPLICATIONS.—

(1) SUBMISSION.—Each applicant desiring a contract under this section shall submit an application at such time, in such manner, and containing such information as the Director may reasonably require.

(2) PLAN.—Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 207 and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the regional educational laboratory, on an ongoing basis.

(e) ENTERING INTO CONTRACTS.—

(1) IN GENERAL.—In entering into contracts under this section, the Director shall—

(A) enter into contracts for a 5-year period; and

(B) ensure that regional educational laboratories established under this section have strong and effective governance, organization, management, and administration, and employ qualified staff.

(2) COORDINATION.—In order to ensure coordination and prevent unnecessary duplication of activities among the regions, the Evaluation and Regional Assistance Commissioner shall—

(A) share information about the activities of each regional educational laboratory awarded a contract under this section with each other regional educational laboratory awarded a contract under this section and with the Department of Education, including the Director and the Board;

(B) oversee a strategic plan for ensuring that each regional educational laboratory awarded a contract under this section increases collaboration and resource-sharing in such activities;

(C) ensure, where appropriate, that the activities of each regional educational laboratory awarded a contract under this section also serve national interests; and

(D) ensure that each regional educational laboratory awarded a contract under this section coordinates such laboratory's activities with the activities of each other regional technical assistance provider.

(3) OUTREACH.—In conducting competitions for contracts under this section, the Director shall—

(A) actively encourage eligible entities to compete for such awards by making information and technical assistance relating to the competition widely available; and

(B) seek input from the chief executive officers of States, chief State school officers, educators, and parents regarding the need for applied research, wide dissemination, training, technical assistance, and development activities authorized by this title in the regions to be served by the regional educational laboratories and how those educational needs could be addressed most effectively.

(4) OBJECTIVES AND INDICATORS.—Before entering into a contract under this section, the Director shall design specific objectives and measurable indicators to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional educational laboratories, in order to ensure that the educational needs of the region are being

met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(5) STANDARDS.—The Evaluation and Regional Assistance Commissioner shall establish a system for technical and peer review to ensure that applied research activities, research-based reports, and products of the regional educational laboratories are consistent with the research standards described in section 134 and the evaluation standards adhered to pursuant to section 173(a)(2)(A).

(f) CENTRAL MISSION AND PRIMARY FUNCTION.—Each regional educational laboratory awarded a contract under this section shall support applied research, development, wide dissemination, and technical assistance activities by—

(1) providing training (which may include supporting internships and fellowships and providing stipends) and technical assistance to State educational agencies, local educational agencies, school boards, schools funded by the Bureau as appropriate, and State boards of education regarding, at a minimum—

(A) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(B) scientifically valid research in education on teaching methods, assessment tools, and high quality, challenging curriculum frameworks for use by teachers and administrators in, at a minimum—

(i) the core academic subjects of mathematics, science, and reading;

(ii) English language acquisition;

(iii) education technology; and

(iv) the replication and adaption of exemplary and promising practices and new educational methods, including professional development strategies and the use of educational technology to improve teaching and learning; and

(C) the facilitation of communication between educational experts, school officials, and teachers, parents, and librarians, to enable such individuals to assist schools to develop a plan to meet the State education goals;

(2) developing and widely disseminating, including through Internet-based means, scientifically valid research, information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement, to—

(A) schools, districts, institutions of higher education, educators (including early childhood educators and librarians), parents, policymakers, and other constituencies, as appropriate, within the region in which the regional educational laboratory is located; and

(B) the National Center for Education Evaluation and Regional Assistance;

(3) developing a plan for identifying and serving the needs of the region by conducting a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools, teachers, administrators, parents, local educational

agencies, librarians, and State educational agencies within the region;

(4) in the event such quality applied research does not exist as determined by the regional educational laboratory or the Department, carrying out applied research projects that are designed to serve the particular educational needs (in pre-kindergarten through grade 16) of the region in which the regional educational laboratory is located, that reflect findings from scientifically valid research, and that result in user-friendly, replicable school-based classroom applications geared toward promoting increased student achievement, including using applied research to assist in solving site-specific problems and assisting in development activities (including high-quality and on-going professional development and effective parental involvement strategies);

(5) supporting and serving the educational development activities and needs of the region by providing educational applied research in usable forms to promote school-improvement, academic achievement, and the closing of achievement gaps and contributing to the current base of education knowledge by addressing enduring problems in elementary and secondary education and access to postsecondary education;

(6) collaborating and coordinating services with other technical assistance providers funded by the Department of Education;

(7) assisting in gathering information on school finance systems to promote improved access to educational opportunities and to better serve all public school students;

(8) assisting in gathering information on alternative administrative structures that are more conducive to planning, implementing, and sustaining school reform and improved academic achievement;

(9) bringing teams of experts together to develop and implement school improvement plans and strategies, especially in low-performing or high poverty schools; and

(10) developing innovative approaches to the application of technology in education that are unlikely to originate from within the private sector, but which could result in the development of new forms of education software, education content, and technology-enabled pedagogy.

(g) ACTIVITIES.—Each regional educational laboratory awarded a contract under this section shall carry out the following activities:

(1) Collaborate with the National Education Centers in order to—

(A) maximize the use of research conducted through the National Education Centers in the work of such laboratory;

(B) keep the National Education Centers apprised of the work of the regional educational laboratory in the field; and

(C) inform the National Education Centers about additional research needs identified in the field.

(2) Consult with the State educational agencies and local educational agencies in the region in developing the plan for serving the region.

(3) Develop strategies to utilize schools as critical components in reforming education and revitalizing rural communities in the United States.

(4) Report and disseminate information on overcoming the obstacles faced by educators and schools in high poverty, urban, and rural areas.

(5) Identify successful educational programs that have either been developed by such laboratory in carrying out such laboratory's functions or that have been developed or used by others within the region served by the laboratory and make such information available to the Secretary and the network of regional educational laboratories so that such programs may be considered for inclusion in the national education dissemination system.

(h) GOVERNING BOARD AND ALLOCATION.—

(1) IN GENERAL.—In carrying out its responsibilities, each regional educational laboratory awarded a contract under this section, in keeping with the terms and conditions of such laboratory's contract, shall—

(A) establish a governing board that—

(i) reflects a balanced representation of—

(I) the States in the region;

(II) the interests and concerns of regional constituencies; and

(III) technical expertise;

(ii) includes the chief State school officer or such officer's designee of each State represented in such board's region;

(iii) includes—

(I) representatives nominated by chief executive officers of States and State organizations of superintendents, principals, institutions of higher education, teachers, parents, businesses, and researchers; or

(II) other representatives of the organizations described in subclause (I), as required by State law in effect on the day before the date of enactment of this Act;

(iv) is the sole entity that—

(I) guides and directs the laboratory in carrying out the provisions of this subsection and satisfying the terms and conditions of the contract award;

(II) determines the regional agenda of the laboratory;

(III) engages in an ongoing dialogue with the Evaluation and Regional Assistance Commissioner concerning the laboratory's goals, activities, and priorities; and

(IV) determines at the start of the contract period, subject to the requirements of this section and in consultation with the Evaluation and Regional Assistance Commissioner, the mission of the regional educational laboratory for the duration of the contract period;

(v) ensures that the regional educational laboratory attains and maintains a high level of quality in the laboratory's work and products;

(vi) establishes standards to ensure that the regional educational laboratory has strong and effective governance, organization, management, and administration, and employs qualified staff;

(vii) directs the regional educational laboratory to carry out the laboratory's duties in a manner that will make progress toward achieving the State education goals and reforming schools and educational systems; and

(viii) conducts a continuing survey of the educational needs, strengths, and weaknesses within the region, including a process of open hearings to solicit the views of schools and teachers; and

(B) allocate the regional educational laboratory's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies, or Bureau-funded schools, as appropriate, which may require special assistance from the laboratory.

(2) SPECIAL RULE.—If a regional educational laboratory needs flexibility in order to meet the requirements of paragraph (1)(A)(i), the regional educational laboratory may select not more than 10 percent of the governing board from individuals outside those representatives nominated in accordance with paragraph (1)(A)(iii).

(i) DUTIES OF GOVERNING BOARD.—In order to improve the efficiency and effectiveness of the regional educational laboratories, the governing boards of the regional educational laboratories shall establish and maintain a network to—

(1) share information about the activities each laboratory is carrying out;

(2) plan joint activities that would meet the needs of multiple regions;

(3) create a strategic plan for the development of activities undertaken by the laboratories to reduce redundancy and increase collaboration and resource-sharing in such activities; and

(4) otherwise devise means by which the work of the individual laboratories could serve national, as well as regional, needs.

(j) EVALUATIONS.—The Evaluation and Regional Assistance Commissioner shall provide for independent evaluations of each of the regional educational laboratories in carrying out the duties described in this section in the third year that such laboratory receives assistance under this section in accordance with the standards developed by the Evaluation and Regional Assistance Commissioner and approved by the Board and shall transmit the results of such evaluations to the relevant committees of Congress, the Board, and the appropriate regional educational laboratory governing board.

(k) **RULE OF CONSTRUCTION.**—No regional educational laboratory receiving assistance under this section shall, by reason of the receipt of that assistance, be ineligible to receive any other assistance from the Department of Education as authorized by law or be prohibited from engaging in activities involving international projects or endeavors.

(l) **ADVANCE PAYMENT SYSTEM.**—Each regional educational laboratory awarded a contract under this section shall participate in the advance payment system at the Department of Education.

(m) **ADDITIONAL PROJECTS.**—In addition to activities authorized under this section, the Director is authorized to enter into contracts or agreements with a regional educational laboratory for the purpose of carrying out additional projects to enable such regional educational laboratory to assist in efforts to achieve State education goals and for other purposes.

(n) **ANNUAL REPORT AND PLAN.**—Not later than July 1 of each year, each regional educational laboratory awarded a contract under this section shall submit to the Evaluation and Regional Assistance Commissioner—

Deadline.

(1) a plan covering the succeeding fiscal year, in which such laboratory's mission, activities, and scope of work are described, including a general description of the plans such laboratory expects to submit in the remaining years of such laboratory's contract; and

(2) a report of how well such laboratory is meeting the needs of the region, including a summary of activities during the preceding year, a list of entities served, a list of products, and any other information that the regional educational laboratory may consider relevant or the Evaluation and Regional Assistance Commissioner may require.

(o) **CONSTRUCTION.**—Nothing in this section shall be construed to require any modifications in a regional educational laboratory contract in effect on the day before the date of enactment of this Act.

PART E—GENERAL PROVISIONS

SEC. 181. INTERAGENCY DATA SOURCES AND FORMATS.

20 USC 9571.

The Secretary, in consultation with the Director, shall ensure that the Department and the Institute use common sources of data in standardized formats.

SEC. 182. PROHIBITIONS.

20 USC 9572.

(a) **NATIONAL DATABASE.**—Nothing in this title may be construed to authorize the establishment of a nationwide database of individually identifiable information on individuals involved in studies or other collections of data under this title.

(b) **FEDERAL GOVERNMENT AND USE OF FEDERAL FUNDS.**—Nothing in this title may be construed to authorize an officer or employee of the Federal Government to mandate, direct, or control the curriculum, program of instruction, or allocation of State or local resources of a State, local educational agency, or school, or to mandate a State, or any subdivision thereof, to spend any funds or incur any costs not provided for under this title.

(c) **ENDORSEMENT OF CURRICULUM.**—Notwithstanding any other provision of Federal law, no funds provided under this title to the Institute, including any office, board, committee, or center of

the Institute, may be used by the Institute to endorse, approve, or sanction any curriculum designed to be used in an elementary school or secondary school.

(d) **FEDERALLY SPONSORED TESTING.**—

(1) **IN GENERAL.**—Subject to paragraph (2), no funds provided under this title to the Secretary or to the recipient of any award may be used to develop, pilot test, field test, implement, administer, or distribute any federally sponsored national test in reading, mathematics, or any other subject, unless specifically and explicitly authorized by law.

(2) **EXCEPTIONS.**—Subsection (a) shall not apply to international comparative assessments developed under the authority of section 153(a)(6) of this title or section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6)) (as such section was in effect on the day before the date of enactment of this Act) and administered to only a representative sample of pupils in the United States and in foreign nations.

20 USC 9573.

SEC. 183. CONFIDENTIALITY.

(a) **IN GENERAL.**—All collection, maintenance, use, and wide dissemination of data by the Institute, including each office, board, committee, and center of the Institute, shall conform with the requirements of section 552a of title 5, United States Code, the confidentiality standards of subsection (c) of this section, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

(b) **STUDENT INFORMATION.**—The Director shall ensure that all individually identifiable information about students, their academic achievements, their families, and information with respect to individual schools, shall remain confidential in accordance with section 552a of title 5, United States Code, the confidentiality standards of subsection (c) of this section, and sections 444 and 445 of the General Education Provisions Act (20 U.S.C. 1232g, 1232h).

20 USC 9574.

SEC. 184. AVAILABILITY OF DATA.

Subject to section 183, data collected by the Institute, including any office, board, committee, or center of the Institute, in carrying out the priorities and mission of the Institute, shall be made available to the public, including through use of the Internet.

20 USC 9575.

SEC. 185. PERFORMANCE MANAGEMENT.

The Director shall ensure that all activities conducted or supported by the Institute or a National Education Center make customer service a priority. The Director shall ensure a high level of customer satisfaction through the following methods:

(1) Establishing and improving feedback mechanisms in order to anticipate customer needs.

(2) Disseminating information in a timely fashion and in formats that are easily accessible and usable by researchers, practitioners, and the general public.

(3) Utilizing the most modern technology and other methods available, including arrangements to use data collected electronically by States and local educational agencies, to ensure the efficient collection and timely distribution of information, including data and reports.

(4) Establishing and measuring performance against a set of indicators for the quality of data collected, analyzed, and reported.

(5) Continuously improving management strategies and practices.

(6) Making information available to the public in an expeditious fashion.

SEC. 186. AUTHORITY TO PUBLISH.

20 USC 9576.

(a) PUBLICATION.—The Director may prepare and publish (including through oral presentation) such research, statistics (consistent with part C), and evaluation information and reports from any office, board, committee, and center of the Institute, as needed to carry out the priorities and mission of the Institute without the approval of the Secretary or any other office of the Department.

(b) ADVANCE COPIES.—The Director shall provide the Secretary and other relevant offices with an advance copy of any information to be published under this section before publication.

(c) PEER REVIEW.—All research, statistics, and evaluation reports conducted by, or supported through, the Institute shall be subjected to rigorous peer review before being published or otherwise made available to the public.

(d) ITEMS NOT COVERED.—Nothing in subsections (a), (b), or (c) shall be construed to apply to—

(1) information on current or proposed budgets, appropriations, or legislation;

(2) information prohibited from disclosure by law or the Constitution, classified national security information, or information described in section 552(b) of title 5, United States Code; and

(3) review by officers of the United States in order to prevent the unauthorized disclosure of information described in paragraph (1) or (2).

SEC. 187. VACANCIES.

20 USC 9577.

Any member appointed to fill a vacancy on the Board occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A vacancy in an office, board, committee, or center of the Institute shall be filled in the manner in which the original appointment was made. This section does not apply to employees appointed under section 188.

SEC. 188. SCIENTIFIC OR TECHNICAL EMPLOYEES.

20 USC 9578.

(a) IN GENERAL.—The Director may appoint, for terms not to exceed 6 years (without regard to the provisions of title 5, United States Code, governing appointment in the competitive service) and may compensate (without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates) such scientific or technical employees to carry out the functions of the Institute or the office, board, committee, or center, respectively, if—

(1) at least 30 days prior to the appointment of any such employee, public notice is given of the availability of such position and an opportunity is provided for qualified individuals to apply and compete for such position;

(2) the rate of basic pay for such employees does not exceed the maximum rate of basic pay payable for positions at GS—

15, as determined in accordance with section 5376 of title 5, United States Code, except that not more than 7 individuals appointed under this section may be paid at a rate that does not exceed the rate of basic pay for level III of the Executive Schedule;

(3) the appointment of such employee is necessary (as determined by the Director on the basis of clear and convincing evidence) to provide the Institute or the office, board, committee, or center with scientific or technical expertise which could not otherwise be obtained by the Institute or the office, board, committee, or center through the competitive service; and

(4) the total number of such employees does not exceed 40 individuals or $\frac{1}{5}$ of the number of full-time, regular scientific or professional employees of the Institute, whichever is greater.

(b) DUTIES OF EMPLOYEES.—All employees described in subsection (a) shall work on activities of the Institute or the office, board, committee, or center, and shall not be reassigned to other duties outside the Institute or the office, board, committee, or center during their term.

20 USC 9579.

SEC. 189. FELLOWSHIPS.

In order to strengthen the national capacity to carry out high-quality research, evaluation, and statistics related to education, the Director shall establish and maintain research, evaluation, and statistics fellowships in institutions of higher education (which may include the establishment of such fellowships in historically Black colleges and universities and other institutions of higher education with large numbers of minority students) that support graduate and postdoctoral study onsite at the Institute or at the institution of higher education. In establishing the fellowships, the Director shall ensure that women and minorities are actively recruited for participation.

20 USC 9580.

SEC. 190. VOLUNTARY SERVICE.

The Director may accept voluntary and uncompensated services to carry out and support activities that are consistent with the priorities and mission of the Institute.

20 USC 9581.

SEC. 191. RULEMAKING.

Notwithstanding section 437(d) of the General Education Provisions Act (20 U.S.C. 1232(d)), the exemption for public property, loans, grants, and benefits in section 553(a)(2) of title 5, United States Code, shall apply to the Institute.

20 USC 9582.

SEC. 192. COPYRIGHT.

Nothing in this Act shall be construed to affect the rights, remedies, limitations, or defense under title 17, United States Code.

20 USC 9583.

SEC. 193. REMOVAL.

(a) PRESIDENTIAL.—The Director, each member of the Board, and the Commissioner for Education Statistics may be removed by the President prior to the expiration of the term of each such appointee.

(b) DIRECTOR.—Each Commissioner appointed by the Director pursuant to section 117 may be removed by the Director prior to the expiration of the term of each such Commissioner.

SEC. 194. AUTHORIZATION OF APPROPRIATIONS.

20 USC 9584.

(a) **IN GENERAL.**—There are authorized to be appropriated to administer and carry out this title (except section 174) \$400,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years, of which—

(1) not less than the amount provided to the National Center for Education Statistics (as such Center was in existence on the day before the date of enactment of this Act) for fiscal year 2002 shall be provided to the National Center for Education Statistics, as authorized under part C; and

(2) not more than the lesser of 2 percent of such funds or \$1,000,000 shall be made available to carry out section 116 (relating to the National Board for Education Sciences).

(b) **REGIONAL EDUCATIONAL LABORATORIES.**—There are authorized to be appropriated to carry out section 174 \$100,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years. Of the amounts appropriated under the preceding sentence for a fiscal year, the Director shall obligate not less than 25 percent to carry out such purpose with respect to rural areas (including schools funded by the Bureau which are located in rural areas).

(c) **AVAILABILITY.**—Amounts made available under this section shall remain available until expended.

TITLE II—EDUCATIONAL TECHNICAL ASSISTANCE

Educational
Technical
Assistance Act of
2002.

SEC. 201. SHORT TITLE.

This title may be cited as the “Educational Technical Assistance Act of 2002”.

20 USC 9501
note.

SEC. 202. DEFINITIONS.

20 USC 9601.

In this title:

(1) **IN GENERAL.**—The terms “local educational agency” and “State educational agency” have the meanings given those terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Education.

SEC. 203. COMPREHENSIVE CENTERS.

20 USC 9602.

(a) **AUTHORIZATION.**—

Grants.

(1) **IN GENERAL.**—Subject to paragraph (2), beginning in fiscal year 2004, the Secretary is authorized to award not less than 20 grants to local entities, or consortia of such entities, with demonstrated expertise in providing technical assistance and professional development in reading, mathematics, science, and technology, especially to low-performing schools and districts, to establish comprehensive centers.

(2) **REGIONS.**—In awarding grants under paragraph (1), the Secretary—

(A) shall ensure that not less than 1 comprehensive center is established in each of the 10 geographic regions served by the regional educational laboratories established under section 941(h) of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as

such provision existed on the day before the date of enactment of this Act); and

(B) after meeting the requirements of subparagraph (A), shall consider, in awarding the remainder of the grants, the school-age population, proportion of economically disadvantaged students, the increased cost burdens of service delivery in areas of sparse population, and the number of schools identified for school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)) in the population served by the local entity or consortium of such entities.

(b) ELIGIBLE APPLICANTS.—

(1) IN GENERAL.—Grants under this section may be made with research organizations, institutions, agencies, institutions of higher education, or partnerships among such entities, or individuals, with the demonstrated ability or capacity to carry out the activities described in subsection (f), including regional entities that carried out activities under the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such Act existed on the day before the date of enactment of this Act) and title XIII of the Elementary and Secondary Education Act of 1965 (as such title existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107-110)).

(2) OUTREACH.—In conducting competitions for grants under this section, the Secretary shall actively encourage potential applicants to compete for such awards by making widely available information and technical assistance relating to the competition.

(3) OBJECTIVES AND INDICATORS.—Before awarding a grant under this section, the Secretary shall design specific objectives and measurable indicators, using the results of the assessment conducted under section 206, to be used to assess the particular programs or initiatives, and ongoing progress and performance, of the regional entities, in order to ensure that the educational needs of the region are being met and that the latest and best research and proven practices are being carried out as part of school improvement efforts.

(c) APPLICATION.—

(1) SUBMISSION.—Each local entity, or consortium of such entities, seeking a grant under this section shall submit an application at such time, in such manner, and containing such additional information as the Secretary may reasonably require.

(2) PLAN.—Each application submitted under paragraph (1) shall contain a 5-year plan for carrying out the activities described in this section in a manner that addresses the priorities established under section 207 and addresses the needs of all States (and to the extent practicable, of local educational agencies) within the region to be served by the comprehensive center, on an ongoing basis.

(d) ALLOCATION.—Each comprehensive center established under this section shall allocate such center's resources to and within each State in a manner which reflects the need for assistance, taking into account such factors as the proportion of economically disadvantaged students, the increased cost burden of service delivery in areas of sparse populations, and any special initiatives being undertaken by State, intermediate, local educational agencies,

or Bureau-funded schools, as appropriate, which may require special assistance from the center.

(e) SCOPE OF WORK.—Each comprehensive center established under this section shall work with State educational agencies, local educational agencies, regional educational agencies, and schools in the region where such center is located on school improvement activities that take into account factors such as the proportion of economically disadvantaged students in the region, and give priority to—

(1) schools in the region with high percentages or numbers of students from low-income families, as determined under section 1113(a)(5) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6313(a)(5)), including such schools in rural and urban areas, and schools receiving assistance under title I of that Act (20 U.S.C. 6301 et seq.);

(2) local educational agencies in the region in which high percentages or numbers of school-age children are from low-income families, as determined under section 1124(c)(1)(A) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6333(c)(1)(A)), including such local educational agencies in rural and urban areas; and

(3) schools in the region that have been identified for school improvement under section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b)).

(f) ACTIVITIES.—

(1) IN GENERAL.—A comprehensive center established under this section shall support dissemination and technical assistance activities by—

(A) providing training, professional development, and technical assistance regarding, at a minimum—

(i) the administration and implementation of programs under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.);

(ii) the use of scientifically valid teaching methods and assessment tools for use by teachers and administrators in, at a minimum—

(I) the core academic subjects of mathematics, science, and reading or language arts;

(II) English language acquisition; and

(III) education technology; and

(iii) the facilitation of communication between education experts, school officials, teachers, parents, and librarians, as appropriate; and

(B) disseminating and providing information, reports, and publications that are usable for improving academic achievement, closing achievement gaps, and encouraging and sustaining school improvement (as described in section 1116(b) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6316(b))), to schools, educators, parents, and policymakers within the region in which the center is located; and

(C) developing teacher and school leader inservice and preservice training models that illustrate best practices in the use of technology in different content areas.

(2) COORDINATION AND COLLABORATION.—Each comprehensive center established under this section shall coordinate its activities, collaborate, and regularly exchange information with

the regional educational laboratory in the region in which the center is located, the National Center for Education Evaluation and Regional Assistance, the Office of the Secretary, the State service agency, and other technical assistance providers in the region.

(g) COMPREHENSIVE CENTER ADVISORY BOARD.—

(1) ESTABLISHMENT.—Each comprehensive center established under this section shall have an advisory board that shall support the priorities of such center.

(2) DUTIES.—Each advisory board established under paragraph (1) shall advise the comprehensive center—

(A) concerning the activities described in subsection (d);

(B) on strategies for monitoring and addressing the educational needs of the region, on an ongoing basis;

(C) on maintaining a high standard of quality in the performance of the center's activities; and

(D) on carrying out the center's duties in a manner that promotes progress toward improving student academic achievement.

(3) COMPOSITION.—

(A) IN GENERAL.—Each advisory board shall be composed of—

(i) the chief State school officers, or such officers' designees or other State officials, in each State served by the comprehensive center who have primary responsibility under State law for elementary and secondary education in the State; and

(ii) not more than 15 other members who are representative of the educational interests in the region served by the comprehensive center and are selected jointly by the officials specified in clause (i) and the chief executive officer of each State served by the comprehensive center, including the following:

(I) Representatives of local educational agencies and regional educational agencies, including representatives of local educational agencies serving urban and rural areas.

(II) Representatives of institutions of higher education.

(III) Parents.

(IV) Practicing educators, including classroom teachers, principals, and administrators.

(V) Representatives of business.

(VI) Policymakers, expert practitioners, and researchers with knowledge of, and experience using, the results of research, evaluation, and statistics.

(B) SPECIAL RULE.—In the case of a State in which the chief executive officer has the primary responsibility under State law for elementary and secondary education in the State, the chief executive officer shall consult, to the extent permitted by State law, with the State educational agency in selecting additional members of the board under subparagraph (A)(i).

(h) REPORT TO SECRETARY.—Each comprehensive center established under this section shall submit to the Secretary an annual

report, at such time, in such manner, and containing such information as the Secretary may require, which shall include the following:

(1) A summary of the comprehensive center's activities during the preceding year.

(2) A listing of the States, local educational agencies, and schools the comprehensive center assisted during the preceding year.

SEC. 204. EVALUATIONS.

20 USC 9603.

The Secretary shall provide for ongoing independent evaluations by the National Center for Education Evaluation and Regional Assistance of the comprehensive centers receiving assistance under this title, the results of which shall be transmitted to the appropriate congressional committees and the Director of the Institute of Education Sciences. Such evaluations shall include an analysis of the services provided under this title, the extent to which each of the comprehensive centers meets the objectives of its respective plan, and whether such services meet the educational needs of State educational agencies, local educational agencies, and schools in the region.

SEC. 205. EXISTING TECHNICAL ASSISTANCE PROVIDERS.

20 USC 9604.

The Secretary shall continue awards for the support of the Eisenhower Regional Mathematics and Science Education Consortia established under part M of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before the date of enactment of this Act), the Regional Technology in Education Consortia under section 3141 of the Elementary and Secondary Education Act of 1965 (as such section existed on the day before the date of enactment of the No Child Left Behind Act of 2001 (Public Law 107–110)), and the Comprehensive Regional Assistance Centers established under part K of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (as such part existed on the day before the date of enactment of this Act), in accordance with the terms of such awards, until the comprehensive centers authorized under section 203 are established.

SEC. 206. REGIONAL ADVISORY COMMITTEES.

20 USC 9605.

(a) **ESTABLISHMENT.**—Beginning in 2004, the Secretary shall establish a regional advisory committee for each region described in section 174(b) of the Education Sciences Reform Act of 2002.

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The membership of each regional advisory committee shall—

(A) not exceed 25 members;

(B) contain a balanced representation of States in the region; and

(C) include not more than one representative of each State educational agency geographically located in the region.

(2) **ELIGIBILITY.**—The membership of each regional advisory committee may include the following:

(A) Representatives of local educational agencies, including rural and urban local educational agencies.

(B) Representatives of institutions of higher education, including individuals representing university-based education research and university-based research on subjects other than education.

(C) Parents.

(D) Practicing educators, including classroom teachers, principals, administrators, school board members, and other local school officials.

(E) Representatives of business.

(F) Researchers.

(3) RECOMMENDATIONS.—In choosing individuals for membership on a regional advisory committee, the Secretary shall consult with, and solicit recommendations from, the chief executive officers of States, chief State school officers, and education stakeholders within the applicable region.

(4) SPECIAL RULE.—

(A) TOTAL NUMBER.—The total number of members on each committee who are selected under subparagraphs (A), (C), and (D) of paragraph (2), collectively, shall exceed the total number of members who are selected under paragraph (1)(C) and subparagraphs (B), (E), and (F) of paragraph (2), collectively.

(B) DISSOLUTION.—Each regional advisory committee shall be dissolved by the Secretary after submission of such committee's report described in subsection (c)(2) to the Secretary, but each such committee may be reconvened at the discretion of the Secretary.

(c) DUTIES.—Each regional advisory committee shall advise the Secretary on the following:

(1) An educational needs assessment of its region (using the results of the assessment conducted under subsection (d)), in order to assist in making decisions regarding the regional educational priorities.

(2) Not later than 6 months after the committee is first convened, a report based on the assessment conducted under subsection (d).

(d) REGIONAL ASSESSMENTS.—Each regional advisory committee shall—

(1) assess the educational needs within the region to be served;

(2) in conducting the assessment under paragraph (1), seek input from chief executive officers of States, chief State school officers, educators, and parents (including through a process of open hearings to solicit the views and needs of schools (including public charter schools), teachers, administrators, members of the regional educational laboratory governing board, parents, local educational agencies, librarians, businesses, State educational agencies, and other customers (such as adult education programs) within the region) regarding the need for the activities described in section 174 of the Education Sciences Reform Act of 2002 and section 203 of this title and how those needs would be most effectively addressed; and

(3) submit the assessment to the Secretary and to the Director of the Academy of Education Sciences, at such time, in such manner, and containing such information as the Secretary may require.

Deadline.

SEC. 207. PRIORITIES.

20 USC 9606.

The Secretary shall establish priorities for the regional educational laboratories (established under section 174 of the Education Sciences Reform Act of 2002) and comprehensive centers (established under section 203 of this title) to address, taking into account the regional assessments conducted under section 206 and other relevant regional surveys of educational needs, to the extent the Secretary deems appropriate.

SEC. 208. GRANT PROGRAM FOR STATEWIDE, LONGITUDINAL DATA SYSTEMS.

20 USC 9607.

(a) **GRANTS AUTHORIZED.**—The Secretary is authorized to award grants, on a competitive basis, to State educational agencies to enable such agencies to design, develop, and implement statewide, longitudinal data systems to efficiently and accurately manage, analyze, disaggregate, and use individual student data, consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.).

(b) **APPLICATIONS.**—Each State educational agency desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

(c) **AWARDING OF GRANTS.**—In awarding grants under this section, the Secretary shall use a peer review process that—

(1) ensures technical quality (including validity and reliability), promotes linkages across States, and protects student privacy consistent with section 183;

(2) promotes the generation and accurate and timely use of data that is needed—

(A) for States and local educational agencies to comply with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and other reporting requirements and close achievement gaps; and

(B) to facilitate research to improve student academic achievement and close achievement gaps; and

(3) gives priority to applications that meet the voluntary standards and guidelines described in section 153(a)(5).

(d) **SUPPLEMENT NOT SUPPLANT.**—Funds made available under this section shall be used to supplement, and not supplant, other State or local funds used for developing State data systems.

(e) **REPORT.**—Not later than 1 year after the date of enactment of the Educational Technical Assistance Act of 2002, and again 3 years after such date of enactment, the Secretary, in consultation with the National Academies Committee on National Statistics, shall make publicly available a report on the implementation and effectiveness of Federal, State, and local efforts related to the goals of this section, including—

Deadline.

(1) identifying and analyzing State practices regarding the development and use of statewide, longitudinal data systems;

(2) evaluating the ability of such systems to manage individual student data consistent with the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), promote linkages across States, and protect student privacy consistent with section 183; and

(3) identifying best practices and areas for improvement.

20 USC 9608.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this title \$80,000,000 for fiscal year 2003 and such sums as may be necessary for each of the 5 succeeding fiscal years.

National
Assessment of
Educational
Progress
Authorization
Act.
20 USC 9501
note.

TITLE III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

SEC. 301. SHORT TITLE.

This title may be referred to as the “National Assessment of Educational Progress Authorization Act”.

20 USC 9623.

SEC. 302. DEFINITIONS.

In this title:

(1) The term “Director” means the Director of the Institute of Education Sciences.

(2) The term “State” means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 9624.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated—
(1) for fiscal year 2003—

(A) \$4,600,000 to carry out section 302, as amended by section 401 of this Act (relating to the National Assessment Governing Board); and

(B) \$107,500,000 to carry out section 303, as amended by section 401 of this Act (relating to the National Assessment of Educational Progress); and

(2) such sums as may be necessary for each of the 5 succeeding fiscal years to carry out sections 302 and 303, as amended by section 401 of this Act.

(b) AVAILABILITY.—Amounts made available under this section shall remain available until expended.

TITLE IV—AMENDATORY PROVISIONS

SEC. 401. REDESIGNATIONS.

(a) CONFIDENTIALITY.—Section 408 of the National Education Statistics Act of 1994 (20 U.S.C. 9007) is amended—

(1) by striking “center”, “Center”, and “Commissioner” each place any such term appears and inserting “Director”;

(2) in subsection (a)(2)(A), by striking “statistical purpose” and inserting “research, statistics, or evaluation purpose under this title”;

(3) by striking subsection (b)(1) and inserting the following:
“(1) IN GENERAL.—

“(A) DISCLOSURE.—No Federal department, bureau, agency, officer, or employee and no recipient of a Federal grant, contract, or cooperative agreement may, for any reason, require the Director, any Commissioner of a National Education Center, or any other employee of the Institute to disclose individually identifiable information that has been collected or retained under this title.

“(B) IMMUNITY.—Individually identifiable information collected or retained under this title shall be immune from

legal process and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

“(C) APPLICATION.—This paragraph does not apply to requests for individually identifiable information submitted by or on behalf of the individual identified in the information.”;

(4) in paragraphs (2) and (6) of subsection (b), by striking “subsection (a)(2)” each place such term appears and inserting “subsection (c)(2)”;

(5) in paragraphs (3) and (7) of subsection (b), by striking “Center’s” each place such term appears and inserting “Director’s”; and

(6) by striking the section heading and transferring all the subsections (including subsections (a) through (c)) and redesignating such subsections as subsections (c) through (e), respectively, at the end of section 183 of this Act.

20 USC 9007,
9573.

(b) CONFORMING AMENDMENT.—Sections 302 and 303 of this Act are redesignated as sections 304 and 305, respectively.

Ante, p. 1982.

(c) NATIONAL ASSESSMENT GOVERNING BOARD.—Section 412 of the National Education Statistics Act of 1994 (20 U.S.C. 9011) is amended—

(1) in subsection (a)—

(A) by striking “referred to as the ‘Board’” and inserting “referred to as the ‘Assessment Board’”; and

(B) by inserting “(carried out under section 303)” after “for the National Assessment”;

(2) by striking “Board” each place such term appears (other than in subsection (a)) and inserting “Assessment Board”;

(3) by striking “Commissioner” each place such term appears and inserting “Commissioner for Education Statistics”;

(4) in subsection (b)(2)—

(A) by striking “ASSISTANT SECRETARY FOR EDUCATIONAL RESEARCH” in the heading and inserting “DIRECTOR OF THE INSTITUTE OF EDUCATION SCIENCES”; and

(B) by striking “Assistant Secretary for Educational Research and Improvement” and inserting “Director of the Institute of Education Sciences”;

(5) in subsection (e)—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking “section 411(b)” and inserting “section 303(b)”;

(ii) in subparagraph (B), by striking “section 411(e)” and inserting “section 303(e)”;

(iii) in subparagraph (E), by striking “, including the Advisory Council established under section 407”;

(iv) in subparagraphs (F) and (I), by striking “section 411” each place such term appears and inserting “section 303”;

(v) in subparagraph (H), by striking “and” after the semicolon;

(vi) in subparagraph (I), by striking the period at the end and inserting “; and”; and

(vii) by inserting at the end the following:

“(J) plan and execute the initial public release of National Assessment of Educational Progress reports.

The National Assessment of Educational Progress data shall not be released prior to the release of the reports described in subparagraph (J).”;

(B) in paragraph (5), by striking “and the Advisory Council on Education Statistics”; and

(C) in paragraph (6), by striking “section 411(e)” and inserting “section 303(e)”; and

20 USC 9011,
9621.

(6) by transferring and redesignating the section as section 302 (following section 301) of title III of this Act.

(d) NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.—Section 411 of the National Education Statistics Act of 1994 (20 U.S.C. 9010) is amended—

(1) by striking “Commissioner” each place such term appears and inserting “Commissioner for Education Statistics”;

(2) by striking “National Assessment Governing Board” and “National Board” each place either such term appears and inserting “Assessment Board”;

(3) in subsection (a)—

(A) by striking “section 412” and inserting “section 302”; and

(B) by striking “and with the technical assistance of the Advisory Council established under section 407.”;

(4) in subsection (b)—

(A) in paragraph (1), by inserting “of” after “academic achievement and reporting”;

(B) in paragraph (3)(A)—

(i) in clause (i), by striking “paragraphs (1)(B) and (1)(E)” and inserting “paragraphs (2)(B) and (2)(E)”;

(ii) in clause (ii), by striking “paragraph (1)(C)” and inserting “paragraph (2)(C)”; and

(iii) in clause (iii), by striking “paragraph (1)(D)” and inserting “paragraph (2)(D)”; and

(C) in paragraph (5), by striking “(c)(2)” and inserting “(c)(3)”;

(5) in subsection (c)(2)(D), by striking “subparagraph (B)” and inserting “subparagraph (C)”;

(6) in subsection (e)(4), by striking “subparagraph (2)(C)” and inserting “paragraph (2)(C) of such subsection”;

(7) in subsection (f)(1)(B)(iv), by striking “section 412(e)(4)” and inserting “section 302(e)(4)”; and

20 USC 9010,
9622.

(8) by transferring and redesignating the section as section 303 (following section 302) of title III of this Act.

(e) TABLE OF CONTENTS AMENDMENT.—The items relating to title III in the table of contents of this Act, as amended by section 401 of this Act, are amended to read as follows:

“TITLE III—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

“Sec. 301. Short title.

“Sec. 302. National Assessment Governing Board.

“Sec. 303. National Assessment of Educational Progress.

“Sec. 304. Definitions.

“Sec. 305. Authorization of appropriations.”.

SEC. 402. AMENDMENTS TO DEPARTMENT OF EDUCATION ORGANIZATION ACT.

The Department of Education Organization Act (20 U.S.C. 3401 et seq.) is amended—

20 USC 3412.

(1) by striking section 202(b)(4) and inserting the following:

“(4) There shall be in the Department a Director of the Institute of Education Sciences who shall be appointed in accordance with section 114(a) of the Education Sciences Reform Act of 2002 and perform the duties described in that Act.”;

(2) by striking section 208 and inserting the following: 20 USC 3419.

“INSTITUTE OF EDUCATION SCIENCES

“SEC. 208. There shall be in the Department of Education the Institute of Education Sciences, which shall be administered in accordance with the Education Sciences Reform Act of 2002 by the Director appointed under section 114(a) of that Act.”; and

(3) by striking the item relating to section 208 in the table of contents in section 1 and inserting the following:

“Sec. 208. Institute of Education Sciences.”.

SEC. 403. REPEALS.

The following provisions of law are repealed:

(1) The National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.).

20 USC 9001
note, 9001–9009,
9012.

(2) Parts A through E and K through N of the Educational Research, Development, Dissemination, and Improvement Act of 1994 (title IX of the Goals 2000: Educate America Act) (20 U.S.C. 6001 et seq.).

20 USC 1221e
notes, 6011,
6021, 6031, 6041,
6051, 6053–
6053e, 6054–
6054b, 6055–
6055h, 6056,
6056a.

(3) Section 401(b)(2) of the Department of Education Organization Act (20 U.S.C. 3461(b)(2)).

SEC. 404. CONFORMING AND TECHNICAL AMENDMENTS.

(a) GOALS 2000: EDUCATE AMERICA ACT.—The table of contents in section 1(b) of the Goals 2000: Educate America Act (20 U.S.C. 5801 note) is amended by striking the items relating to parts A through E of title IX (including the items relating to sections within those parts).

(b) TITLE 5, UNITED STATES CODE.—Section 5315 of title 5, United States Code, is amended by striking the following:

“Commissioner, National Center for Education Statistics.”.

(c) GENERAL EDUCATION PROVISIONS ACT.—Section 447(b) of the General Education Provisions Act (20 U.S.C. 1232j(b)) is amended by striking “section 404(a)(6) of the National Education Statistics Act of 1994 (20 U.S.C. 9003(a)(6))” and inserting “section 153(a)(6) of the Education Sciences Reform Act of 2002”.

(d) ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.—The Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) is amended as follows:

(1) Section 1111(c)(2) is amended by striking “section 411(b)(2) of the National Education Statistics Act of 1994” and inserting “section 303(b)(2) of the National Assessment of Educational Progress Authorization Act”. 20 USC 6311.

(2) Section 1112(b)(1)(F) is amended by striking “section 411(b)(2) of the National Education Statistics Act of 1994” and inserting “section 303(b)(2) of the National Assessment of Educational Progress Authorization Act”. 20 USC 6312.

(3) Section 1117(a)(3) is amended— 20 USC 6317.

(A) by inserting “(as such section existed on the day before the date of enactment of the Education Sciences Reform Act of 2002)” after “Act of 1994”; and

(B) by inserting “regional educational laboratories established under part E of the Education Sciences Reform

Act of 2002 and comprehensive centers established under the Educational Technical Assistance Act of 2002 and” after “assistance from”.

20 USC 6491.

(4) Section 1501(a)(3) is amended by striking “section 411 of the National Education Statistics Act of 1994” and inserting “section 303 of the National Assessment of Educational Progress Authorization Act”.

(5) The following provisions are each amended by striking “Office of Educational Research and Improvement” and inserting “Institute of Education Sciences”:

(A) Section 3222(a) (20 U.S.C. 6932(a)).

(B) Section 3303(1) (20 U.S.C. 7013(1)).

(C) Section 5464(e)(1) (20 U.S.C. 7253c(e)(1)).

(D) Paragraphs (1) and (2) of section 5615(d) (20 U.S.C. 7283d(d)).

(E) Paragraphs (1) and (2) of section 7131(c) (20 U.S.C. 7451(c)).

(6) Paragraphs (1) and (2) of section 5464(e) (20 U.S.C. 7253c(e)) are each amended by striking “such Office” and inserting “such Institute”.

(7) Section 5613 (20 U.S.C. 7283b) is amended—

(A) in subsection (a)(5), by striking “Assistant Secretary of the Office of Educational Research and Improvement” and inserting “Director of the Institute of Education Sciences”; and

(B) in subsection (b)(2)(B), by striking “research institutes of the Office of Educational Research and Improvement” and inserting “National Education Centers of the Institute of Education Sciences”.

(8) Sections 5615(d)(1) and 7131(c)(1) (20 U.S.C. 7283d(d)(1), 7451(c)(1)) are each amended by striking “by the Office” and inserting “by the Institute”.

20 USC 7909.

(9) Section 9529(b) is amended by striking “section 404(a)(6) of the National Education Statistics Act of 1994” and inserting “section 153(a)(5) of the Education Sciences Reform Act of 2002”.

(e) SCHOOL-TO-WORK OPPORTUNITIES ACT OF 1994.—Section 404 of the School-to-Work Opportunities Act of 1994 (20 U.S.C. 6194) is amended by inserting “(as such Act existed on the day before the date of enactment of the Education Sciences Reform Act of 2002)” after “Act of 1994”.

20 USC 9501
note.

SEC. 405. ORDERLY TRANSITION.

The Secretary of Education shall take such steps as are necessary to provide for the orderly transition to, and implementation of, the offices, boards, committees, and centers (and their various functions and responsibilities) established or authorized by this Act, and by the amendments made by this Act, from those established or authorized by the Educational Research, Development, Dissemination, and Improvement Act of 1994 (20 U.S.C. 6001 et seq.) and the National Education Statistics Act of 1994 (20 U.S.C. 9001 et seq.).

SEC. 406. IMPACT AID.

(a) PAYMENTS FOR FEDERALLY CONNECTED CHILDREN.—Section 8003(b)(2)(C)(i)(II)(bb) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(B)(2)(c)(i)(II)(bb)) is amended to read as follows:

“(bb) for a local educational agency that has a total student enrollment of less than 350 students, has a per-pupil expenditure that is less than the average per-pupil expenditure of a comparable local education agency or three comparable local educational agencies in the State in which the local educational agency is located; and”.

(b) EFFECTIVE DATE.—The amendment made by section 406(a) shall be effective on September 30, 2001, and shall apply with respect to fiscal year 2001, and all subsequent fiscal years.

Applicability.
20 USC 7703
note.

(c) BONESTEEL-FAIRFAX SCHOOL DISTRICT.—The Secretary of Education shall deem the local educational agency serving the Bonesteel-Fairfax school district, 26-5, in Bonesteel, South Dakota, as eligible in fiscal year 2003 for a basic support payment for heavily impacted local educational agencies under section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)).

(d) CENTRAL SCHOOL DISTRICT.—Notwithstanding any other provision of law, the Secretary of Education shall treat as timely filed an application filed by Central School District, Sequoyah County, Oklahoma, for payment for federally connected students for fiscal year 2003, pursuant to section 8003 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703), and shall process such application for payment, if the Secretary has received such application not later than 30 days after the date of enactment of this Act.

Deadline.

Approved November 5, 2002.

LEGISLATIVE HISTORY—H.R. 3801:

HOUSE REPORTS: No. 107-404 (Comm. on Education and the Workforce).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 30, considered and passed House.

Oct. 15, considered and passed Senate, amended.

Oct. 16, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Nov. 5, Presidential statement.



Public Law 107–280
107th Congress

An Act

Nov. 6, 2002
[H.R. 4013]

To amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health, and for other purposes.

Rare Diseases
Act of 2002.
42 USC 201 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rare Diseases Act of 2002”.

42 USC 283h
note.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Rare diseases and disorders are those which affect small patient populations, typically populations smaller than 200,000 individuals in the United States. Such diseases and conditions include Huntington’s disease, amyotrophic lateral sclerosis (Lou Gehrig’s disease), Tourette syndrome, Crohn’s disease, cystic fibrosis, cystinosis, and Duchenne muscular dystrophy.

(2) For many years, the 25,000,000 Americans suffering from the over 6,000 rare diseases and disorders were denied access to effective medicines because prescription drug manufacturers could rarely make a profit from marketing drugs for such small groups of patients. The prescription drug industry did not adequately fund research into such treatments. Despite the urgent health need for these medicines, they came to be known as “orphan drugs” because no companies would commercialize them.

(3) During the 1970s, an organization called the National Organization for Rare Disorders (NORD) was founded to provide services and to lobby on behalf of patients with rare diseases and disorders. NORD was instrumental in pressing Congress for legislation to encourage the development of orphan drugs.

(4) The Orphan Drug Act created financial incentives for the research and production of such orphan drugs. New Federal programs at the National Institutes of Health and the Food and Drug Administration encouraged clinical research and commercial product development for products that target rare diseases. An Orphan Products Board was established to promote the development of drugs and devices for rare diseases or disorders.

(5) Before 1983, some 38 orphan drugs had been developed. Since the enactment of the Orphan Drug Act, more than 220 new orphan drugs have been approved and marketed in the

United States and more than 800 additional drugs are in the research pipeline.

(6) Despite the tremendous success of the Orphan Drug Act, rare diseases and disorders deserve greater emphasis in the national biomedical research enterprise. The Office of Rare Diseases at the National Institutes of Health was created in 1993, but lacks a statutory authorization.

(7) The National Institutes of Health has received a substantial increase in research funding from Congress for the purpose of expanding the national investment of the United States in behavioral and biomedical research.

(8) Notwithstanding such increases, funding for rare diseases and disorders at the National Institutes of Health has not increased appreciably.

(9) To redress this oversight, the Department of Health and Human Services has proposed the establishment of a network of regional centers of excellence for research on rare diseases.

(b) PURPOSES.—The purposes of this Act are to—

(1) amend the Public Health Service Act to establish an Office of Rare Diseases at the National Institutes of Health; and

(2) increase the national investment in the development of diagnostics and treatments for patients with rare diseases and disorders.

SEC. 3. NIH OFFICE OF RARE DISEASES AT NATIONAL INSTITUTES OF HEALTH.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by Public Law 107-84, is amended by inserting after section 404E the following:

“OFFICE OF RARE DISEASES

“SEC. 404F. (a) ESTABLISHMENT.—There is established within the Office of the Director of NIH an office to be known as the Office of Rare Diseases (in this section referred to as the ‘Office’), which shall be headed by a Director (in this section referred to as the ‘Director’), appointed by the Director of NIH. 42 USC 283h.

“(b) DUTIES.—

“(1) IN GENERAL.—The Director of the Office shall carry out the following:

“(A) The Director shall recommend an agenda for conducting and supporting research on rare diseases through the national research institutes and centers. The agenda shall provide for a broad range of research and education activities, including scientific workshops and symposia to identify research opportunities for rare diseases.

“(B) The Director shall, with respect to rare diseases, promote coordination and cooperation among the national research institutes and centers and entities whose research is supported by such institutes.

“(C) The Director, in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, may enter into cooperative agreements with and make grants for regional centers of excellence on rare diseases in accordance with section 404G.

“(D) The Director shall promote the sufficient allocation of the resources of the National Institutes of Health for conducting and supporting research on rare diseases.

“(E) The Director shall promote and encourage the establishment of a centralized clearinghouse for rare and genetic disease information that will provide understandable information about these diseases to the public, medical professionals, patients and families.

Reports.

“(F) The Director shall biennially prepare a report that describes the research and education activities on rare diseases being conducted or supported through the national research institutes and centers, and that identifies particular projects or types of projects that should in the future be conducted or supported by the national research institutes and centers or other entities in the field of research on rare diseases.

Reports.

“(G) The Director shall prepare the NIH Director’s annual report to Congress on rare disease research conducted by or supported through the national research institutes and centers.

“(2) PRINCIPAL ADVISOR REGARDING ORPHAN DISEASES.—With respect to rare diseases, the Director shall serve as the principal advisor to the Director of NIH and shall provide advice to other relevant agencies. The Director shall provide liaison with national and international patient, health and scientific organizations concerned with rare diseases.

“(c) DEFINITION.—For purposes of this section, the term ‘rare disease’ means any disease or condition that affects less than 200,000 persons in the United States.

“(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and \$4,000,000 for each of the fiscal years 2003 through 2006.”

SEC. 4. RARE DISEASE REGIONAL CENTERS OF EXCELLENCE.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.), as amended by section 3, is further amended by inserting after section 404F the following:

“RARE DISEASE REGIONAL CENTERS OF EXCELLENCE

42 USC 283i.

“SEC. 404G. (a) COOPERATIVE AGREEMENTS AND GRANTS.—

“(1) IN GENERAL.—The Director of the Office of Rare Diseases (in this section referred to as the ‘Director’), in collaboration with the directors of the other relevant institutes and centers of the National Institutes of Health, may enter into cooperative agreements with and make grants to public or private nonprofit entities to pay all or part of the cost of planning, establishing, or strengthening, and providing basic operating support for regional centers of excellence for clinical research into, training in, and demonstration of diagnostic, prevention, control, and treatment methods for rare diseases.

“(2) POLICIES.—A cooperative agreement or grant under paragraph (1) shall be entered into in accordance with policies established by the Director of NIH.

“(b) COORDINATION WITH OTHER INSTITUTES.—The Director shall coordinate the activities under this section with similar activities conducted by other national research institutes, centers and

agencies of the National Institutes of Health and by the Food and Drug Administration to the extent that such institutes, centers and agencies have responsibilities that are related to rare diseases.

“(c) USES FOR FEDERAL PAYMENTS UNDER COOPERATIVE AGREEMENTS OR GRANTS.—Federal payments made under a cooperative agreement or grant under subsection (a) may be used for—

“(1) staffing, administrative, and other basic operating costs, including such patient care costs as are required for research;

“(2) clinical training, including training for allied health professionals, continuing education for health professionals and allied health professions personnel, and information programs for the public with respect to rare diseases; and

“(3) clinical research and demonstration programs.

“(d) PERIOD OF SUPPORT; ADDITIONAL PERIODS.—Support of a center under subsection (a) may be for a period of not to exceed 5 years. Such period may be extended by the Director for additional periods of not more than 5 years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

“(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and \$20,000,000 for each of the fiscal years 2003 through 2006.”.

Approved November 6, 2002.

LEGISLATIVE HISTORY—H.R. 4013 (S. 1379):

HOUSE REPORTS: No. 107-543 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 107-129 accompanying S. 1379 (Comm. on Health, Education, Labor, and Pensions).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–281
107th Congress

An Act

Nov. 6, 2002
[H.R. 4014]

To amend the Federal Food, Drug, and Cosmetic Act with respect to the development of products for rare diseases.

Rare Diseases
Orphan Product
Development Act
of 2002.
21 USC 301 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rare Diseases Orphan Product Development Act of 2002”.

21 USC 360ee
note.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress makes the following findings:

(1) Rare diseases and disorders are those which affect small patient populations, typically populations smaller than 200,000 individuals in the United States. Such diseases and conditions include Huntington’s disease, amyotrophic lateral sclerosis (Lou Gehrig’s disease), Tourette syndrome, Crohn’s disease, cystic fibrosis, cystinosis, and Duchenne muscular dystrophy.

(2) For many years, the 25,000,000 Americans suffering from the over 6,000 rare diseases and disorders were denied access to effective medicines because prescription drug manufacturers could rarely make a profit from marketing drugs for such small groups of patients. The prescription drug industry did not adequately fund research into such treatments. Despite the urgent health need for these medicines, they came to be known as “orphan drugs” because no companies would commercialize them.

(3) During the 1970s, an organization called the National Organization for Rare Disorders (NORD) was founded to provide services and to lobby on behalf of patients with rare diseases and disorders. NORD was instrumental in pressing Congress for legislation to encourage the development of orphan drugs.

(4) The Orphan Drug Act created financial incentives for the research and production of such orphan drugs. New Federal programs at the National Institutes of Health and the Food and Drug Administration encouraged clinical research and commercial product development for products that target rare diseases. An Orphan Products Board was established to promote the development of drugs and devices for rare diseases or disorders.

(5) Before 1983, some 38 orphan drugs had been developed. Since the enactment of the Orphan Drug Act, more than 220 new orphan drugs have been approved and marketed in the

United States and more than 800 additional drugs are in the research pipeline.

(6) Despite the tremendous success of the Orphan Drug Act, rare diseases and disorders deserve greater emphasis in the national biomedical research enterprise.

(7) The Food and Drug Administration supports small clinical trials through Orphan Products Research Grants. Such grants embody successful partnerships of government and industry, and have led to the development of at least 23 drugs and four medical devices for rare diseases and disorders. Yet the appropriations in fiscal year 2001 for such grants were less than in fiscal year 1995.

(b) PURPOSES.—The purpose of this Act is to increase the national investment in the development of diagnostics and treatments for patients with rare diseases and disorders.

SEC. 3. FOOD AND DRUG ADMINISTRATION; GRANTS AND CONTRACTS FOR THE DEVELOPMENT OF ORPHAN DRUGS.

Subsection (c) of section 5 of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

“(c) For grants and contracts under subsection (a), there are authorized to be appropriated such sums as already have been appropriated for fiscal year 2002, and \$25,000,000 for each of the fiscal years 2003 through 2006.”.

Appropriation
authorization.

SEC. 4. TECHNICAL AMENDMENT.

Section 527(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360cc(a)) is amended in the matter following paragraph (2)—

- (1) by striking “, of such certification,”; and
- (2) by striking “, the issuance of the certification,”.

Approved November 6, 2002.

LEGISLATIVE HISTORY—H.R. 4014:

HOUSE REPORTS: No. 107–702 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–282
107th Congress

An Act

Nov. 6, 2002
[H.R. 5200]

Clark County
Conservation of
Public Land and
Natural
Resources Act of
2002.
16 USC
460qqq note.

To establish wilderness areas, promote conservation, improve public land, and provide for high quality development in Clark County, Nevada, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clark County Conservation of Public Land and Natural Resources Act of 2002”.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Definitions.
- Sec. 4. Authorization of appropriations.

**TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA LAND
EXCHANGE AND BOUNDARY ADJUSTMENT**

- Sec. 101. Short title.
- Sec. 102. Definitions.
- Sec. 103. Findings and purposes.
- Sec. 104. Red Rock Canyon land exchange.
- Sec. 105. Status and management of lands.
- Sec. 106. General provisions.

TITLE II—WILDERNESS AREAS

- Sec. 201. Findings.
- Sec. 202. Additions to National Wilderness Preservation System.
- Sec. 203. Administration.
- Sec. 204. Adjacent management.
- Sec. 205. Military overflights.
- Sec. 206. Native American cultural and religious uses.
- Sec. 207. Release of wilderness study areas.
- Sec. 208. Wildlife management.
- Sec. 209. Wildfire management.
- Sec. 210. Climatological data collection.
- Sec. 211. National Park Service lands.

TITLE III—TRANSFERS OF ADMINISTRATIVE JURISDICTION

- Sec. 301. Transfer of administrative jurisdiction to the United States Fish and Wildlife Service.
- Sec. 302. Transfer of administrative jurisdiction to National Park Service.

**TITLE IV—AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND
MANAGEMENT ACT**

- Sec. 401. Disposal and exchange.

TITLE V—IVANPAH CORRIDOR

- Sec. 501. Interstate Route 15 south corridor.
- Sec. 502. Area of Critical Environmental Concern segregation.

TITLE VI—SLOAN CANYON NATIONAL CONSERVATION AREA

- Sec. 601. Short title.
- Sec. 602. Purpose.
- Sec. 603. Definitions.
- Sec. 604. Establishment.
- Sec. 605. Management.
- Sec. 606. Sale of Federal parcel.
- Sec. 607. Right-of-way.

TITLE VII—PUBLIC INTEREST CONVEYANCES

- Sec. 701. Definition of map.
- Sec. 702. Conveyance to the University of Nevada at Las Vegas Research Foundation.
- Sec. 703. Conveyance to the Las Vegas Metropolitan Police Department.
- Sec. 704. Conveyance to the City of Henderson for the Nevada State College at Henderson.
- Sec. 705. Conveyance to the City of Las Vegas, Nevada.
- Sec. 706. Sale of Federal parcel.

TITLE VIII—HUMBOLDT PROJECT CONVEYANCE

- Sec. 801. Short title.
- Sec. 802. Definitions.
- Sec. 803. Authority to convey title.
- Sec. 804. Payment.
- Sec. 805. Compliance with other laws.
- Sec. 806. Revocation of withdrawals.
- Sec. 807. Liability.
- Sec. 808. National Environmental Policy Act.
- Sec. 809. Future benefits.

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Technical amendments to the Mesquite Lands Act 2001.

SEC. 3. DEFINITIONS.

In this Act:

(1) **AGREEMENT.**—The term “Agreement” means the Agreement entitled “Interim Cooperative Management Agreement Between the United States of the Interior Bureau of Land Management and Clark County”, dated November 4, 1992.

(2) **COUNTY.**—The term “County” means Clark County, Nevada.

(3) **SECRETARY.**—The term “Secretary” means—

(A) the Secretary of Agriculture with respect to land in the National Forest System; or

(B) the Secretary of the Interior, with respect to other Federal land.

(4) **STATE.**—The term “State” means the State of Nevada.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized such sums as may be necessary to carry out this Act.

TITLE I—RED ROCK CANYON NATIONAL CONSERVATION AREA LAND EXCHANGE AND BOUNDARY ADJUSTMENT

16 USC
460qqq–1
note.

Red Rock Canyon
National
Conservation
Area Protection
and
Enhancement
Act of 2002.

SEC. 101. SHORT TITLE.

This title may be cited as the “Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002”.

16 USC
460ccc–4
note.

16 USC
460ccc-4
note.

SEC. 102. DEFINITIONS.

As used in this title:

(1) CORPORATION.—The term “Corporation” means the Howard Hughes Corporation, an affiliate of the Rouse Company, with its principal place of business at 10000 West Charleston Boulevard, Las Vegas, Nevada.

(2) RED ROCK CANYON.—The term “Red Rock Canyon” means the Red Rock Canyon National Conservation Area, consisting of approximately 195,780 acres of public lands in Clark County, Nevada, specially designated for protection in the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), as depicted on the Red Rock Canyon Map.

(3) RED ROCK CANYON MAP.—The term “Red Rock Canyon Map” means the map entitled “Southern Nevada Public Land Management Act”, dated October 1, 2002.

16 USC
460ccc-4
note.

SEC. 103. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) Red Rock Canyon is a natural resource of major significance to the people of Nevada and the United States. It must be protected in its natural state for the enjoyment of future generations of Nevadans and Americans, and enhanced wherever possible.

(2) In 1998, the Congress enacted the Southern Nevada Public Lands Management Act of 1998 (Public Law 105-263), which provided among other things for the protection and enhancement of Red Rock Canyon.

(3) The Corporation owns much of the private land on Red Rock Canyon’s eastern boundary, and is engaged in developing a large-scale master-planned community.

(4) Included in the Corporation’s land holdings are 1,071 acres of high-ground lands at the eastern edge of Red Rock Canyon. These lands were intended to be included in Red Rock, but to date have not been acquired by the United States. The protection of this high-ground acreage would preserve an important element of the western Las Vegas Valley viewshed.

(5) The Corporation has volunteered to forgo development of the high-ground lands, and proposes that the United States acquire title to the lands so that they can be preserved in perpetuity to protect and expand Red Rock Canyon.

(b) PURPOSES.—The purposes of this title are:

(1) To accomplish an exchange of lands between the United States and the Corporation that would transfer certain high-ground lands to the United States in exchange for the transfer of other lands of approximately equal value to the Corporation.

(2) To protect Red Rock Canyon and to expand its boundaries as contemplated by the Bureau of Land Management, as depicted on the Red Rock Canyon Map.

(3) To further fulfill the purposes of the Southern Nevada Public Lands Management Act of 1998 and the Red Rock Canyon National Conservation Area Establishment Act of 1990.

16 USC
460ccc-4
note.
Deadline.

SEC. 104. RED ROCK CANYON LAND EXCHANGE.

(a) ACQUISITION REQUIREMENT.—If the Corporation offers to convey to the United States all right, title, and interest in and to the approximately 1,082 acres of non-Federal land owned by

the Corporation and depicted on the Red Rock Canyon Map as “Offered Lands proposed addition to the Red Rock Canyon NCA”, the Secretary shall accept such offer on behalf of the United States, and not later than 90 days after the date of the offer, except as otherwise provided in this title, shall make the following conveyances:

(1) To the Corporation, the approximately 998 acres of Federal lands depicted on the Red Rock Canyon Map as “Public land selected for exchange”.

(2) To Clark County, Nevada, the approximately 1,221 acres of Federal lands depicted on the Red Rock Canyon Map as “Proposed BLM transfer for county park”.

(b) SIMULTANEOUS CONVEYANCES.—Title to the private property and the Federal property to be conveyed pursuant to this section shall be conveyed at the same time.

(c) MAP.—The Secretary shall keep the Red Rock Canyon Map on file and available for public inspection in the Las Vegas District Office of the Bureau of Land Management in Nevada, and the State Office of the Bureau of Land Management, Reno, Nevada.

(d) CONDITIONS.—

(1) HAZARDOUS MATERIALS.—As a condition of the conveyance under —subsection (a)(1), the Secretary shall require that the Corporation be responsible for removal of and remediation related to any hazardous materials that are present on the property conveyed to the United States under subsection (a).

(2) SURVEY.—As a condition of the conveyance under subsection (a)(1), the Secretary shall require that not later than 90 days after the date of the offer referred to in subsection (a), the Corporation shall provide a metes and bounds survey, that is acceptable to the Corporation, Clark County, and the Secretary, of the common boundary between the parcels of land to be conveyed under subsection (a).

Deadline.

(3) LANDS CONVEYED TO CLARK COUNTY.—As a condition of the conveyance under subsection (a)(2), the Secretary shall require that—

(A) the lands transferred to Clark County by the United States must be held in perpetuity by the County for use only as a public park or as part of a public regional trail system; and

(B) if the County attempts to transfer the lands or to undertake a use on the lands that is inconsistent with their preservation and use as described in subparagraph (A), such lands shall, at the discretion of the Secretary, revert to the United States.

(e) VALUATION.—

(1) EQUAL VALUE EXCHANGE.—The values of the Federal parcel and the non-Federal parcel, as determined under paragraph (2)—

(A) shall be equal; or

(B) if the values are not equal, shall be equalized in accordance with paragraph (3).

(2) APPRAISAL.—The values of the Federal parcel and the non-Federal parcel shall be determined by an appraisal, to be approved by the Secretary, that complies with the Uniform Standards for Federal Land Acquisitions.

(3) EQUALIZATION.—

(A) IN GENERAL.—If the value of the non-Federal parcel is less than the value of the Federal parcel—

(i) the Corporation shall make a cash equalization payment to the Secretary; or

(ii) the Secretary shall, as determined to be appropriate by the Secretary and the Corporation, reduce the acreage of the Federal parcel.

(B) DISPOSITION OF PROCEEDS.—The Secretary shall deposit any cash equalization payments received under subparagraph (A)(i) in accordance with section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345).

16 USC
460ccc-4
note.
Effective date.

SEC. 105. STATUS AND MANAGEMENT OF LANDS.

(a) INCLUSION AND MANAGEMENT OF LANDS.—Upon the date of the enactment of this Act, the Secretary shall administer the lands depicted on the Red Rock Map as “Public Lands-proposed addition to the Red Rock Canyon NCA”, exclusive of those lands used for the Corps of Engineers R-4 Detention Basin, as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.) and all other applicable laws.

(b) INCLUSION OF ACQUIRED LANDS.—Upon acquisition by the United States of lands under this Act, the Secretary shall—

(1) administer the lands as part of Red Rock and in accordance with the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc et seq.), the Southern Nevada Public Lands Management Act of 1998 (Public Law 105-263), and all other applicable laws; and

(2) create new maps showing the boundaries of Red Rock as modified or pursuant to this Act, and make such maps available for review at the Las Vegas District Office of the Bureau of Land Management and the State Office of the Bureau of Land Management, Reno, Nevada.

(c) CONFORMING AMENDMENT.—Section 3(a)(2) of the Red Rock Canyon National Conservation Area Establishment Act of 1990 (16 U.S.C. 460ccc-1(a)(2)) is amended by inserting before the period the following: “, and such additional areas as are included in the conservation area pursuant to the Red Rock Canyon National Conservation Area Protection and Enhancement Act of 2002”.

16 USC
460ccc-4
note.
Deadline.

SEC. 106. GENERAL PROVISIONS.

(a) REVIEW OF APPRAISAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall complete a review of the appraisal entitled, “Complete Self-Contained Appraisal Red Rock Exchange, Las Vegas, Nevada”, completed on or about June 3, 2002. The difference in appraisal values shall be reimbursed to the Secretary by the Corporation in accordance with the Southern Nevada Public Lands Management Act of 1998.

(b) VALID EXISTING RIGHTS.—The land exchange under this Act shall be subject to valid existing rights. Each party to which property is conveyed under this Act shall succeed to the rights and obligations of the conveying party with respect to any lease, right-of-way, permit, or other valid existing right to which the property is subject.

(c) TECHNICAL CORRECTIONS.—Nothing in this Act prohibits the parties to the conveyances under this Act from agreeing to

the correction of technical errors or omissions in the Red Rock Map.

(d) **WITHDRAWAL OF AFFECTED LANDS.**—To the extent not already accomplished under law or administrative action, the Secretary shall withdraw from operation of the public land and mining laws, subject to valid existing rights—

(1) those Federal lands acquired by the United States under this Act; and

(2) those Federal lands already owned by the United States on the date of enactment of this Act but included within the Red Rock National Conservation Area boundaries by this Act.

TITLE II—WILDERNESS AREAS

SEC. 201. FINDINGS.

The Congress finds that—

(1) public land in the County contains unique and spectacular natural resources, including—

(A) priceless habitat for numerous species of plants and wildlife; and

(B) thousands of acres of pristine land that remain in a natural state;

(2) continued preservation of those areas would benefit the County and all of the United States by—

(A) ensuring the conservation of ecologically diverse habitat;

(B) conserving primitive recreational resources; and

(C) protecting air and water quality.

SEC. 202. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) **ADDITIONS.**—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

16 USC 1132
note.

(1) **ARROW CANYON WILDERNESS.**—Certain Federal land managed by the Bureau of Land Management, comprising approximately 27,530 acres, as generally depicted on the map entitled “Arrow Canyon”, dated October 1, 2002, which shall be known as the “Arrow Canyon Wilderness”.

(2) **BLACK CANYON WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 17,220 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the “Black Canyon Wilderness”.

(3) **BRIDGE CANYON WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 7,761 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the “Bridge Canyon Wilderness”.

(4) **ELDORADO WILDERNESS.**—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 31,950 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated

October 1, 2002, which shall be known as the “Eldorado Wilderness”.

(5) IRETEBA PEAKS WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 32,745 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the “Ireteba Peaks Wilderness”.

(6) JIMBILNAN WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 18,879 acres, as generally depicted on the map entitled “Muddy Mountains”, dated October 1, 2002, which shall be known as the “Jimbilnan Wilderness”.

(7) JUMBO SPRINGS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 4,631 acres, as generally depicted on the map entitled “Gold Butte”, dated October 1, 2002, which shall be known as the “Jumbo Springs Wilderness”.

(8) LA MADRE MOUNTAIN WILDERNESS.—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 47,180 acres, as generally depicted on the map entitled “Spring Mountains”, dated October 1, 2002, which shall be known as the “La Madre Mountain Wilderness”.

(9) LIME CANYON WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 23,233 acres, as generally depicted on the map entitled “Gold Butte”, dated October 1, 2002, which shall be known as the “Lime Canyon Wilderness”.

(10) MT. CHARLESTON WILDERNESS ADDITIONS.—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 13,598 acres, as generally depicted on the map entitled “Spring Mountains”, dated October 1, 2002, which shall be included in the Mt. Charleston Wilderness.

(11) MUDDY MOUNTAINS WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of land managed by the Bureau of Land Management, comprising approximately 48,019 acres, as generally depicted on the map entitled “Muddy Mountains”, dated October 1, 2002, which shall be known as the “Muddy Mountains Wilderness”.

(12) NELLIS WASH WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area, comprising approximately 16,423 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the “Nellis Wash Wilderness”.

(13) NORTH MCCULLOUGH WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 14,763 acres, as generally depicted on the map entitled “McCulloughs”, dated October 1, 2002, which shall be known as the “North McCullough Wilderness”.

(14) PINTO VALLEY WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area, comprising

approximately 39,173 acres, as generally depicted on the map entitled “Muddy Mountains”, dated October 1, 2002, which shall be known as the “Pinto Valley Wilderness”.

(15) RAINBOW MOUNTAIN WILDERNESS.—Certain Federal land within the Toiyabe National Forest and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 24,997 acres, as generally depicted on the map entitled “Spring Mountains”, dated October 1, 2002, which shall be known as the “Rainbow Mountain Wilderness”.

(16) SOUTH MCCULLOUGH WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 44,245 acres, as generally depicted on the map entitled “McCulloughs”, dated October 1, 2002, which shall be known as the “South McCullough Wilderness”.

(17) SPIRIT MOUNTAIN WILDERNESS.—Certain Federal land within the Lake Mead National Recreation Area and an adjacent portion of Federal land managed by the Bureau of Land Management, comprising approximately 33,518 acres, as generally depicted on the map entitled “Eldorado/Spirit Mountain”, dated October 1, 2002, which shall be known as the “Spirit Mountain Wilderness”.

(18) WEE THUMP JOSHUA TREE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 6,050 acres, as generally depicted on the map entitled “McCulloughs”, dated October 1, 2002, which shall be known as the “Wee Thump Joshua Tree Wilderness”.

(b) BOUNDARY.—

(1) LAKE OFFSET.—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by Lake Mead, Lake Mohave, or the Colorado River shall be 300 feet inland from the high water line.

(2) ROAD OFFSET.—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet from the edge of the road to allow public access.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management, National Park Service, or Forest Service, as applicable.

Public inspection.

(d) WITHDRAWAL.—Subject to valid existing rights, the wilderness areas designated in this section are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

SEC. 203. ADMINISTRATION.

(a) **MANAGEMENT.**—Subject to valid existing rights, each area designated as wilderness by this title shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of enactment of this Act; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior with respect to lands administered by the Secretary of the Interior.

(b) **LIVESTOCK.**—Within the wilderness areas designated under this title that are administered by the Bureau of Land Management, the grazing of livestock in areas in which grazing is established as of the date of enactment of this Act shall be allowed to continue, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101-405.

(c) **INCORPORATION OF ACQUIRED LANDS AND INTERESTS.**—Any land or interest in land within the boundaries of an area designated as wilderness by this title that is acquired by the United States after the date of enactment of this Act shall be added to and administered as part of the wilderness area within which the acquired land or interest is located.

(d) **WATER RIGHTS.**—

(1) **FINDINGS.**—Congress finds that—

(A) the lands designated as Wilderness by this Act are within the Mojave Desert, are arid in nature, and include ephemeral streams;

(B) the hydrology of the lands designated as wilderness by this Act is locally characterized by complex flow patterns and alluvial fans with impermanent channels;

(C) the subsurface hydrogeology of the region is characterized by ground water subject to local and regional flow gradients and artesian aquifers;

(D) the lands designated as wilderness by this Act are generally not suitable for use or development of new water resource facilities and there are no actual or proposed water resource facilities and no opportunities for diversion, storage, or other uses of water occurring outside such lands that would adversely affect the wilderness or other values of such lands; and

(E) because of the unique nature and hydrology of these desert lands designated as wilderness by this Act and the existence of the Clark County Multi-Species Habitat Conservation Plan it is possible to provide for proper management and protection of the wilderness, perennial springs and other values of such lands in ways different from those used in other legislation.

(2) **STATUTORY CONSTRUCTION.**—

(A) Nothing in this Act shall constitute or be construed to constitute either an express or implied reservation by

the United States of any water or water rights with respect to the lands designated as Wilderness by this Act.

(B) Nothing in this Act shall affect any water rights in the State of Nevada existing on the date of the enactment of this Act, including any water rights held by the United States.

(C) Nothing in this subsection shall be construed as establishing a precedent with regard to any future wilderness designations.

(D) Nothing in this Act shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State of Nevada and other States.

(E) Nothing in this subsection shall be construed as limiting, altering, modifying, or amending the Clark County Multi-Species Habitat Conservation Plan (MSHCP) with respect to the lands designated as Wilderness by this Act including the MSHCP's specific management actions for the conservation of perennial springs.

(3) NEVADA WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State of Nevada in order to obtain and hold any water rights not in existence on the date of enactment of this Act with respect to the wilderness areas designated by this Act.

(4) NEW PROJECTS.—

(A) As used in this paragraph, the term “water resource” facility means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures. The term “water resource” facility does not include wildlife guzzlers.

(B) Except as otherwise provided in this Act, on and after the date of the enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness areas designated by this Act.

SEC. 204. ADJACENT MANAGEMENT.

(a) IN GENERAL.—Congress does not intend for the designation of wilderness in the State pursuant to this title to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this title shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

SEC. 205. MILITARY OVERFLIGHTS.

Nothing in this title restricts or precludes—

(1) low-level overflights of military aircraft over the areas designated as wilderness by this title, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

SEC. 206. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

Nothing in this Act shall be construed to diminish the rights of any Indian Tribe. Nothing in this Act shall be construed to diminish tribal rights regarding access to Federal lands for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

SEC. 207. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau of Land Management and the Forest Service in the following areas have been adequately studied for wilderness designation:

- (1) The Garrett Buttes Wilderness Study Area.
- (2) The Quail Springs Wilderness Study Area.
- (3) The Nellis A, B, C Wilderness Study Area.
- (4) Any portion of the wilderness study areas—
 - (A) not designated as wilderness by section 202(a); and
 - (B) designated for release on—
 - (i) the map entitled “Muddy Mountains” and dated October 1, 2002;
 - (ii) the map entitled “Spring Mountains” and dated October 1, 2002;
 - (iii) the map entitled “Arrow Canyon” and dated October 1, 2002;
 - (iv) the map entitled “Gold Butte” and dated October 1, 2002;
 - (v) the map entitled “McCullough Mountains” and dated October 1, 2002;
 - (vi) the map entitled “El Dorado/Spirit Mountain” and dated October 1, 2002; or
 - (vii) the map entitled “Southern Nevada Public Land Management Act” and dated October 1, 2002.

(b) RELEASE.—Except as provided in subsection (c), any public land described in subsection (a) that is not designated as wilderness by this title—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) existing cooperative conservation agreements.

(c) RIGHT-OF-WAY GRANT.—The Secretary shall issue to the State-regulated sponsor of the Centennial Project the right-of-way for the construction and maintenance of two 500-kilovolt electrical transmission lines. The construction shall occur within a 500-foot-wide corridor that is released from the Sunrise Mountains Instant Study Area in the County as depicted on the Southern Nevada Public Land Management Act map, dated October 1, 2002.

SEC. 208. WILDLIFE MANAGEMENT.

(a) **IN GENERAL.**—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this title.

(b) **MANAGEMENT ACTIVITIES.**—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this title where consistent with relevant wilderness management plans, in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, including the occasional and temporary use of motorized vehicles, if such use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those purposes with the minimum impact necessary to reasonably accomplish the task.

(c) **EXISTING ACTIVITIES.**—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, horses, and burros.

(d) **WILDLIFE WATER DEVELOPMENT PROJECTS.**—Subject to subsection (f), the Secretary shall, authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this title if—

(1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable and more naturally distributed wildlife populations; and

(2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(e) **HUNTING, FISHING, AND TRAPPING.**—The Secretary may designate by regulation areas in consultation with the appropriate State agency (except in emergencies), in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this title.

(f) **COOPERATIVE AGREEMENT.**—No later than one year after the date of enactment of this Act, the Secretary shall enter into a cooperative agreement with the State of Nevada. The cooperative agreement shall specify the terms and conditions under which the State (including a designee of the State) may use wildlife management activities in the wilderness areas designated by this title.

Deadline.

SEC. 209. WILDFIRE MANAGEMENT.

Consistent with section 4 of the Wilderness Act (16 U.S.C. 1133), nothing in this title precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas designated by this title.

SEC. 210. CLIMATOLOGICAL DATA COLLECTION.

Subject to such terms and conditions as the Secretary may prescribe, nothing in this title precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this title if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.

SEC. 211. NATIONAL PARK SERVICE LANDS.

To the extent any of the provisions of this title are in conflict with laws, regulations, or management policies applicable to the National Park Service for Lake Mead National Recreation Area, those laws, regulations, or policies shall control.

TITLE III—TRANSFERS OF ADMINISTRATIVE JURISDICTION

16 USC 668dd
note.

**SEC. 301. TRANSFER OF ADMINISTRATIVE JURISDICTION TO THE
UNITED STATES FISH AND WILDLIFE SERVICE.**

(a) **IN GENERAL.**—Administrative jurisdiction over the land described in subsection (b) is transferred from the Bureau of Land Management to the United States Fish and Wildlife Service for inclusion in the Desert National Wildlife Range.

(b) **DESCRIPTION OF LAND.**—The parcel of land referred to in subsection (a) is the approximately 26,433 acres of land administered by the Bureau of Land Management as generally depicted on the map entitled “Arrow Canyon” and dated October 1, 2002.

(c) **WILDERNESS RELEASE.**—

(1) Congress finds that the parcel of land described in subsection (b) has been adequately studied for wilderness designation for the purposes of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)).

(2) The parcel of land described in subsection (b)—

(A) shall not be subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)); and

(B) shall be managed in accordance with

(i) the National Wildlife Refuge System Administration Act, as amended by the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee); and

(ii) existing cooperative conservation agreements.

16 USC 460n–1
note.

**SEC. 302. TRANSFER OF ADMINISTRATIVE JURISDICTION TO NATIONAL
PARK SERVICE.**

(a) **IN GENERAL.**—Administrative jurisdiction over the parcel of land described in subsection (b) is transferred from the Bureau of Land Management to the National Park Service for inclusion in the Lake Mead National Recreation Area.

(b) **DESCRIPTION OF LAND.**—The parcel of land referred to in subsection (a) is the approximately 10 acres of Bureau of Land Management land, as depicted on the map entitled “Eldorado/Spirit Mountain” and dated October 1, 2002.

(c) **USE OF LAND.**—The parcel of land described in subsection (b) shall be used by the National Park Service for administrative facilities.

TITLE IV—AMENDMENTS TO THE SOUTHERN NEVADA PUBLIC LAND MANAGEMENT ACT

SEC. 401. DISPOSAL AND EXCHANGE.

(a) **IN GENERAL.**—Section 4 of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2344) is amended—

(1) in the first sentence of subsection (a), by striking “entitled Las Vegas Valley, Nevada, Land Disposal Map, dated April 10, 1997” and inserting “entitled Southern Nevada Public Land Management Act, dated October 1, 2002”; and

(2) in subsection (e)(3)(A)—

(A) in clause (iv)—

(i) by inserting “or regional governmental entity” after “local government”; and

(ii) by striking “and” at the end;

(B) by redesignating clause (v) as clause (vi); and

(C) by inserting after clause (iv) the following:

“(v) up to 10 percent of amounts available, to be used for conservation initiatives on Federal land in Clark County, Nevada, administered by the Department of the Interior or the Department of Agriculture; and”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) take effect on January 31, 2003.

(c) **WITHDRAWAL.**—Subject to valid existing rights, the land designated for disposal in this section is withdrawn from entry and appropriation under the public land laws, location and entry, under the mining laws, and from operation under the mineral leasing and geothermal leasing laws until such times as the Secretary terminates the withdrawal or the lands are patented.

TITLE V—IVANPAH CORRIDOR

SEC. 501. INTERSTATE ROUTE 15 SOUTH CORRIDOR.

(a) **MANAGEMENT OF INTERSTATE ROUTE 15 CORRIDOR LAND.**—

(1) **IN GENERAL.**—The Secretary shall manage the land located along the Interstate Route 15 corridor south of the Las Vegas Valley to the border between the States of California and Nevada, generally depicted as Interstate 15 South Corridor on the map entitled “Clark County Conservation of Public Land and Natural Resources Act of 2002” and dated October 1, 2002, in accordance with the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2343) and this section.

(2) **AVAILABILITY OF MAP.**—The map described in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

Public inspection.

(3) **MULTIPLE USE MANAGEMENT.**—Subject to any land management designations under the 1998 Las Vegas District Resource Management Plan or the Clark County Multi-Species Conservation Plan, land depicted on the map described in paragraph (1) shall be managed for multiple use purposes.

(4) **TERMINATION OF ADMINISTRATIVE WITHDRAWAL.**—The administrative withdrawal of the land identified as the Interstate 15 South Corridor on the map entitled “Clark County Conservation of Public Land and Natural Resources Act of 2002” and dated October 1, 2002, from mineral entry dated July 23, 1997, and as amended March 9, 1998, as further amended July 2, 2002, is terminated.

(5) **WITHDRAWAL OF LAND.**—Subject to valid existing rights, the corridor described in subsection (b) and the land described in subsection (c)(1) are withdrawn from location and entry under the mining laws, and from operation under the mineral leasing and geothermal leasing laws, until such time as—

(A) the Secretary terminates the withdrawal; or

(B) the corridor or land, respectively, is patented.

(b) **TRANSPORTATION AND UTILITIES CORRIDOR.**—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713), the Secretary, in consultation with the City of Henderson and the County, and in accordance with this section and other applicable laws and subject to valid existing rights, shall establish a 2,640-foot-wide corridor between the Las Vegas valley and the proposed Ivanpah Airport for the placement, on a nonexclusive basis, of utilities and transportation.

(c) **IVANPAH AIRPORT ENVIRONS OVERLAY DISTRICT LAND TRANSFER.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and valid existing rights, on request by the County, the Secretary shall transfer to the County, without consideration, all right, title, and interest of the United States in and to the land identified as Ivanpah Airport noise compatibility area on the map entitled “Clark County Conservation of Public Land and Natural Resources Act of 2002” and dated October 1, 2002.

(2) **CONDITIONS FOR TRANSFER.**—As a condition of the transfer under paragraph (1), the County shall agree—

(A) to manage the transferred land in accordance with section 47504 of title 49, United States Code (including regulations promulgated under that section); and

(B) that if any portion of the transferred land is sold, leased, or otherwise conveyed or leased by the County—

(i) the sale, lease, or other conveyance shall be—

(I) subject to a limitation that requires that any use of the transferred land be consistent with the Agreement and section 47504 of title 49, United States Code (including regulations promulgated under that section); and

(II) for fair market value; and

(ii) of any gross proceeds received by the County from the sale, lease, or other conveyance of the land, the County shall—

(I) contribute 85 percent to the special account established by section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345);

(II) contribute 5 percent to the State for use in the general education program of the State; and

(III) reserve 10 percent for use by the Clark County Department of Aviation for airport development and noise compatibility programs.

(d) **EFFECTIVE DATE.**—Subsections (b) and (c) shall not take effect until construction of the Ivanpah Valley Airport is approved in accordance with Public Law 106–362.

SEC. 502. AREA OF CRITICAL ENVIRONMENTAL CONCERN SEGREGATION.

(a) **TEMPORARY WITHDRAWAL.**—Subject to valid existing rights, any Federal land in an Area of Critical Environmental Concern that is designated for withdrawal under the 1998 Las Vegas Resource Management Plan, and which is not already withdrawn by the effect of this or any other Act, is hereby withdrawn from location, entry, and patent under the mining laws for a period not to exceed five years. The withdrawal shall lapse at the earlier—

(1) five years; or

(2) when the Secretary issues a final decision on each proposed withdrawal.

(b) **ADMINISTRATIVE WITHDRAWAL.**—The Secretary shall make final decisions on each of the temporary withdrawals described in subsection (a) within five years of the date of enactment of this Act. Such decisions shall be made consistent with the Federal Land Policy and Management Act (43 U.S.C. 1714), and in accordance with the 1998 Las Vegas Resource Management Plan.

Deadline.

(c) **MINERAL REPORT.**—The mineral reports required by section 204(c)(12) of the Federal Land Policy and Management Act shall be the responsibility of the United States Geological Survey and shall be completed for each of the temporary withdrawals described in subsection (a) within four years of the date of enactment of this Act.

Deadline.

TITLE VI—SLOAN CANYON NATIONAL CONSERVATION AREA

Sloan Canyon National Conservation Area Act.

SEC. 601. SHORT TITLE.

This title may be cited as the “Sloan Canyon National Conservation Area Act”.

16 USC 460qqq note.

SEC. 602. PURPOSE.

The purpose of this title is to establish the Sloan Canyon National Conservation Area to conserve, protect, and enhance for the benefit and enjoyment of present and future generations the cultural, archaeological, natural, wilderness, scientific, geological, historical, biological, wildlife, educational, and scenic resources of the Conservation Area.

16 USC 460qqq.

SEC. 603. DEFINITIONS.

In this title:

16 USC 460qqq–1.

(1) **CONSERVATION AREA.**—The term “Conservation Area” means the Sloan Canyon National Conservation Area established by section 604(a).

(2) **FEDERAL PARCEL.**—The term “Federal parcel” means the parcel of Federal land consisting of approximately 500 acres that is identified as Tract A on the map entitled “Southern

Nevada Public Land Management Act” and dated October 1, 2002.

(3) **MANAGEMENT PLAN.**—The term “management plan” means the management plan for the Conservation Area developed under section 605(b).

(4) **MAP.**—The term “map” means the map entitled “Southern Nevada Public Land Management Act” and dated October 1, 2002.

16 USC
460qqq-2.

SEC. 604. ESTABLISHMENT.

(a) **IN GENERAL.**—For the purpose described in section 602, there is established in the State a conservation area to be known as the Sloan Canyon National Conservation Area.

(b) **AREA INCLUDED.**—The Conservation Area shall consist of approximately 48,438 acres of public land in the County, as generally depicted on the map.

(c) **MAP AND LEGAL DESCRIPTION.**—

(1) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) **EFFECT.**—The map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct minor errors in the map or legal description.

(3) **PUBLIC AVAILABILITY.**—A copy of the map and legal description shall be on file and available for public inspection in the appropriate office of the Bureau of Land Management.

16 USC
460qqq-3.

SEC. 605. MANAGEMENT.

(a) **IN GENERAL.**—The Secretary, acting through the Director of the Bureau of Land Management, shall manage the Conservation Area—

(1) in a manner that conserves, protects, and enhances the resources of the Conservation Area; and

(2) in accordance with—

(A) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(B) other applicable law, including this Act.

(b) **MANAGEMENT PLAN.**—

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Secretary, in consultation with the State, the city of Henderson, the County, and any other interested persons, shall develop a management plan for the Conservation Area.

(2) **REQUIREMENTS.**—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B)(i) authorize the use of motorized vehicles in the Conservation Area—

(I) for installing, repairing, maintaining, and reconstructing water development projects, including guzzlers, that would enhance the Conservation Area by promoting healthy, viable, and more naturally distributed wildlife populations; and

(II) subject to any limitations that are not more restrictive than the limitations on such uses authorized in wilderness areas under section 208; and

Deadline.

(ii) include or provide recommendations on ways of minimizing the visual impacts of such activities on the Conservation Area;

(C) include a plan for litter cleanup and public lands awareness campaign on public lands in and around the Conservation Area; and

(D) include a recommendation on the location for a right-of-way for a rural roadway to provide the city of Henderson with access to the Conservation Area, in accordance with the application numbered N-65874.

(c) USES.—The Secretary shall allow only such uses of the Conservation Area that the Secretary determines will further the purpose described in section 602.

(d) MOTORIZED VEHICLES.—Except as needed for administrative purposes or to respond to an emergency, the use of motorized vehicles in the Conservation Area shall be permitted only on roads and trails designated for the use of motorized vehicles by the management plan developed under subsection (b).

(e) WITHDRAWAL.—

(1) IN GENERAL.—Subject to valid existing rights, all public land in the Conservation Area is withdrawn from—

(A) all forms of entry and appropriation under the public land laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(2) ADDITIONAL LAND.—Notwithstanding any other provision of law, if the Secretary acquires mineral or other interests in a parcel of land within the Conservation Area after the date of enactment of this Act, the parcel is withdrawn from operation of the laws referred to in paragraph (1) on the date of acquisition of the land.

(f) HUNTING, FISHING, AND TRAPPING.—

(1) IN GENERAL.—Nothing in this title affects the jurisdiction of the State with respect to fish and wildlife, including hunting, fishing, and trapping in the Conservation Area.

(2) LIMITATIONS.—

(A) REGULATIONS.—The Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the Conservation Area.

(B) CONSULTATION.—Except in emergencies, the Secretary shall consult with the appropriate State agency before promulgating regulations under subparagraph (A) that close a portion of the Conservation Area to hunting, fishing, or trapping.

(g) NO BUFFER ZONES.—

(1) IN GENERAL.—The establishment of the Conservation Area shall not create an express or implied protective perimeter or buffer zone around the Conservation Area.

(2) PRIVATE LAND.—If the use of, or conduct of an activity on, private land that shares a boundary with the Conservation Area is consistent with applicable law, nothing in this title concerning the establishment of the Conservation Area shall prohibit or limit the use or conduct of the activity.

16 USC
460qqq-4.
Deadline.

SEC. 606. SALE OF FEDERAL PARCEL.

(a) **IN GENERAL.**—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713) and subject to valid existing rights, not later than 1 year after the date of enactment of this Act, the Secretary shall convey to the highest qualified bidder all right, title, and interest of the United States in and to the Federal parcel.

(b) **DISPOSITION OF PROCEEDS.**—Of the gross proceeds from the conveyance of land under subsection (a)—

(1) 5 percent shall be available to the State for use in the general education program of the State; and

(2) the remainder shall be deposited in the special account established under the Southern Nevada Public Lands Management Act of 1998 (Public Law 105-263; 112 Stat. 2345), to be available to the Secretary, without further appropriation for—

(A) the construction and operation of facilities to support the management of the Conservation Area;

(B) the construction and repair of trails and roads in the Conservation Area authorized under the management plan;

(C) research on and interpretation of the archaeological and geological resources of the Conservation Area;

(D) conservation and research relating to the Conservation Area; and

(E) any other purpose that the Secretary determines to be consistent with the purpose described in section 602.

16 USC
460qqq-5.
Deadline.

SEC. 607. RIGHT-OF-WAY.

Not later than 180 days after the date of enactment of this Act, the Secretary shall convey to the City of Henderson the public right-of-way requested for public trail purposes under the application numbered N-76312 and the public right-of-way requested for public trail purposes under the application numbered N-65874.

TITLE VII—PUBLIC INTEREST CONVEYANCES

SEC. 701. DEFINITION OF MAP.

In this title, the term “map” means the map entitled “Southern Nevada Public Land Management Act” and dated October 1, 2002.

**SEC. 702. CONVEYANCE TO THE UNIVERSITY OF NEVADA AT LAS VEGAS
RESEARCH FOUNDATION.**

(a) **FINDINGS AND PURPOSES.**—

(1) **FINDINGS.**—Congress finds that—

(A) the University of Nevada, Las Vegas, needs land in the greater Las Vegas area to provide for the future growth of the university;

(B) the proposal by the University of Nevada, Las Vegas, for construction of a research park and technology center in the greater Las Vegas area would enhance the high tech industry and entrepreneurship in the State; and

(C) the land transferred to the Clark County Department of Aviation under section 4(g) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2346)

is the best location for the research park and technology center.

(2) PURPOSES.—The purposes of this section are—

(A) to provide a suitable location for the construction of a research park and technology center in the greater Las Vegas area;

(B) to provide the public with opportunities for education and research in the field of high technology; and

(C) to provide the State with opportunities for competition and economic development in the field of high technology.

(b) TECHNOLOGY RESEARCH CENTER.—

(1) CONVEYANCE.—Notwithstanding section 4(g)(4) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2347), the Clark County Department of Aviation may convey, without consideration, all right, title, and interest in and to the parcel of land described in paragraph (3) to the University of Nevada at Las Vegas Research Foundation (referred to in this section as “Foundation”) for the development of a technology research center.

(2) CONDITION.—The conveyance under paragraph (1) shall be subject to the condition that the Foundation enter into an agreement that if the land described in paragraph (3) is sold, leased, or otherwise conveyed by the Foundation.

(A) the Foundation shall sell, lease, or otherwise convey the land for fair market value;

(B) the Foundation shall contribute 85 percent of the gross proceeds from the sale, lease, or conveyance of the land to the special account;

(C) with respect to land identified on the map entitled “Las Vegas Valley, Nevada, Land Sales Map”, numbered 7306A, and dated May 1980, the proceeds from the sale, lease, or conveyance of the land identified on the map contributed to the special account by the Foundation under subparagraph (B) shall be used by the Secretary of Agriculture to acquire environmentally sensitive land in the Lake Tahoe Basin under section 3 of Public Law 96-586 (94 Stat. 3383);

(D) the Foundation shall contribute 5 percent of the gross proceeds from the sale, lease, or conveyance of the land to the State of Nevada for use in the general education program of the State; and

(E) the remainder of the gross proceeds from the sale, lease, or conveyance of the land shall be available for use by the Foundation.

(3) DESCRIPTION OF LAND.—The parcel of land referred to in paragraph (1) is the parcel of Clark County Department of Aviation land—

(A) consisting of approximately 115 acres; and

(B) located in the SAW $\frac{1}{4}$ of section 33, T. 21 S., R. 60 E., Mount Diablo Base and Meridian.

SEC. 703. CONVEYANCE TO THE LAS VEGAS METROPOLITAN POLICE DEPARTMENT.

The Secretary shall convey to the Las Vegas Metropolitan Police Department, without consideration, all right, title, and interest

in and to the parcel of land identified as “Tract F” on the map for use as a shooting range.

SEC. 704. CONVEYANCE TO THE CITY OF HENDERSON FOR THE NEVADA STATE COLLEGE AT HENDERSON.

(a) DEFINITIONS.—In this section:

(1) CHANCELLOR.—The term “Chancellor” means the Chancellor of the University system.

(2) CITY.—The term “City” means the city of Henderson, Nevada.

(3) COLLEGE.—The term “College” means the Nevada State College at Henderson.

(4) SURVEY.—The term “survey” means the land survey required under Federal law to define the official metes and bounds of the parcel of Federal land identified as “Tract H” on the map.

(5) UNIVERSITY SYSTEM.—The term “University system” means the University and Community College System of Nevada.

(b) CONVEYANCE.—

Deadline.

(1) IN GENERAL.—Notwithstanding the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and section 1(c) of the Act of June 14, 1926 (commonly known as the “Recreation and Public Purposes Act”) (43 U.S.C. 869(c)), not later than 180 days after the date on which the survey is approved, the Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the parcel of Federal land identified as “Tract H” on the map for use as a campus for the College.

(2) CONDITIONS.—

(A) IN GENERAL.—As a condition of the conveyance under paragraph (1), the Chancellor and the City shall agree in writing—

(i) to pay any administrative costs associated with the conveyance, including the costs of any environmental, wildlife, cultural, or historical resources studies;

(ii) to use the Federal land conveyed for educational and recreational purposes;

(iii) to release and indemnify the United States from any claims or liabilities which may arise from uses that are carried out on the Federal land on or before the date of enactment of this Act by the United States or any person;

(iv) as soon as practicable after the date of the conveyance under paragraph (1), to erect at the College an appropriate and centrally located monument that acknowledges the conveyance of the Federal land by the United States for the purpose of furthering the higher education of citizens in the State; and

(v) to assist the Bureau of Land Management in providing information to the students of the College and the citizens of the State on—

(I) public land in the State; and

(II) the role of the Bureau of Land Management in managing, preserving, and protecting the public land.

(B) VALID EXISTING RIGHTS.—The conveyance under paragraph (1) shall be subject to all valid existing rights.

(3) USE OF FEDERAL LAND.—

(A) IN GENERAL.—The College and the City may use the land conveyed under paragraph (1) for—

(i) any purpose relating to the establishment, operation, growth, and maintenance of the College; and

(ii) any uses relating to such purposes, including residential and commercial development that would generally be associated with an institution of higher education.

(B) OTHER ENTITIES.—The College and the City may—

(i) consistent with Federal and State law, lease or otherwise provide property or space at the College, with or without consideration, to religious, public interest, community, or other groups for services and events that are of interest to the College, the City, or any community located in the Las Vegas Valley;

(ii) allow the City or any other community in the Las Vegas Valley to use facilities of the College for educational and recreational programs of the City or community; and

(iii) in conjunction with the City, plan, finance, (including the provision of cost-share assistance), construct, and operate facilities for the City on the Federal land conveyed for educational or recreational purposes consistent with this section.

(4) REVERSION.—If the Federal land or any portion of the Federal land conveyed under paragraph (1) ceases to be used for the College, the Federal land or any portion of the Federal land shall, at the discretion of the Secretary, revert to the United States.

SEC. 705. CONVEYANCE TO THE CITY OF LAS VEGAS, NEVADA.

(a) DEFINITIONS.—In this section:

(1) CITY.—The term “City” means the city of Las Vegas, Nevada.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(b) CONVEYANCE.—The Secretary shall convey to the City, without consideration, all right, title, and interest of the United States in and to the parcels of land identified as “Tract C” and “Tract D” on the map.

(c) REVERSION.—If a parcel of land conveyed to the City under subsection (b) ceases to be used for affordable housing or for a purpose related to affordable housing, the parcel shall, at the discretion of the Secretary, revert to the United States.

SEC. 706. SALE OF FEDERAL PARCEL.

(a) IN GENERAL.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712, 1713) and subject to valid existing rights, the Secretary shall convey as a single parcel to the highest qualified bidder all right, title, and interest of the United States in and to approximately 360 acres that is identified as the North Half (N¹/₂) of Section 7, Township 23 South, Range 61 East, M.D.B.&M., Clark County, Nevada and the Northeast Quarter (NE¹/₄) of the Southeast

Quarter (SE $\frac{1}{4}$) of Section 7, Township 23 South, Range 61 East, M.D.M., Clark County, Nevada.

(b) DISPOSITION OF PROCEEDS.—The proceeds from the conveyance of the lands described in subsection (a) shall be deposited in accordance with section 4(e)(1) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345).

Humboldt Project
Conveyance Act.

TITLE VIII—HUMBOLDT PROJECT CONVEYANCE

SEC. 801. SHORT TITLE.

This title may be cited as the “Humboldt Project Conveyance Act”.

SEC. 802. DEFINITIONS.

For purposes of this title:

(1) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(2) STATE.—The term “State” means the State of Nevada.

(3) PCWCD.—The term “PCWCD” means the Pershing County Water Conservation District, a public entity organized under the laws of the State of Nevada.

(4) PERSHING COUNTY.—The term “Pershing County” means the Pershing County government, a political subunit of the State of Nevada.

(5) LANDER COUNTY.—The term “Lander County” means the Lander County government, a political subunit of the State of Nevada.

SEC. 803. AUTHORITY TO CONVEY TITLE.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act and in accordance with all applicable law, the Secretary shall convey all right, title, and interest in and to the lands and features of the Humboldt Project, as generally depicted on the map entitled the “Humboldt Project Conveyance Act”, and dated July 3, 2002, including all water rights for storage and diversion, to PCWCD, the State, Pershing County, and Lander County, consistent with the terms and conditions set forth in the Memorandum of Agreement between PCWCD and Lander County dated January 24, 2000, the Conceptual Agreement between PCWCD and the State dated October 18, 2001, the Letter of Agreement between Pershing County and the State dated April 16, 2002, and any agreements between the Bureau of Reclamation and PCWCD.

(b) MAP.—As soon as practicable after the date of the enactment of this Act, the Secretary shall submit to Congress a map of the Humboldt Project Conveyance. In case of a conflict between the map referred to in subsection (a) and the map submitted by the Secretary, the map referred to in subsection (b) shall control. The map shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such map and legal description. Copies of the map shall be on file and available for public inspection in the Office of the Commissioner of the Bureau of Reclamation and in the Office of the Area Manager of the Bureau of Reclamation in Carson City, Nevada.

(c) **COMPLIANCE WITH AGREEMENTS.**—All parties to the conveyance under subsection (a) shall comply with the terms and conditions of the agreements cited in subsection (a).

(d) **REPORT.**—If the conveyance required by this section has not been completed within 18 months after the date of enactment of this Act, the Secretary shall submit a report to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that describes—

Deadline.

- (1) the status of the conveyance;
- (2) any obstacles to completion of the conveyance; and
- (3) the anticipated date for completion of the conveyance.

SEC. 804. PAYMENT.

(a) **IN GENERAL.**—As consideration for any conveyance required by section 803, PCWCD shall pay to the United States the net present value of miscellaneous revenues associated with the lands and facilities to be conveyed.

(b) **WITHDRAWN LANDS.**—As consideration for any conveyance of withdrawn lands required by section 803, the entity receiving title shall pay the United States (in addition to amounts paid under subsection (a)) the fair market value for any such lands conveyed that were withdrawn from the public domain pursuant to the Secretarial Orders dated March 16, 1934, and April 6, 1956.

(c) **ADMINISTRATIVE COSTS.**—Administrative costs for conveyance of any land or facility under this title shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility, except costs identified in subsections (d) and (e).

(d) **REAL ESTATE TRANSFER COSTS.**—As a condition of any conveyance of any land or facility required by section 803, costs of all boundary surveys, title searches, cadastral surveys, appraisals, maps, and other real estate transactions required for the conveyance shall be paid by the entity receiving title to the land or facility.

(e) **NEPA COSTS.**—Costs associated with any review required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for conveyance of any land or facility under section 803 shall be paid in equal shares by the Secretary and the entity receiving title to the land or facility.

(f) **STATE OF NEVADA.**—The State shall not be responsible for any payments under this section. Any proposal by the State to reconvey to another entity land conveyed by the Secretary under this title shall be pursuant to an agreement with the Secretary providing for fair market value to the United States for the lands, and for continued management of the lands for recreation, wildlife habitat, wetlands, or resource conservation.

SEC. 805. COMPLIANCE WITH OTHER LAWS.

Following the conveyance required by section 803, the district, the State, Pershing County, and Lander County shall, with respect to the interests conveyed, comply with all requirements of Federal, State, and local law applicable to non-Federal water distribution systems.

SEC. 806. REVOCATION OF WITHDRAWALS.

Effective on the date of the conveyance required by section 803, the Secretarial Orders dated March 16, 1934, and April 6, 1956, that withdrew public lands for the Rye Patch Reservoir and the Humboldt Sink, are hereby revoked.

Effective date.

SEC. 807. LIABILITY.

Effective date.

Effective on the date of the conveyance required by section 803, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the Humboldt Project, except for damages caused by acts of negligence committed by the United States or by its employees or agents prior to the date of conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that currently provided in chapter 171 of title 28, United States Code, popularly known as the “Federal Tort Claims Act”.

SEC. 808. NATIONAL ENVIRONMENTAL POLICY ACT.

Prior to any conveyance under this title, the Secretary shall complete all actions as may be required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and all other applicable laws.

SEC. 809. FUTURE BENEFITS.

Upon conveyance of the lands and facilities by the Secretary under this title, the Humboldt Project shall no longer be a Federal reclamation project and the district shall not be entitled to receive any future reclamation benefits with respect to that project, except those benefits that would be available to other nonreclamation districts.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. TECHNICAL AMENDMENTS TO THE MESQUITE LANDS ACT 2001.

Section 3 of Public Law 99–548 (100 Stat. 3061; 110 Stat. 3009–202) is amended—

(1) in subsection (d), by adding at the end the following:

“(3) USE OF PROCEEDS.—The proceeds of the sale of each parcel completed after the date of enactment of this subsection shall be deposited in the special account established under section 4(e)(1)(C) of the Southern Nevada Public Land Management Act of 1998 (112 Stat. 2345); and shall be available for use by the Secretary—

“(A) to reimburse costs incurred by the local offices of the Bureau of Land Management in arranging the land conveyances directed by this section;

“(B) for the development of a multispecies habitat conservation plan for the Virgin River in Clark County, Nevada, including any associated groundwater monitoring plan; and

“(C) as provided in section 4(e)(3) of that Act (112 Stat. 2346).

Deadline.

“(4) TIMING.—Not later than 90 days after the date of enactment of this section, the Secretary shall complete the sale of any parcel authorized to be conveyed pursuant to this section and for which the Secretary has received notification from the city under paragraph (1).”; and

(2) in subsection (f)(2)(B), by adding at the end the following:

“(v) Sec. 7.”.

Approved November 6, 2002.

LEGISLATIVE HISTORY—H.R. 5200 (S. 2612):

HOUSE REPORTS: No. 107–750 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 16, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–283
107th Congress

An Act

Nov. 6, 2002
[H.R. 5308]

To designate the facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, as the “Barney Apodaca Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 301 South Howes Street in Fort Collins, Colorado, shall be known and designated as the “Barney Apodaca Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Barney Apodaca Post Office”.

Approved November 6, 2002.

LEGISLATIVE HISTORY—H.R. 5308:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 4, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–284
107th Congress

An Act

To designate the facility of the United States Postal Service located at 4 East Central Street in Worcester, Massachusetts, as the “Joseph D. Early Post Office Building”.

Nov. 6, 2002
[H.R. 5333]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 4 East Central Street in Worcester, Massachusetts, shall be known and designated as the “Joseph D. Early Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Joseph D. Early Post Office Building”.

Approved November 6, 2002.

LEGISLATIVE HISTORY—H.R. 5333:

CONGRESSIONAL RECORD, Vol. 148 (2002):
Sept. 17, considered and passed House.
Oct. 17, considered and passed Senate.



Public Law 107–285
107th Congress

An Act

Nov. 6, 2002
[H.R. 5336]

To designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the “Peter J. Ganci, Jr. Post Office Building”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, shall be known and designated as the “Peter J. Ganci, Jr. Post Office Building”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Peter J. Ganci, Jr. Post Office Building”.

Approved November 6, 2002.

LEGISLATIVE HISTORY—H.R. 5336 (S. 2918):

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 9, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–286
107th Congress

An Act

To designate the facility of the United States Postal Service located at 5805 White Oak Avenue in Encino, California, as the “Francis Dayle ‘Chick’ Hearn Post Office”.

Nov. 6, 2002
[H.R. 5340]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 5805 White Oak Avenue in Encino, California, shall be known and designated as the “Francis Dayle ‘Chick’ Hearn Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Francis Dayle ‘Chick’ Hearn Post Office”.

Approved November 6, 2002.

LEGISLATIVE HISTORY—H.R. 5340 (S. 2931):

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 7, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–287
107th Congress

An Act

Nov. 7, 2002
[H.R. 3253]

To amend title 38, United States Code, to enhance emergency preparedness of the Department of Veterans Affairs, and for other purposes.

Department of
Veterans Affairs
Emergency
Preparedness Act
of 2002.
38 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Department of Veterans Affairs Emergency Preparedness Act of 2002”.

SEC. 2. ESTABLISHMENT OF MEDICAL EMERGENCY PREPAREDNESS CENTERS AT DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTERS.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 7325. Medical emergency preparedness centers

“(a) ESTABLISHMENT OF CENTERS.—(1) The Secretary shall establish four medical emergency preparedness centers in accordance with this section. Each such center shall be established at a Department medical center and shall be staffed by Department employees.

“(2) The Under Secretary for Health shall be responsible for supervising the operation of the centers established under this section. The Under Secretary shall provide for ongoing evaluation of the centers and their compliance with the requirements of this section.

“(3) The Under Secretary shall carry out the Under Secretary’s functions under paragraph (2) in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

“(b) MISSION.—The mission of the centers shall be as follows:

“(1) To carry out research on, and to develop methods of detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

“(2) To provide education, training, and advice to health care professionals, including health care professionals outside the Veterans Health Administration, through the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) or through interagency agreements entered into by the Secretary for that purpose.

“(3) In the event of a disaster or emergency referred to in section 1785(b) of this title, to provide such laboratory, epidemiological, medical, or other assistance as the Secretary considers appropriate to Federal, State, and local health care agencies and personnel involved in or responding to the disaster or emergency.

“(c) SELECTION OF CENTERS.—(1) The Secretary shall select the sites for the centers on the basis of a competitive selection process. The Secretary may not designate a site as a location for a center under this section unless the Secretary makes a finding under paragraph (2) with respect to the proposal for the designation of such site. To the maximum extent practicable, the Secretary shall ensure the geographic dispersal of the sites throughout the United States. Any such center may be a consortium of efforts of more than one medical center.

“(2) A finding by the Secretary referred to in paragraph (1) with respect to a proposal for designation of a site as a location of a center under this section is a finding by the Secretary, upon the recommendations of the Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions, that the facility or facilities submitting the proposal have developed (or may reasonably be anticipated to develop) each of the following:

“(A) An arrangement with a qualifying medical school and a qualifying school of public health (or a consortium of such schools) under which physicians and other persons in the health field receive education and training through the participating Department medical facilities so as to provide those persons with training in the detection, diagnosis, prevention, and treatment of injuries, diseases, and illnesses induced by exposures to chemical and biological substances, radiation, and incendiary or other explosive weapons or devices.

“(B) An arrangement with a graduate school specializing in epidemiology under which students receive education and training in epidemiology through the participating Department facilities so as to provide such students with training in the epidemiology of contagious and infectious diseases and chemical and radiation poisoning in an exposed population.

“(C) An arrangement under which nursing, social work, counseling, or allied health personnel and students receive training and education in recognizing and caring for conditions associated with exposures to toxins through the participating Department facilities.

“(D) The ability to attract scientists who have made significant contributions to the development of innovative approaches to the detection, diagnosis, prevention, or treatment of injuries, diseases, and illnesses arising from the use of chemical, biological, radiological, incendiary or other explosive weapons or devices posing threats to the public health and safety.

“(3) For purposes of paragraph (2)(A)—

“(A) a qualifying medical school is an accredited medical school that provides education and training in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated; and

“(B) a qualifying school of public health is an accredited school of public health that provides education and training

in toxicology and environmental health hazards and with which one or more of the participating Department medical centers is affiliated.

“(d) RESEARCH ACTIVITIES.—Each center shall conduct research on improved medical preparedness to protect the Nation from threats in the area of that center’s expertise. Each center may seek research funds from public and private sources for such purpose.

“(e) DISSEMINATION OF RESEARCH PRODUCTS.—(1) The Under Secretary for Health and the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions shall ensure that information produced by the research, education and training, and clinical activities of centers established under this section is made available, as appropriate, to health-care providers in the United States. Dissemination of such information shall be made through publications, through programs of continuing medical and related education provided through regional medical education centers under subchapter VI of chapter 74 of this title, and through other means. Such programs of continuing medical education shall receive priority in the award of funding.

“(2) The Secretary shall ensure that the work of the centers is conducted in close coordination with other Federal departments and agencies and that research products or other information of the centers shall be coordinated and shared with other Federal departments and agencies.

“(f) COORDINATION OF ACTIVITIES.—The Secretary shall take appropriate actions to ensure that the work of each center is carried out—

“(1) in close coordination with the Department of Defense, the Department of Health and Human Services, and other departments, agencies, and elements of the Government charged with coordination of plans for United States homeland security; and

“(2) after taking into consideration applicable recommendations of the working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d-6(a)) or any other joint interagency advisory group or committee designated by the President or the President’s designee to coordinate Federal research on weapons of mass destruction.

“(g) ASSISTANCE TO OTHER AGENCIES.—The Secretary may provide assistance requested by appropriate Federal, State, and local civil and criminal authorities in investigations, inquiries, and data analyses as necessary to protect the public safety and prevent or obviate biological, chemical, or radiological threats.

“(h) DETAIL OF EMPLOYEES FROM OTHER AGENCIES.—Upon approval by the Secretary, the Director of a center may request the temporary assignment or detail to the center, on a nonreimbursable basis, of employees from other departments and agencies of the United States who have expertise that would further the mission of the center. Any such employee may be so assigned or detailed on a nonreimbursable basis pursuant to such a request.

“(i) FUNDING.—(1) Amounts appropriated for the activities of the centers under this section shall be appropriated separately from amounts appropriated for the Department for medical care.

“(2) In addition to funds appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to such centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetics research account such amounts as the Under Secretary determines appropriate to carry out the purposes of this section. Any determination by the Under Secretary under the preceding sentence shall be made in consultation with the Assistant Secretary with responsibility for operations, preparedness, security, and law enforcement functions.

“(3) There are authorized to be appropriated for the centers under this section \$20,000,000 for each of fiscal years 2003 through 2007.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7324 the following new item:

“7325. Medical emergency preparedness centers.”.

(b) PEER REVIEW FOR DESIGNATION OF CENTERS.—(1) In order to assist the Secretary of Veterans Affairs and the Under Secretary of Veterans Affairs for Health in selecting sites for centers under section 7325 of title 38, United States Code, as added by subsection (a), the Under Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the designation of such centers. The peer review panel shall be established in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

Establishment.
38 USC 7325
note.

(2) The peer review panel shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of patients exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs.

(3) The panel shall review each proposal submitted to the panel by the officials referred to in paragraph (1) and shall submit to the Under Secretary for Health its views on the relative scientific and clinical merit of each such proposal. The panel shall specifically determine with respect to each such proposal whether that proposal is among those proposals which have met the highest competitive standards of scientific and clinical merit.

(4) The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

SEC. 3. EDUCATION AND TRAINING PROGRAMS ON MEDICAL RESPONSES TO CONSEQUENCES OF TERRORIST ACTIVITIES.

(a) IN GENERAL.—(1) Subchapter II of chapter 73 of title 38, United States Code, is amended by adding after section 7325, as added by section 2(a)(1), the following new section:

“§ 7326. Education and training programs on medical response to consequences of terrorist activities

“(a) EDUCATION PROGRAM.—The Secretary shall carry out a program to develop and disseminate a series of model education and training programs on the medical responses to the consequences of terrorist activities.

“(b) IMPLEMENTING OFFICIAL.—The program shall be carried out through the Under Secretary for Health, in consultation with the Assistant Secretary of Veterans Affairs with responsibility for operations, preparedness, security, and law enforcement functions.

“(c) CONTENT OF PROGRAMS.—The education and training programs developed under the program shall be modelled after programs established at the F. Edward Hébert School of Medicine of the Uniformed Services University of the Health Sciences and shall include, at a minimum, training for health care professionals in the following:

“(1) Recognition of chemical, biological, radiological, incendiary, or other explosive agents, weapons, or devices that may be used in terrorist activities.

“(2) Identification of the potential symptoms of exposure to those agents.

“(3) Understanding of the potential long-term health consequences, including psychological effects, resulting from exposure to those agents, weapons, or devices.

“(4) Emergency treatment for exposure to those agents, weapons, or devices.

“(5) An appropriate course of followup treatment, supportive care, and referral.

“(6) Actions that can be taken while providing care for exposure to those agents, weapons, or devices to protect against contamination, injury, or other hazards from such exposure.

“(7) Information on how to seek consultative support and to report suspected or actual use of those agents.

“(d) POTENTIAL TRAINEES.—In designing the education and training programs under this section, the Secretary shall ensure that different programs are designed for health-care professionals in Department medical centers. The programs shall be designed to be disseminated to health professions students, graduate health and medical education trainees, and health practitioners in a variety of fields.

“(e) CONSULTATION.—In establishing education and training programs under this section, the Secretary shall consult with appropriate representatives of accrediting, certifying, and coordinating organizations in the field of health professions education.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7325, as added by section 2(a)(2), the following new item:

“7326. Education and training programs on medical response to consequences of terrorist activities.”.

38 USC 7326
note.

(b) EFFECTIVE DATE.—The Secretary of Veterans Affairs shall implement section 7326 of title 38, United States Code, as added by subsection (a), not later than the end of the 90-day period beginning on the date of the enactment of this Act.

SEC. 4. AUTHORITY TO FURNISH HEALTH CARE DURING MAJOR DISASTERS AND MEDICAL EMERGENCIES.

(a) IN GENERAL.—(1) Subchapter VIII of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 1785. Care and services during certain disasters and emergencies

“(a) **AUTHORITY TO PROVIDE HOSPITAL CARE AND MEDICAL SERVICES.**—During and immediately following a disaster or emergency referred to in subsection (b), the Secretary may furnish hospital care and medical services to individuals responding to, involved in, or otherwise affected by that disaster or emergency.

“(b) **COVERED DISASTERS AND EMERGENCIES.**—A disaster or emergency referred to in this subsection is any disaster or emergency as follows:

“(1) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(2) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)) is activated by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.

“(c) **APPLICABILITY TO ELIGIBLE INDIVIDUALS WHO ARE VETERANS.**—The Secretary may furnish care and services under this section to an individual described in subsection (a) who is a veteran without regard to whether that individual is enrolled in the system of patient enrollment under section 1705 of this title.

“(d) **REIMBURSEMENT FROM OTHER FEDERAL DEPARTMENTS AND AGENCIES.**—(1) The cost of any care or services furnished under this section to an officer or employee of a department or agency of the United States other than the Department or to a member of the Armed Forces shall be reimbursed at such rates as may be agreed upon by the Secretary and the head of such department or agency or the Secretary concerned, in the case of a member of the Armed Forces, based on the cost of the care or service furnished.

“(2) Amounts received by the Department under this subsection shall be credited to the Medical Care Collections Fund under section 1729A of this title.

“(e) **REPORT TO CONGRESSIONAL COMMITTEES.**—Within 60 days of the commencement of a disaster or emergency referred to in subsection (b) in which the Secretary furnishes care and services under this section (or as soon thereafter as is practicable), the Secretary shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report on the Secretary’s allocation of facilities and personnel in order to furnish such care and services.

Deadline.

“(f) **REGULATIONS.**—The Secretary shall prescribe regulations governing the exercise of the authority of the Secretary under this section.”.

(2) The table of sections at the beginning of that chapter is amended by adding at the end the following new item:

“1785. Care and services during certain disasters and emergencies.”.

(b) **MEMBERS OF THE ARMED FORCES ON ACTIVE DUTY.**—Section 8111A(a) of such title is amended—

(1) by redesignating paragraph (2) as paragraph (4);

(2) by designating the second sentence of paragraph (1) as paragraph (3); and

(3) by inserting between paragraph (1) and paragraph (3), as designated by paragraph (2) of this subsection, the following new paragraph:

“(2)(A) During and immediately following a disaster or emergency referred to in subparagraph (B), the Secretary may furnish hospital care and medical services to members of the Armed Forces on active duty responding to or involved in that disaster or emergency.

“(B) A disaster or emergency referred to in this subparagraph is any disaster or emergency as follows:

“(i) A major disaster or emergency declared by the President under the Robert B. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(ii) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh-11(b)) is activated by the Secretary of Health and Human Services under paragraph (3)(A) of that section or as otherwise authorized by law.”.

SEC. 5. INCREASE IN NUMBER OF ASSISTANT SECRETARIES OF VETERANS AFFAIRS.

(a) INCREASE.—Subsection (a) of section 308 of title 38, United States Code, is amended by striking “six” in the first sentence and inserting “seven”.

(b) FUNCTIONS.—Subsection (b) of such section is amended by adding at the end the following new paragraph:

“(11) Operations, preparedness, security, and law enforcement functions.”.

(c) NUMBER OF DEPUTY ASSISTANT SECRETARIES.—Subsection (d)(1) of such section is amended by striking “18” and inserting “19”.

(d) CONFORMING AMENDMENT.—Section 5315 of title 5, United States Code, is amended by striking “(6)” after “Assistant Secretaries, Department of Veterans Affairs” and inserting “(7)”.

SEC. 6. CODIFICATION OF DUTIES OF SECRETARY OF VETERANS AFFAIRS RELATING TO EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—(1) Subchapter I of chapter 81 of title 38, United States Code, is amended by adding at the end the following new section:

“§ 8117. Emergency preparedness

“(a) READINESS OF DEPARTMENT MEDICAL CENTERS.—(1) The Secretary shall take appropriate actions to provide for the readiness of Department medical centers to protect the patients and staff of such centers from chemical or biological attack or otherwise to respond to such an attack so as to enable such centers to fulfill their obligations as part of the Federal response to public health emergencies.

“(2) Actions under paragraph (1) shall include—

“(A) the provision of decontamination equipment and personal protection equipment at Department medical centers; and

“(B) the provision of training in the use of such equipment to staff of such centers.

“(b) SECURITY AT DEPARTMENT MEDICAL AND RESEARCH FACILITIES.—(1) The Secretary shall take appropriate actions to provide

for the security of Department medical centers and research facilities, including staff and patients at such centers and facilities.

“(2) In taking actions under paragraph (1), the Secretary shall take into account the results of the evaluation of the security needs at Department medical centers and research facilities required by section 154(b)(1) of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 116 Stat. 631), including the results of such evaluation relating to the following needs:

“(A) Needs for the protection of patients and medical staff during emergencies, including a chemical or biological attack or other terrorist attack.

“(B) Needs, if any, for screening personnel engaged in research relating to biological pathogens or agents, including work associated with such research.

“(C) Needs for securing laboratories or other facilities engaged in research relating to biological pathogens or agents.

“(C) TRACKING OF PHARMACEUTICALS AND MEDICAL SUPPLIES AND EQUIPMENT.—The Secretary shall develop and maintain a centralized system for tracking the current location and availability of pharmaceuticals, medical supplies, and medical equipment throughout the Department health care system in order to permit the ready identification and utilization of such pharmaceuticals, supplies, and equipment for a variety of purposes, including response to a chemical or biological attack or other terrorist attack.

“(d) TRAINING.—The Secretary shall ensure that the Department medical centers, in consultation with the accredited medical school affiliates of such medical centers, develop and implement curricula to train resident physicians and health care personnel in medical matters relating to biological, chemical, or radiological attacks or attacks from an incendiary or other explosive weapon.

“(e) PARTICIPATION IN NATIONAL DISASTER MEDICAL SYSTEM.—(1) The Secretary shall establish and maintain a training program to facilitate the participation of the staff of Department medical centers, and of the community partners of such centers, in the National Disaster Medical System established pursuant to section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh–11(b)).

Establishment.

“(2) The Secretary shall establish and maintain the training program under paragraph (1) in accordance with the recommendations of the working group on the prevention, preparedness, and response to bioterrorism and other public health emergencies established under section 319F(a) of the Public Health Service Act (42 U.S.C. 247d–6(a)).

“(3) The Secretary shall establish and maintain the training program under paragraph (1) in consultation with the following:

“(A) The Secretary of Defense.

“(B) The Secretary of Health and Human Services.

“(C) The Director of the Federal Emergency Management Agency.

“(f) MENTAL HEALTH COUNSELING.—(1) With respect to activities conducted by personnel serving at Department medical centers, the Secretary shall develop and maintain various strategies for providing mental health counseling and assistance, including counseling and assistance for post-traumatic stress disorder, following a bioterrorist attack or other public health emergency to the following persons:

“(A) Veterans.

“(B) Local and community emergency response providers.

“(C) Active duty military personnel.

“(D) Individuals seeking care at Department medical centers.

“(2) The strategies under paragraph (1) shall include the following:

“(A) Training and certification of providers of mental health counseling and assistance.

“(B) Mechanisms for coordinating the provision of mental health counseling and assistance to emergency response providers referred to in paragraph (1).

“(3) The Secretary shall develop and maintain the strategies under paragraph (1) in consultation with the Secretary of Health and Human Services, the American Red Cross, and the working group referred to in subsection (e)(2).”

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8116 the following new item:

“8117. Emergency preparedness.”

38 USC note
prec. 8101.

(b) REPEAL OF CODIFIED PROVISIONS.—Subsections (a), (b)(2), (c), (d), (e), and (f) of section 154 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188; 38 U.S.C. note prec. 8101) are repealed.

38 USC note
prec. 8101.

(c) CONFORMING AMENDMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by inserting “of section 8117 of title 38, United States Code” after “subsection (a)”; and

(2) in paragraph (2), by striking “subsections (b) through (f)” and inserting “subsection (b)(1) of this section and subsections (b) through (f) of section 8117 of title 38, United States Code”.

Approved November 7, 2002.

LEGISLATIVE HISTORY—H.R. 3253 (S. 2132):

HOUSE REPORTS: No. 107–471 (Comm. on Veterans’ Affairs).

SENATE REPORTS: No. 107–229 accompanying S. 2132 (Comm. on Veterans’ Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 20, considered and passed House.

Aug. 1, considered and passed Senate, amended.

Sept. 17, House concurred in Senate amendment with an amendment pursuant to H. Res. 526.

Oct. 15, Senate concurred in House amendment with an amendment.

Oct. 16, House concurred in Senate amendment.



Public Law 107–288
107th Congress

An Act

To amend title 38, United States Code, to revise and improve employment, training, and placement services furnished to veterans, and for other purposes.

Nov. 7, 2002
[H.R. 4015]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Jobs for Veterans
Act.

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) **SHORT TITLE.**—This Act may be cited as the “Jobs for Veterans Act”. 38 USC 101 note.

(b) **REFERENCES TO TITLE 38, UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. PRIORITY OF SERVICE FOR VETERANS IN DEPARTMENT OF LABOR JOB TRAINING PROGRAMS.

(a) **VETERANS’ JOB TRAINING ASSISTANCE.**—(1) Chapter 42 is amended by adding at the end the following new section:

“§ 4215. Priority of service for veterans in Department of Labor job training programs

“(a) **DEFINITIONS.**—In this section:

“(1) The term ‘covered person’ means any of the following individuals:

“(A) A veteran.

“(B) The spouse of any of the following individuals:

“(i) Any veteran who died of a service-connected disability.

“(ii) Any member of the Armed Forces serving on active duty who, at the time of application for assistance under this section, is listed, pursuant to section 556 of title 37 and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than 90 days: (I) missing in action, (II) captured in line of duty by a hostile force, or (III) forcibly detained or interned in line of duty by a foreign government or power.

“(iii) Any veteran who has a total disability resulting from a service-connected disability.

“(iv) Any veteran who died while a disability so evaluated was in existence.

“(2) The term ‘qualified job training program’ means any workforce preparation, development, or delivery program or service that is directly funded, in whole or in part, by the Department of Labor and includes the following:

“(A) Any such program or service that uses technology to assist individuals to access workforce development programs (such as job and training opportunities, labor market information, career assessment tools, and related support services).

“(B) Any such program or service under the public employment service system, one-stop career centers, the Workforce Investment Act of 1998, a demonstration or other temporary program, and those programs implemented by States or local service providers based on Federal block grants administered by the Department of Labor.

“(C) Any such program or service that is a workforce development program targeted to specific groups.

“(3) The term ‘priority of service’ means, with respect to any qualified job training program, that a covered person shall be given priority over nonveterans for the receipt of employment, training, and placement services provided under that program, notwithstanding any other provision of law.

“(b) ENTITLEMENT TO PRIORITY OF SERVICE.—(1) A covered person is entitled to priority of service under any qualified job training program if the person otherwise meets the eligibility requirements for participation in such program.

“(2) The Secretary of Labor may establish priorities among covered persons for purposes of this section to take into account the needs of disabled veterans and special disabled veterans, and such other factors as the Secretary determines appropriate.

“(c) ADMINISTRATION OF PROGRAMS AT STATE AND LOCAL LEVELS.—An entity of a State or a political subdivision of the State that administers or delivers services under a qualified job training program shall—

“(1) provide information and priority of service to covered persons regarding benefits and services that may be obtained through other entities or service providers; and

“(2) ensure that each covered person who applies to or who is assisted by such a program is informed of the employment-related rights and benefits to which the person is entitled under this section.

“(d) ADDITION TO ANNUAL REPORT.—In the annual report required under section 4107(c) of this title for the program year beginning in 2003 and each subsequent program year, the Secretary of Labor shall evaluate whether covered persons are receiving priority of service and are being fully served by qualified job training programs, and whether the representation of veterans in such programs is in proportion to the incidence of representation of veterans in the labor market, including within groups that the Secretary may designate for priority under such programs, if any.”.

(2) The table of sections at the beginning of chapter 42 is amended by inserting after the item relating to section 4214 the following new item:

“4215. Priority of service for veterans in Department of Labor job training programs.”.

(b) EMPLOYMENT OF VETERANS WITH RESPECT TO FEDERAL CONTRACTS.—(1) Section 4212(a) is amended to read as follows:

“(a)(1) Any contract in the amount of \$100,000 or more entered into by any department or agency of the United States for the procurement of personal property and nonpersonal services (including construction) for the United States, shall contain a provision requiring that the party contracting with the United States take affirmative action to employ and advance in employment qualified covered veterans. This section applies to any subcontract in the amount of \$100,000 or more entered into by a prime contractor in carrying out any such contract.

“(2) In addition to requiring affirmative action to employ such qualified covered veterans under such contracts and subcontracts and in order to promote the implementation of such requirement, the Secretary of Labor shall prescribe regulations requiring that—

Regulations.

“(A) each such contractor for each such contract shall immediately list all of its employment openings with the appropriate employment service delivery system (as defined in section 4101(7) of this title), and may also list such openings with one-stop career centers under the Workforce Investment Act of 1998, other appropriate service delivery points, or America’s Job Bank (or any additional or subsequent national electronic job bank established by the Department of Labor), except that the contractor may exclude openings for executive and senior management positions and positions which are to be filled from within the contractor’s organization and positions lasting three days or less;

“(B) each such employment service delivery system shall give such qualified covered veterans priority in referral to such employment openings; and

“(C) each such employment service delivery system shall provide a list of such employment openings to States, political subdivisions of States, or any private entities or organizations under contract to carry out employment, training, and placement services under chapter 41 of this title.

“(3) In this section:

“(A) The term ‘covered veteran’ means any of the following veterans:

“(i) Disabled veterans.

“(ii) Veterans who served on active duty in the Armed Forces during a war or in a campaign or expedition for which a campaign badge has been authorized.

“(iii) Veterans who, while serving on active duty in the Armed Forces, participated in a United States military operation for which an Armed Forces service medal was awarded pursuant to Executive Order No. 12985 (61 Fed. Reg. 1209).

“(iv) Recently separated veterans.

“(B) The term ‘qualified’, with respect to an employment position, means having the ability to perform the essential functions of the position with or without reasonable accommodation for an individual with a disability.”.

(2)(A) Section 4212(c) is amended—

(i) by striking “suitable”; and

(ii) by striking “subsection (a)(2) of this section” and inserting “subsection (a)(2)(B)”.

(B) Section 4212(d)(1) is amended—

(i) in the matter preceding subparagraph (A), by striking “of this section” after “subsection (a)”;

and

(ii) by amending subparagraphs (A) and (B) to read as follows:

“(A) the number of employees in the workforce of such contractor, by job category and hiring location, and the number of such employees, by job category and hiring location, who are qualified covered veterans;

“(B) the total number of new employees hired by the contractor during the period covered by the report and the number of such employees who are qualified covered veterans; and”.

(C) Section 4212(d)(2) is amended by striking “of this subsection” after “paragraph (1)”.

(D) Section 4211(6) is amended by striking “one-year period” and inserting “three-year period”.

Applicability.
Effective date.

(3) The amendments made by this subsection shall apply with respect to contracts entered into on or after the first day of the first month that begins 12 months after the date of the enactment of this Act.

(c) EMPLOYMENT WITHIN THE FEDERAL GOVERNMENT.—(1) Section 4214(a)(1) is amended—

(A) in the first sentence, by striking “life” and all that follows and inserting “life.”; and

(B) in the second sentence, by striking “major” and inserting “uniquely qualified”.

(2) Section 4214(b) is amended—

(A) in paragraph (1), by striking “readjustment” and inserting “recruitment”;

(B) in paragraph (2), by striking “to—” and all that follows through the period at the end and inserting “to qualified covered veterans.”;

(C) in paragraph (3), to read as follows:

“(3) A qualified covered veteran may receive such an appointment at any time.”.

(3)(A) Section 4214(a) is amended—

(i) in the third sentence of paragraph (1), by striking “disabled veterans and certain veterans of the Vietnam era and of the post-Vietnam era” and inserting “qualified covered veterans (as defined in paragraph (2)(B))”; and

(ii) in paragraph (2), to read as follows:

“(2) In this section:

“(A) The term ‘agency’ has the meaning given the term ‘department or agency’ in section 4211(5) of this title.

“(B) The term ‘qualified covered veteran’ means a veteran described in section 4212(a)(3) of this title.”.

(B) Clause (i) of section 4214(e)(2)(B) is amended by striking “of the Vietnam era”.

(C) Section 4214(g) is amended—

(i) by striking “qualified” the first place it occurs and all that follows through “era” the first place it occurs and inserting “qualified covered veterans”; and

(ii) by striking “under section 1712A of this title” and all that follows and inserting “under section 1712A of this title.”.

Applicability.
38 USC 4214
note.

(4) The amendments made by this subsection shall apply to qualified covered veterans without regard to any limitation relating to the date of the veteran’s last discharge or release from active duty that may have otherwise applied under section 4214(b)(3)

as in effect on the date before the date of the enactment of this Act.

SEC. 3. FINANCIAL AND NON-FINANCIAL PERFORMANCE INCENTIVE AWARDS FOR QUALITY VETERANS EMPLOYMENT, TRAINING, AND PLACEMENT SERVICES.

(a) PERFORMANCE INCENTIVE AWARDS FOR QUALITY EMPLOYMENT, TRAINING, AND PLACEMENT SERVICES.—Chapter 41 is amended by adding at the end the following new section:

“§ 4112. Performance incentive awards for quality employment, training, and placement services

“(a) CRITERIA FOR PERFORMANCE INCENTIVE AWARDS.—(1) For purposes of carrying out a program of performance incentive awards under section 4102A(c)(2)(A)(i)(III) of this title, the Secretary, acting through the Assistant Secretary of Labor for Veterans’ Employment and Training, shall establish criteria for performance incentive awards programs to be administered by States to—

“(A) encourage the improvement and modernization of employment, training, and placement services provided under this chapter; and

“(B) recognize eligible employees for excellence in the provision of such services or for having made demonstrable improvements in the provision of such services.

“(2) The Secretary shall establish such criteria in consultation with representatives of States, political subdivisions of States, and other providers of employment, training, and placement services under the Workforce Investment Act of 1998 consistent with the performance measures established under section 4102A(b)(7) of this title.

“(b) FORM OF AWARDS.—Under the criteria established by the Secretary for performance incentive awards to be administered by States, an award under such criteria may be a cash award or such other nonfinancial awards as the Secretary may specify.

“(c) RELATIONSHIP OF AWARD TO GRANT PROGRAM AND EMPLOYEE COMPENSATION.—Performance incentive cash awards under this section—

“(1) shall be made from amounts allocated from the grant or contract amount for a State for a program year under section 4102A(c)(7) of this title; and

“(2) is in addition to the regular pay of the recipient.

“(d) ELIGIBLE EMPLOYEE DEFINED.—In this section, the term ‘eligible employee’ means any of the following:

“(1) A disabled veterans’ outreach program specialist.

“(2) A local veterans’ employment representative.

“(3) An individual providing employment, training, and placement services to veterans under the Workforce Investment Act of 1998 or through an employment service delivery system (as defined in section 4101(7) of this title).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding at the end the following new item:

“4112. Performance incentive awards for quality employment, training, and placement services.”.

SEC. 4. REFINEMENT OF JOB TRAINING AND PLACEMENT FUNCTIONS OF THE DEPARTMENT.

(a) REVISION OF DEPARTMENT LEVEL SENIOR OFFICIALS AND FUNCTIONS.—(1) Sections 4102A and 4103 are amended to read as follows:

“§ 4102A. Assistant Secretary of Labor for Veterans’ Employment and Training; program functions; Regional Administrators

“(a) ESTABLISHMENT OF POSITION OF ASSISTANT SECRETARY OF LABOR FOR VETERANS’ EMPLOYMENT AND TRAINING.—(1) There is established within the Department of Labor an Assistant Secretary of Labor for Veterans’ Employment and Training, appointed by the President by and with the advice and consent of the Senate, who shall formulate and implement all departmental policies and procedures to carry out (A) the purposes of this chapter, chapter 42, and chapter 43 of this title, and (B) all other Department of Labor employment, unemployment, and training programs to the extent they affect veterans.

“(2) The employees of the Department of Labor administering chapter 43 of this title shall be administratively and functionally responsible to the Assistant Secretary of Labor for Veterans’ Employment and Training.

“(3)(A) There shall be within the Department of Labor a Deputy Assistant Secretary of Labor for Veterans’ Employment and Training. The Deputy Assistant Secretary shall perform such functions as the Assistant Secretary of Labor for Veterans’ Employment and Training prescribes.

“(B) No individual may be appointed as a Deputy Assistant Secretary of Labor for Veterans’ Employment and Training unless the individual has at least five years of service in a management position as an employee of the Federal civil service or comparable service in a management position in the Armed Forces. For purposes of determining such service of an individual, there shall be excluded any service described in subparagraphs (A), (B), and (C) of section 308(d)(2) of this title.

“(b) PROGRAM FUNCTIONS.—The Secretary shall carry out the following functions:

“(1) Except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title through the Assistant Secretary of Labor for Veterans’ Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of all veterans and persons eligible for services furnished under this chapter.

“(2) In order to make maximum use of available resources in meeting such needs, encourage all such programs, and all grantees and contractors under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns owned by veterans

or disabled veterans), educational institutions, trade associations, and labor unions.

“(3) Ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Secretary of Veterans Affairs with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 1712A of this title, apprenticeship or other on-the-job training programs carried out under section 3687 of this title, and rehabilitation and training activities carried out under chapter 31 of this title and (B) determinations covering veteran population in a State.

“(4) Ensure that employment, training, and placement activities are carried out in coordination and cooperation with appropriate State public employment service officials.

“(5) Subject to subsection (c), make available for use in each State by grant or contract such funds as may be necessary to support—

“(A) disabled veterans’ outreach program specialists appointed under section 4103A(a)(1) of this title,

“(B) local veterans’ employment representatives assigned under section 4104(b) of this title, and

“(C) the reasonable expenses of such specialists and representatives described in subparagraphs (A) and (B), respectively, for training, travel, supplies, and other business expenses, including travel expenses and per diem for attendance at the National Veterans’ Employment and Training Services Institute established under section 4109 of this title.

“(6) Monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5).

“(7) Establish, and update as appropriate, a comprehensive performance accountability system (as described in subsection (f)) and carry out annual performance reviews of veterans employment, training, and placement services provided through employment service delivery systems, including through disabled veterans’ outreach program specialists and through local veterans’ employment representatives in States receiving grants, contracts, or awards under this chapter.

“(c) CONDITIONS FOR RECEIPT OF FUNDS.—(1) The distribution and use of funds under subsection (b)(5) in order to carry out sections 4103A(a) and 4104(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 4103A or 4104 of this title.

“(2)(A) A State shall submit to the Secretary an application for a grant or contract under subsection (b)(5). The application shall contain the following information:

“(i) A plan that describes the manner in which the State shall furnish employment, training, and placement services required under this chapter for the program year, including a description of—

“(I) duties assigned by the State to disabled veterans’ outreach program specialists and local veterans’ employment representatives consistent with the requirements of sections 4103A and 4104 of this title;

“(II) the manner in which such specialists and representatives are integrated in the employment service delivery systems in the State; and

“(III) the program of performance incentive awards described in section 4112 of this title in the State for the program year.

“(ii) The veteran population to be served.

“(iii) Such additional information as the Secretary may require to make a determination with respect to awarding a grant or contract to the State.

“(B)(i) Subject to the succeeding provisions of this subparagraph, of the amount available under subsection (b)(5) for a fiscal year, the Secretary shall make available to each State with an application approved by the Secretary an amount of funding in proportion to the number of veterans seeking employment using such criteria as the Secretary may establish in regulation, including civilian labor force and unemployment data, for the State on an annual basis. The proportion of funding shall reflect the ratio of—

“(I) the total number of veterans residing in the State that are seeking employment; to

“(II) the total number of veterans seeking employment in all States.

Effective date.

“(ii) The Secretary shall phase in over the three fiscal-year period that begins on October 1, 2002, the manner in which amounts are made available to States under subsection (b)(5) and this subsection, as amended by the Jobs for Veterans Act.

“(iii) In carrying out this paragraph, the Secretary may establish minimum funding levels and hold-harmless criteria for States.

“(3)(A)(i) As a condition of a grant or contract under this section for a program year, in the case of a State that the Secretary determines has an entered-employment rate for veterans that is deficient for the preceding program year, the State shall develop a corrective action plan to improve that rate for veterans in the State.

“(ii) The State shall submit the corrective action plan to the Secretary for approval, and if approved, shall expeditiously implement the plan.

“(iii) If the Secretary does not approve a corrective action plan submitted by the State under clause (i), the Secretary shall take such steps as may be necessary to implement corrective actions in the State to improve the entered-employment rate for veterans in that State.

Regulations.

“(B) To carry out subparagraph (A), the Secretary shall establish in regulations a uniform national threshold entered-employment rate for veterans for a program year by which determinations of deficiency may be made under subparagraph (A).

“(C) In making a determination with respect to a deficiency under subparagraph (A), the Secretary shall take into account the applicable annual unemployment data for the State and consider other factors, such as prevailing economic conditions, that affect performance of individuals providing employment, training, and placement services in the State.

“(4) In determining the terms and conditions of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title, the Secretary shall take into account—

“(A) the results of reviews, carried out pursuant to subsection (b)(7), of the performance of the employment, training, and placement service delivery system in the State, and

“(B) the monitoring carried out under this section.

“(5) Each grant or contract by which funds are made available to a State shall contain a provision requiring the recipient of the funds—

“(A) to comply with the provisions of this chapter; and

“(B) on an annual basis, to notify the Secretary of, and provide supporting rationale for, each nonveteran who is employed as a disabled veterans’ outreach program specialist and local veterans’ employment representative for a period in excess of 6 months.

“(6) Each State shall coordinate employment, training, and placement services furnished to veterans and eligible persons under this chapter with such services furnished with respect to such veterans and persons under the Workforce Investment Act of 1998 and the Wagner-Peyser Act.

“(7) With respect to program years beginning during or after fiscal year 2004, one percent of the amount of a grant or contract under which funds are made available to a State in order to carry out section 4103A or 4104 of this title for the program year shall be for the purposes of making cash awards under the program of performance incentive awards described in section 4112 of this title in the State.

“(d) PARTICIPATION IN OTHER FEDERALLY FUNDED JOB TRAINING PROGRAMS.—The Assistant Secretary of Labor for Veterans’ Employment and Training shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under title I of the Workforce Investment Act of 1998 and other federally funded employment and training programs.

“(e) REGIONAL ADMINISTRATORS.—(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans’ Employment and Training Service to serve as the Regional Administrator for Veterans’ Employment and Training in such region.

“(2) Each such Regional Administrator shall carry out such duties as the Secretary may require to promote veterans employment and reemployment within the region that the Administrator serves.

“(f) ESTABLISHMENT OF PERFORMANCE STANDARDS AND OUTCOMES MEASURES.—(1) By not later than 6 months after the date of the enactment of this section, the Assistant Secretary of Labor for Veterans’ Employment and Training shall establish and implement a comprehensive performance accountability system to measure the performance of employment service delivery systems, including disabled veterans’ outreach program specialists and local veterans’ employment representatives providing employment, training, and placement services under this chapter in a State to provide accountability of that State to the Secretary for purposes of subsection (c).

Deadline.

“(2) Such standards and measures shall—

“(A) be consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998; and

“(B) be appropriately weighted to provide special consideration for placement of (i) veterans requiring intensive services (as defined in section 4101(9) of this title), such as special disabled veterans and disabled veterans, and (ii) veterans who enroll in readjustment counseling under section 1712A of this title.

“(g) **AUTHORITY TO PROVIDE TECHNICAL ASSISTANCE TO STATES.**—The Secretary may provide such technical assistance as the Secretary determines appropriate to any State that the Secretary determines has, or may have, an entered-employment rate in the State that is deficient, as determined under subsection (c)(3) with respect to a program year, including assistance in the development of a corrective action plan under that subsection.

“§ 4103. Directors and Assistant Directors for Veterans’ Employment and Training; additional Federal personnel

“(a) **DIRECTORS AND ASSISTANT DIRECTORS.**—(1) The Secretary shall assign to each State a representative of the Veterans’ Employment and Training Service to serve as the Director for Veterans’ Employment and Training, and shall assign full-time Federal clerical or other support personnel to each such Director.

“(2) Each Director for Veterans’ Employment and Training for a State shall, at the time of appointment, have been a bona fide resident of the State for at least two years.

“(3) Full-time Federal clerical or other support personnel assigned to Directors for Veterans’ Employment and Training shall be appointed in accordance with the provisions of title 5 governing appointments in the competitive service and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of title 5.

“(b) **ADDITIONAL FEDERAL PERSONNEL.**—The Secretary may also assign as supervisory personnel such representatives of the Veterans’ Employment and Training Service as the Secretary determines appropriate to carry out the employment, training, and placement services required under this chapter, including Assistant Directors for Veterans’ Employment and Training.”.

(2) The items relating to sections 4102A and 4103, respectively, in the table of sections at the beginning of chapter 41 are amended to read as follows:

“4102A. Assistant Secretary of Labor for Veterans’ Employment and Training; program functions; Regional Administrators.

“4103. Directors and Assistant Directors for Veterans’ Employment and Training; additional Federal personnel.”.

(3)(A)(i) Section 4104A is repealed.

(ii) The table of sections at the beginning of chapter 41 is amended by striking the item relating to section 4104A.

(B) Section 4107(b) is amended by striking “The Secretary shall establish definitive performance standards” and inserting “The Secretary shall apply performance standards established under section 4102A(f) of this title”.

(4) The amendments made by this subsection shall take effect on the date of the enactment of this Act, and apply for program

and fiscal years under chapter 41 of title 38, United States Code, beginning on or after such date.

(b) REVISION OF STATUTORILY DEFINED DUTIES OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.—(1) Section 4103A is amended by striking all after the heading and inserting the following:

“(a) REQUIREMENT FOR EMPLOYMENT BY STATES OF A SUFFICIENT NUMBER OF SPECIALISTS.—(1) Subject to approval by the Secretary, a State shall employ such full- or part-time disabled veterans' outreach program specialists as the State determines appropriate and efficient to carry out intensive services under this chapter to meet the employment needs of eligible veterans with the following priority in the provision of services:

“(A) Special disabled veterans.

“(B) Other disabled veterans.

“(C) Other eligible veterans in accordance with priorities determined by the Secretary taking into account applicable rates of unemployment and the employment emphases set forth in chapter 42 of this title.

“(2) In the provision of services in accordance with this subsection, maximum emphasis in meeting the employment needs of veterans shall be placed on assisting economically or educationally disadvantaged veterans.

“(b) REQUIREMENT FOR QUALIFIED VETERANS.—A State shall, to the maximum extent practicable, employ qualified veterans to carry out the services referred to in subsection (a). Preference shall be given in the appointment of such specialists to qualified disabled veterans.”.

(2) Section 4104 is amended by striking all after the heading and inserting the following:

“(a) REQUIREMENT FOR EMPLOYMENT BY STATES OF A SUFFICIENT NUMBER OF REPRESENTATIVES.—Subject to approval by the Secretary, a State shall employ such full- and part-time local veterans' employment representatives as the State determines appropriate and efficient to carry out employment, training, and placement services under this chapter.

“(b) PRINCIPAL DUTIES.—As principal duties, local veterans' employment representatives shall—

“(1) conduct outreach to employers in the area to assist veterans in gaining employment, including conducting seminars for employers and, in conjunction with employers, conducting job search workshops and establishing job search groups; and

“(2) facilitate employment, training, and placement services furnished to veterans in a State under the applicable State employment service delivery systems.

“(c) REQUIREMENT FOR QUALIFIED VETERANS AND ELIGIBLE PERSONS.—A State shall, to the maximum extent practicable, employ qualified veterans or eligible persons to carry out the services referred to in subsection (a). Preference shall be accorded in the following order:

“(1) To qualified service-connected disabled veterans.

“(2) If no veteran described in paragraph (1) is available, to qualified eligible veterans.

“(3) If no veteran described in paragraph (1) or (2) is available, then to qualified eligible persons.

“(d) REPORTING.—Each local veterans' employment representative shall be administratively responsible to the manager of the

employment service delivery system and shall provide reports, not less frequently than quarterly, to the manager of such office and to the Director for Veterans' Employment and Training for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons.”.

Effective date.
38 USC 4103A
note.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act, and apply for program years under chapter 41 of title 38, United States Code, beginning on or after such date.

Deadline.
38 USC 4215
note.

(c) **REQUIREMENT TO PROMPTLY ESTABLISH ONE-STOP EMPLOYMENT SERVICES.**—By not later than 18 months after the date of the enactment of this Act, the Secretary of Labor shall provide one-stop services and assistance to covered persons electronically by means of the Internet, as defined in section 231(e)(3) of the Communications Act of 1934, and such other electronic means to enhance the delivery of such services and assistance.

(d) **REQUIREMENT FOR BUDGET LINE ITEM FOR TRAINING SERVICES INSTITUTE.**—(1) The last sentence of section 4106(a) is amended to read as follows: “Each budget submission with respect to such funds shall include a separate listing of the amount for the National Veterans' Employment and Training Services Institute together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.”.

38 USC 4106
note.

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act, and apply to budget submissions for fiscal year 2004 and each subsequent fiscal year.

(e) **CONFORMING AMENDMENTS.**—(1) Section 4107(c)(5) is amended by striking “(including the need” and all that follows through “representatives”).

(2) Section 3117(a)(2)(B) is amended to read as follows:

“(B) utilization of employment, training, and placement services under chapter 41 of this title; and”.

SEC. 5. ADDITIONAL IMPROVEMENTS IN VETERANS EMPLOYMENT AND TRAINING SERVICES.

(a) **INCLUSION OF INTENSIVE SERVICES.**—(1)(A) Section 4101 is amended by adding at the end the following new paragraph:

“(9) The term ‘intensive services’ means local employment and training services of the type described in section 134(d)(3) of the Workforce Investment Act of 1998.”.

(B) Section 4102 is amended by striking “job and job training counseling service program,” and inserting “job and job training intensive services program,”.

(C) Section 4106(a) is amended by striking “proper counseling” and inserting “proper intensive services”.

(D) Section 4107(a) is amended by striking “employment counseling services” and inserting “intensive services”.

(E) Section 4107(c)(1) is amended by striking “the number counseled” and inserting “the number who received intensive services”.

(F) Section 4109(a) is amended by striking “counseling,” each place it appears and inserting “intensive services,”.

Effective date.
38 USC 4101
note.

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(b) **ADDITIONAL VETS DUTY TO IMPLEMENT TRANSITIONS TO CIVILIAN CAREERS.**—(1)(A) Section 4102 is amended by striking the period and inserting “, including programs carried out by the Veterans’ Employment and Training Service to implement all efforts to ease the transition of servicemembers to civilian careers that are consistent with, or an outgrowth of, the military experience of the servicemembers.”.

(B) Such section is further amended by striking “and veterans of the Vietnam era” and inserting “and veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized”.

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

Effective date.
38 USC 4102
note.

(c) **MODERNIZATION OF EMPLOYMENT SERVICE DELIVERY POINTS TO INCLUDE TECHNOLOGICAL INNOVATIONS.**—(1) Section 4101(7) is amended to read as follows:

“(7) The term ‘employment service delivery system’ means a service delivery system at which or through which labor exchange services, including employment, training, and placement services, are offered in accordance with the Wagner-Peyser Act.”.

(2) The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

Effective date.
38 USC 4101
note.

(d) **INCREASE IN ACCURACY OF REPORTING SERVICES FURNISHED TO VETERANS.**—(1)(A) Section 4107(c)(1) is amended—

(i) by striking “veterans of the Vietnam era,”; and

(ii) by striking “and eligible persons who registered for assistance with” and inserting “eligible persons, recently separated veterans (as defined in section 4211(6) of this title), and servicemembers transitioning to civilian careers who registered for assistance with, or who are identified as veterans by,”.

(B) Section 4107(c)(2) is amended—

(i) by striking “the job placement rate” the first place it appears and inserting “the rate of entered employment (as determined in a manner consistent with State performance measures applicable under section 136(b) of the Workforce Investment Act of 1998); and

(ii) by striking “the job placement rate” the second place it appears and inserting “such rate of entered employment (as so determined)”.

(C) Section 4107(c)(4) is amended by striking “sections 4103A and 4104” and inserting “section 4212(d)”.

(D) Section 4107(c) is amended—

(i) by striking “and” at the end of paragraph (4);

(ii) by striking the period at the end of paragraph (5) and inserting “; and”; and

(iii) by adding at the end the following new paragraph:

“(6) a report on the operation during the preceding program year of the program of performance incentive awards for quality employment services under section 4112 of this title.”.

(E) Section 4107(b), as amended by section 4(a)(3)(B), is further amended by striking the second sentence and inserting the following: “Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans’ Affairs of the Senate and the House of Representatives on the performance of States and organizations and entities carrying out employment, training,

Deadline.
Reports.

and placement services under this chapter, as measured under subsection (b)(7) of section 4102A of this title. In the case of a State that the Secretary determines has not met the minimum standard of performance (established by the Secretary under subsection (f) of such section), the Secretary shall include an analysis of the extent and reasons for the State's failure to meet that minimum standard, together with the State's plan for corrective action during the succeeding year."

Applicability.
38 USC 4107
note.

(2) The amendments made by paragraph (1) shall apply to reports for program years beginning on or after July 1, 2003.

(e) **CLARIFICATION OF AUTHORITY OF NVETSI TO PROVIDE TRAINING FOR PERSONNEL OF OTHER DEPARTMENTS AND AGENCIES.**—Section 4109 is amended by adding at the end the following new subsection:

"(c)(1) Nothing in this section shall be construed as preventing the Institute to enter into contracts or agreements with departments or agencies of the United States or of a State, or with other organizations, to carry out training of personnel of such departments, agencies, or organizations in the provision of services referred to in subsection (a).

"(2) All proceeds collected by the Institute under a contract or agreement referred to in paragraph (1) shall be applied to the applicable appropriation."

38 USC 4100
note.

SEC. 6. COMMITTEE TO RAISE EMPLOYER AWARENESS OF SKILLS OF VETERANS AND BENEFITS OF HIRING VETERANS.

(a) **ESTABLISHMENT OF COMMITTEE.**—There is established within the Department of Labor a committee to be known as the President's National Hire Veterans Committee (hereinafter in this section referred to as the "Committee").

(b) **DUTIES.**—The Committee shall establish and carry out a national program to do the following:

(1) To furnish information to employers with respect to the training and skills of veterans and disabled veterans, and the advantages afforded employers by hiring veterans with such training and skills.

(2) To facilitate employment of veterans and disabled veterans through participation in America's Career Kit national labor exchange, and other means.

(c) **MEMBERSHIP.**—(1) The Secretary of Labor shall appoint 15 individuals to serve as members of the Committee, of whom one shall be appointed from among representatives nominated by each organization described in subparagraph (A) and of whom eight shall be appointed from among representatives nominated by organizations described in subparagraph (B).

(A) Organizations described in this subparagraph are the following:

- (i) The Ad Council.
- (ii) The National Committee for Employer Support of the Guard and Reserve.
- (iii) Veterans' service organizations that have a national employment program.
- (iv) State employment security agencies.
- (v) One-stop career centers.
- (vi) State departments of veterans affairs.
- (vii) Military service organizations.

(B) Organizations described in this subparagraph are such businesses, small businesses, industries, companies in the private sector that furnish placement services, civic groups, workforce investment boards, and labor unions as the Secretary of Labor determines appropriate.

(2) The following shall be ex officio, nonvoting members of the Committee:

(A) The Secretary of Veterans Affairs.

(B) The Secretary of Defense.

(C) The Assistant Secretary of Labor for Veterans' Employment and Training.

(D) The Administrator of the Small Business Administration.

(E) The Postmaster General.

(F) The Director of the Office of Personnel Management.

(3) A vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(d) ADMINISTRATIVE MATTERS.—(1) The Committee shall meet not less frequently than once each calendar quarter.

(2) The Secretary of Labor shall appoint the chairman of the Committee.

(3)(A) Members of the Committee shall serve without compensation.

(B) Members of the Committee shall be allowed reasonable and necessary travel expenses, including per diem in lieu of subsistence, at rates authorized for persons serving intermittently in the Government service in accordance with the provisions of subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of the responsibilities of the Committee.

(4) The Secretary of Labor shall provide staff and administrative support to the Committee to assist it in carrying out its duties under this section. The Secretary shall assure positions on the staff of the Committee include positions that are filled by individuals that are now, or have ever been, employed as one of the following:

(A) Staff of the Assistant Secretary of Labor for Veterans' Employment and Training under section 4102A of title 38, United States Code as in effect on the date of the enactment of this Act.

(B) Directors for Veterans' Employment and Training under section 4103 of such title as in effect on such date.

(C) Assistant Director for Veterans' Employment and Training under such section as in effect on such date.

(D) Disabled veterans' outreach program specialists under section 4103A of such title as in effect on such date.

(E) Local veterans' employment representatives under section 4104 of such title as in effect on such date.

(5) Upon request of the Committee, the head of any Federal department or agency may detail, on a nonreimbursable basis, any of the personnel of that department or agency to the Committee to assist it in carrying out its duties.

(6) The Committee may contract with and compensate government and private agencies or persons to furnish information to employers under subsection (b)(1) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5).

Deadlines.

(e) **REPORT.**—Not later than December 31, 2003, 2004, and 2005, the Secretary of Labor shall submit to Congress a report on the activities of the Committee under this section during the previous fiscal year, and shall include in such report data with respect to placement and retention of veterans in jobs attributable to the activities of the Committee.

(f) **TERMINATION.**—The Committee shall terminate 60 days after submitting the report that is due on December 31, 2005.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Labor from the employment security administration account (established in section 901 of the Social Security Act (42 U.S.C. 1101)) in the Unemployment Trust Fund \$3,000,000 for each of fiscal years 2003 through 2005 to carry out this section.

38 USC 4100
note.

SEC. 7. REPORT ON IMPLEMENTATION OF EMPLOYMENT REFORMS.

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the implementation by the Secretary of Labor of the provisions of this Act during the program years that begin during fiscal years 2003 and 2004. The study shall include an assessment of the modifications under sections 2 through 5 of this Act of the provisions of title 38, United States Code, and an evaluation of the impact of those modifications, and of the actions of the President's National Hire Veterans Committee under section 6 of this Act, to the provision of employment, training, and placement services provided to veterans under that title.

Deadline.

(b) **REPORT.**—Not later than 6 months after the conclusion of the program year that begins during fiscal year 2004, the Comptroller General shall submit to Congress a report on the study conducted under subsection (a). The report shall include such recommendations as the Comptroller General determines appropriate, including recommendations for legislation or administrative action.

Approved November 7, 2002.

LEGISLATIVE HISTORY—H.R. 4015:

HOUSE REPORTS: No. 107-476 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 148 (2002):

May 20, 21, considered and passed House.
Oct. 15, considered and passed Senate, amended.
Oct. 16, House concurred in Senate amendments.



Public Law 107–289
107th Congress

An Act

To amend title 31, United States Code, to expand the types of Federal agencies that are required to prepare audited financial statements.

Nov. 7, 2002
[H.R. 4685]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Accountability of Tax Dollars Act of 2002”.

Accountability of
Tax Dollars Act
of 2002.
31 USC 3501
note.

SEC. 2. AMENDMENTS RELATING TO AUDITING REQUIREMENT FOR FEDERAL AGENCY FINANCIAL STATEMENTS.

(a) IN GENERAL.—Section 3515 of title 31, United States Code, is amended—

(1) in subsection (a)—

(A) by striking “Not later” and inserting “(1) Except as provided in subsection (e), not later”;

(B) by striking “each executive agency identified in section 901(b) of this title” and inserting “each covered executive agency”; and

(C) by striking “1997” and inserting “2003”;

(2) in subsection (b) by striking “an executive agency” and inserting “a covered executive agency”;

(3) in subsections (c) and (d) by striking “executive agencies” each place it appears and inserting “covered executive agencies”; and

(4) by adding at the end the following:

“(e)(1) The Director of the Office of Management and Budget may exempt a covered executive agency, except an agency described in section 901(b), from the requirements of this section with respect to a fiscal year if—

“(A) the total amount of budget authority available to the agency for the fiscal year does not exceed \$25,000,000; and

“(B) the Director determines that requiring an annual audited financial statement for the agency with respect to the fiscal year is not warranted due to the absence of risks associated with the agency’s operations, the agency’s demonstrated performance, or other factors that the Director considers relevant.

“(2) The Director shall annually notify the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate of each agency the Director has exempted under this subsection and the reasons for each exemption.

Notification.

“(f) The term ‘covered executive agency’—

“(1) means an executive agency that is not required by another provision of Federal law to prepare and submit to the Congress and the Director of the Office of Management and Budget an audited financial statement for each fiscal year, covering all accounts and associated activities of each office, bureau, and activity of the agency; and

“(2) does not include a corporation, agency, or instrumentality subject to chapter 91 of this title.”.

31 USC 3515
note.

(b) WAIVER AUTHORITY.—

(1) IN GENERAL.—The Director of the Office of Management and Budget may waive the application of all or part of section 3515(a) of title 31, United States Code, as amended by this section, for financial statements required for the first 2 fiscal years beginning after the date of the enactment of this Act for an agency described in paragraph (2) of this subsection.

(2) AGENCIES DESCRIBED.—An agency referred to in paragraph (1) is any covered executive agency (as that term is defined by section 3515(f) of title 31, United States Code, as amended by subsection (a) of this section) that is not an executive agency identified in section 901(b) of title 31, United States Code.

Approved November 7, 2002.

LEGISLATIVE HISTORY—H.R. 4685 (S. 2644):

SENATE REPORTS: No. 107–331 accompanying S. 2644 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 7, considered and passed House.

Oct. 17, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Nov. 7, Presidential statements.



Public Law 107–290
107th Congress

An Act

To amend the District of Columbia Retirement Protection Act of 1997 to permit the Secretary of the Treasury to use estimated amounts in determining the service longevity component of the Federal benefit payment required to be paid under such Act to certain retirees of the Metropolitan Police Department of the District of Columbia.

Nov. 7, 2002

[H.R. 5205]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMITTING USE OF ESTIMATED AMOUNTS IN DETERMINING SERVICE LONGEVITY COMPONENT OF FEDERAL BENEFIT PAYMENTS TO METROPOLITAN POLICE DEPARTMENT RETIREES.

Section 11012(e) of the District of Columbia Retirement Protection Act of 1997 (Public Law 105–33; sec. 1–803.02(e), D.C. Official Code) is amended by adding at the end the following: “The Secretary of the Treasury is authorized to estimate the additional compensation for service longevity for purposes of determining the amount of a Federal benefit payment for annuitants who retire on or after August 29, 1972, and on or before December 31, 2001, and to make Federal benefit payments based upon such estimates.”.

SEC. 2. EFFECTIVE DATE.

The amendment made by section 1 shall take effect as if included in the enactment of title IX of division A of the Miscellaneous Appropriations Act, 2001 (as enacted by reference in section 1(a)(4) of the Consolidated Appropriations Act, 2001).

Approved November 7, 2002.

LEGISLATIVE HISTORY—H.R. 5205:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 10, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–291
107th Congress

An Act

Nov. 7, 2002
[H.R. 5574]

To designate the facility of the United States Postal Service located at 206 South Main Street in Glennville, Georgia, as the “Michael Lee Woodcock Post Office”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Postal Service located at 206 South Main Street in Glennville, Georgia, shall be known and designated as the “Michael Lee Woodcock Post Office”.

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the “Michael Lee Woodcock Post Office”.

Approved November 7, 2002.

LEGISLATIVE HISTORY—H.R. 5574:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 10, considered and passed House.

Oct. 17, considered and passed Senate.



Public Law 107–292
107th Congress

An Act

To reauthorize the Native American Housing Assistance and Self-Determination Act of 1996.

Nov. 13, 2002
[S. 1210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Native American Housing Assistance and Self-Determination Reauthorization Act of 2002”.

SEC. 2. REAUTHORIZATION OF THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996.

(a) **BLOCK GRANTS.**—Section 108 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4117) is amended by striking “1998, 1999, 2000, and 2001” and inserting “1998 through 2007”.

(b) **FEDERAL GUARANTEES.**—Section 605 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4195) is amended—

(1) in subsection (a), by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”; and

(2) in subsection (b), by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”.

(c) **TRAINING AND TECHNICAL ASSISTANCE.**—Section 703 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4212) is amended by striking “1997, 1998, 1999, 2000, and 2001” and inserting “1997 through 2007”.

(d) **INDIAN HOUSING LOAN GUARANTEE FUND.**—Section 184(i) of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a(i)) is amended—

(1) in paragraph (5)(C), by striking “each fiscal year” and inserting “each of fiscal years 1997 through 2007”; and

(2) in paragraph (7), by striking “each fiscal year” and inserting “each of fiscal years 1997 through 2007”.

SEC. 3. DEFINITIONS.

Section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103) is amended by adding at the end the following:

“(22) **HOUSING RELATED COMMUNITY DEVELOPMENT.**—

“(A) **IN GENERAL.**—The term ‘housing related community development’ means any tribally-owned and operated facility, business, activity, or infrastructure that—

“(i) is necessary to the direct construction of reservation housing; and

Native American
Housing
Assistance
and Self-
Determination
Reauthorization
Act of 2002.
25 USC 4101
note.

“(ii) would help an Indian tribe or its tribally-designated housing authority reduce the cost of construction of Indian housing or otherwise promote the findings of this Act.

“(B) EXCLUSION.—The term ‘housing and community development’ does not include any activity conducted by any Indian tribe under the Indian Gaming Regulatory Act (25 U.S.C. 2710 et seq.).”.

SEC. 4. BLOCK GRANTS AND GRANT REQUIREMENTS.

Section 101(h) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4111(h)) is amended—

(1) in the heading, by inserting “AND PLANNING” after “ADMINISTRATIVE”; and

(2) by inserting after the word “Act” the first place that term appears, the following: “for comprehensive housing and community development planning activities and”.

SEC. 5. TREATMENT OF PROGRAM INCOME AND LABOR STANDARDS.

Section 104 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4114) is amended—

(1) in subsection (a)(1)—

(A) by striking “A recipient” and inserting the following: “Notwithstanding any other provision of this Act, a recipient”; and

(B) by striking subparagraph (B) and inserting the following:

“(B) the recipient has agreed that it will utilize such income for housing related activities in accordance with this Act.”; and

(2) in subsection (a)(2)—

(A) in the heading, by inserting “RESTRICTED ACCESS OR” before the word “REDUCTION”;

(B) in subparagraph (B), by striking “or” at the end;

(C) in subparagraph (C), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(D) whether the recipient has expended retained program income for housing-related activities.”.

SEC. 6. REGULATIONS.

Section 106(b)(2)(A) of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4116(b)(2)(A)) is amended by inserting after “required under this Act” the following: “, including any regulations that may be required pursuant to amendments made to this Act after the date of enactment of this Act,”.

SEC. 7. FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES.

Section 601 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4191) is amended—

(1) in subsection (a), by inserting after “section 202” the following: “and housing related community development activity as consistent with the purposes of this Act”;

(2) by striking subsection (b); and

(3) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SEC. 8. FEASIBILITY STUDIES TO IMPROVE THE DELIVERY OF HOUSING ASSISTANCE IN NATIVE COMMUNITIES.

Section 202 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4132) is amended by adding at the end the following:

“(7) COMMUNITY DEVELOPMENT DEMONSTRATION PROJECT.—

“(A) IN GENERAL.—Consistent with principles of Indian self-determination and the findings of this Act, the Secretary shall conduct and submit to Congress a study of the feasibility of establishing a demonstration project in which Indian tribes, tribal organizations, or tribal consortia are authorized to expend amounts received pursuant to the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002 in order to design, implement, and operate community development demonstration projects.

“(B) STUDY.—Not later than 1 year after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, the Secretary shall submit the study conducted under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate, and the Committee on Financial Services and the Committee on Resources of the House of Representatives. Deadline.

“(8) SELF-DETERMINATION ACT DEMONSTRATION PROJECT.—

“(A) IN GENERAL.—Consistent with the provisions of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall conduct and submit to Congress a study of the feasibility of establishing a demonstration project in which Indian tribes and tribal organizations are authorized to receive assistance in a manner that maximizes tribal authority and decision-making in the design and implementation of Federal housing and related activity funding.

“(B) STUDY.—Not later than 1 year after the date of enactment of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002, the Secretary shall submit the study conducted under subparagraph (A) to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate, and the Committee on Financial Services and the Committee on Resources of the House of Representatives.”. Deadline.

SEC. 9. BLACK MOLD INFESTATION STUDY.

Deadline. Not later than 180 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall—

Reports. (1) complete a study on the extent of black mold infestation of Native American housing in the United States; and
(2) submit to Congress a report that describes recommendations of the Secretary for means by which to address the infestation.

Approved November 13, 2002.

LEGISLATIVE HISTORY—S. 1210:

SENATE REPORTS: No. 107-246 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 4, considered and passed Senate.

Oct. 16, considered and passed House.



Public Law 107–293
107th Congress

An Act

To reaffirm the reference to one Nation under God in the Pledge of Allegiance.

Nov. 13, 2002
[S. 2690]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

4 USC 4 note.

Congress finds the following:

(1) On November 11, 1620, prior to embarking for the shores of America, the Pilgrims signed the Mayflower Compact that declared: “Having undertaken, for the Glory of God and the advancement of the Christian Faith and honor of our King and country, a voyage to plant the first colony in the northern parts of Virginia,”.

(2) On July 4, 1776, America’s Founding Fathers, after appealing to the “Laws of Nature, and of Nature’s God” to justify their separation from Great Britain, then declared: “We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness”.

(3) In 1781, Thomas Jefferson, the author of the Declaration of Independence and later the Nation’s third President, in his work titled “Notes on the State of Virginia” wrote: “God who gave us life gave us liberty. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the Gift of God. That they are not to be violated but with His wrath? Indeed, I tremble for my country when I reflect that God is just; that his justice cannot sleep forever.”.

(4) On May 14, 1787, George Washington, as President of the Constitutional Convention, rose to admonish and exhort the delegates and declared: “If to please the people we offer what we ourselves disapprove, how can we afterward defend our work? Let us raise a standard to which the wise and the honest can repair; the event is in the hand of God!”.

(5) On July 21, 1789, on the same day that it approved the Establishment Clause concerning religion, the First Congress of the United States also passed the Northwest Ordinance, providing for a territorial government for lands northwest of the Ohio River, which declared: “Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.”.

(6) On September 25, 1789, the First Congress unanimously approved a resolution calling on President George Washington

to proclaim a National Day of Thanksgiving for the people of the United States by declaring, “a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government for their safety and happiness.”.

(7) On November 19, 1863, President Abraham Lincoln delivered his Gettysburg Address on the site of the battle and declared: “It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this Nation, under God, shall have a new birth of freedom—and that Government of the people, by the people, for the people, shall not perish from the earth.”.

(8) On April 28, 1952, in the decision of the Supreme Court of the United States in *Zorach v. Clauson*, 343 U.S. 306 (1952), in which school children were allowed to be excused from public schools for religious observances and education, Justice William O. Douglas, in writing for the Court stated: “The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concern or union or dependency one on the other. That is the common sense of the matter. Otherwise the State and religion would be aliens to each other—hostile, suspicious, and even unfriendly. Churches could not be required to pay even property taxes. Municipalities would not be permitted to render police or fire protection to religious groups. Policemen who helped parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; ‘so help me God’ in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment. A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session: ‘God save the United States and this Honorable Court.’”.

(9) On June 15, 1954, Congress passed and President Eisenhower signed into law a statute that was clearly consistent with the text and intent of the Constitution of the United States, that amended the Pledge of Allegiance to read: “I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.”.

(10) On July 20, 1956, Congress proclaimed that the national motto of the United States is “In God We Trust”, and that motto is inscribed above the main door of the Senate, behind the Chair of the Speaker of the House of Representatives, and on the currency of the United States.

(11) On June 17, 1963, in the decision of the Supreme Court of the United States in *Abington School District v. Schempp*, 374 U.S. 203 (1963), in which compulsory school prayer was held unconstitutional, Justices Goldberg and

Harlan, concurring in the decision, stated: “But untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that noninterference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it. Neither government nor this Court can or should ignore the significance of the fact that a vast portion of our people believe in and worship God and that many of our legal, political, and personal values derive historically from religious teachings. Government must inevitably take cognizance of the existence of religion and, indeed, under certain circumstances the First Amendment may require that it do so.”

(12) On March 5, 1984, in the decision of the Supreme Court of the United States in *Lynch v. Donnelly*, 465 U.S. 668 (1984), in which a city government’s display of a nativity scene was held to be constitutional, Chief Justice Burger, writing for the Court, stated: “There is an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789 . . . [E]xamples of reference to our religious heritage are found in the statutorily prescribed national motto ‘In God We Trust’ (36 U.S.C. 186), which Congress and the President mandated for our currency, see (31 U.S.C. 5112(d)(1) (1982 ed.)), and in the language ‘One Nation under God’, as part of the Pledge of Allegiance to the American flag. That pledge is recited by many thousands of public school children—and adults—every year . . . Art galleries supported by public revenues display religious paintings of the 15th and 16th centuries, predominantly inspired by one religious faith. The National Gallery in Washington, maintained with Government support, for example, has long exhibited masterpieces with religious messages, notably the Last Supper, and paintings depicting the Birth of Christ, the Crucifixion, and the Resurrection, among many others with explicit Christian themes and messages. The very chamber in which oral arguments on this case were heard is decorated with a notable and permanent—not seasonal—symbol of religion: Moses with the Ten Commandments. Congress has long provided chapels in the Capitol for religious worship and meditation.”

(13) On June 4, 1985, in the decision of the Supreme Court of the United States in *Wallace v. Jaffree*, 472 U.S. 38 (1985), in which a mandatory moment of silence to be used for meditation or voluntary prayer was held unconstitutional, Justice O’Connor, concurring in the judgment and addressing the contention that the Court’s holding would render the Pledge of Allegiance unconstitutional because Congress amended it in 1954 to add the words “under God,” stated “In my view, the words ‘under God’ in the Pledge, as codified at (36 U.S.C. 172), serve as an acknowledgment of religion with ‘the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.’”

(14) On November 20, 1992, the United States Court of Appeals for the 7th Circuit, in *Sherman v. Community Consolidated School District 21*, 980 F.2d 437 (7th Cir. 1992), held

that a school district’s policy for voluntary recitation of the Pledge of Allegiance including the words “under God” was constitutional.

(15) The 9th Circuit Court of Appeals erroneously held, in *Newdow v. U.S. Congress* (9th Cir. June 26, 2002), that the Pledge of Allegiance’s use of the express religious reference “under God” violates the First Amendment to the Constitution, and that, therefore, a school district’s policy and practice of teacher-led voluntary recitations of the Pledge of Allegiance is unconstitutional.

(16) The erroneous rationale of the 9th Circuit Court of Appeals in *Newdow* would lead to the absurd result that the Constitution’s use of the express religious reference “Year of our Lord” in Article VII violates the First Amendment to the Constitution, and that, therefore, a school district’s policy and practice of teacher-led voluntary recitations of the Constitution itself would be unconstitutional.

SEC. 2. ONE NATION UNDER GOD.

(a) REAFFIRMATION.—Section 4 of title 4, United States Code, is amended to read as follows:

“§ 4. Pledge of allegiance to the flag; manner of delivery

“The Pledge of Allegiance to the Flag: ‘I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.’, should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove any non-religious headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.”.

4 USC 4 note.

(b) CODIFICATION.—In codifying this subsection, the Office of the Law Revision Counsel shall show in the historical and statutory notes that the 107th Congress reaffirmed the exact language that has appeared in the Pledge for decades.

SEC. 3. REAFFIRMING THAT GOD REMAINS IN OUR MOTTO.

(a) REAFFIRMATION.—Section 302 of title 36, United States Code, is amended to read as follows:

“§ 302. National motto

“‘In God we trust’ is the national motto.”.

(b) CODIFICATION.—In codifying this subsection, the Office of the Law Revision Counsel shall make no change in section 302, title 36, United States Code, but shall show in the historical and statutory notes that the 107th Congress reaffirmed the exact language that has appeared in the Motto for decades.

Approved November 13, 2002.

LEGISLATIVE HISTORY—S. 2690:

HOUSE REPORTS: No. 107–659 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 27, considered and passed Senate.

Oct. 7, 8, considered and passed House, amended.

Oct. 17, Senate concurred in House amendment.



Public Law 107-294
107th Congress

Joint Resolution

Nov. 23, 2002
[H.J. Res. 124]

Making further continuing appropriations for the fiscal year 2003, and for other purposes.

Ante, p. 1503.
Ante, p. 1467.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Public Law 107-229 is further amended by striking the date specified in section 107(c) and inserting in lieu thereof “January 11, 2003”.

SEC. 2. Section 114 of Public Law 107-229 is amended—

(1) by striking “December 31, 2002” and inserting “the date specified in section 107(c) of this joint resolution”; and

(2) by striking the first proviso and inserting the following:
“: *Provided*, That grants and payments may be made pursuant to this authority at the beginning of any included quarter or other period of fiscal year 2003, for such quarter or other period, at the level provided for such activities for the corresponding quarter or other period of fiscal year 2002”.

SEC. 3. Upon determination by the Secretary of Homeland Security that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$500,000,000 of funds made available to the Department of Homeland Security and be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen homeland security requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by the Congress: *Provided further*, That during fiscal year 2003, the Office of Management and Budget may transfer not to exceed \$140,000,000 from unobligated balances of appropriations enacted prior to October 1, 2002 for organizations and entities that will be transferred to the new Department for the salaries and expenses associated with the initiation of the Department: *Provided further*, That of amounts authorized for transfer by this section, except as otherwise specifically authorized by law, not to exceed two percent of any appropriation available to the Secretary may be transferred between such appropriations: *Provided further*, That not less than 15 days’ notice shall be given to the Committee on Appropriations of the Senate and House of Representatives before any such transfer is made: *Provided further*, That no part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen homeland security requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied

by Congress: *Provided further*, That the authority provided in this section shall expire on September 30, 2004. Expiration date.

Approved November 23, 2002.

LEGISLATIVE HISTORY—H.J. Res. 124:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 13, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–295
107th Congress

An Act

Nov. 25, 2002
[S. 1214]

Maritime
Transportation
Security Act of
2002.
46 USC 2101
note.

To amend the Merchant Marine Act, 1936, to establish a program to ensure greater security for United States seaports, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Maritime Transportation Security Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—MARITIME TRANSPORTATION SECURITY

- Sec. 101. Findings.
- Sec. 102. Port security.
- Sec. 103. International seafarer identification.
- Sec. 104. Extension of seaward jurisdiction.
- Sec. 105. Suspension of limitation on strength of Coast Guard.
- Sec. 106. Extension of Deepwater Port Act to natural gas.
- Sec. 107. Assignment of Coast Guard personnel as sea marshals and enhanced use of other security personnel.
- Sec. 108. Technical amendments concerning the transmittal of certain information to the Customs Service.
- Sec. 109. Maritime security professional training.
- Sec. 110. Additional reports.
- Sec. 111. Performance standards.
- Sec. 112. Report on foreign-flag vessels.
- Sec. 113. Revision of Port Security Planning Guide.

TITLE II—MARITIME POLICY IMPROVEMENT

- Sec. 201. Short title.
- Sec. 202. Vessel COASTAL VENTURE.
- Sec. 203. Expansion of American Merchant Marine Memorial Wall of Honor.
- Sec. 204. Discharge of agricultural cargo residue.
- Sec. 205. Recording and discharging notices of claim of maritime lien.
- Sec. 206. Tonnage of R/V DAVIDSON.
- Sec. 207. Miscellaneous certificates of documentation.
- Sec. 208. Exemption for Victory Ships.
- Sec. 209. Certificate of documentation for 3 barges.
- Sec. 210. Certificate of documentation for the EAGLE.
- Sec. 211. Waiver for vessels in New World Challenge Race.
- Sec. 212. Vessel ASPHALT COMMANDER.
- Sec. 213. Coastwise trade authorization.
- Sec. 214. Jones Act waiver for delayed vessel delivery.
- Sec. 215. Realignment of policy responsibility in the Department of Transportation.

TITLE III—COAST GUARD PERSONNEL AND MARITIME SAFETY

Sec. 301. Short title.

Subtitle A—Personnel Management

Sec. 311. Coast Guard band director rank.

- Sec. 312. Compensatory absence for isolated duty.
- Sec. 313. Accelerated promotion of certain Coast Guard officers.

Subtitle B—Marine Safety

- Sec. 321. Extension of Territorial Sea for Vessel Bridge-to-Bridge Radiotelephone Act.
- Sec. 322. Modification of various reporting requirements.
- Sec. 323. Oil Spill Liability Trust Fund; emergency fund advancement authority.
- Sec. 324. Merchant mariner documentation requirements.
- Sec. 325. Penalties for negligent operations and interfering with safe operation.

Subtitle C—Renewal of Advisory Groups

- Sec. 331. Commercial Fishing Industry Vessel Advisory Committee.
- Sec. 332. Houston-Galveston Navigation Safety Advisory Committee.
- Sec. 333. Lower Mississippi River Waterway Advisory Committee.
- Sec. 334. Navigation Safety Advisory Council.
- Sec. 335. National Boating Safety Advisory Council.
- Sec. 336. Towing Safety Advisory Committee.

Subtitle D—Miscellaneous

- Sec. 341. Patrol craft.
- Sec. 342. Boating safety.
- Sec. 343. Caribbean support tender.
- Sec. 344. Prohibition of new maritime user fees.
- Sec. 345. Great Lakes lighthouses.
- Sec. 346. Modernization of National Distress and Response System.
- Sec. 347. Conveyance of Coast Guard property in Portland, Maine.
- Sec. 348. Additional Coast Guard funding needs after September 11, 2001.
- Sec. 349. Miscellaneous conveyances.

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

- Sec. 401. Short title.
- Sec. 402. Extension of Coast Guard housing authorities.
- Sec. 403. Inventory of vessels for cable laying, maintenance, and repair.
- Sec. 404. Vessel escort operations and towing assistance.
- Sec. 405. Search and rescue center standards.
- Sec. 406. VHF communications services.
- Sec. 407. Lower Columbia River maritime fire and safety activities.
- Sec. 408. Conforming references to the former Merchant Marine and Fisheries Committee.
- Sec. 409. Restriction on vessel documentation.
- Sec. 410. Hypothermia protective clothing requirement.
- Sec. 411. Reserve officer promotions.
- Sec. 412. Regular lieutenant commanders and commanders; continuation upon failure of selection for promotion.
- Sec. 413. Reserve student pre-commissioning assistance program.
- Sec. 414. Continuation on active duty beyond thirty years.
- Sec. 415. Payment of death gratuities on behalf of Coast Guard auxiliaries.
- Sec. 416. Align Coast Guard severance pay and revocation of commission authority with Department of Defense authority.
- Sec. 417. Long-term lease authority for lighthouse property.
- Sec. 418. Maritime Drug Law Enforcement Act amendments.
- Sec. 419. Wing-in-ground craft.
- Sec. 420. Electronic filing of commercial instruments for vessels.
- Sec. 421. Deletion of thumbprint requirement for merchant mariners' documents.
- Sec. 422. Temporary certificates of documentation for recreational vessels.
- Sec. 423. Marine casualty investigations involving foreign vessels.
- Sec. 424. Conveyance of Coast Guard property in Hampton Township, Michigan.
- Sec. 425. Conveyance of property in Traverse City, Michigan.
- Sec. 426. Annual report on Coast Guard capabilities and readiness to fulfill national defense responsibilities.
- Sec. 427. Extension of authorization for oil spill recovery institute.
- Sec. 428. Protection against discrimination.
- Sec. 429. Icebreaking services.
- Sec. 430. Fishing vessel safety training.
- Sec. 431. Limitation on liability of pilots at Coast Guard Vessel Traffic Services.
- Sec. 432. Assistance for marine safety station on Chicago lakefront.
- Sec. 433. Extension of time for recreational vessel and associated equipment recalls.
- Sec. 434. Repair of municipal dock, Escanaba, Michigan.
- Sec. 435. Vessel GLOBAL EXPLORER.

- Sec. 436. Aleutian trade.
- Sec. 437. Pictured Rocks National Lakeshore boundary revision.
- Sec. 438. Loran-C.
- Sec. 439. Authorization of payment.
- Sec. 440. Report on oil spill responder immunity.
- Sec. 441. Fishing agreements.
- Sec. 442. Electronic publishing of marine casualty reports.
- Sec. 443. Safety and security of ports and waterways.
- Sec. 444. Suspension of payment.
- Sec. 445. Prohibition on navigation fees.

TITLE V—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

- Sec. 501. Short title.
- Sec. 502. Authorization of appropriations.
- Sec. 503. Authorized levels of military strength and training.

TITLE I—MARITIME TRANSPORTATION SECURITY

46 USC 70101
note.

SEC. 101. FINDINGS.

The Congress makes the following findings:

(1) There are 361 public ports in the United States that are an integral part of our Nation's commerce.

(2) United States ports handle over 95 percent of United States overseas trade. The total volume of goods imported and exported through ports is expected to more than double over the next 20 years.

(3) The variety of trade and commerce carried out at ports includes bulk cargo, containerized cargo, passenger transport and tourism, and intermodal transportation systems that are complex to secure.

(4) The United States is increasingly dependent on imported energy for a substantial share of its energy supply, and a disruption of that share of supply would seriously harm consumers and our economy.

(5) The top 50 ports in the United States account for about 90 percent of all the cargo tonnage. Twenty-five United States ports account for 98 percent of all container shipments. Cruise ships visiting foreign destinations embark from at least 16 ports. Ferries in the United States transport 113,000,000 passengers and 32,000,000 vehicles per year.

(6) Ports often are a major locus of Federal crime, including drug trafficking, cargo theft, and smuggling of contraband and aliens.

(7) Ports are often very open and exposed and are susceptible to large scale acts of terrorism that could cause a large loss of life or economic disruption.

(8) Current inspection levels of containerized cargo are insufficient to counter potential security risks. Technology is currently not adequately deployed to allow for the nonintrusive inspection of containerized cargo.

(9) The cruise ship industry poses a special risk from a security perspective.

(10) Securing entry points and other areas of port facilities and examining or inspecting containers would increase security at United States ports.

(11) Biometric identification procedures for individuals having access to secure areas in port facilities are important

tools to deter and prevent port cargo crimes, smuggling, and terrorist actions.

(12) United States ports are international boundaries that—

(A) are particularly vulnerable to breaches in security;

(B) may present weaknesses in the ability of the United States to realize its national security objectives; and

(C) may serve as a vector or target for terrorist attacks aimed at the United States.

(13) It is in the best interests of the United States—

(A) to have a free flow of interstate and foreign commerce and to ensure the efficient movement of cargo;

(B) to increase United States port security by establishing improving communication among law enforcement officials responsible for port security;

(C) to formulate requirements for physical port security, recognizing the different character and nature of United States port facilities, and to require the establishment of security programs at port facilities;

(D) to provide financial assistance to help the States and the private sector to increase physical security of United States ports;

(E) to invest in long-term technology to facilitate the private sector development of technology that will assist in the nonintrusive timely detection of crime or potential crime at United States ports;

(F) to increase intelligence collection on cargo and intermodal movements to address areas of potential threat to safety and security; and

(G) to promote private sector procedures that provide for in-transit visibility and support law enforcement efforts directed at managing the security risks of cargo shipments.

(14) On April 27, 1999, the President established the Interagency Commission on Crime and Security in United States Ports to undertake a comprehensive study of the nature and extent of the problem of crime in our ports, as well as the ways in which governments at all levels are responding. The Commission concluded that frequent crimes in ports include drug smuggling, illegal car exports, fraud, and cargo theft. Internal conspiracies are an issue at many ports and contribute to Federal crime. Criminal organizations are exploiting weak security at ports to commit a wide range of cargo crimes. Intelligence and information sharing among law enforcement agencies needs to be improved and coordinated at many ports. A lack of minimum physical and personnel security standards at ports and related facilities leaves many ports and port users very vulnerable. Access to ports and operations within ports is often uncontrolled. Security-related and detection-related equipment, such as small boats, cameras, large-scale x-ray machines, and vessel tracking devices, are lacking at many ports.

(15) The International Maritime Organization and other similar international organizations are currently developing a new maritime security system that contains the essential elements for enhancing global maritime security. Therefore, it is in the best interests of the United States to implement new international instruments that establish such a system.

SEC. 102. PORT SECURITY.

(a) IN GENERAL.—Title 46, United States Code, is amended by adding at the end the following new subtitle:

“Subtitle VI—Miscellaneous

“Chap.		Sec.
“701. Port Security	.....	70101

“CHAPTER 701—PORT SECURITY

“Sec.

“70101. Definitions.

“70102. United States facility and vessel vulnerability assessments.

“70103. Maritime transportation security plans.

“70104. Transportation security incident response.

“70105. Transportation security cards.

“70106. Maritime safety and security teams.

“70107. Grants.

“70108. Foreign port assessment.

“70109. Notifying foreign authorities.

“70110. Actions when foreign ports not maintaining effective antiterrorism measures.

“70111. Enhanced crewmember identification.

“70112. Maritime security advisory committees.

“70113. Maritime intelligence.

“70114. Automatic identification systems.

“70115. Long-range vessel tracking system.

“70116. Secure systems of transportation.

“70117. Civil penalty.

“§ 70101. Definitions

“For the purpose of this chapter:

“(1) The term ‘Area Maritime Transportation Security Plan’ means an Area Maritime Transportation Security Plan prepared under section 70103(b).

“(2) The term ‘facility’ means any structure or facility of any kind located in, on, under, or adjacent to any waters subject to the jurisdiction of the United States.

“(3) The term ‘National Maritime Transportation Security Plan’ means the National Maritime Transportation Security Plan prepared and published under section 70103(a).

“(4) The term ‘owner or operator’ means—

“(A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel; and

“(B) in the case of a facility, any person owning, leasing, or operating such facility.

“(5) The term ‘Secretary’ means the Secretary of the department in which the Coast Guard is operating.

“(6) The term ‘transportation security incident’ means a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area.

“§ 70102. United States facility and vessel vulnerability assessments

“(a) INITIAL ASSESSMENTS.—The Secretary shall conduct an assessment of vessel types and United States facilities on or adjacent to the waters subject to the jurisdiction of the United States to identify those vessel types and United States facilities that pose a high risk of being involved in a transportation security incident.

“(b) FACILITY AND VESSEL ASSESSMENTS.—(1) Based on the information gathered under subsection (a) of this section, the Secretary shall conduct a detailed vulnerability assessment of the

facilities and vessels that may be involved in a transportation security incident. The vulnerability assessment shall include the following:

“(A) Identification and evaluation of critical assets and infrastructures.

“(B) Identification of the threats to those assets and infrastructures.

“(C) Identification of weaknesses in physical security, passenger and cargo security, structural integrity, protection systems, procedural policies, communications systems, transportation infrastructure, utilities, contingency response, and other areas as determined by the Secretary.

“(2) Upon completion of an assessment under this subsection for a facility or vessel, the Secretary shall provide the owner or operator with a copy of the vulnerability assessment for that facility or vessel.

“(3) The Secretary shall update each vulnerability assessment conducted under this section at least every 5 years.

“(4) In lieu of conducting a facility or vessel vulnerability assessment under paragraph (1), the Secretary may accept an alternative assessment conducted by or on behalf of the owner or operator of the facility or vessel if the Secretary determines that the alternative assessment includes the matters required under paragraph (1).

“§ 70103. Maritime transportation security plans

“(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN.—

(1) The Secretary shall prepare a National Maritime Transportation Security Plan for deterring and responding to a transportation security incident.

“(2) The National Maritime Transportation Security Plan shall provide for efficient, coordinated, and effective action to deter and minimize damage from a transportation security incident, and shall include the following:

“(A) Assignment of duties and responsibilities among Federal departments and agencies and coordination with State and local governmental agencies.

“(B) Identification of security resources.

“(C) Procedures and techniques to be employed in deterring a national transportation security incident.

“(D) Establishment of procedures for the coordination of activities of—

“(i) Coast Guard maritime security teams established under this chapter; and

“(ii) Federal Maritime Security Coordinators required under this chapter.

“(E) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of a transportation security incident and imminent threats of such a security incident to the appropriate State and Federal agencies.

“(F) Establishment of criteria and procedures to ensure immediate and effective Federal identification of a transportation security incident, or the substantial threat of such a security incident.

“(G) Designation of—

“(i) areas for which Area Maritime Transportation Security Plans are required to be prepared under subsection (b); and

“(ii) a Coast Guard official who shall be the Federal Maritime Security Coordinator for each such area.

“(H) A risk-based system for evaluating the potential for violations of security zones designated by the Secretary on the waters subject to the jurisdiction of the United States.

“(I) A recognition of certified systems of intermodal transportation.

“(J) A plan for ensuring that the flow of cargo through United States ports is reestablished as efficiently and quickly as possible after a transportation security incident.

“(3) The Secretary shall, as the Secretary considers advisable, revise or otherwise amend the National Maritime Transportation Security Plan.

“(4) Actions by Federal agencies to deter and minimize damage from a transportation security incident shall, to the greatest extent possible, be in accordance with the National Maritime Transportation Security Plan.

“(5) The Secretary shall inform vessel and facility owners or operators of the provisions in the National Transportation Security Plan that the Secretary considers necessary for security purposes.

“(b) AREA MARITIME TRANSPORTATION SECURITY PLANS.—(1) The Federal Maritime Security Coordinator designated under subsection (a)(2)(G) for an area shall—

“(A) submit to the Secretary an Area Maritime Transportation Security Plan for the area; and

“(B) solicit advice from the Area Security Advisory Committee required under this chapter, for the area to assure preplanning of joint deterrence efforts, including appropriate procedures for deterrence of a transportation security incident.

“(2) The Area Maritime Transportation Security Plan for an area shall—

“(A) when implemented in conjunction with the National Maritime Transportation Security Plan, be adequate to deter a transportation security incident in or near the area to the maximum extent practicable;

“(B) describe the area and infrastructure covered by the plan, including the areas of population or special economic, environmental, or national security importance that might be damaged by a transportation security incident;

“(C) describe in detail how the plan is integrated with other Area Maritime Transportation Security Plans, and with facility security plans and vessel security plans under this section;

“(D) include consultation and coordination with the Department of Defense on matters relating to Department of Defense facilities and vessels;

“(E) include any other information the Secretary requires; and

“(F) be updated at least every 5 years by the Federal Maritime Security Coordinator.

“(3) The Secretary shall—

“(A) review and approve Area Maritime Transportation Security Plans under this subsection; and

“(B) periodically review previously approved Area Maritime Transportation Security Plans.

“(4) In security zones designated by the Secretary in each Area Maritime Transportation Security Plan, the Secretary shall consider—

“(A) the use of public/private partnerships to enforce security within the security zones, shoreside protection alternatives, and the environmental, public safety, and relative effectiveness of such alternatives; and

“(B) technological means of enhancing the security zones of port, territorial waters, and waterways of the United States.

“(c) VESSEL AND FACILITY SECURITY PLANS.—(1) Within 6 months after the prescription of interim final regulations on vessel and facility security plans, an owner or operator of a vessel or facility described in paragraph (2) shall prepare and submit to the Secretary a security plan for the vessel or facility, for deterring a transportation security incident to the maximum extent practicable.

“(2) The vessels and facilities referred to in paragraph (1)—

“(A) except as provided in subparagraph (B), are vessels and facilities that the Secretary believes may be involved in a transportation security incident; and

“(B) do not include any vessel or facility owned or operated by the Department of Defense.

“(3) A security plan required under this subsection shall—

“(A) be consistent with the requirements of the National Maritime Transportation Security Plan and Area Maritime Transportation Security Plans;

“(B) identify the qualified individual having full authority to implement security actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to subparagraph (C);

“(C) include provisions for—

“(i) establishing and maintaining physical security, passenger and cargo security, and personnel security;

“(ii) establishing and controlling access to secure areas of the vessel or facility;

“(iii) procedural security policies;

“(iv) communications systems; and

“(v) other security systems;

“(D) identify, and ensure by contract or other means approved by the Secretary, the availability of security measures necessary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident;

“(E) describe the training, periodic unannounced drills, and security actions of persons on the vessel or at the facility, to be carried out under the plan to deter to the maximum extent practicable a transportation security incident, or a substantial threat of such a security incident;

“(F) be updated at least every 5 years; and

“(G) be resubmitted for approval of each change to the vessel or facility that may substantially affect the security of the vessel or facility.

“(4) The Secretary shall—

“(A) promptly review each such plan;

“(B) require amendments to any plan that does not meet the requirements of this subsection;

“(C) approve any plan that meets the requirements of this subsection; and

“(D) review each plan periodically thereafter.

“(5) A vessel or facility for which a plan is required to be submitted under this subsection may not operate after the end of the 12-month period beginning on the date of the prescription of interim final regulations on vessel and facility security plans, unless—

“(A) the plan has been approved by the Secretary; and

“(B) the vessel or facility is operating in compliance with the plan.

“(6) Notwithstanding paragraph (5), the Secretary may authorize a vessel or facility to operate without a security plan approved under this subsection, until not later than 1 year after the date of the submission to the Secretary of a plan for the vessel or facility, if the owner or operator of the vessel or facility certifies that the owner or operator has ensured by contract or other means approved by the Secretary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident.

“(7) The Secretary shall require each owner or operator of a vessel or facility located within or adjacent to waters subject to the jurisdiction of the United States to implement any necessary interim security measures, including cargo security programs, to deter to the maximum extent practicable a transportation security incident until the security plan for that vessel or facility operator is approved.

“(d) NONDISCLOSURE OF INFORMATION.—Notwithstanding any other provision of law, information developed under this chapter is not required to be disclosed to the public, including—

“(1) facility security plans, vessel security plans, and port vulnerability assessments; and

“(2) other information related to security plans, procedures, or programs for vessels or facilities authorized under this chapter.

“§ 70104. Transportation security incident response

“(a) FACILITY AND VESSEL RESPONSE PLANS.—The Secretary shall—

“(1) establish security incident response plans for vessels and facilities that may be involved in a transportation security incident; and

“(2) make those plans available to the Director of the Federal Emergency Management Agency for inclusion in the Director’s response plan for United States ports and waterways.

“(b) CONTENTS.—Response plans developed under subsection (a) shall provide a comprehensive response to an emergency, including notifying and coordinating with local, State, and Federal authorities, including the Director of the Federal Emergency Management Agency, securing the facility or vessel, and evacuating facility and vessel personnel.

“(c) INCLUSION IN SECURITY PLAN.—A response plan required under this subsection for a vessel or facility may be included in the security plan prepared under section 70103(c).

“§ 70105. Transportation security cards

“(a) PROHIBITION.—(1) The Secretary shall prescribe regulations to prevent an individual from entering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title unless the individual— Regulations.

“(A) holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan; or

“(B) is accompanied by another individual who holds a transportation security card issued under this section and is authorized to be in the area in accordance with the plan.

“(2) A person shall not admit an individual into such a secure area unless the entry of the individual into the area is in compliance with paragraph (1).

“(b) ISSUANCE OF CARDS.—(1) The Secretary shall issue a biometric transportation security card to an individual specified in paragraph (2), unless the Secretary decides that the individual poses a security risk under subsection (c) warranting denial of the card.

“(2) This subsection applies to—

“(A) an individual allowed unescorted access to a secure area designated in a vessel or facility security plan approved under section 70103 of this title;

“(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title;

“(C) a vessel pilot;

“(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel;

“(E) an individual with access to security sensitive information as determined by the Secretary; and

“(F) other individuals engaged in port security activities as determined by the Secretary.

“(c) DETERMINATION OF TERRORISM SECURITY RISK.—(1) An individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

“(A) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

“(i) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

“(ii) for causing a severe transportation security incident;

“(B) has been released from incarceration within the preceding 5-year period for committing a felony described in subparagraph (A);

“(C) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

“(D) otherwise poses a terrorism security risk to the United States.

“(2) The Secretary shall prescribe regulations that establish a waiver process for issuing a transportation security card to an individual found to be otherwise ineligible for such a card under Regulations.

paragraph (1). In deciding to issue a card to such an individual, the Secretary shall—

“(A) give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism risk warranting denial of the card; and

“(B) issue a waiver to an individual without regard to whether that individual would otherwise be disqualified if the individual’s employer establishes alternate security arrangements acceptable to the Secretary.

“(3) The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a transportation security card that includes notice and an opportunity for a hearing.

“(4) Upon application, the Secretary may issue a transportation security card to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.

“(d) BACKGROUND RECORDS CHECK.—(1) On request of the Secretary, the Attorney General shall—

“(A) conduct a background records check regarding the individual; and

“(B) upon completing the background records check, notify the Secretary of the completion and results of the background records check.

“(2) A background records check regarding an individual under this subsection shall consist of the following:

“(A) A check of the relevant criminal history databases.

“(B) In the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States.

“(C) As appropriate, a check of the relevant international databases or other appropriate means.

“(D) Review of any other national security-related information or database identified by the Attorney General for purposes of such a background records check.

“(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—(1) Information obtained by the Attorney General or the Secretary under this section may not be made available to the public, including the individual’s employer.

“(2) Any information constituting grounds for denial of a transportation security card under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section. The Secretary may share any such information with other Federal law enforcement agencies. An individual’s employer may only be informed of whether or not the individual has been issued the card under this section.

“(f) DEFINITION.—In this section, the term ‘alien’ has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).”.

“§ 70106. Maritime safety and security teams

“(a) IN GENERAL.—To enhance the domestic maritime security capability of the United States, the Secretary shall establish such maritime safety and security teams as are needed to safeguard the public and protect vessels, harbors, ports, facilities, and cargo in waters subject to the jurisdiction of the United States from

destruction, loss or injury from crime, or sabotage due to terrorist activity, and to respond to such activity in accordance with the transportation security plans developed under section 70103.

“(b) MISSION.—Each maritime safety and security team shall be trained, equipped, and capable of being employed to—

“(1) deter, protect against, and rapidly respond to threats of maritime terrorism;

“(2) enforce moving or fixed safety or security zones established pursuant to law;

“(3) conduct high speed intercepts;

“(4) board, search, and seize any article or thing on or at, respectively, a vessel or facility found to present a risk to the vessel or facility, or to a port;

“(5) rapidly deploy to supplement United States armed forces domestically or overseas;

“(6) respond to criminal or terrorist acts within a port so as to minimize, insofar as possible, the disruption caused by such acts;

“(7) assist with facility vulnerability assessments required under this chapter; and

“(8) carry out other security missions as are assigned to it by the Secretary.

“(c) COORDINATION WITH OTHER AGENCIES.—To the maximum extent feasible, each maritime safety and security team shall coordinate its activities with other Federal, State, and local law enforcement and emergency response agencies.

“§ 70107. Grants

“(a) IN GENERAL.—The Secretary of Transportation, acting through the Maritime Administrator, shall establish a grant program for making a fair and equitable allocation among port authorities, facility operators, and State and local agencies required to provide security services of funds to implement Area Maritime Transportation Security Plans and facility security plans. The program shall take into account national economic and strategic defense considerations.

“(b) ELIGIBLE COSTS.—The following costs of funding the correction of Coast Guard identified vulnerabilities in port security and ensuring compliance with Area Maritime Transportation Security Plans and facility security plans are eligible to be funded:

“(1) Salary, benefits, overtime compensation, retirement contributions, and other costs of additional Coast Guard mandated security personnel.

“(2) The cost of acquisition, operation, and maintenance of security equipment or facilities to be used for security monitoring and recording, security gates and fencing, marine barriers for designated security zones, security-related lighting systems, remote surveillance, concealed video systems, security vessels, and other security-related infrastructure or equipment that contributes to the overall security of passengers, cargo, or crewmembers.

“(3) The cost of screening equipment, including equipment that detects weapons of mass destruction and conventional explosives, and of testing and evaluating such equipment, to certify secure systems of transportation.

“(4) The cost of conducting vulnerability assessments to evaluate and make recommendations with respect to security.

“(c) MATCHING REQUIREMENTS.—

“(1) 75-PERCENT FEDERAL FUNDING.—Except as provided in paragraph (2), Federal funds for any eligible project under this section shall not exceed 75 percent of the total cost of such project.

“(2) EXCEPTIONS.—

“(A) SMALL PROJECTS.—There are no matching requirements for grants under subsection (a) for projects costing not more than \$25,000.

“(B) HIGHER LEVEL OF SUPPORT REQUIRED.—If the Secretary of Transportation determines that a proposed project merits support and cannot be undertaken without a higher rate of Federal support, then the Secretary may approve grants under this section with a matching requirement other than that specified in paragraph (1).

“(d) COORDINATION AND COOPERATION AGREEMENTS.—The Secretary of Transportation shall ensure that projects paid for, or the costs of which are reimbursed, under this section within any area or port are coordinated with other projects, and may require cooperative agreements among users of the port and port facilities with respect to projects funded under this section.

“(e) ADMINISTRATION.—

“(1) IN GENERAL.—The program shall require eligible port authorities, facility operators, and State and local agencies required to provide security services, to submit an application, at such time, in such form, and containing such information and assurances as the Secretary of Transportation may require, and shall include appropriate application, review, and delivery mechanisms.

“(2) MINIMUM STANDARDS FOR PAYMENT OR REIMBURSEMENT.—Each application for payment or reimbursement of eligible costs shall include, at a minimum, the following:

“(A) A copy of the applicable Area Maritime Transportation Security Plan or facility security plan.

“(B) A comprehensive description of the need for the project, and a statement of the project's relationship to the applicable Area Maritime Transportation Security Plan or facility security plan.

“(C) A determination by the Captain of the Port that the security project addresses or corrects Coast Guard identified vulnerabilities in security and ensures compliance with Area Maritime Transportation Security Plans and facility security plans.

“(3) PROCEDURAL SAFEGUARDS.—The Secretary of Transportation shall by regulation establish appropriate accounting, reporting, and review procedures to ensure that amounts paid or reimbursed under this section are used for the purposes for which they were made available, all expenditures are properly accounted for, and amounts not used for such purposes and amounts not obligated or expended are recovered.

“(4) PROJECT APPROVAL REQUIRED.—The Secretary of Transportation may approve an application for the payment or reimbursement of costs under this section only if the Secretary of Transportation is satisfied that—

“(A) the project is consistent with Coast Guard vulnerability assessments and ensures compliance with Area

Regulations.

Maritime Transportation Security Plans and facility security plans;

“(B) enough money is available to pay the project costs that will not be reimbursed by the United States Government under this section;

“(C) the project will be completed without unreasonable delay; and

“(D) the recipient has authority to carry out the project as proposed.

“(f) AUDITS AND EXAMINATIONS.—A recipient of amounts made available under this section shall keep such records as the Secretary of Transportation may require, and make them available for review and audit by the Secretary of Transportation, the Comptroller General of the United States, or the Inspector General of the Department of Transportation.

“(g) REPORTS ON SECURITY FUNDING AND COMPLIANCE.—

“(1) INITIAL REPORT.—Within 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit an unclassified report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, that—

“(A) includes a funding proposal and rationale to fund the correction of Coast Guard identified vulnerabilities in port security and to help ensure compliance with Area Maritime Transportation Security Plans and facility security plans for fiscal years 2003 through 2008; and

“(B) includes projected funding proposals for fiscal years 2003 through 2008 for the following security programs:

“(i) The Sea Marshall program.

“(ii) The Automated Identification System and a system of polling vessels on entry into United States waters.

“(iii) The maritime intelligence requirements in this Act.

“(iv) The issuance of transportation security cards required by section 70105.

“(v) The program of certifying secure systems of transportation.

“(2) OTHER EXPENDITURES.—The Secretary of Transportation shall, as part of the report required by paragraph (1) report, in coordination with the Commissioner of Customs, on projected expenditures of screening and detection equipment and on cargo security programs over fiscal years 2003 through 2008.

“(3) ANNUAL REPORTS.—Annually, beginning 1 year after transmittal of the report required by paragraph (1) until October 1, 2009, the Secretary of Transportation shall transmit an unclassified annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, on progress in achieving compliance with the correction of Coast Guard identified vulnerabilities in port security and compliance with Area Maritime Transportation Security Plans and facility security plans that—

“(A) identifies any modifications necessary in funding to ensure the correction of Coast Guard identified vulnerabilities and ensure compliance with Area Maritime Transportation Security Plans and facility security plans;

“(B) includes an assessment of progress in implementing the grant program established by subsection (a);

“(C) includes any recommendations the Secretary may make to improve these programs; and

“(D) with respect to a port selected by the Secretary of Transportation, describes progress and enhancements of applicable Area Maritime Transportation Security Plans and facility security plans and how the Maritime Transportation Security Act of 2002 has improved security at that port.

“(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of fiscal years 2003 through 2008 such sums as are necessary to carry out subsections (a) through (g).

“(i) RESEARCH AND DEVELOPMENT GRANTS FOR PORT SECURITY.—

“(1) AUTHORITY.—The Secretary of Transportation is authorized to establish and administer a grant program for the support of research and development of technologies that can be used to secure the ports of the United States. The Secretary may award grants under the program to national laboratories, private nonprofit organizations, institutions of higher education, and other entities. The Secretary shall establish competitive procedures for awarding grants under the program and criteria for grant applications and eligibility.

“(2) USE OF FUNDS.—Grants awarded pursuant to paragraph (1) shall be used to develop—

“(A) methods to increase the ability of the Customs Service to inspect, or target for inspection, merchandise carried on any vessel that will arrive or has arrived at any port or place in the United States;

“(B) equipment to accurately detect explosives, or chemical and biological agents, that could be used to commit terrorist acts against the United States;

“(C) equipment to accurately detect nuclear materials, including scintillation-based detection equipment capable of attachment to spreaders to signal the presence of nuclear materials during the unloading of containers;

“(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including ‘smart sensors’ that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit such information to the appropriate authorities at a remote location;

“(E) tools to mitigate the consequences of a terrorist act at a port of the United States, including a network of sensors to predict the dispersion of radiological, chemical, or biological agents that might be intentionally or accidentally released; or

“(F) applications to apply existing technologies from other industries to increase overall port security.

“(3) ADMINISTRATIVE PROVISIONS.—

“(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary of Transportation shall coordinate with other Federal agencies to ensure the grant will not be used for research and development that is already being conducted with Federal funding.

“(B) ACCOUNTING.—The Secretary of Transportation shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered. Regulations.

“(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the Department of Transportation and the Secretary of Transportation for audit and examination.

“(D) ANNUAL REVIEW AND REPORT.—The Inspector General of the Department of Transportation shall annually review the program established under paragraph (1) to ensure that the expenditures and obligations of funds are consistent with the purposes for which they are provided and report the findings to Congress.

“(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$15,000,000 for each of the fiscal years 2003 through 2008 to carry out the provisions of this subsection.

“§ 70108. Foreign port assessment

“(a) IN GENERAL.—The Secretary shall assess the effectiveness of the antiterrorism measures maintained at—

“(1) a foreign port—

“(A) served by vessels documented under chapter 121 of this title; or

“(B) from which foreign vessels depart on a voyage to the United States; and

“(2) any other foreign port the Secretary believes poses a security risk to international maritime commerce.

“(b) PROCEDURES.—In conducting an assessment under subsection (a), the Secretary shall assess the effectiveness of—

“(1) screening of containerized and other cargo and baggage;

“(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

“(3) additional security on board vessels;

“(4) licensing or certification of compliance with appropriate security standards;

“(5) the security management program of the foreign port; and

“(6) other appropriate measures to deter terrorism against the United States.

“(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with—

“(1) the Secretary of Defense and the Secretary of State—

“(A) on the terrorist threat that exists in each country involved; and

“(B) to identify foreign ports that pose a high risk of introducing terrorism to international maritime commerce;

“(2) the Secretary of the Treasury;

“(3) appropriate authorities of foreign governments; and

“(4) operators of vessels.

“§ 70109. Notifying foreign authorities

“(a) IN GENERAL.—If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain effective antiterrorism measures, the Secretary shall notify the appropriate authorities of the government of the foreign country of the finding and recommend the steps necessary to improve the antiterrorism measures in use at the port.

“(b) TRAINING PROGRAM.—The Secretary, in cooperation with the Secretary of State, shall operate a port security training program for ports in foreign countries that are found under section 70108 to lack effective antiterrorism measures.

“§ 70110. Actions when foreign ports not maintaining effective antiterrorism measures

“(a) IN GENERAL.—If the Secretary finds that a foreign port does not maintain effective antiterrorism measures, the Secretary—

“(1) may prescribe conditions of entry into the United States for any vessel arriving from that port, or any vessel carrying cargo or passengers originating from or transshipped through that port;

“(2) may deny entry into the United States to any vessel that does not meet such conditions; and

“(3) shall provide public notice for passengers of the ineffective antiterrorism measures.

“(b) EFFECTIVE DATE FOR SANCTIONS.—Any action taken by the Secretary under subsection (a) for a particular port shall take effect—

“(1) 90 days after the government of the foreign country with jurisdiction over or control of that port is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port up to the security level the Secretary used in making an assessment under section 70108 before the end of that 90-day period; or

“(2) immediately upon the finding of the Secretary under subsection (a) if the Secretary finds, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the port.

“(c) STATE DEPARTMENT TO BE NOTIFIED.—The Secretary immediately shall notify the Secretary of State of a finding that a port does not maintain effective antiterrorism measures.

“(d) ACTION CANCELED.—An action required under this section is no longer required if the Secretary decides that effective antiterrorism measures are maintained at the port.

“§ 70111. Enhanced crewmember identification

“(a) REQUIREMENT.—The Secretary, in consultation with the Attorney General and the Secretary of State, shall require crewmembers on vessels calling at United States ports to carry and

present on demand any identification that the Secretary decides is necessary.

“(b) FORMS AND PROCESS.—The Secretary, in consultation with the Attorney General and the Secretary of State, shall establish the proper forms and process that shall be used for identification and verification of crewmembers.

“§ 70112. Maritime Security Advisory Committees

“(a) ESTABLISHMENT OF COMMITTEES.—(1) The Secretary shall establish a National Maritime Security Advisory Committee. The Committee—

“(A) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to national maritime security matters;

“(B) may make available to the Congress recommendations that the Committee makes to the Secretary; and

“(C) shall meet at the call of—

“(i) the Secretary, who shall call such a meeting at least once during each calendar year; or

“(ii) a majority of the Committee.

“(2)(A) The Secretary may—

“(i) establish an Area Maritime Security Advisory Committee for any port area of the United States; and

“(ii) request such a committee to review the proposed Area Maritime Transportation Security Plan developed under section 70103(b) and make recommendations to the Secretary that the Committee considers appropriate.

“(B) A committee established under this paragraph for an area—

“(i) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to maritime security in that area;

“(ii) may make available to the Congress recommendations that the committee makes to the Secretary; and

“(iii) shall meet at the call of—

“(I) the Secretary, who shall call such a meeting at least once during each calendar year; or

“(II) a majority of the committee.

“(b) MEMBERSHIP.—(1) Each of the committees established under subsection (a) shall consist of not less than 7 members appointed by the Secretary, each of whom has at least 5 years practical experience in maritime security operations.

“(2) The term of each member shall be for a period of not more than 5 years, specified by the Secretary.

“(3) Before appointing an individual to a position on such a committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the committee.

“(4) The Secretary may require an individual to have passed an appropriate security background examination before appointment to the Committee.

“(c) CHAIRPERSON AND VICE CHAIRPERSON.—(1) Each committee established under subsection (a) shall elect 1 of its members as the Chairman and 1 of its members as the Vice Chairperson.

“(2) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

“(d) OBSERVERS.—(1) The Secretary shall, and the head of any other interested Federal agency may, designate a representative to participate as an observer with the Committee.

“(2) The Secretary’s designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

“(e) CONSIDERATION OF VIEWS.—The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting maritime security.

“(f) COMPENSATION AND EXPENSES.—(1) A member of a committee established under this section, when attending meetings of the committee or when otherwise engaged in the business of the committee, is entitled to receive—

“(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-15 of the General Schedule under section 5332 of title 5 including travel time; and

“(B) travel or transportation expenses under section 5703 of title 5.

“(2) A member of such a committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

“(g) FACA; TERMINATION.—(1) The Federal Advisory Committee Act (5 U.S.C. App.)—

“(A) applies to the National Maritime Security Advisory Committee established under this section, except that such committee terminates on September 30, 2008; and

“(B) does not apply to Area Maritime Security Advisory Committees established under this section.

Deadline.

“(2) Not later than September 30, 2006, each committee established under this section shall submit to the Congress its recommendation regarding whether the committee should be renewed and continued beyond the termination date.

“§ 70113. Maritime intelligence

“(a) IN GENERAL.—The Secretary shall implement a system to collect, integrate, and analyze information concerning vessels operating on or bound for waters subject to the jurisdiction of the United States, including information related to crew, passengers, cargo, and intermodal shipments.

“(b) CONSULTATION.—In developing the information system under subsection (a), the Secretary shall consult with the Transportation Security Oversight Board and other departments and agencies, as appropriate.

“(c) INFORMATION INTEGRATION.—To deter a transportation security incident, the Secretary may collect information from public and private entities to the extent that the information is not provided by other Federal departments and agencies.

“§ 70114. Automatic identification systems

Regulations.

“(a) SYSTEM REQUIREMENTS.—(1) Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate an automatic identification system under regulations prescribed by the Secretary:

“(A) A self-propelled commercial vessel of at least 65 feet overall in length.

“(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

“(C) A towing vessel of more than 26 feet overall in length and 600 horsepower.

“(D) Any other vessel for which the Secretary decides that an automatic identification system is necessary for the safe navigation of the vessel.

“(2) The Secretary may—

“(A) exempt a vessel from paragraph (1) if the Secretary finds that an automatic identification system is not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

“(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary if the Secretary finds that automatic identification systems are not needed for safe navigation on those waters.

“(b) REGULATIONS.—The Secretary shall prescribe regulations implementing subsection (a), including requirements for the operation and maintenance of the automatic identification systems required under subsection (a).

“§ 70115. Long-range vessel tracking system

“The Secretary may develop and implement a long-range automated vessel tracking system for all vessels in United States waters that are equipped with the Global Maritime Distress and Safety System or equivalent satellite technology. The system shall be designed to provide the Secretary the capability of receiving information on vessel positions at interval positions appropriate to deter transportation security incidents. The Secretary may use existing maritime organizations to collect and monitor tracking information under the system.

“§ 70116. Secure systems of transportation

“(a) IN GENERAL.—The Secretary, in consultation with the Transportation Security Oversight Board, shall establish a program to evaluate and certify secure systems of international intermodal transportation.

“(b) ELEMENTS OF PROGRAM.—The program shall include—

“(1) establishing standards and procedures for screening and evaluating cargo prior to loading in a foreign port for shipment to the United States either directly or via a foreign port;

“(2) establishing standards and procedures for securing cargo and monitoring that security while in transit;

“(3) developing performance standards to enhance the physical security of shipping containers, including standards for seals and locks;

“(4) establishing standards and procedures for allowing the United States Government to ensure and validate compliance with this program; and

“(5) any other measures the Secretary considers necessary to ensure the security and integrity of international intermodal transport movements.

“§ 70117. Civil penalty

“Any person that violates this chapter or any regulation under this chapter shall be liable to the United States for a civil penalty of not more than \$25,000 for each violation.”

(b) CONFORMING AMENDMENT.—The table of subtitles at the beginning of title 46, United States Code, is amended by adding at the end the following:

“VI. MISCELLANEOUS70101”.

46 USC 70104
note.

(c) DEADLINE.—The Secretary shall establish the plans required under section 70104(a)(1) of title 46, United States Code, as enacted by this Act, before April 1, 2003.

46 USC 70101
note.

(d) RULEMAKING REQUIREMENTS.—

(1) INTERIM FINAL RULE AUTHORITY.—The Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code. All regulations prescribed under the authority of this subsection that are not earlier superseded by final regulations shall expire not later than 1 year after the date of enactment of this Act.

(2) INITIATION OF RULEMAKING.—The Secretary may initiate a rulemaking to implement this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section. The final rule issued pursuant to that rulemaking may supersede the interim final rule promulgated under this subsection.

46 USC 70114
note.

(e) PHASE-IN OF AUTOMATIC IDENTIFICATION SYSTEM.—

(1) SCHEDULE.—Section 70114 of title 46, United States Code, as enacted by this Act, shall apply as follows:

(A) On and after January 1, 2003, to any vessel built after that date.

(B) On and after July 1, 2003, to any vessel built before the date referred to in subparagraph (A) that is—

(i) a passenger vessel required to carry a certificate under the International Convention for the Safety of Life at Sea, 1974 (SOLAS);

(ii) a tanker; or

(iii) a towing vessel engaged in moving a tank vessel.

(C) On and after December 31, 2004, to all other vessels built before the date referred to in subparagraph (A).

(2) DEFINITION.—The terms in this subsection have the same meaning as those terms have under section 2101 of title 46, United States Code.

46 USC 70111
note.

SEC. 103. INTERNATIONAL SEAFARER IDENTIFICATION.

(a) TREATY INITIATIVE.—The Secretary of the department in which the Coast Guard is operating is encouraged to negotiate an international agreement, or an amendment to an international agreement, that provides for a uniform, comprehensive, international system of identification for seafarers that will enable the United States and another country to establish authoritatively the identity of any seafarer aboard a vessel within the jurisdiction, including the territorial waters, of the United States or such other country.

(b) **LEGISLATIVE ALTERNATIVE.**—If the Secretary fails to complete a negotiation process undertaken under subsection (a) within 24 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a draft of legislation that, if enacted, would establish a uniform, comprehensive system of identification for seafarers.

SEC. 104. EXTENSION OF SEAWARD JURISDICTION.

(a) **DEFINITION OF TERRITORIAL WATERS.**—Section 1 of title XIII of the Act of June 15, 1917 (50 U.S.C. 195; 40 Stat. 231) is amended—

(1) by striking “The term ‘United States’ as used in this Act includes” and inserting the following:

“In this Act:

“(1) **UNITED STATES.**—The term ‘United States’ includes”; and

(2) by adding at the end the following:

“(2) **TERRITORIAL WATERS.**—The term ‘territorial waters of the United States’ includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.”.

(b) **CIVIL PENALTY FOR VIOLATION OF ACT OF JUNE 15, 1917.**—Section 2 of title II of the Act of June 15, 1917 (50 U.S.C. 192), is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “If” in the first undesignated paragraph;

(2) by striking “(a) If any other” and inserting “(b) **APPLICATION TO OTHERS.**—If any other”; and

(3) by adding at the end the following:

“(c) **CIVIL PENALTY.**—A person violating this Act, or a regulation prescribed under this Act, shall be liable to the United States Government for a civil penalty of not more than \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation.”.

SEC. 105. SUSPENSION OF LIMITATION ON STRENGTH OF COAST GUARD.

(a) **PERSONNEL END STRENGTHS.**—Section 661(a) of title 14, United States Code, is amended by adding at the end the following: “If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.”.

(b) **OFFICERS IN COAST GUARD RESERVE.**—Section 724 of title 14, United States Code, is amended by adding at the end thereof the following:

“(c) **DEFERRAL OF LIMITATION.**—If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard Reserve, for a period not to exceed 6 months after the end of the war or termination of the national emergency.”.

SEC. 106. EXTENSION OF DEEPWATER PORT ACT TO NATURAL GAS.

(a) **IN GENERAL.**—The following provisions of the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) are each amended by inserting “or natural gas” after “oil” each place it appears:

- (1) Section 2(a) (33 U.S.C. 1501(a)).
- (2) Section 4(a) (33 U.S.C. 1503(a)).
- (3) Section 21(a) (33 U.S.C. 1520(a)).

(b) **DEFINITIONS.**—Section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502) is amended—

(1) by redesignating paragraphs (13) through (18) as paragraphs (14) through (19), respectively;

(2) by amending paragraph (9) to read as follows:

“(9) ‘deepwater port’—

“(A) means any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and that are used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to any State, except as otherwise provided in section 23, and for other uses not inconsistent with the purposes of this Act, including transportation of oil or natural gas from the United States outer continental shelf;

“(B) includes all components and equipment, including pipelines, pumping stations, service platforms, buoys, mooring lines, and similar facilities to the extent they are located seaward of the high water mark;

“(C) in the case of a structure used or intended for such use with respect to natural gas, includes all components and equipment, including pipelines, pumping or compressor stations, service platforms, buoys, mooring lines, and similar facilities that are proposed or approved for construction and operation as part of a deepwater port, to the extent that they are located seaward of the high water mark and do not include interconnecting facilities; and

“(D) shall be considered a ‘new source’ for purposes of the Clean Air Act (42 U.S.C. 7401 et seq.), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);”;

(3) by inserting after paragraph (12) the following:

“(13) ‘natural gas’ means either natural gas unmixed, or any mixture of natural or artificial gas, including compressed or liquefied natural gas.”.

(c) **FACILITY APPROVAL.**—(1) Section 5(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(d)) is amended by adding at the end the following:

“(4) This subsection shall not apply to deepwater ports for natural gas.”.

(2) Section 5(i) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(i)) is amended by adding at the end the following:

“(4) The Secretary shall approve or deny any application for a deepwater port for natural gas submitted pursuant to this Act not later than 90 days after the last public hearing on a proposed license. Paragraphs (1), (2), and (3) of this subsection shall not apply to an application for a deepwater port for natural gas.”.

Deadline.

(d) FACILITY DEVELOPMENT.—Section 8 of the Deepwater Port Act of 1974 (33 U.S.C. 1507) is amended by adding at the end the following:

“(d) MANAGED ACCESS.—Subsections (a) and (b) shall not apply to deepwater ports for natural gas. A licensee of a deepwater port for natural gas, or an affiliate thereof, may exclusively utilize the entire capacity of the deepwater port and storage facilities for the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed, or otherwise obtained by agreement by such licensee or its affiliates. The licensee may make unused capacity of the deepwater port and storage facilities available to other persons, pursuant to reasonable terms and conditions imposed by the licensee, if such use does not otherwise interfere in any way with the acceptance, transport, storage, regasification, or conveyance of natural gas produced, processed, marketed, or otherwise obtained by agreement by such licensee or its affiliates.

“(e) JURISDICTION.—Notwithstanding any provision of the Natural Gas Act (15 U.S.C. 717 et seq.), any regulation or rule issued thereunder, or section 19 as it pertains to such Act, this Act shall apply with respect to the licensing, siting, construction, or operation of a deepwater natural gas port or the acceptance, transport, storage, regasification, or conveyance of natural gas at or through a deepwater port, to the exclusion of the Natural Gas Act or any regulation or rule issued thereunder.”.

(e) REGULATIONS.—

(1) AGENCY AND DEPARTMENT EXPERTISE AND RESPONSIBILITIES.—Not later than 30 days after the date of the enactment of this Act, the heads of Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the construction or operation of deepwater ports for natural gas shall transmit to the Secretary of Transportation written comments as to such expertise or statutory responsibilities pursuant to the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) or any other Federal law.

(2) INTERIM FINAL RULE.—The Secretary may issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code.

(3) FINAL RULES.—As soon as practicable after the date of the enactment of this Act, the Secretary of Transportation shall issue additional final rules that, in the discretion of the Secretary, are determined to be necessary under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.) for the application and issuance of licenses for a deepwater port for natural gas.

(f) ENVIRONMENTAL ANALYSIS.—Section 5 of the Deepwater Port Act of 1974 (33 U.S.C. 1504) is amended by striking subsection (f) and inserting the following:

“(f) NEPA COMPLIANCE.—For all applications, the Secretary, in cooperation with other involved Federal agencies and departments, shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Such compliance shall fulfill the requirement of all Federal agencies in carrying out their responsibilities under the National Environmental Policy Act of 1969 pursuant to this Act.”.

43 USC 1504
note.

Deadline.

(g) **STATE FEES.**—Section 5(h)(2) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(h)(2)) is amended by inserting “and unless prohibited by law,” after “Notwithstanding any other provision of this Act,”.

SEC. 107. ASSIGNMENT OF COAST GUARD PERSONNEL AS SEA MARSHALS AND ENHANCED USE OF OTHER SECURITY PERSONNEL.

(a) **IN GENERAL.**—Section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) is amended—

(1) by striking “and” after the semicolon in paragraph (1);

(2) by striking “terrorism.” in paragraph (2) and inserting “terrorism; and”; and

(3) by adding at the end the following:

“(3) dispatch properly trained and qualified armed Coast Guard personnel on vessels and public or commercial structures on or adjacent to waters subject to United States jurisdiction to deter or respond to acts of terrorism or transportation security incidents, as defined in section 70101 of title 46, United States Code.”.

33 USC 1226
note.

(b) **REPORT ON USE OF NON-COAST GUARD PERSONNEL.**—The Secretary of the department in which the Coast Guard is operating shall evaluate and report to the Congress on—

(1) the potential use of Federal, State, or local government personnel, and documented United States Merchant Marine personnel, to supplement Coast Guard personnel under section 7(b)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)(3));

(2) the possibility of using personnel other than Coast Guard personnel to carry out Coast Guard personnel functions under that section and whether additional legal authority would be necessary to use such personnel for such functions; and

(3) the possibility of utilizing the United States Merchant Marine Academy, State maritime academies, or Coast Guard approved maritime industry schools in the United States, to provide training under that section.

SEC. 108. TECHNICAL AMENDMENTS CONCERNING THE TRANSMITTAL OF CERTAIN INFORMATION TO THE CUSTOMS SERVICE.

(a) **TARIFF ACT OF 1930.**—Section 431A(d) of the Tariff Act of 1930, as added by section 343(b) of the Trade Act of 2002 (Public Law 107-210), is amended to read as follows:

19 USC 1431a.

“(d) **REPORTING OF UNDOCUMENTED CARGO.**—

“(1) **IN GENERAL.**—A vessel carrier shall notify the Customs Service of any cargo tendered to such carrier that is not properly documented pursuant to this section and that has remained in the marine terminal for more than 48 hours after being delivered to the marine terminal, and the location of the cargo in the marine terminal.

“(2) **SHARING ARRANGEMENTS.**—For vessel carriers that are members of vessel sharing agreements (or any other arrangement whereby a carrier moves cargo on another carrier’s vessel), the vessel carrier accepting the booking shall be responsible for reporting undocumented cargo, without regard to whether it operates the vessel on which the transportation is to be made.

“(3) REASSIGNMENT TO ANOTHER VESSEL.—For purposes of this subsection and subsection (f), if merchandise has been tendered to a marine terminal operator and subsequently reassigned for carriage on another vessel, the merchandise shall be considered properly documented if the information provided reflects carriage on the previously assigned vessel and otherwise meets the requirements of subsection (b). Notwithstanding the preceding sentence, it shall be the responsibility of the vessel carrier to notify the Customs Service promptly of any reassignment of merchandise for carriage on a vessel other than the vessel on which the merchandise was originally assigned.

“(4) MULTIPLE CONTAINERS.—If a single shipment is comprised of multiple containers, the 48-hour period described in paragraph (1) shall begin to run from the time the last container of the shipment is delivered to the marine terminal operator. It shall be the responsibility of the person tendering the cargo to inform the carrier that the shipment consists of multiple containers that will be delivered to the marine terminal operator at different times as part of a single shipment.”.

(b) MANDATORY ADVANCED ELECTRONIC INFORMATION.—Section 343(a) of the Trade Act of 2002 (Public Law 107-210) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—(A) Subject to paragraphs (2) and (3), the Secretary is authorized to promulgate regulations providing for the transmission to the Customs Service, through an electronic data interchange system, of information pertaining to cargo to be brought into the United States or to be sent from the United States, prior to the arrival or departure of the cargo.

“(B) The Secretary shall endeavor to promulgate an initial set of regulations under subparagraph (A) not later than October 1, 2003.”.

(2) by striking paragraph (2) and inserting the following:

“(2) INFORMATION REQUIRED.—The cargo information required by the regulations promulgated pursuant to paragraph (1) under the parameters set forth in paragraph (3) shall be such information on cargo as the Secretary determines to be reasonably necessary to ensure cargo safety and security pursuant to those laws enforced and administered by the Customs Service. The Secretary shall provide to appropriate Federal departments and agencies cargo information obtained pursuant to paragraph (1).”; and

(3) in paragraph (3)—

(A) by striking “aviation, maritime, and surface transportation safety and security” in subparagraphs (F), (H), and (L)(ii) and inserting “cargo safety and security”;

(B) in subparagraph (F)—

(i) by inserting “merchandise” after “determining”;

(ii) by inserting “and preventing smuggling” after “security”; and

(iii) by adding at the end the following: “Notwithstanding the preceding sentence, nothing in this section shall be treated as amending, repealing, or otherwise modifying title IV of the Tariff Act of 1930 or regulations promulgated thereunder.”;

(C) in subparagraph (G)—

19 USC 2071
note.

Regulations.
Deadline.

(i) in the first sentence—

(I) by inserting “cargo” after “confidential”; and

(II) by inserting after “Customs Service” the following: “pursuant to such regulations, except for the manifest information collected pursuant to section 431 of the Tariff Act of 1930 and required to be available for public disclosure pursuant to section 431(c) of such Act.”; and

(ii) by striking the second sentence; and

(D) in subparagraph (L)—

(i) in the matter preceding clause (i)—

(I) by striking “60” and inserting “15”; and

(II) by striking “promulgation of regulations” and inserting “publication of a final rule pursuant to this section”;

(ii) by striking “and” at the end of clause (iii);

(iii) by striking the period and inserting “; and”

at the end of clause (iv); and

(iv) by inserting at the end the following:

“(v) if the Secretary determines to amend the proposed regulations after they have been transmitted to the Committees pursuant to this subparagraph, the Secretary shall transmit the amended regulations to such Committees no later than 5 days prior to the publication of the final rule.”.

19 USC 2071. (c) REPEAL.—Section 343A of the Trade Act of 2002 (116 Stat. 985) is repealed.

46 USC 70101
note.

SEC. 109. MARITIME SECURITY PROFESSIONAL TRAINING.

Deadline.

(a) IN GENERAL.—

(1) DEVELOPMENT OF STANDARDS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop standards and curriculum to allow for the training and certification of maritime security professionals. In developing these standards and curriculum, the Secretary shall consult with the National Maritime Security Advisory Committee established under section 70112 of title 46, United States Code, as amended by this Act.

(2) SECRETARY TO CONSULT ON STANDARDS.—In developing standards under this section, the Secretary may, without regard to the Federal Advisory Committee Act (5 U.S.C. App.), consult with the Federal Law Enforcement Training Center, the United States Merchant Marine Academy’s Global Maritime and Transportation School, the Maritime Security Council, the International Association of Airport and Port Police, the National Cargo Security Council, and any other Federal, State, or local government or law enforcement agency or private organization or individual determined by the Secretary to have pertinent expertise.

(b) MINIMUM STANDARDS.—The standards established by the Secretary under subsection (a) shall include the following elements:

(1) The training and certification of maritime security professionals in accordance with accepted law enforcement and security guidelines, policies, and procedures, including, as appropriate, recommendations for incorporating a background

check process for personnel trained and certified in foreign ports.

(2) The training of students and instructors in all aspects of prevention, detection, investigation, and reporting of criminal activities in the international maritime environment.

(3) The provision of off-site training and certification courses and certified personnel at United States and foreign ports used by United States-flagged vessels, or by foreign-flagged vessels with United States citizens as passengers or crewmembers, to develop and enhance security awareness and practices.

(c) TRAINING PROVIDED TO LAW ENFORCEMENT AND SECURITY PERSONNEL.—

(1) **IN GENERAL.**—The Secretary is authorized to make the training opportunities provided under this section available to any Federal, State, local, and private law enforcement or maritime security personnel in the United States or to personnel employed in foreign ports used by vessels with United States citizens as passengers or crewmembers.

(2) **ACADEMIES AND SCHOOLS.**—The Secretary may provide training under this section at—

- (A) each of the 6 State maritime academies;
- (B) the United States Merchant Marine Academy;
- (C) the Appalachian Transportation Institute; and
- (D) other security training schools in the United States.

(d) **USE OF CONTRACT RESOURCES.**—The Secretary may employ Federal and contract resources to train and certify maritime security professionals in accordance with the standards and curriculum developed under this Act.

(e) **ANNUAL REPORT.**—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the expenditure of appropriated funds and the training under this section.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section \$5,500,000 for each of fiscal years 2003 through 2008.

SEC. 110. ADDITIONAL REPORTS.

(a) **ANNUAL REPORT ON MARITIME SECURITY AND TERRORISM.**—Section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) is amended by adding at the end thereof the following: “Beginning with the first report submitted under this section after the date of enactment of the Maritime Transportation Security Act of 2002, the Secretary shall include a description of activities undertaken under title I of that Act and an analysis of the effect of those activities on port security against acts of terrorism.”.

(b) **REPORT ON TRAINING CENTER.**—The Commandant of the United States Coast Guard, in conjunction with the Secretary of the Navy, shall submit to Congress a report, at the time they submit their fiscal year 2005 budget, on the life cycle costs and benefits of creating a Center for Coastal and Maritime Security. The purpose of the Center would be to provide an integrated training complex to prevent and mitigate terrorist threats against coastal and maritime assets of the United States, including ports, harbors, ships, dams, reservoirs, and transport nodes.

46 USC 70101
note.

46 USC 70116
note.

(c) **REPORT ON SECURE SYSTEM OF TRANSPORTATION PROGRAM.**—Within 1 year after the secure system of transportation program is implemented under section 70116 of title 46, United States Code, as amended by this Act, the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Senate Committees on Commerce, Science, and Transportation and Finance and the House of Representatives Committees on Transportation and Infrastructure and Ways and Means that—

(1) evaluates the secure system of transportation program and its components;

(2) states the Secretary's view as to whether any procedure, system, or technology evaluated as part of the program offers a higher level of security than requiring imported goods to clear customs under existing procedures and for the requirements of the National Maritime Security Plan for reopening of United States ports to commerce;

(3) states the Secretary's view as to the integrity of the procedures, technology, or systems evaluated as part of the program;

(4) makes a recommendation with respect to whether the program, or any procedure, system, or technology should be incorporated in a nationwide system for preclearance of imports of waterborne goods and for the requirements of the National Maritime Security Plan for the reopening of United States ports to Commerce;

(5) describes the impact of the program on staffing levels at the department in which the Coast Guard is operating, and the Customs Service; and

(6) states the Secretary's views as to whether there is a method by which the United States could validate foreign ports so that cargo from those ports is preapproved for entry into the United States and for the purpose of the requirements of the National Maritime Security Plan for the reopening of United States ports to commerce.

46 USC 70116
note.
Deadline.

SEC. 111. PERFORMANCE STANDARDS.

Not later than January 1, 2004, the Secretary of the department in which the Coast Guard is operating, in consultation with the Transportation Security Oversight Board, shall—

(1) develop and maintain an antiterrorism cargo identification, tracking, and screening system for containerized cargo shipped to and from the United States either directly or via a foreign port; and

(2) develop performance standards to enhance the physical security of shipping containers, including standards for seals and locks.

46 USC 70101
note.

SEC. 112. REPORT ON FOREIGN-FLAG VESSELS.

Within 6 months after the date of enactment of this Act and every year thereafter, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of State, shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives that lists the following information:

(1) A list of all nations whose flag vessels have entered United States ports in the previous year.

(2) Of the nations on that list, a separate list of those nations—

(A) whose registered flag vessels appear as Priority III or higher on the Boarding Priority Matrix maintained by the Coast Guard;

(B) that have presented, or whose flag vessels have presented, false, intentionally incomplete, or fraudulent information to the United States concerning passenger or cargo manifests, crew identity or qualifications, or registration or classification of their flag vessels;

(C) whose vessel registration or classification procedures have been found by the Secretary to be noncompliant with international classifications or do not exercise adequate control over safety and security concerns; or

(D) whose laws or regulations are not sufficient to allow tracking of ownership and registration histories of registered flag vessels.

(3) Actions taken by the United States, whether through domestic action or international negotiation, including agreements at the International Maritime Organization under section 902 of the International Maritime and Port Security Act (46 U.S.C. App. 1801), to improve transparency and security of vessel registration procedures in nations on the list under paragraph (2).

(4) Recommendations for legislative or other actions needed to improve security of United States ports against potential threats posed by flag vessels of nations named in paragraph (2).

SEC. 113. REVISION OF PORT SECURITY PLANNING GUIDE.

46 USC 70103
note.

The Secretary of Transportation, acting through the Maritime Administration and after consultation with the National Maritime Security Advisory Committee and the Coast Guard, shall publish a revised version of the document entitled “Port Security: A National Planning Guide”, incorporating the requirements prescribed under chapter 701 of title 46, United States Code, as amended by this Act, within 3 years after the date of enactment of this Act, and make that revised document available on the Internet.

TITLE II—MARITIME POLICY IMPROVEMENT

Maritime Policy
Improvement Act
of 2002.

SEC. 201. SHORT TITLE.

46 USC 2101
note.

This title may be cited as the “Maritime Policy Improvement Act of 2002”.

SEC. 202. VESSEL COASTAL VENTURE.

Section 1120(g) of the Coast Guard Authorization Act of 1996 (Public Law 104–324; 110 Stat. 3978) is amended by inserting “COASTAL VENTURE (United States official number 971086),” after “vessels”.

**SEC. 203. EXPANSION OF AMERICAN MERCHANT MARINE MEMORIAL
WALL OF HONOR.**

(a) FINDINGS.—The Congress finds that—

(1) the United States Merchant Marine has served the people of the United States in all wars since 1775;

(2) the United States Merchant Marine served as the Nation's first navy and defeated the British Navy to help gain the Nation's independence;

(3) the United States Merchant Marine kept the lifeline of freedom open to the allies of the United States during the Second World War, making one of the most significant contributions made by any nation to the victory of the allies in that war;

(4) President Franklin D. Roosevelt and many military leaders praised the role of the United States Merchant Marine as the "Fourth Arm of Defense" during the Second World War;

(5) more than 250,000 men and women served in the United States Merchant Marine during the Second World War;

(6) during the Second World War, members of the United States Merchant Marine faced dangers from the elements and from submarines, mines, armed raiders, destroyers, aircraft, and "kamikaze" pilots;

(7) during the Second World War, at least 6,830 members of the United States Merchant Marine were killed at sea;

(8) during the Second World War, 11,000 members of the United States Merchant Marine were wounded, at least 1,100 of whom later died from their wounds;

(9) during the Second World War, 604 members of the United States Merchant Marine were taken prisoner;

(10) one in 32 members of the United States Merchant Marine serving in the Second World War died in the line of duty, suffering a higher percentage of war-related deaths than any of the other armed services of the United States; and

(11) the United States Merchant Marine continues to serve the United States, promoting freedom and meeting the high ideals of its former members.

(b) GRANTS TO CONSTRUCT ADDITION TO AMERICAN MERCHANT MARINE MEMORIAL WALL OF HONOR.—

(1) IN GENERAL.—The Secretary of Transportation may make grants to the American Merchant Marine Veterans Memorial Committee, Inc., to construct an addition to the American Merchant Marine Memorial Wall of Honor located at the Los Angeles Maritime Museum in San Pedro, California.

(2) FEDERAL SHARE.—The Federal share of the cost of activities carried out with a grant made under this section shall be 50 percent.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$500,000 for fiscal year 2003.

33 USC 1902a.

SEC. 204. DISCHARGE OF AGRICULTURAL CARGO RESIDUE.

Notwithstanding any other provision of law, the discharge from a vessel of any agricultural cargo residue material in the form of hold washings shall be governed exclusively by the provisions of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) that implement Annex V to the International Convention for the Prevention of Pollution from Ships.

SEC. 205. RECORDING AND DISCHARGING NOTICES OF CLAIM OF MARITIME LIEN.

(a) LIENS ON ANY DOCUMENTED VESSEL.—

(1) IN GENERAL.—Section 31343 of title 46, United States Code, is amended as follows:

(A) By amending the section heading to read as follows:

“§ 31343. Recording and discharging notices of claim of maritime lien”.

(B) In subsection (a) by striking “covered by a preferred mortgage filed or recorded under this chapter” and inserting “documented, or for which an application for documentation has been filed, under chapter 121”.

(C) By amending subsection (b) to read as follows:

“(b)(1) The Secretary shall record a notice complying with subsection (a) of this section if, when the notice is presented to the Secretary for recording, the person having the claim files with the notice a declaration stating the following:

“(A) The information in the notice is true and correct to the best of the knowledge, information, and belief of the individual who signed it.

“(B) A copy of the notice, as presented for recordation, has been sent to each of the following:

“(i) The owner of the vessel.

“(ii) Each person that recorded under subsection (a) of this section an unexpired notice of a claim of an undischarged lien on the vessel.

“(iii) The mortgagee of each mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

“(2) A declaration under this subsection filed by a person that is not an individual must be signed by the president, member, partner, trustee, or other individual authorized to execute the declaration on behalf of the person.”.

(D) By amending subsection (c) to read as follows:

“(c)(1) On full and final discharge of the indebtedness that is the basis for a notice of claim of lien recorded under subsection (b) of this section, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

“(2) The district courts of the United States shall have jurisdiction over a civil action in Admiralty to declare that a vessel is not subject to a lien claimed under subsection (b) of this section, or that the vessel is not subject to the notice of claim of lien, or both, regardless of the amount in controversy or the citizenship of the parties. Venue in such an action shall be in the district where the vessel is found or where the claimant resides or where the notice of claim of lien is recorded. The court may award costs and attorneys fees to the prevailing party, unless the court finds that the position of the other party was substantially justified or other circumstances make an award of costs and attorneys fees unjust. The Secretary shall record any such declaratory order.”.

(E) By adding at the end the following:

“(e) A notice of claim of lien recorded under subsection (b) of this section shall expire 3 years after the date the lien was established, as such date is stated in the notice under subsection (a) of this section.

“(f) This section does not alter in any respect the law pertaining to the establishment of a maritime lien, the remedy provided by such a lien, or the defenses thereto, including any defense under the doctrine of laches.”.

(2) CLERICAL AMENDMENT.—The table of sections for chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31343 and inserting the following:

“31343. Recording and discharging notices of claim of maritime lien.”.

(b) NOTICE REQUIREMENTS.—Section 31325 of title 46, United States Code, is amended as follows:

(1) In subsection (d)(1)(B) by striking “a notice of a claim” and inserting “an unexpired notice of a claim”.

(2) In subsection (f)(1) by striking “a notice of a claim” and inserting “an unexpired notice of a claim”.

(c) APPROVAL OF SURRENDER OF DOCUMENTATION.—Section 12111 of title 46, United States Code, is amended by adding at the end the following:

“(d)(1) The Secretary shall not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

“(2) The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.”.

(d) TECHNICAL CORRECTION.—Section 9(c) of the Shipping Act, 1916 (46 App. U.S.C. 808(c)) is amended in the matter preceding paragraph (1) by striking “Except” and all that follows through “12106(e) of title 46,” and inserting “Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181) and in section 12106(e) of title 46,”.

(e) EFFECTIVE DATE.—This section shall take effect January 1, 2003.

46 USC 12111
note.

SEC. 206. TONNAGE OF R/V DAVIDSON.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall prescribe a tonnage measurement as a small passenger vessel as defined in section 2101 of title 46, United States Code, for the vessel R/V DAVIDSON (United States official number D1066485) for purposes of applying the optional regulatory measurement under section 14305 of that title.

(b) APPLICATION.—Subsection (a) shall apply only when the vessel is operating in compliance with the requirements of section 3301(8) of title 46, United States Code.

SEC. 207. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) LOOKING GLASS (United States official number 925735).

(2) YANKEE (United States official number 1076210).

(3) LUCKY DOG of St. Petersburg, Florida (State of Florida registration number FLZP7569E373).

(4) ENTERPRIZE (United States official number 1077571).

(5) M/V SANDPIPER (United States official number 1079439).

(6) FRITHA (United States official number 1085943).

(7) PUFFIN (United States official number 697029).

(8) VICTORY OF BURNHAM (United States official number 663780).

(9) R'ADVENTURE II (United States official number 905373).

(10) ANTJA (State of Florida registration number FL3475MA).

(11) SKIMMER, manufactured by Contour Yachts, Inc. (hull identification number QHG34031D001).

(12) TOKEENA (State of South Carolina registration number SC 1602 BJ).

(13) DOUBLE EAGLE 2 (United States official number 1042549).

(14) ENCOUNTER (United States official number 998174).

(15) AJ (United States official number 599164).

(16) BARGE 10 (United States official number 1101368).

(17) NOT A SHOT (United States official number 911064).

(18) PRIDE OF MANY (Canadian official number 811529).

(19) AMAZING GRACE (United States official number 92769).

(20) SHEWHO (United States official number 1104094).

(21) SOVEREIGN (United States official number 1028144).

(22) CALEDONIA (United States official number 679530).

(23) ISLANDER (State of South Carolina identification number SC 9279 BJ).

(24) F/V ANITA J (United States official number 560532).

(25) F/V HALF MOON BAY (United States official number 615796).

(26) F/V SUNSET BAY (United States official number 598484).

(27) BILLIE-B (United States official number 958427).

(b) ELIGIBILITY FOR ADMINISTRATIVE WAIVERS.—The following vessels are deemed to be eligible vessels within the meaning of section 504(2) of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note):

(1) EXCELLENCE III (hull identification number HQZ00255K101).

(2) ADIOS (hull identification number FAL75003A101).

(3) LAUDERDALE LADY (United States official number 1103520).

(4) UNIT ONE (United States official number 1128562).

(c) REPEAL OF JONES ACT WAIVER ADMINISTRATIVE PROCESS
SUNSET; ANTI-FRAUD REVOCATION AUTHORITY.—

(1) REPEAL OF SUNSET.—Section 505 of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note) is repealed. The repeal of section 505 shall have no effect on the validity of any certificate or endorsement issued under section 502 of that Act.

(2) REVOCATION FOR FRAUD.—Section 503 of the Coast Guard Authorization Act of 1998 (46 U.S.C. 12106 note) is amended to read as follows:

“SEC. 503. REVOCATION.

“(a) REVOCATION FOR FRAUD.—The Secretary shall revoke a certificate or an endorsement issued under section 502, after notice and an opportunity for a hearing, if the Secretary determines that the certificate or endorsement was obtained by fraud.

“(b) APPLICATION WITH CRIMINAL PENALTIES.—Nothing in this section affects—

“(1) the criminal prohibition on fraud and false statements provided by section 1001 of title 18, United States Code; or

“(2) any other authority of the Secretary to revoke a certificate or endorsement issued under section 502 of this Act.”.

(d) TECHNOLOGY DEMONSTRATION WAIVER.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for the sole purpose of technology demonstrations (including transporting guests for such demonstration who have not contributed consideration for their passage) for the vessel FOILCAT (United States official number 1063892).

SEC. 208. EXEMPTION FOR VICTORY SHIPS.

Section 3302(l)(1) of title 46, United States Code, is amended by adding at the end the following:

“(D) The SS Red Oak Victory (United States official number 249410), owned by the Richmond Museum Association, located in Richmond, California.

“(E) The SS American Victory (United States official number 248005), owned by Victory Ship, Inc., of Tampa, Florida.

“(F) The LST-325, owned by USS LST Ship Memorial, Incorporated, located in Mobile, Alabama.”.

SEC. 209. CERTIFICATE OF DOCUMENTATION FOR 3 BARGES.

(a) DOCUMENTATION CERTIFICATE.—Notwithstanding section 12106 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), and subject to subsection (c) of this section, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The former Navy deck barge JIM, having a length of 110 feet and a width of 34 feet.

(2) The former railroad car barge HUGH, having a length of 185 feet and a width of 34 feet.

(3) The former railroad car barge TOMMY, having a length of 185 feet and a width of 34 feet.

(c) LIMITATION ON OPERATION.—A vessel issued a certificate of documentation under this section may be used only as a floating platform for launching fireworks, including transportation of materials associated with that use.

SEC. 210. CERTIFICATE OF DOCUMENTATION FOR THE EAGLE.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), chapter 121 of title 46, United States Code,

and section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), the Secretary of the department in which the Coast Guard is operating shall issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel EAGLE (hull number BK-1754, United States official number 1091389) if the vessel is—

- (1) owned by a State, a political subdivision of a State, or a public authority chartered by a State;
- (2) if chartered, chartered to a State, a political subdivision of a State, or a public authority chartered by a State;
- (3) operated only in conjunction with—
 - (A) scour jet operations; or
 - (B) dredging services adjacent to facilities owned by the State, political subdivision, or public authority; and
- (4) externally identified clearly as a vessel of that State, subdivision, or authority.

SEC. 211. WAIVER FOR VESSELS IN NEW WORLD CHALLENGE RACE.

Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), beginning on April 1, 2002, the 10 sailboats participating in the New World Challenge Race may transport guests, who have not contributed consideration for their passage, from and around the ports of San Francisco and San Diego, California, before and during stops of that race. This section shall have no force or effect beginning on the earlier of—

- (1) 60 days after the last competing sailboat reaches the end of that race in San Francisco, California; or
- (2) December 31, 2003.

SEC. 212. VESSEL ASPHALT COMMANDER.

Notwithstanding any other law or agreement with the United States Government, the vessel ASPHALT COMMANDER (United States official number 663105) may be transferred to or placed under a foreign registry or sold to a person that is not a citizen of the United States and transferred to or placed under a foreign registry.

SEC. 213. COASTWISE TRADE AUTHORIZATION.

(a) **IN GENERAL.**—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), or any other provision of law restricting the operation of a foreign-built vessel in the coastwise trade of the United States, the following vessels may, subject to subsection (b), engage in the coastwise trade of the United States to transport platform jackets from ports in the Gulf of Mexico to sites on the Outer Continental Shelf for completion of certain offshore projects as follows:

- (1) The H-114, H-627, I-650, and H-851 for the projects known as Atlantis, Thunderhorse, Holstein, and Mad Dog.
- (2) The I-600 for the projects known as Murphy Medusa, Dominion Devil's Tower, and Murphy Front Runner.

(b) **PRIORITY FOR U.S.-BUILT VESSELS.**—Subsection (a) shall not apply in instances where a United States-built, United States-documented vessel with the capacity to transport and launch the platform jacket involved or its components is available to transport that jacket or its components. In this section, the term “platform jacket” has the meaning given that term under the thirteenth proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as amended by subsection (c) of this section.

46 USC app. 883.

(c) **DEFINITION.**—The thirteenth proviso (pertaining to transportation by launch barge) of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), is amended by striking the period at the end and inserting the following: “; and for the purposes of this proviso, the term ‘platform jacket’ includes any type of offshore drilling or production structure or components, including platform jackets, tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure) hull (including vertical legs and connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as ‘topsides’) of a hydrocarbon development and production platform.”.

SEC. 214. JONES ACT WAIVER FOR DELAYED VESSEL DELIVERY.

(a) **IN GENERAL.**—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 U.S.C. App. 289), and sections 12106 and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for a self-propelled tank vessel not built in the United States as provided in this section.

(b) **WAIVER REQUIREMENTS.**—The Secretary may not grant a waiver under subsection (a) unless—

(1) the person requesting the waiver is a party to a binding legal contract, executed within 24 months after the date of enactment of this Act, with a United States shipyard for the construction in the United States of a self-propelled tank vessel;

(2) the Secretary determines, on the basis of the terms of the contract, the parties to the contract, the actions of those parties in connection with the contract, and the circumstances under which the contract was executed, that the parties are making a bona fide effort to construct in the United States and deliver a self-propelled tank vessel in a timely manner;

(3) the vessel for which the waiver is granted will meet otherwise applicable requirements of law regarding ownership and operation for vessels employed in the coastwise trade;

(4) the shipyard owns a facility with sufficient infrastructure to construct the self-propelled tank vessel;

(5) the self-propelled tank vessel that is the subject of that contract will not be available for use on the contracted delivery date because of a delay in the construction or delivery of the vessel due to unusual circumstances; and

(6) the Secretary determines that no other suitable tank vessel or vessels, or tank vessel capacity, that would not require such a waiver are reasonably available to the person requesting the waiver.

Prior to making the determination under paragraph (6), the Secretary shall provide public notice of a waiver request and shall provide persons who may have such suitable tank vessels an opportunity to indicate to the requester and the Secretary the particulars of available tank vessels or tank vessel capacity not requiring a waiver under this section.

(c) **LIMITATIONS.**—

(1) **CAPACITY OF TANK VESSEL.**—The Secretary may not grant a waiver under subsection (a) for a self-propelled tank

vessel that has substantially greater capacity than the vessel described in subsection (b)(1).

(2) **MAXIMUM DURATION OF WAIVER.**—The Secretary may not grant a waiver under subsection (a) for a period prior to, or extending more than 48 months after, the original contract delivery date of the vessel described in subsection (b)(1).

(3) **MAXIMUM NUMBER OF WAIVERS.**—The Secretary may grant waivers under subsection (a) for not more than 3 self-propelled tank vessels.

(d) **DETERMINATION OF WAIVER.**—

(1) **IN GENERAL.**—A waiver grant under subsection (a) shall terminate on the earlier of—

(A) the date established by the Secretary as its expiration date under subsection (c)(2); or

(B) the date that is 60 days after the day on which the vessel described in subsection (b)(1) is delivered.

(2) **TERMINATION FOR INTENTIONAL DELAY.**—The Secretary may terminate a waiver granted under subsection (a) at any time if the Secretary determines that the delay in the construction or delivery of the vessel described in subsection (b)(1) is no longer due to unusual circumstances.

(e) **SUSPENSION OF WAIVER.**—The Secretary may suspend a waiver granted under subsection (a) for any period of time if the Secretary determines that a suitable tank vessel, or suitable tank vessel capacity, that would not require such a waiver is reasonably available to the person requesting the waiver.

(f) **CONTRACTED-FOR VESSEL DELIVERY.**—If the Secretary grants a waiver under subsection (a), the shipyard constructing the vessel described in subsection (b)(1) shall deliver the vessel, constructed in accordance with the terms of the contract, as soon as practicable after the delivery date established by the contract.

(g) **UNUSUAL CIRCUMSTANCES DEFINED.**—In this section, the term “unusual circumstances” means bankruptcy of the shipyard or Acts of God (other than ordinary storms or inclement weather conditions), labor strikes, acts of sabotage, explosions, fires, or vandalism, and similar circumstances beyond the control of the parties to the contract which prevent commencement of construction, or timely delivery or completion, of a vessel.

SEC. 215. REALIGNMENT OF POLICY RESPONSIBILITY IN THE DEPARTMENT OF TRANSPORTATION.

(a) **IN GENERAL.**—Section 102 of title 49, United States Code, is amended by—

(1) redesignating subsection (d) as subsection (g), and moving such subsection to appear after subsection (f);

(2) inserting after subsection (c) the following:

“(d) The Department has an Under Secretary of Transportation for Policy appointed by the President, by and with the advice and consent of the Senate. The Under Secretary shall provide leadership in the development of policy for the Department, supervise the policy activities of Assistant Secretaries with primary responsibility for aviation, international, and other transportation policy development and carry out other powers and duties prescribed by the Secretary. The Under Secretary acts for the Secretary when the Secretary and the Deputy Secretary are absent or unable to serve, or when the offices of Secretary and Deputy Secretary are vacant.”; and

(3) by striking “Secretary and the Deputy Secretary” each place it appears in the last sentence of subsection (e), and inserting “Secretary, Deputy Secretary, and Under Secretary of Transportation for Policy”.

(b) POSITION IN EXECUTIVE SERVICE.—Section 5313 of title 5, United States Code, is amended by adding at the end the following: “Under Secretary of Transportation for Policy.”.

49 USC 102 note.

(c) CONFORMING AMENDMENT.—Section 102 of title 49, United States Code, is further amended by striking subsection (g), as redesignated by subsection (a)(1), on the date that an individual is appointed to the position of Under Secretary of Transportation for Policy under subsection (d) of such section, as added by subsection (a)(2) of this section.

Coast Guard
Personnel and
Maritime Safety
Act of 2002.

TITLE III—COAST GUARD PERSONNEL AND MARITIME SAFETY

14 USC 1 note.

SEC. 301. SHORT TITLE.

This title may be cited as the “Coast Guard Personnel and Maritime Safety Act of 2002”.

Subtitle A—Personnel Management

SEC. 311. COAST GUARD BAND DIRECTOR RANK.

Section 336(d) of title 14, United States Code, is amended by striking “commander” and inserting “captain”.

SEC. 312. COMPENSATORY ABSENCE FOR ISOLATED DUTY.

(a) IN GENERAL.—Section 511 of title 14, United States Code, is amended to read as follows:

“§ 511. Compensatory absence from duty for military personnel at isolated duty stations

“The Secretary may grant compensatory absence from duty to military personnel of the Coast Guard serving at isolated duty stations of the Coast Guard when conditions of duty result in confinement because of isolation or in long periods of continuous duty.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 13 of title 14, United States Code, is amended by striking the item relating to section 511 and inserting the following:

“511. Compensatory absence from duty for military personnel at isolated duty stations.”.

SEC. 313. ACCELERATED PROMOTION OF CERTAIN COAST GUARD OFFICERS.

Title 14, United States Code, is amended—

(1) in section 259, by adding at the end the following:

“(c)(1) After selecting the officers to be recommended for promotion, a selection board may recommend officers of particular merit, from among those officers chosen for promotion, to be placed at the top of the list of selectees promulgated by the Secretary under section 271(a) of this title. The number of officers that a board may recommend to be placed at the top of the list of selectees may not exceed the percentages set forth in subsection (b) unless

such a percentage is a number less than one, in which case the board may recommend one officer for such placement. No officer may be recommended to be placed at the top of the list of selectees unless he or she receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

“(2) The Secretary shall conduct a survey of the Coast Guard officer corps to determine if implementation of this subsection will improve Coast Guard officer retention. A selection board may not make any recommendation under this subsection before the date on which the Secretary publishes a finding, based upon the results of the survey, that implementation of this subsection will improve Coast Guard officer retention.

“(3) The Secretary shall submit any finding made by the Secretary pursuant to paragraph (2) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”;

(2) in section 260(a), by inserting “and the names of those officers recommended to be advanced to the top of the list of selectees established by the Secretary under section 271(a) of this title” after “promotion”; and

(3) in section 271(a), by inserting at the end the following: “The names of all officers approved by the President and recommended by the board to be placed at the top of the list of selectees shall be placed at the top of the list of selectees in the order of seniority on the active duty promotion list.”.

Subtitle B—Marine Safety

SEC. 321. EXTENSION OF TERRITORIAL SEA FOR VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE ACT.

Section 4(b) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(b)), is amended by striking “United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended.” and inserting “United States, which includes all waters of the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.”.

SEC. 322. MODIFICATION OF VARIOUS REPORTING REQUIREMENTS.

(a) TERMINATION OF OIL SPILL LIABILITY TRUST FUND ANNUAL REPORT.—The report regarding the Oil Spill Liability Trust Fund required by the Conference Report (House Report 101–892) accompanying the Department of Transportation and Related Agencies Appropriations Act, 1991, as that requirement was amended by section 1122 of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104–66), shall no longer be submitted to the Congress.

26 USC 9509
note.

(b) PRESERVATION OF CERTAIN REPORTING REQUIREMENTS.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note) does not apply to any report required to be submitted under any of the following provisions of law:

31 USC 1113
note.

(1) COAST GUARD OPERATIONS AND EXPENDITURES.—Section 651 of title 14, United States Code.

(2) SUMMARY OF MARINE CASUALTIES REPORTED DURING PRIOR FISCAL YEAR.—Section 6307(c) of title 46, United States Code.

(3) USER FEE ACTIVITIES AND AMOUNTS.—Section 664 of title 46, United States Code.

(4) CONDITIONS OF PUBLIC PORTS OF THE UNITED STATES.—Section 308(c) of title 49, United States Code.

(5) ACTIVITIES OF FEDERAL MARITIME COMMISSION.—Section 208 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1118).

(6) ACTIVITIES OF INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—Section 7001(e) of the Oil Pollution Act of 1990 (33 U.S.C. 2761(e)).

SEC. 323. OIL SPILL LIABILITY TRUST FUND; EMERGENCY FUND ADVANCEMENT AUTHORITY.

Section 6002(b) of the Oil Pollution Act of 1990 (33 U.S.C. 2752(b)) is amended by inserting after the first sentence the following: “To the extent that such amount is not adequate, the Coast Guard may obtain an advance from the Fund of such sums as may be necessary, up to a maximum of \$100,000,000, and within 30 days shall notify Congress of the amount advanced and the facts and circumstances necessitating the advance. Amounts advanced shall be repaid to the Fund when, and to the extent that, removal costs are recovered by the Coast Guard from responsible parties for the discharge or substantial threat of discharge.”.

SEC. 324. MERCHANT MARINER DOCUMENTATION REQUIREMENTS.

(a) INTERIM MERCHANT MARINERS’ DOCUMENTS.—Section 7302 of title 46, United States Code, is amended—

(1) by striking “A” in subsection (f) and inserting “Except as provided in subsection (g), a”; and

(2) by adding at the end the following:

“(g)(1) The Secretary may, pending receipt and review of information required under subsections (c) and (d), immediately issue an interim merchant mariner’s document valid for a period not to exceed 120 days, to—

“(A) an individual to be employed as gaming personnel, entertainment personnel, wait staff, or other service personnel on board a passenger vessel not engaged in foreign service, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; or

“(B) an individual seeking renewal of, or qualifying for a supplemental endorsement to, a valid merchant mariner’s document issued under this section.

“(2) No more than one interim document may be issued to an individual under paragraph (1)(A) of this subsection.”.

(b) EXCEPTION.—Section 8701(a) of title 46, United States Code, is amended—

(1) by striking “and” after the semicolon in paragraph (8);

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

“(9) a passenger vessel not engaged in a foreign voyage with respect to individuals on board employed for a period of not more than 30 service days within a 12 month period

as entertainment personnel, with no duties, including emergency duties, related to the navigation of the vessel or the safety of the vessel, its crew, cargo or passengers; and”.

SEC. 325. PENALTIES FOR NEGLIGENT OPERATIONS AND INTERFERING WITH SAFE OPERATION.

Section 2302(a) of title 46, United States Code, is amended by striking “\$1,000.” and inserting “\$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.”.

Subtitle C—Renewal of Advisory Groups

SEC. 331. COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

(a) COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.—Section 4508 of title 46, United States Code, is amended—

(1) by inserting “**Safety**” in the section heading after “**Vessel**”;

(2) by inserting “Safety” in subsection (a) after “Vessel”;

(3) by striking “(5 App. U.S.C. 1 et seq.)” in subsection (e)(1) and inserting “(5 App. U.S.C.)”; and

(4) by striking “on September 30, 2000” in subsection (e)(1) and inserting “on September 30, 2005”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4508 and inserting the following:

“4508. Commercial Fishing Industry Vessel Safety Advisory Committee.”.

SEC. 332. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

Section 18(h) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking “September 30, 2000.” and inserting “September 30, 2005.”.

SEC. 333. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

Section 19(g) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking “September 30, 2000” and inserting “September 30, 2005”.

SEC. 334. NAVIGATION SAFETY ADVISORY COUNCIL.

Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking “September 30, 2000” and inserting “September 30, 2005”.

SEC. 335. NATIONAL BOATING SAFETY ADVISORY COUNCIL.

Section 13110(e) of title 46, United States Code, is amended by striking “September 30, 2000” and inserting “September 30, 2005”.

SEC. 336. TOWING SAFETY ADVISORY COMMITTEE.

The Act entitled “An Act to establish a Towing Safety Advisory Committee in the Department of Transportation” approved October 6, 1980 (33 U.S.C. 1231a), is amended by striking “September 30, 2000.” in subsection (e) and inserting “September 30, 2005.”.

Subtitle D—Miscellaneous

SEC. 341. PATROL CRAFT.

Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating may accept, by direct transfer without cost, for use by the Coast Guard primarily for expanded drug interdiction activities required to meet national supply reduction performance goals, up to 7 PC–170 patrol craft from the Department of Defense if it offers to transfer such craft.

SEC. 342. BOATING SAFETY.

(a) **GENERAL STATE REVENUE DEFINITION.**—For fiscal year 2003, the term “general State revenue” in section 13102(a)(3) of title 46, United States Code, includes any amounts expended for the State’s recreational boating safety program by a State agency, a public corporation established under State law, or any other State instrumentality, as determined by the Secretary of the department in which the Coast Guard is operating.

(b) **FUNDING.**—For fiscal year 2003, the amount available for recreational boating safety under section 4(b)(3) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(3)), is \$83,000,000.

SEC. 343. CARIBBEAN SUPPORT TENDER.

(a) **IN GENERAL.**—The Coast Guard is authorized to operate and maintain a Caribbean Support Tender (or similar type vessel) to provide technical assistance, including law enforcement training, for foreign coast guards, navies, and other maritime services.

(b) **MEDICAL AND DENTAL CARE.**—(1) The Commandant may provide medical and dental care to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States—

(A) on an outpatient basis without cost; and

(B) on an inpatient basis if the United States is reimbursed for the costs of providing such care.

Payments received as reimbursement for the provision of such care shall be credited to the appropriations against which the charges were made for the provision of such care.

(2) Notwithstanding paragraph (1)(B), the Commandant may provide inpatient medical and dental care in the United States without cost to foreign military Caribbean Support Tender personnel and their dependents accompanying them in the United States if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 344. PROHIBITION OF NEW MARITIME USER FEES.

Section 2110(k) of title 46, United States Code, is amended by striking “2001” and inserting “2006”.

14 USC 92 note.

SEC. 345. GREAT LAKES LIGHTHOUSES.

(a) **FINDINGS.**—The Congress finds the following:

(1) The Great Lakes are home to more than 400 lighthouses. One hundred and twenty of these maritime landmarks are in the State of Michigan.

(2) Lighthouses are an important part of Great Lakes culture and stand as a testament to the importance of shipping in the region’s political, economic, and social history.

(3) Advances in navigation technology have made many Great Lakes lighthouses obsolete. In Michigan alone, approximately 70 lighthouses will be designated as excess property of the Federal Government and will be transferred to the General Services Administration for disposal.

(4) Unfortunately, the Federal property disposal process is confusing, complicated, and not well-suited to disposal of historic lighthouses or to facilitate transfers to nonprofit organizations. This is especially troubling because, in many cases, local nonprofit historical organizations have dedicated tremendous resources to preserving and maintaining Great Lakes lighthouses.

(5) If Great Lakes lighthouses disappear, the public will be unaware of an important chapter in Great Lakes history.

(6) The National Trust for Historic Preservation has placed Michigan lighthouses on their list of Most Endangered Historic Places.

(b) **ASSISTANCE FOR GREAT LAKES LIGHTHOUSE PRESERVATION EFFORTS.**—The Secretary of the department in which the Coast Guard is operating, may—

(1) continue to offer advice and technical assistance to organizations in the Great Lakes region that are dedicated to lighthouse stewardship; and

(2) promptly release information regarding the timing of designations of Coast Guard lighthouses on the Great Lakes as excess to the needs of the Coast Guard, to enable those organizations to mobilize and be prepared to take appropriate action with respect to the disposal of those properties.

SEC. 346. MODERNIZATION OF NATIONAL DISTRESS AND RESPONSE SYSTEM.

14 USC 88 note.

(a) **REPORT.**—The Secretary of the department in which the Coast Guard is operating shall prepare a status report on the modernization of the National Distress and Response System and transmit the report, not later than 60 days after the date of enactment of this Act and annually thereafter until completion of the project, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Deadline.

(b) **CONTENTS.**—The report required by subsection (a) shall—

(1) set forth the scope of the modernization, the schedule for completion of the System, and information on progress in meeting the schedule and on any anticipated delays;

(2) specify the funding expended to-date on the System, the funding required to complete the System, and the purposes for which the funds were or will be expended;

(3) describe and map the existing public and private communications coverage throughout the waters of the coastal and internal regions of the continental United States, Alaska, Hawaii, Guam, and the Caribbean, and identify locations that possess direction-finding, asset-tracking communications, and digital selective calling service;

(4) identify areas of high risk to boaters and Coast Guard personnel due to communications gaps;

(5) specify steps taken by the Secretary to fill existing gaps in coverage, including obtaining direction-finding equipment, digital recording systems, asset-tracking communications,

use of commercial VHF services, and digital selective calling services that meet or exceed Global Maritime Distress and Safety System requirements adopted under the International Convention for the Safety of Life at Sea;

(6) identify the number of VHF-FM radios equipped with digital selective calling sold to United States boaters;

(7) list all reported marine accidents, casualties, and fatalities occurring in areas with existing communications gaps or failures, including incidents associated with gaps in VHF-FM coverage or digital selected calling capabilities and failures associated with inadequate communications equipment aboard the involved vessels during calendar years 1997 and thereafter;

(8) identify existing systems available to close all identified marine safety gaps before January 1, 2003, including expeditious receipt and response by appropriate Coast Guard operations centers to VHF-FM digital selective calling distress signal; and

(9) identify actions taken to-date to implement the recommendations of the National Transportation Safety Board in its Report No. MAR-99-01.

SEC. 347. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating, or a designee of the Secretary, may convey to the Gulf of Maine Aquarium Development Corporation, its successors and assigns, without payment for consideration, all right, title, and interest of the United States in and to approximately 4.13 acres of land, including a pier and bulkhead, known as the Naval Reserve Pier property, together with any improvements thereon in their then current condition, located in Portland, Maine. All conditions placed with the deed of title shall be construed as covenants running with the land.

(2) IDENTIFICATION OF PROPERTY.—The Secretary, in consultation with the Commandant of the Coast Guard, may identify, describe, and determine the property to be conveyed under this section. The floating docks associated with or attached to the Naval Reserve Pier property shall remain the personal property of the United States.

(b) LEASE TO THE UNITED STATES.—

(1) CONDITION OF CONVEYANCE.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into a lease agreement with the United States, the terms of which are mutually satisfactory to the Commandant and the Corporation, in which the Corporation shall lease a portion of the Naval Reserve Pier property to the United States for a term of 30 years without payment of consideration. The lease agreement shall be executed within 12 months after the date of enactment of this Act.

(2) IDENTIFICATION OF LEASED PREMISES.—The Secretary, in consultation with the Commandant, may identify and describe the leased premises and rights of access, including the following, in order to allow the Coast Guard to operate and perform missions from and upon the leased premises:

(A) The right of ingress and egress over the Naval Reserve Pier property, including the pier and bulkhead, at any time, without notice, for purposes of access to Coast Guard vessels and performance of Coast Guard missions and other mission-related activities.

(B) The right to berth Coast Guard cutters or other vessels as required in the moorings along the east side of the Naval Reserve Pier property and the right to attach floating docks which shall be owned and maintained at the United States sole cost and expense.

(C) The right to operate, maintain, remove, relocate, or replace an aid to navigation located upon, or to install any aid to navigation upon, the Naval Reserve Pier property as the Coast Guard, in its sole discretion, may determine is needed for navigational purposes.

(D) The right to occupy up to 3,000 contiguous gross square feet at the Naval Reserve Pier property for storage and office space, which will be provided and constructed by the Corporation, at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(E) The right to occupy up to 1,200 contiguous gross square feet of offsite storage in a location other than the Naval Reserve Pier property, which will be provided by the Corporation at the Corporation's sole cost and expense, and which will be maintained, and utilities and other operating expenses paid for, by the United States at its sole cost and expense.

(F) The right for Coast Guard personnel to park up to 60 vehicles, at no expense to the Government, in the Corporation's parking spaces on the Naval Reserve Pier property or in parking spaces that the Corporation may secure within 1,000 feet of the Naval Reserve Pier property or within 1,000 feet of the Coast Guard Marine Safety Office Portland. Spaces for no less than 30 vehicles shall be located on the Naval Reserve Pier property.

(3) RENEWAL.—The lease described in paragraph (1) may be renewed, at the sole option of the United States, for additional lease terms.

(4) LIMITATION ON SUBLEASES.—The United States may not sublease the leased premises to a third party or use the leased premises for purposes other than fulfilling the missions of the Coast Guard and for other mission related activities.

(5) TERMINATION.—In the event that the Coast Guard ceases to use the leased premises, the Secretary, in consultation with the Commandant, may terminate the lease with the Corporation.

(c) IMPROVEMENT OF LEASED PREMISES.—

(1) IN GENERAL.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States, subject to the Commandant's design specifications, project's schedule, and final project approval, to replace the bulkhead and pier which connects to, and provides access from, the bulkhead to the floating docks, at the Corporation's sole cost and expense, on the east side of the Naval Reserve Pier property within 30 months from the date

of conveyance. The agreement to improve the leased premises shall be executed within 12 months after the date of enactment of this Act.

(2) FURTHER IMPROVEMENTS.—In addition to the improvements described in paragraph (1), the Commandant may further improve the leased premises during the lease term, at the United States sole cost and expense.

(d) UTILITY INSTALLATION AND MAINTENANCE OBLIGATIONS.—

(1) UTILITIES.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to allow the United States to operate and maintain existing utility lines and related equipment, at the United States sole cost and expense. At such time as the Corporation constructs its proposed public aquarium, the Corporation shall replace existing utility lines and related equipment and provide additional utility lines and equipment capable of supporting a third 110-foot Coast Guard cutter, with comparable, new, code compliant utility lines and equipment at the Corporation's sole cost and expense, maintain such utility lines and related equipment from an agreed upon demarcation point, and make such utility lines and equipment available for use by the United States, if the United States pays for its use of utilities at its sole cost and expense. The agreement concerning the operation and maintenance of utility lines and equipment shall be executed within 12 months after the date of enactment of this Act.

(2) MAINTENANCE.—The Naval Reserve Pier property shall not be conveyed until the Corporation enters into an agreement with the United States to maintain, at the Corporation's sole cost and expense, the replacement bulkhead and pier on the east side of the Naval Reserve Pier property. The agreement concerning the maintenance of the bulkhead and pier shall be executed within 12 months after the date of enactment of this Act.

(3) AIDS TO NAVIGATION.—The United States shall be required to maintain, at its sole cost and expense, any Coast Guard active aid to navigation located upon the Naval Reserve Pier property.

(e) ADDITIONAL RIGHTS.—The conveyance of the Naval Reserve Pier property shall be made subject to conditions the Secretary considers necessary to ensure that—

(1) the Corporation shall not interfere or allow interference, in any manner, with use of the leased premises by the United States; and

(2) the Corporation shall not interfere or allow interference, in any manner, with any aid to navigation nor hinder activities required for the operation and maintenance of any aid to navigation, without the express written permission of the head of the agency responsible for operating and maintaining the aid to navigation.

(f) REMEDIES AND REVERSIONARY INTEREST.—The Naval Reserve Pier property, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary, if, and only if, the Corporation fails to abide by any of the terms of this section or any agreement entered into under subsection (b), (c), or (d) of this section.

(g) **LIABILITY OF THE PARTIES.**—The liability of the United States and the Corporation for any injury, death, or damage to or loss of property occurring on the leased property shall be determined with reference to existing State or Federal law, as appropriate, and any such liability may not be modified or enlarged by this title or any agreement of the parties.

(h) **EXPIRATION OF AUTHORITY TO CONVEY.**—The authority to convey the Naval Reserve property under this section shall expire 3 years after the date of enactment of this Act.

(i) **DEFINITIONS.**—In this section, the following definitions apply:

(1) **AID TO NAVIGATION.**—The term “aid to navigation” means equipment used for navigational purposes, including a light, antenna, sound signal, electronic navigation equipment, cameras, sensors power source, or other related equipment which are operated or maintained by the United States.

(2) **CORPORATION.**—The term “Corporation” means the Gulf of Maine Aquarium Development Corporation, its successors and assigns.

SEC. 348. ADDITIONAL COAST GUARD FUNDING NEEDS AFTER SEPTEMBER 11, 2001.

(a) **IN GENERAL.**—No later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress that—

Deadline.
Reports.

(1) compares Coast Guard expenditures by mission area on an annualized basis before and after the terrorist attacks of September 11, 2001;

(2) estimates—

(A) annual funding amounts and personnel levels that would restore all Coast Guard mission areas to the readiness levels that existed before September 11, 2001;

(B) annual funding amounts and personnel levels required to fulfill the Coast Guard’s additional responsibilities for port security after September 11, 2001; and

(C) annual funding amounts and personnel levels required to increase law enforcement needs in mission areas other than port security after September 11, 2001;

(3) generally describes the services provided by the Coast Guard to the Department of Defense after September 11, 2001, and states the cost of such services; and

(4) identifies the Federal agency providing funds for those services.

(b) **REPORT REQUIRED.**—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate identifying mission targets for each Coast Guard mission for fiscal years 2003, 2004, and 2005 and the specific steps necessary to achieve those targets. The Inspector General of the department in which the Coast Guard is operating shall review the final strategic plan and provide an independent report with its views to the Committees within 90 days after the plan has been submitted by the Secretary.

SEC. 349. MISCELLANEOUS CONVEYANCES.

(a) **AUTHORITY TO CONVEY.**—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to each of the following properties:

(A) Coast Guard Slip Point Light Station, located in Clallam County, Washington, to Clallam County, Washington.

(B) The parcel of land on which is situated the Point Piños Light, located in Monterey County, California, to the city of Pacific Grove, California.

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) LIMITATION.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on the property at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) GENERAL TERMS AND CONDITIONS.—

(1) IN GENERAL.—Each conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, each conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property shall immediately revert to the United States if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other similar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this section; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—Each conveyance of property under this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed that are active aids to navigation shall continue to be operated and maintained

by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant of the Coast Guard;

(C) there is reserved to the United States the right to relocate, replace, or add any aid to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining, and inspecting aids to navigation and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OF PROPERTY.—(A) Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the conveying authority pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(B) The owner of a property conveyed under this section is not required to maintain any active aid to navigation equipment on the property, except private aids to navigation permitted under section 83 of title 14, United States Code.

(c) SPECIAL TERMS AND CONDITIONS.—The Secretary may retain all right, title, and interest of the United States in and to any portion of any parcel referred to in subsection (a)(1)(B) that the Secretary considers appropriate.

(d) DEFINITIONS.—In this section, the following definitions apply:

(1) AIDS TO NAVIGATION.—The term “aids to navigation” means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment which are operated or maintained by the United States.

(2) OWNER.—The term “owner” means, for a property conveyed under this section, the person identified in subsection (a)(1) of the property and includes any successor or assign of that person.

TITLE IV—OMNIBUS MARITIME IMPROVEMENTS

SEC. 401. SHORT TITLE.

This title may be cited as the “Omnibus Maritime and Coast Guard Improvements Act of 2002”.

SEC. 402. EXTENSION OF COAST GUARD HOUSING AUTHORITIES.

(a) HOUSING CONTRACTORS.—Section 681(a) of title 14, United States Code, is amended by inserting “, including a small business

Omnibus
Maritime and
Coast Guard
Improvements
Act of 2002.
14 USC 1 note.

concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)),” after “private persons”.

(b) BUDGET AUTHORITY LIMITATION.—Section 687(f) of title 14, United States Code, is amended by striking “\$20,000,000” and inserting “\$40,000,000”.

(c) DEMONSTRATION PROJECT.—Section 687 of title 14, United States Code, is amended by adding at the end the following:

“(g) DEMONSTRATION PROJECT AUTHORIZED.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

“(1) may develop and implement a demonstration project for acquisition or construction of military family housing and military unaccompanied housing on or near the Coast Guard installation at Kodiak, Alaska;

“(2) in implementing the demonstration project, shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration’s section 8(a) program;

“(3) shall, to the maximum extent possible, acquire or construct such housing through contracts with small business concerns qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) that have their principal place of business in the State of Alaska; and

“(4) shall report to Congress by September 1 of each year on the progress of activities under the demonstration project.”.

(d) EXTENSION.—Section 689 of title 14, United States Code, is amended by striking “2001” and inserting “2007”.

46 USC 12119
note.

SEC. 403. INVENTORY OF VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.

(a) INVENTORY.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under chapter 121 of title 46, United States Code, are 200 feet or more in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classified as a cable ship or cable vessel.

(b) VESSEL INFORMATION.—For each vessel listed in the inventory, the Secretary shall include in the inventory—

(1) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

(2) the abilities and limitations of the vessel with respect to the laying, maintaining, and repairing of a submarine cable; and

(3) the name and address of the person to whom inquiries regarding the vessel may be made.

(c) PUBLICATION.—The Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a current inventory developed under subsection (a); and

(2) every 6 months thereafter, publish in the Federal Register an updated inventory.

Deadline.
Federal Register,
publication.

Federal Register,
publication.

46 USC app.
316a.

SEC. 404. VESSEL ESCORT OPERATIONS AND TOWING ASSISTANCE.

(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States (as that term is defined in section 2101 of title 46, United States Code) may perform the following escort vessel operations within the navigable waters of the United States:

(1) Operations that commence or terminate at a port or place in the United States.

(2) Operations required by United States law or regulation.

(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

(b) ADDITION TO TOWING VESSEL.—In the case of a vessel being towed under section 4370 of the Revised Statutes of the United States (46 App. U.S.C. 316(a)), an escort vessel is any vessel assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

(c) RELATIONSHIP TO OTHER LAW.—Nothing in this section shall affect or be construed or interpreted to affect or modify section 4370 of the Revised Statutes of the United States (46 U.S.C. 316(a)).

(d) DEFINITION.—In this section, the term “escort vessel” means any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation.

(e) PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs.

SEC. 405. SEARCH AND RESCUE CENTER STANDARDS.

(a) IN GENERAL.—Title 14, United States Code, is amended—

(1) by redesignating the second section 673 and section 674 in order as sections 674 and 675; and

(2) by adding at the end of chapter 17 the following:

“§ 676. Search and rescue center standards

“(a) The Secretary shall establish, implement, and maintain the minimum standards necessary for the safe operation of all Coast Guard search and rescue center facilities, including with respect to the following:

“(1) The lighting, acoustics, and temperature in the facilities.

“(2) The number of individuals on a shift in the facility assigned search and rescue responsibilities (including communications), which may be adjusted based on seasonal workload.

“(3) The length of time an individual may serve on watch to minimize fatigue, based on the best scientific information available.

“(4) The scheduling of individuals having search and rescue responsibilities to minimize fatigue of the individual when on duty in the facility.

“(5) The workload of each individual engaged in search and rescue responsibilities in the facility.

“(6) Stress management for the individuals assigned search and rescue responsibilities in the facilities.

“(7) The design of equipment and facilities to minimize fatigue and enhance search and rescue operations.

“(8) The acquisition and maintenance of interim search and rescue command center communications equipment.

“(9) Any other requirements that the Secretary believes will increase the safe operation of the search and rescue centers.

“(b) SENSE OF CONGRESS.—It is the sense of the Congress that the Secretary should establish, implement, and maintain minimum standards necessary to ensure that an individual on duty or watch in a Coast Guard search and rescue command center facility does not work more than 12 hours in a 24-hour period, except in an emergency or unforeseen circumstances.

“(c) DEFINITION.—For the purposes of this section, the term ‘search and rescue center facility’ means a Coast Guard shore facility that maintains a search and rescue mission coordination and communications watch.

“(d) REPORT TO CONGRESS.—The Secretary shall provide a quarterly written report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure, describing the status of implementation of the standards described in subsection (b), including a list of the facilities at which such standards have or have not been implemented.”.

14 USC 676 note.

(b) PRESCRIPTION OF STANDARDS.—The Secretary shall prescribe the standards required under section 675(a) of title 14, United States Code, as enacted by subsection (a) of this section, before January 1, 2003.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 17 of title 14, United States Code, is amended by striking the second item relating to a section 673 and the item relating to a section 674 and inserting the following:

“674. Small boat station capability.

“675. Small boat station closures.

“676. Search and rescue center standards.”.

14 USC 92 note.

SEC. 406. VHF COMMUNICATIONS SERVICES.

(a) The Secretary of the department in which the Coast Guard is operating may authorize a person providing commercial VHF communications services to place commercial VHF communications equipment on real property under the administrative control of the Coast Guard (including towers) subject to any terms agreed to by the parties. The Secretary and that commercial VHF communications service provider also may enter into an agreement providing for VHF communications services to the Coast Guard (including digital selective calling and radio direction finding services) at a discounted rate or price based on providing such access to real property under the administrative control of the Coast Guard.

(b) Commercial VHF communication equipment placed on real property under the administrative control of the Coast Guard under this section shall not interfere in any manner with any current or future Coast Guard communication equipment.

(c) Nothing in this section shall affect the rights or obligations of the United States under section 704(c) of the Telecommunications Act of 1996 (47 U.S.C. 332 note) with respect to the availability of property or under section 359(d) of the Communications Act of 1934 (47 U.S.C. 357(d)) with respect to charges for transmission of distress messages.

SEC. 407. LOWER COLUMBIA RIVER MARITIME FIRE AND SAFETY ACTIVITIES.

There is authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating \$987,400 for fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by nonprofit organizations that act in cooperation with the Coast Guard, to remain available until expended. Organizations receiving appropriated funds must have a multiyear record of spill and marine fire response in Federal navigable waterways. Federal funds shall not exceed 25 percent of such an organization's total budget.

SEC. 408. CONFORMING REFERENCES TO THE FORMER MERCHANT MARINE AND FISHERIES COMMITTEE.

(a) LAWS CODIFIED IN TITLE 14, UNITED STATES CODE.—(1) Sections 194(b)(2) and 194(b)(5) of title 14, United States Code, are amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(2) Section 663 of title 14, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(3) Section 664(c) of title 14, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(b) LAWS CODIFIED IN TITLE 33, UNITED STATES CODE.—(1) Section 3(d)(3) of the International Navigational Rules Act of 1977 (33 U.S.C. 1602(d)(3)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(2) Section 5004(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2734(2)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(c) LAWS CODIFIED IN TITLE 46, UNITED STATES CODE.—(1) Section 6307(a) of title 46, United States Code, is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(2) Section 901g(b)(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241k(b)(3)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

(3) Section 913(b) of the International Maritime and Port Security Act (46 App. U.S.C. 1809(b)) is amended by striking “Merchant Marine and Fisheries” and inserting “Transportation and Infrastructure”.

SEC. 409. RESTRICTION ON VESSEL DOCUMENTATION.

Section 12108(a) of title 46, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

“(2) was built in the United States;”;

(2) by striking “and” at the end of paragraph (3);

(3) by redesignating paragraph (4) as paragraph (5); and

(4) by inserting after paragraph (3) the following:

“(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and”.

14 USC 477 note. **SEC. 410. HYPOTHERMIA PROTECTIVE CLOTHING REQUIREMENT.**

The Commandant of the Coast Guard shall ensure that all Coast Guard personnel are equipped with adequate safety equipment, including hypothermia protective clothing where appropriate, while performing search and rescue missions.

SEC. 411. RESERVE OFFICER PROMOTIONS.

(a) Section 729(i) of title 14, United States Code, is amended by inserting “on the date a vacancy occurs, or as soon thereafter as practicable in the grade to which the officer was selected for promotion or, if promotion was determined in accordance with a running mate system,” after “grade”.

(b) Section 731(b) of title 14, United States Coast Code, is amended by striking the period at the end and inserting “, or in the event that promotion is not determined in accordance with a running mate system, then a Reserve officer becomes eligible for consideration for promotion to the next higher grade at the beginning of the promotion year in which he or she completes the following amount of service computed from the date of rank in the grade in which he or she is serving:

- “(1) two years in the grade of lieutenant (junior grade);
- “(2) three years in the grade of lieutenant;
- “(3) four years in the grade of lieutenant commander;
- “(4) four years in the grade of commander; and
- “(5) three years in the grade of captain.”.

(c) Section 736(a) of title 14, United States Code, is amended by inserting “the date of rank shall be the date of appointment in that grade, unless the promotion was determined in accordance with a running mate system, in which event” after “subchapter,”.

SEC. 412. REGULAR LIEUTENANT COMMANDERS AND COMMANDERS; CONTINUATION UPON FAILURE OF SELECTION FOR PROMOTION.

Section 285 of title 14, United States Code, is amended—

(1) by striking “Each officer” and inserting “(a) Each officer”; and

(2) by adding at the end the following:

“(b) A lieutenant commander or commander of the Regular Coast Guard subject to discharge or retirement under subsection (a) may be continued on active duty when the Secretary directs a selection board convened under section 251 of this title to continue up to a specified number of lieutenant commanders or commanders on active duty. When so directed, the selection board shall recommend those officers who in the opinion of the board are best qualified to advance the needs and efficiency of the Coast Guard. When the recommendations of the board are approved by the Secretary, the officers recommended for continuation shall be notified that they have been recommended for continuation and offered an additional term of service that fulfills the needs of the Coast Guard.

“(c)(1) An officer who holds the grade of lieutenant commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends beyond 24 years of active commissioned service unless promoted to the grade of commander of the Regular Coast Guard. An officer who holds the grade of commander of the Regular Coast Guard may not be continued on active duty under subsection (b) for a period that extends

beyond 26 years of active commissioned service unless promoted to the grade of captain of the Regular Coast Guard.

“(2) Unless retired or discharged under another provision of law, each officer who is continued on active duty under subsection (b) but is not subsequently promoted or continued on active duty, and is not on a list of officers recommended for continuation or for promotion to the next higher grade, shall, if eligible for retirement under any provision of law, be retired under that law on the first day of the first month following the month in which the period of continued service is completed.”.

SEC. 413. RESERVE STUDENT PRE-COMMISSIONING ASSISTANCE PROGRAM.

(a) IN GENERAL.—Chapter 21 of title 14, United States Code, is amended by inserting after section 709 the following new section:

“§ 709a. Reserve student pre-commissioning assistance program

“(a) The Secretary may provide financial assistance to an eligible enlisted member of the Coast Guard Reserve, not on active duty, for expenses of the member while the member is pursuing on a full-time basis at an institution of higher education a program of education approved by the Secretary that leads to—

“(1) a baccalaureate degree in not more than 5 academic years; or

“(2) a post-baccalaureate degree.

“(b)(1) To be eligible for financial assistance under this section, an enlisted member of the Coast Guard Reserve shall—

“(A) be enrolled on a full-time basis in a program of education referred to in subsection (a) at any institution of higher education; and

“(B) enter into a written agreement with the Coast Guard described in paragraph (2).

“(2) A written agreement referred to in paragraph (1)(B) is an agreement between the member and the Secretary in which the member agrees—

“(A) to accept an appointment as a commissioned officer in the Coast Guard Reserve, if tendered;

“(B) to serve on active duty for up to five years; and

“(C) under such terms and conditions as shall be prescribed by the Secretary, to serve in the Coast Guard Reserve until the eighth anniversary of the date of the appointment.

“(c) Expenses for which financial assistance may be provided under this section are the following:

“(1) Tuition and fees charged by the institution of higher education involved.

“(2) The cost of books.

“(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

“(4) Such other expenses as are deemed appropriate by the Secretary.

“(d) The amount of financial assistance provided to a member under this section shall be prescribed by the Secretary, but may not exceed \$25,000 for any academic year.

“(e) Financial assistance may be provided to a member under this section for up to 5 consecutive academic years.

“(f) A member who receives financial assistance under this section may be ordered to active duty in the Coast Guard Reserve by the Secretary to serve in a designated enlisted grade for such period as the Secretary prescribes, but not more than 4 years, if the member—

“(1) completes the academic requirements of the program and refuses to accept an appointment as a commissioned officer in the Coast Guard Reserve when offered;

“(2) fails to complete the academic requirements of the institution of higher education involved; or

“(3) fails to maintain eligibility for an original appointment as a commissioned officer.

“(g)(1) If a member requests to be released from the program and the request is accepted by the Secretary, or if the member fails because of misconduct to complete the period of active duty specified, or if the member fails to fulfill any term or condition of the written agreement required to be eligible for financial assistance under this section, the financial assistance shall be terminated. The Secretary may request the member to reimburse the United States in an amount that bears the same ratio to the total costs of the education provided to that member as the unserved portion of active duty bears to the total period of active duty the member agreed to serve. The Secretary shall have the option to order such reimbursement without first ordering the member to active duty. An obligation to reimburse the United States imposed under this paragraph is a debt owed to the United States.

“(2) The Secretary may waive the service obligated under subsection (f) of a member who becomes unqualified to serve on active duty due to a circumstance not within the control of that member or who is not physically qualified for appointment and who is determined to be unqualified for service as an enlisted member of the Coast Guard Reserve due to a physical or medical condition that was not the result of the member’s own misconduct or grossly negligent conduct.

“(3) A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (b) does not discharge the individual signing the agreement from a debt arising under such agreement or under paragraph (1).

“(h) As used in this section, the term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 21 of title 14, United States Code, is amended by adding the following new item after the item relating to section 709:

“709a. Reserve student pre-commissioning assistance program.”.

SEC. 414. CONTINUATION ON ACTIVE DUTY BEYOND THIRTY YEARS.

Section 289 of title 14, United States Code, is amended by adding at the end the following new subsection:

“(h) Notwithstanding subsection (g) and section 288 of this title, the Commandant may by annual action retain on active duty from promotion year to promotion year any officer who would otherwise be retired under subsection (g) or section 288 of this title. An officer so retained, unless retired under some other provision of law, shall be retired on June 30 of that promotion year in

which no action is taken to further retain the officer under this subsection.”.

SEC. 415. PAYMENT OF DEATH GRATUITIES ON BEHALF OF COAST GUARD AUXILIARISTS.

Section 823a(b) of title 14, United States Code, is amended by inserting after paragraph (8) the following:

“(9) On or after January 1, 2001, section 651 of Public Law 104-208.”.

SEC. 416. ALIGN COAST GUARD SEVERANCE PAY AND REVOCATION OF COMMISSION AUTHORITY WITH DEPARTMENT OF DEFENSE AUTHORITY.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended—

(1) in section 281—

(A) by striking “**three**” in the section heading and inserting “**five**”; and

(B) by striking “three” in the text and inserting “five”;

(2) in section 283(b)(2)(A), by striking “severance” and inserting “separation”;

(3) in section 286—

(A) by striking “**severance**” in the section heading and inserting “**separation**”; and

(B) by striking subsection (b) and inserting the following:

“(b) An officer of the Regular Coast Guard who is discharged under this section or section 282, 283, or 284 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

“(c) An officer of the Regular Coast Guard who is discharged under section 327 of this title and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge or release is entitled to separation pay computed under subsection (d)(1) or (d)(2) of section 1174 of title 10 as determined under regulations promulgated by the Secretary.

“(d) Notwithstanding subsections (a) and (b), an officer discharged under chapter 11 of this title for twice failing of selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer requested in writing or otherwise sought not to be selected for promotion, or requested removal from the list of selectees.”;

(4) in section 286a—

(A) by striking “**severance**” in the section heading and inserting “**separation**” in its place; and

(B) by striking subsections (a), (b), and (c) and inserting the following:

“(a) A regular warrant officer of the Coast Guard who is discharged under section 580 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay computed under subsection (d)(1) of section 1174 of title 10.

“(b) A regular warrant officer of the Coast Guard who is discharged under section 1165 or 1166 of title 10, and has completed 6 or more, but less than 20, continuous years of active service immediately before that discharge is entitled to separation pay

computed under subsection (d)(1) or (d)(2) of section 1174 of title 10, as determined under regulations promulgated by the Secretary.

“(c) In determining a member’s years of active service for the purpose of computing separation pay under this section, each full month of service that is in addition to the number of full years of service creditable to the member is counted as one-twelfth of a year and any remaining fractional part of a month is disregarded.”; and

(5) in section 327—

(A) by striking “**severance**” in the section heading and inserting “**separation**”;

(B) by striking subsection (a)(2) and inserting the following:

“(2) for discharge with separation benefits under section 286(c) of this title.”;

(C) by striking subsection (a)(3);

(D) by striking subsection (b)(2) and inserting the following:

“(2) if on that date the officer is ineligible for voluntary retirement under any law, be honorably discharged with separation benefits under section 286(c) of this title, unless under regulations promulgated by the Secretary the condition under which the officer is discharged does not warrant an honorable discharge.”; and

(E) by striking subsection (b)(3).

(b) CLERICAL AMENDMENT.—The table of sections for chapter 11 of title 14, United States Code, is amended—

(1) in the item relating to section 281, by striking “three” and inserting “five”;

(2) in the item relating to section 286, by striking “severance” and inserting “separation”;

(3) in the item relating to section 286a, by striking “severance” and inserting “separation”; and

(4) in the item relating to section 327, by striking “severance” and inserting “separation” in its place.

14 USC 286 note.

(c) EFFECTIVE DATE.—The amendments made by paragraphs (2), (3), (4), and (5) of subsection (a) shall take effect 4 years after the date of enactment of this Act, except that subsection (d) of section 286 of title 14, United States Code, as amended by paragraph (3) of subsection (a) of this section, shall take effect on the date of enactment of this Act and shall apply with respect to conduct on or after that date. The amendments made to the table of sections of chapter 11 of title 14, United States Code, by paragraphs (2), (3), and (4) of subsection (b) of this section shall take effect 4 years after the date of enactment of this Act.

SEC. 417. LONG-TERM LEASE AUTHORITY FOR LIGHTHOUSE PROPERTY.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by inserting after section 672 the following:

“§ 672a. Long-term lease authority for lighthouse property

“(a) The Commandant of the Coast Guard may lease to non-Federal entities, including private individuals, lighthouse property under the administrative control of the Coast Guard for terms not to exceed 30 years. Consideration for the use and occupancy of lighthouse property leased under this section, and for the value

of any utilities and services furnished to a lessee of such property by the Commandant, may consist, in whole or in part, of non-pecuniary remuneration including the improvement, alteration, restoration, rehabilitation, repair, and maintenance of the leased premises by the lessee. Section 321 of chapter 314 of the Act of June 30, 1932 (40 U.S.C. 303b) shall not apply to leases issued by the Commandant under this section.

“(b) Amounts received from leases made under this section, less expenses incurred, shall be deposited in the Treasury.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 672 the following:

“672a. Long-term lease authority for lighthouse property.”.

SEC. 418. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) IN GENERAL.—Section 3 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903) is amended—

(1) in subsection (c)(1)(D), by striking “and”;

(2) in subsection (c)(1)(E), by striking “United States.” and inserting “United States; and”; and

(3) by inserting after subsection (c)(1)(E) the following:

“(F) a vessel located in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999, and (i) is entering the United States, (ii) has departed the United States, or (iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).”.

(b) MARITIME DRUG LAW ENFORCEMENT AMENDMENT.—Section 4 of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1904) is amended—

(1) by inserting “(a)” before “Any property”; and

(2) by adding at the end the following:

“(b) Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under this Act, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of an offense under this Act:

“(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

“(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

“(B) the presence of any compartment or equipment which is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

“(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel’s smuggling capability;

“(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

“(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

“(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

“(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

“(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

“(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel’s stated purpose.

“(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

“(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

“(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

“(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on a person aboard the vessel, of a quantity or other nature which reasonably indicates manufacturing or distribution activity.

“(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

“(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.”.

SEC. 419. WING-IN-GROUND CRAFT.

(a) **SMALL PASSENGER VESSEL.**—Section 2101(35) of title 46, United States Code, is amended by inserting “a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and” after “‘small passenger vessel’ means”.

(b) **WING-IN-GROUND CRAFT.**—Section 2101 of title 46, United States Code, is amended by adding at the end the following:

“(48) ‘wing-in-ground craft’ means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water’s surface.”.

SEC. 420. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS FOR VESSELS.

Section 31321(a)(4) of title 46, United States Code, is amended—

(1) by striking “(A)”; and

(2) by striking subparagraph (B).

SEC. 421. DELETION OF THUMBPRINT REQUIREMENT FOR MERCHANT MARINERS' DOCUMENTS.

Section 7303 of title 46, United States Code, is amended by striking “the thumbprint,”.

SEC. 422. TEMPORARY CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.

(a) Section 12103(a) of title 46, United States Code, is amended by inserting “, or a temporary certificate of documentation,” after “certificate of documentation”.

(b)(1) Chapter 121 of title 46, United States Code, is amended by adding after section 12103 the following:

“§ 12103a. Issuance of temporary certificate of documentation by third parties

“(a) The Secretary of the department in which the Coast Guard is operating may delegate, subject to the supervision and control of the Secretary and under terms set out by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel if the applicant for the certificate of documentation meets the requirements set out in sections 12102 and 12103 of this chapter.

“(b) A temporary certificate of documentation issued under section 12103(a) and subsection (a) of this section is valid for up to 30 days from issuance.”.

(2) The table of sections for chapter 121 of title 46, United States Code, is amended by inserting after the item relating to section 12103 the following:

“12103a. Issuance of temporary certificate of documentation by third parties.”.

SEC. 423. MARINE CASUALTY INVESTIGATIONS INVOLVING FOREIGN VESSELS.

Section 6101 of title 46, United States Code, is amended—

(1) by redesignating the second subsection (e) as subsection (f); and

(2) by adding at the end the following:

“(g) To the extent consistent with generally recognized practices and procedures of international law, this part applies to a foreign vessel involved in a marine casualty or incident, as defined in the International Maritime Organization Code for the Investigation of Marine Casualties and Incidents, where the United States is a Substantially Interested State and is, or has the consent of, the Lead Investigating State under the Code.”.

SEC. 424. CONVEYANCE OF COAST GUARD PROPERTY IN HAMPTON TOWNSHIP, MICHIGAN.

(a) REQUIREMENT TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other law, the Secretary of the department in which the Coast Guard is operating may convey to BaySail, Inc. (a nonprofit corporation established under the laws of the State of Michigan; in this section referred to as “BaySail”), without monetary consideration, all right, title, and interest of the United States in and to property adjacent to Coast Guard Station Saginaw River, located in

Hampton Township, Michigan, as identified under paragraph (2). No submerged lands may be conveyed under this section.

(2) IDENTIFICATION OF PROPERTY.—The Secretary, in consultation with the Commandant of the Coast Guard, shall identify, describe, and determine the property to be conveyed under this section.

(3) SURVEY.—The exact acreage and legal description of the property conveyed under paragraph (1), as identified under paragraph (2), and any easements or rights-of-way reserved by the United States under subsection (b), shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by BaySail.

(b) TERMS AND CONDITIONS OF CONVEYANCE.—The conveyance of property under this section shall be made subject to any terms and conditions the Secretary considers necessary, including the reservation of easements and other rights on behalf of the United States.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—During the 5-year period beginning on the date the Secretary makes the conveyance authorized by subsection (a), the real property conveyed pursuant to this section, at the option of the Secretary, shall revert to the United States and be placed under the administrative control of the Secretary if—

(A) BaySail sells, conveys, assigns, exchanges, or encumbers the property conveyed or any part thereof;

(B) BaySail fails to maintain the property conveyed in a manner consistent with the terms and conditions under subsection (b);

(C) BaySail conducts any commercial activity at the property conveyed, or any part thereof, without approval of the Secretary; or

(D) at least 30 days before the reversion, the Secretary provides written notice to the owner that the property or any part thereof is needed for national security purposes.

(2) ADDITIONAL PERIOD.—The Secretary may, before the last day of the 5-year period described in paragraph (1), authorize an additional 5-year period during which paragraph (1) shall apply.

SEC. 425. CONVEYANCE OF PROPERTY IN TRAVERSE CITY, MICHIGAN.

Section 1005(c) of the Coast Guard Authorization Act of 1996 (110 Stat. 3957) is amended by striking “the Traverse City Area Public School District” and inserting “a public or private nonprofit entity for an educational or recreational purpose”.

14 USC 2 note.

SEC. 426. ANNUAL REPORT ON COAST GUARD CAPABILITIES AND READINESS TO FULFILL NATIONAL DEFENSE RESPONSIBILITIES.

Deadline.

Not later than February 15 each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report, prepared in conjunction with the Commandant of the Coast Guard, setting forth the capabilities and readiness of the Coast Guard to fulfill its national defense responsibilities.

SEC. 427. EXTENSION OF AUTHORIZATION FOR OIL SPILL RECOVERY INSTITUTE.

Section 5001(i) of the Oil Pollution Act of 1990 (33 U.S.C. 2731(i)) is amended by striking “10 years” and all that follows through the period at the end and inserting “September 30, 2012.”.

SEC. 428. PROTECTION AGAINST DISCRIMINATION.

(a) IN GENERAL.—Section 2114(a) of title 46, United States Code, is amended to read as follows:

“(a)(1) A person may not discharge or in any manner discriminate against a seaman because—

“(A) the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate Federal agency or department that the seaman believes that a violation of a maritime safety law or regulation prescribed under that law or regulation has occurred; or

“(B) the seaman has refused to perform duties ordered by the seaman’s employer because the seaman has a reasonable apprehension or expectation that performing such duties would result in serious injury to the seaman, other seamen, or the public.

“(2) The circumstances causing a seaman’s apprehension of serious injury under paragraph (1)(B) must be of such a nature that a reasonable person, under similar circumstances, would conclude that there is a real danger of an injury or serious impairment of health resulting from the performance of duties as ordered by the seaman’s employer.

“(3) To qualify for protection against the seaman’s employer under paragraph (1)(B), the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.”.

(b) APPROPRIATE RELIEF.—Section 2114(b) of such title is amended—

(1) in paragraph (1) by striking “and” at the end;

(2) in paragraph (2) by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

“(3) an award of costs and reasonable attorney’s fees to a prevailing plaintiff not exceeding \$1,000; and

“(4) an award of costs and reasonable attorney’s fees to a prevailing employer not exceeding \$1,000 if the court finds that a complaint filed under this section is frivolous or has been brought in bad faith.”.

SEC. 429. ICEBREAKING SERVICES.

14 USC 93 note.

The Commandant of the Coast Guard shall not plan, implement, or finalize any regulation or take any other action which would result in the decommissioning of any WYTL-class harbor tugs unless and until the Commandant certifies in writing to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that sufficient replacement capability has been procured by the Coast Guard to remediate any degradation in current icebreaking services that would be caused by such decommissioning.

SEC. 430. FISHING VESSEL SAFETY TRAINING.

(a) **IN GENERAL.**—The Commandant of the Coast Guard may provide support, with or without reimbursement, to an entity engaged in fishing vessel safety training, including—

- (1) assistance in developing training curricula;
- (2) use of Coast Guard personnel, including active duty members, members of the Coast Guard Reserve, and members of the Coast Guard Auxiliary, as temporary or adjunct instructors;
- (3) sharing of appropriate Coast Guard informational and safety publications; and
- (4) participation on applicable fishing vessel safety training advisory panels.

(b) **NO INTERFERENCE WITH OTHER FUNCTIONS.**—In providing support under subsection (a), the Commandant shall ensure that the support does not interfere with any Coast Guard function or operation.

SEC. 431. LIMITATION ON LIABILITY OF PILOTS AT COAST GUARD VESSEL TRAFFIC SERVICES.

(a) **IN GENERAL.**—Chapter 23 of title 46, United States Code, is amended by adding at the end the following:

“§ 2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots

“Any pilot, acting in the course and scope of his or her duties while at a United States Coast Guard Vessel Traffic Service, who provides information, advice, or communication assistance while under the supervision of a Coast Guard officer, member, or employee shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.”.

(b) **CLERICAL AMENDMENT.**—The table of sections for chapter 23 of title 46, United States Code, is amended by adding at the end the following:

“2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots.”.

SEC. 432. ASSISTANCE FOR MARINE SAFETY STATION ON CHICAGO LAKEFRONT.

(a) **ASSISTANCE AUTHORIZED.**—The Coast Guard may transfer funds, appropriated by Public Law 107-87 for the construction of a Coast Guard Marine Safety and Rescue Station in Chicago, Illinois, to the City of Chicago to pay the Federal share of the cost of a project to demolish the Old Coast Guard Station, located at the north end of the inner Chicago Harbor breakwater at the foot of Randolph Street, and to plan, engineer, design, and construct a new facility at that site for use as a marine safety station on the Chicago lakefront.

(b) **COST SHARING.**—

(1) **FEDERAL SHARE.**—The Federal share of the cost of a project carried out with assistance under this section may not exceed one-third of the total cost of the project or \$2,000,000, whichever is less.

(2) **NON-FEDERAL SHARE.**—There shall not be applied to the non-Federal share of a project carried out with assistance under this section—

(A) the value of land and existing facilities used for the project; and

(B) any costs incurred for site work performed before the date of the enactment of this Act, including costs for reconstruction of the east breakwater wall and associated utilities.

SEC. 433. EXTENSION OF TIME FOR RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT RECALLS.

Section 4310(c) of title 46, United States Code, is amended—

(1) in each of paragraphs (2)(A) and (2)(B) by striking “5” and inserting “10”; and

(2) in each of paragraphs (1)(A), (1)(B), and (1)(C) by inserting “by first class mail or” before “by certified mail”.

SEC. 434. REPAIR OF MUNICIPAL DOCK, ESCANABA, MICHIGAN.

The Secretary of Transportation may transfer to the City of Escanaba, Michigan, up to \$300,000 of funds appropriated for Coast Guard acquisition, construction, and improvements by Public Law 107–87, for the repair of the North wall of the municipal dock, Escanaba, Michigan.

SEC. 435. VESSEL GLOBAL EXPLORER.

The Secretary of Transportation shall amend the certificate of documentation of the vessel GLOBAL EXPLORER (United States official number 556069) to state that the vessel was built in the year 2002 in Gulfport, Mississippi.

SEC. 436. ALEUTIAN TRADE.

(a) **LOADLINES.**—Section 5102(b)(5)(B)(ii) of title 46, United States Code, is amended by inserting “is not” after “(ii)”.

(b) **IMPLEMENTATION.**—Except as provided in subsection (c), a fish tender vessel that before January 1, 2003, transported cargo (not including fishery related products) in the Aleutian trade is subject to chapter 51 of title 46, United States Code (as amended by subsection (a) of this section).

46 USC 5102
note.

(c) **EXCEPTION.**—

46 USC 5102
note.

(1) **IN GENERAL.**—Before December 31, 2006, the BOWFIN (United States official number 604231) is exempt from chapter 51 of title 46, United States Code (as amended by subsection (a) of this section) when engaged in the Aleutian trade, if the vessel does not undergo a major conversion.

(2) **ENSURING SAFETY.**—Before the date referred to in paragraph (1), a Coast Guard official who has reason to believe that the vessel referred to in paragraph (1) operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with section 3302 of title 46, United States Code, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

SEC. 437. PICTURED ROCKS NATIONAL LAKESHORE BOUNDARY REVISION.

16 USC 460s–15.

(a) **TRANSFER.**—As soon as practicable after the date of enactment of this Act, the Administrator of General Services may transfer

to the Secretary, without consideration, administrative jurisdiction over, and management of, the public land.

(b) BOUNDARY REVISION.—The boundary of the Lakeshore is revised to include the public land transferred under subsection (a).

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) ADMINISTRATION.—The Secretary may administer the public land transferred under section (a)—

(1) as part of the Lakeshore; and

(2) in accordance with applicable laws (including regulations).

(e) ACCESS TO AIDS TO NAVIGATION.—The Secretary of Transportation, in consultation with the Secretary, may access the front and rear range lights on the public land for the purposes of servicing, operating, maintaining, and repairing those lights.

(f) DEFINITIONS.—In this section:

(1) LAKESHORE.—The term “Lakeshore” means the Pictured Rocks National Lakeshore in the State of Michigan.

(2) MAP.—The term “map” means the map entitled “Proposed Addition to Pictured Rocks National Lakeshore”, numbered 625/80048, and dated April 2002.

(3) PUBLIC LAND.—The term “public land” means the approximately .32 acres of United States Coast Guard land and improvements to the land, including the United States Coast Guard Auxiliary Operations Station and the front and rear range lights, as depicted on the map.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$225,000 to restore, preserve, and maintain the public land transferred under subsection (a).

SEC. 438. LORAN-C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN-C system, for capital expenses related to LORAN-C navigation infrastructure, \$25,000,000 for fiscal year 2003. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 439. AUTHORIZATION OF PAYMENT.

(a) IN GENERAL.—The Secretary of the Treasury shall pay the sum of \$71,000, out of funds in the Treasury not otherwise appropriated, to the State of Hawaii, such sum being the damages arising out of the June 19, 1997, allision by the United States Coast Guard Cutter RUSH with the ferry pier at Barber’s Point Harbor, Hawaii.

(b) FULL SETTLEMENT.—The payment made under subsection (a) is in full settlement of all claims by the State of Hawaii against the United States arising from the June 19, 1997, allision.

SEC. 440. REPORT ON OIL SPILL RESPONDER IMMUNITY.

(a) REPORT TO CONGRESS.—Not later than January 1, 2004, the Secretary of the department in which the Coast Guard is

operating, jointly with the Secretary of Commerce and the Secretary of the Interior, and after consultation with the Administrator of the Environmental Protection Agency and the Attorney General, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the immunity from criminal and civil penalties provided under existing law of a private responder (other than a responsible party) in the case of the incidental take of federally listed fish or wildlife that results from, but is not the purpose of, carrying out an otherwise lawful activity conducted by that responder during an oil spill removal activity where the responder was acting in a manner consistent with the National Contingency Plan or as otherwise directed by the Federal On-Scene Coordinator for the spill, and on the circumstances under which such penalties have been or could be imposed on a private responder. The report shall take into consideration the procedures under the Inter-Agency Memorandum for addressing incidental takes.

(b) DEFINITIONS.—In this section—

(1) the term “Federal On-Scene Coordinator” has the meaning given that term in section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321);

(2) the term “incidental take” has the meaning given that term in the Inter-Agency Memorandum;

(3) the term “Inter-Agency Memorandum” means the Inter-Agency Memorandum of Agreement Regarding Oil Spill Planning and Response Activities under the Federal Water Pollution Control Act’s National Oil and Hazardous Substances Pollution Contingency Plan and the Endangered Species Act, effective on July 22, 2001;

(4) the terms “National Contingency Plan”, “removal”, and “responsible party” have the meanings given those terms under section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701); and

(5) the term “private responder” means a nongovernmental entity or individual that is carrying out an oil spill removal activity at the direction of a Federal agency or a responsible party.

SEC. 441. FISHING AGREEMENTS.

(a) IN GENERAL.—Section 10601(a) of title 46, United States Code, is amended—

(1) by inserting after “on a voyage, the” the following: “owner, charterer, or managing operator, or a representative thereof, including the”; and

(2) by inserting a comma after “individual in charge”.

(b) CLERICAL AND CONFORMING AMENDMENTS.—Section 10601 of title 46, United States Code, is amended—

(1) in subsection (a) by striking “employed” and inserting “employed”;

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

(c) APPLICATION.—An agreement that complies with the requirements of section 10601(a) of title 46, United States Code, as herein amended, and that is not the subject of an action prior to June 20, 2002, alleging a breach of subsections (a) or (b) of section

46 USC 10601
note.

10601 as in effect on such date, is hereby deemed to have been in compliance with such subsections.

SEC. 442. ELECTRONIC PUBLISHING OF MARINE CASUALTY REPORTS.

(a) IN GENERAL.—Section 6101 of title 46, United States Code, is amended by adding at the end the following:

“(g)(1) The Secretary shall publish all major marine casualty reports prepared in accordance with this section in an electronic form, and shall provide information electronically regarding how other marine casualty reports can be obtained.

“(2) For purposes of this paragraph, the term ‘major marine casualty’ means a casualty involving a vessel, other than a public vessel, that results in—

“(A) the loss of 6 or more lives;

“(B) the loss of a mechanically propelled vessel of 100 or more gross tons;

“(C) property damage initially estimated at \$500,000 or more; or

“(D) serious threat, as determined by the Commandant of the Coast Guard with concurrence by the Chairman of the National Transportation Safety Board, to life, property, or the environment by hazardous materials.

“(h) The Secretary shall, as soon as possible, and no later than January 1, 2005, publish all marine casualty reports prepared in accordance with this section in an electronic form.”.

(b) APPLICATION.—The amendment made by subsection (a) applies to all marine casualty reports completed after the date of enactment of this Act.

SEC. 443. SAFETY AND SECURITY OF PORTS AND WATERWAYS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended—

(1) by striking “safety and protection of the marine environment” in section 2(a) (33 U.S.C. 1221(a)) and inserting “safety, protection of the marine environment, and safety and security of United States ports and waterways”; and

(2) by striking “safety and protection of the marine environment,” in section 5(a) (33 U.S.C. 1224(a)) and inserting “safety, protection of the marine environment, and the safety and security of United States ports and waterways,”.

SEC. 444. SUSPENSION OF PAYMENT.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 424 the following:

“§ 424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution

“Under procedures prescribed by the Secretary, the Secretary may suspend the payment of the retired pay of a member or former member during periods in which the member willfully remains outside the United States to avoid criminal prosecution or civil liability. The procedures shall address the types of criminal offenses and civil proceedings for which the procedures may be used, including the offenses specified in section 8312 of title 5, and the manner by which a member, upon the return of the member to the United States, may obtain retired pay withheld during the member’s absence.”.

Deadline.

46 USC 6101
note.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 424 the following:

“424a. Suspension of payment of retired pay of members who are absent from the United States to avoid prosecution.”.

SEC. 445. PROHIBITION ON NAVIGATION FEES.

Section 4 of the Rivers and Harbors Appropriation Act of 1884 (33 U.S.C. 5) is amended as follows:

(1) The existing text is designated as subsection (a).

(2) The following is added at the end:

“(b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for—

“(1) fees charged under section 208 of the Water Resources Development Act of 1986 (33 U.S.C. 2236); or

“(2) reasonable fees charged on a fair and equitable basis that—

“(A) are used solely to pay the cost of a service to the vessel or water craft;

“(B) enhance the safety and efficiency of interstate and foreign commerce; and

“(C) do not impose more than a small burden on interstate or foreign commerce.”.

TITLE V—AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD

Coast Guard
Authorization
Act for Fiscal
Year 2003.

SEC. 501. SHORT TITLE.

This title may be cited as the “Coast Guard Authorization Act for Fiscal Year 2003”.

SEC. 502. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2003 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, \$4,327,456,000, of which \$25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$725,000,000, of which \$20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard’s mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$22,000,000, to remain available until expended, of which

\$3,500,000 is authorized to be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$889,000,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, \$18,000,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance), \$17,000,000, to remain available until expended.

SEC. 503. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) **ACTIVE DUTY STRENGTH.**—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 as of September 30, 2003.

(b) **MILITARY TRAINING STUDENT LOADS.**—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2003, 2,250 student years.

(2) For flight training for fiscal year 2003, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2003, 300 student years.

(4) For officer acquisition for fiscal year 2003, 1,150 student years.

Approved November 25, 2002.

LEGISLATIVE HISTORY—S. 1214 (H.R. 3983):

HOUSE REPORTS: Nos. 107-405 accompanying H.R. 3983 (Comm. on Transportation and Infrastructure) and 107-777 (Comm. of Conference).

SENATE REPORTS: No. 107-64 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 20, considered and passed Senate.

Vol. 148 (2002): June 4, considered and passed House, amended, in lieu of H.R. 3983.

Nov. 14, Senate and House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Nov. 25, Presidential statement.



Public Law 107–296
107th Congress

An Act

To establish the Department of Homeland Security, and for other purposes.

Nov. 25, 2002
[H.R. 5005]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Homeland Security Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Homeland
Security Act of
2002.
6 USC 101 note.

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Construction; severability.
- Sec. 4. Effective date.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

- Sec. 101. Executive department; mission.
- Sec. 102. Secretary; functions.
- Sec. 103. Other officers.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

**Subtitle A—Directorate for Information Analysis and Infrastructure Protection;
Access to Information**

- Sec. 201. Directorate for Information Analysis and Infrastructure Protection.
- Sec. 202. Access to information.

Subtitle B—Critical Infrastructure Information

- Sec. 211. Short title.
- Sec. 212. Definitions.
- Sec. 213. Designation of critical infrastructure protection program.
- Sec. 214. Protection of voluntarily shared critical infrastructure information.
- Sec. 215. No private right of action.

Subtitle C—Information Security

- Sec. 221. Procedures for sharing information.
- Sec. 222. Privacy Officer.
- Sec. 223. Enhancement of non-Federal cybersecurity.
- Sec. 224. Net guard.
- Sec. 225. Cyber Security Enhancement Act of 2002.

Subtitle D—Office of Science and Technology

- Sec. 231. Establishment of office; Director.
- Sec. 232. Mission of office; duties.
- Sec. 233. Definition of law enforcement technology.
- Sec. 234. Abolishment of Office of Science and Technology of National Institute of Justice; transfer of functions.
- Sec. 235. National Law Enforcement and Corrections Technology Centers.
- Sec. 236. Coordination with other entities within Department of Justice.
- Sec. 237. Amendments relating to National Institute of Justice.

**TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND
SECURITY**

- Sec. 301. Under Secretary for Science and Technology.

- Sec. 302. Responsibilities and authorities of the Under Secretary for Science and Technology.
- Sec. 303. Functions transferred.
- Sec. 304. Conduct of certain public health-related activities.
- Sec. 305. Federally funded research and development centers.
- Sec. 306. Miscellaneous provisions.
- Sec. 307. Homeland Security Advanced Research Projects Agency.
- Sec. 308. Conduct of research, development, demonstration, testing and evaluation.
- Sec. 309. Utilization of Department of Energy national laboratories and sites in support of homeland security activities.
- Sec. 310. Transfer of Plum Island Animal Disease Center, Department of Agriculture.
- Sec. 311. Homeland Security Science and Technology Advisory Committee.
- Sec. 312. Homeland Security Institute.
- Sec. 313. Technology clearinghouse to encourage and support innovative solutions to enhance homeland security.

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

- Sec. 401. Under Secretary for Border and Transportation Security.
- Sec. 402. Responsibilities.
- Sec. 403. Functions transferred.

Subtitle B—United States Customs Service

- Sec. 411. Establishment; Commissioner of Customs.
- Sec. 412. Retention of customs revenue functions by Secretary of the Treasury.
- Sec. 413. Preservation of customs funds.
- Sec. 414. Separate budget request for customs.
- Sec. 415. Definition.
- Sec. 416. GAO report to Congress.
- Sec. 417. Allocation of resources by the Secretary.
- Sec. 418. Reports to Congress.
- Sec. 419. Customs user fees.

Subtitle C—Miscellaneous Provisions

- Sec. 421. Transfer of certain agricultural inspection functions of the Department of Agriculture.
- Sec. 422. Functions of Administrator of General Services.
- Sec. 423. Functions of Transportation Security Administration.
- Sec. 424. Preservation of Transportation Security Administration as a distinct entity.
- Sec. 425. Explosive detection systems.
- Sec. 426. Transportation security.
- Sec. 427. Coordination of information and information technology.
- Sec. 428. Visa issuance.
- Sec. 429. Information on visa denials required to be entered into electronic data system.
- Sec. 430. Office for Domestic Preparedness.

Subtitle D—Immigration Enforcement Functions

- Sec. 441. Transfer of functions to Under Secretary for Border and Transportation Security.
- Sec. 442. Establishment of Bureau of Border Security.
- Sec. 443. Professional responsibility and quality review.
- Sec. 444. Employee discipline.
- Sec. 445. Report on improving enforcement functions.
- Sec. 446. Sense of Congress regarding construction of fencing near San Diego, California.

Subtitle E—Citizenship and Immigration Services

- Sec. 451. Establishment of Bureau of Citizenship and Immigration Services.
- Sec. 452. Citizenship and Immigration Services Ombudsman.
- Sec. 453. Professional responsibility and quality review.
- Sec. 454. Employee discipline.
- Sec. 455. Effective date.
- Sec. 456. Transition.
- Sec. 457. Funding for citizenship and immigration services.
- Sec. 458. Backlog elimination.
- Sec. 459. Report on improving immigration services.
- Sec. 460. Report on responding to fluctuating needs.

- Sec. 461. Application of Internet-based technologies.
- Sec. 462. Children's affairs.

Subtitle F—General Immigration Provisions

- Sec. 471. Abolishment of INS.
- Sec. 472. Voluntary separation incentive payments.
- Sec. 473. Authority to conduct a demonstration project relating to disciplinary action.
- Sec. 474. Sense of Congress.
- Sec. 475. Director of Shared Services.
- Sec. 476. Separation of funding.
- Sec. 477. Reports and implementation plans.
- Sec. 478. Immigration functions.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

- Sec. 501. Under Secretary for Emergency Preparedness and Response.
- Sec. 502. Responsibilities.
- Sec. 503. Functions transferred.
- Sec. 504. Nuclear incident response.
- Sec. 505. Conduct of certain public health-related activities.
- Sec. 506. Definition.
- Sec. 507. Role of Federal Emergency Management Agency.
- Sec. 508. Use of national private sector networks in emergency response.
- Sec. 509. Use of commercially available technology, goods, and services.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

- Sec. 601. Treatment of charitable trusts for members of the Armed Forces of the United States and other governmental organizations.

TITLE VII—MANAGEMENT

- Sec. 701. Under Secretary for Management.
- Sec. 702. Chief Financial Officer.
- Sec. 703. Chief Information Officer.
- Sec. 704. Chief Human Capital Officer.
- Sec. 705. Establishment of Officer for Civil Rights and Civil Liberties.
- Sec. 706. Consolidation and co-location of offices.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

- Sec. 801. Office for State and Local Government Coordination.

Subtitle B—Inspector General

- Sec. 811. Authority of the Secretary.
- Sec. 812. Law enforcement powers of Inspector General agents.

Subtitle C—United States Secret Service

- Sec. 821. Functions transferred.

Subtitle D—Acquisitions

- Sec. 831. Research and development projects.
- Sec. 832. Personal services.
- Sec. 833. Special streamlined acquisition authority.
- Sec. 834. Unsolicited proposals.
- Sec. 835. Prohibition on contracts with corporate expatriates.

Subtitle E—Human Resources Management

- Sec. 841. Establishment of Human Resources Management System.
- Sec. 842. Labor-management relations.

Subtitle F—Federal Emergency Procurement Flexibility

- Sec. 851. Definition.
- Sec. 852. Procurements for defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack.

- Sec. 853. Increased simplified acquisition threshold for procurements in support of humanitarian or peacekeeping operations or contingency operations.
- Sec. 854. Increased micro-purchase threshold for certain procurements.
- Sec. 855. Application of certain commercial items authorities to certain procurements.
- Sec. 856. Use of streamlined procedures.
- Sec. 857. Review and report by Comptroller General.
- Sec. 858. Identification of new entrants into the Federal marketplace.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

- Sec. 861. Short title.
- Sec. 862. Administration.
- Sec. 863. Litigation management.
- Sec. 864. Risk management.
- Sec. 865. Definitions.

Subtitle H—Miscellaneous Provisions

- Sec. 871. Advisory committees.
- Sec. 872. Reorganization.
- Sec. 873. Use of appropriated funds.
- Sec. 874. Future Year Homeland Security Program.
- Sec. 875. Miscellaneous authorities.
- Sec. 876. Military activities.
- Sec. 877. Regulatory authority and preemption.
- Sec. 878. Counternarcotics officer.
- Sec. 879. Office of International Affairs.
- Sec. 880. Prohibition of the Terrorism Information and Prevention System.
- Sec. 881. Review of pay and benefit plans.
- Sec. 882. Office for National Capital Region Coordination.
- Sec. 883. Requirement to comply with laws protecting equal employment opportunity and providing whistleblower protections.
- Sec. 884. Federal Law Enforcement Training Center.
- Sec. 885. Joint Interagency Task Force.
- Sec. 886. Sense of Congress reaffirming the continued importance and applicability of the Posse Comitatus Act.
- Sec. 887. Coordination with the Department of Health and Human Services under the Public Health Service Act.
- Sec. 888. Preserving Coast Guard mission performance.
- Sec. 889. Homeland security funding analysis in President's budget.
- Sec. 890. Air Transportation Safety and System Stabilization Act.

Subtitle I—Information Sharing

- Sec. 891. Short title; findings; and sense of Congress.
- Sec. 892. Facilitating homeland security information sharing procedures.
- Sec. 893. Report.
- Sec. 894. Authorization of appropriations.
- Sec. 895. Authority to share grand jury information.
- Sec. 896. Authority to share electronic, wire, and oral interception information.
- Sec. 897. Foreign intelligence information.
- Sec. 898. Information acquired from an electronic surveillance.
- Sec. 899. Information acquired from a physical search.

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

- Sec. 901. National Homeland Security Council.
- Sec. 902. Function.
- Sec. 903. Membership.
- Sec. 904. Other functions and activities.
- Sec. 905. Staff composition.
- Sec. 906. Relation to the National Security Council.

TITLE X—INFORMATION SECURITY

- Sec. 1001. Information security.
- Sec. 1002. Management of information technology.
- Sec. 1003. National Institute of Standards and Technology.
- Sec. 1004. Information Security and Privacy Advisory Board.
- Sec. 1005. Technical and conforming amendments.
- Sec. 1006. Construction.

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

- Sec. 1101. Legal status of EOIR.

- Sec. 1102. Authorities of the Attorney General.
- Sec. 1103. Statutory construction.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the
Department of Justice

- Sec. 1111. Bureau of Alcohol, Tobacco, Firearms, and Explosives.
- Sec. 1112. Technical and conforming amendments.
- Sec. 1113. Powers of agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives.
- Sec. 1114. Explosives training and research facility.
- Sec. 1115. Personnel management demonstration project.

Subtitle C—Explosives

- Sec. 1121. Short title.
- Sec. 1122. Permits for purchasers of explosives.
- Sec. 1123. Persons prohibited from receiving or possessing explosive materials.
- Sec. 1124. Requirement to provide samples of explosive materials and ammonium nitrate.
- Sec. 1125. Destruction of property of institutions receiving Federal financial assistance.
- Sec. 1126. Relief from disabilities.
- Sec. 1127. Theft reporting requirement.
- Sec. 1128. Authorization of appropriations.

TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

- Sec. 1201. Air carrier liability for third party claims arising out of acts of terrorism.
- Sec. 1202. Extension of insurance policies.
- Sec. 1203. Correction of reference.
- Sec. 1204. Report.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Subtitle A—Chief Human Capital Officers

- Sec. 1301. Short title.
- Sec. 1302. Agency Chief Human Capital Officers.
- Sec. 1303. Chief Human Capital Officers Council.
- Sec. 1304. Strategic human capital management.
- Sec. 1305. Effective date.

Subtitle B—Reforms Relating to Federal Human Capital Management

- Sec. 1311. Inclusion of agency human capital strategic planning in performance plans and programs performance reports.
- Sec. 1312. Reform of the competitive service hiring process.
- Sec. 1313. Permanent extension, revision, and expansion of authorities for use of voluntary separation incentive pay and voluntary early retirement.
- Sec. 1314. Student volunteer transit subsidy.

Subtitle C—Reforms Relating to the Senior Executive Service

- Sec. 1321. Repeal of recertification requirements of senior executives.
- Sec. 1322. Adjustment of limitation on total annual compensation.

Subtitle D—Academic Training

- Sec. 1331. Academic training.
- Sec. 1332. Modifications to National Security Education Program.

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

- Sec. 1401. Short title.
- Sec. 1402. Federal Flight Deck Officer Program.
- Sec. 1403. Crew training.
- Sec. 1404. Commercial airline security study.
- Sec. 1405. Authority to arm flight deck crew with less-than-lethal weapons.
- Sec. 1406. Technical amendments.

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

- Sec. 1501. Definitions.
- Sec. 1502. Reorganization plan.
- Sec. 1503. Review of congressional committee structures.

Subtitle B—Transitional Provisions

- Sec. 1511. Transitional authorities.

- Sec. 1512. Savings provisions.
- Sec. 1513. Terminations.
- Sec. 1514. National identification system not authorized.
- Sec. 1515. Continuity of Inspector General oversight.
- Sec. 1516. Incidental transfers.
- Sec. 1517. Reference.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE
TRANSPORTATION SECURITY

- Sec. 1601. Retention of security sensitive information authority at Department of Transportation.
- Sec. 1602. Increase in civil penalties.
- Sec. 1603. Allowing United States citizens and United States nationals as screeners.

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

- Sec. 1701. Inspector General Act of 1978.
- Sec. 1702. Executive Schedule.
- Sec. 1703. United States Secret Service.
- Sec. 1704. Coast Guard.
- Sec. 1705. Strategic national stockpile and smallpox vaccine development.
- Sec. 1706. Transfer of certain security and law enforcement functions and authorities.
- Sec. 1707. Transportation security regulations.
- Sec. 1708. National Bio-Weapons Defense Analysis Center.
- Sec. 1709. Collaboration with the Secretary of Homeland Security.
- Sec. 1710. Railroad safety to include railroad security.
- Sec. 1711. Hazmat safety to include hazmat security.
- Sec. 1712. Office of Science and Technology Policy.
- Sec. 1713. National Oceanographic Partnership Program.
- Sec. 1714. Clarification of definition of manufacturer.
- Sec. 1715. Clarification of definition of vaccine-related injury or death.
- Sec. 1716. Clarification of definition of vaccine.
- Sec. 1717. Effective date.

6 USC 101.

SEC. 2. DEFINITIONS.

In this Act, the following definitions apply:

(1) Each of the terms “American homeland” and “homeland” means the United States.

(2) The term “appropriate congressional committee” means any committee of the House of Representatives or the Senate having legislative or oversight jurisdiction under the Rules of the House of Representatives or the Senate, respectively, over the matter concerned.

(3) The term “assets” includes contracts, facilities, property, records, unobligated or unexpended balances of appropriations, and other funds or resources (other than personnel).

(4) The term “critical infrastructure” has the meaning given that term in section 1016(e) of Public Law 107–56 (42 U.S.C. 5195c(e)).

(5) The term “Department” means the Department of Homeland Security.

(6) The term “emergency response providers” includes Federal, State, and local emergency public safety, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.

(7) The term “executive agency” means an executive agency and a military department, as defined, respectively, in sections 105 and 102 of title 5, United States Code.

(8) The term “functions” includes authorities, powers, rights, privileges, immunities, programs, projects, activities, duties, and responsibilities.

(9) The term “key resources” means publicly or privately controlled resources essential to the minimal operations of the economy and government.

(10) The term “local government” means—

(A) a county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of governments (regardless of whether the council of governments is incorporated as a nonprofit corporation under State law), regional or interstate government entity, or agency or instrumentality of a local government;

(B) an Indian tribe or authorized tribal organization, or in Alaska a Native village or Alaska Regional Native Corporation; and

(C) a rural community, unincorporated town or village, or other public entity.

(11) The term “major disaster” has the meaning given in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122).

(12) The term “personnel” means officers and employees.

(13) The term “Secretary” means the Secretary of Homeland Security.

(14) The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any possession of the United States.

(15) The term “terrorism” means any activity that—

(A) involves an act that—

(i) is dangerous to human life or potentially destructive of critical infrastructure or key resources; and

(ii) is a violation of the criminal laws of the United States or of any State or other subdivision of the United States; and

(B) appears to be intended—

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by mass destruction, assassination, or kidnapping.

(16)(A) The term “United States”, when used in a geographic sense, means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, any possession of the United States, and any waters within the jurisdiction of the United States.

(B) Nothing in this paragraph or any other provision of this Act shall be construed to modify the definition of “United States” for the purposes of the Immigration and Nationality Act or any other immigration or nationality law.

SEC. 3. CONSTRUCTION; SEVERABILITY.

6 USC 102.

Any provision of this Act held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by

law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable from this Act and shall not affect the remainder thereof, or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

6 USC 101 note.

SEC. 4. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of enactment.

TITLE I—DEPARTMENT OF HOMELAND SECURITY

6 USC 111.

SEC. 101. EXECUTIVE DEPARTMENT; MISSION.

(a) **ESTABLISHMENT.**—There is established a Department of Homeland Security, as an executive department of the United States within the meaning of title 5, United States Code.

(b) **MISSION.**—

(1) **IN GENERAL.**—The primary mission of the Department is to—

(A) prevent terrorist attacks within the United States;

(B) reduce the vulnerability of the United States to terrorism;

(C) minimize the damage, and assist in the recovery, from terrorist attacks that do occur within the United States;

(D) carry out all functions of entities transferred to the Department, including by acting as a focal point regarding natural and manmade crises and emergency planning;

(E) ensure that the functions of the agencies and subdivisions within the Department that are not related directly to securing the homeland are not diminished or neglected except by a specific explicit Act of Congress;

(F) ensure that the overall economic security of the United States is not diminished by efforts, activities, and programs aimed at securing the homeland; and

(G) monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking.

(2) **RESPONSIBILITY FOR INVESTIGATING AND PROSECUTING TERRORISM.**—Except as specifically provided by law with respect to entities transferred to the Department under this Act, primary responsibility for investigating and prosecuting acts of terrorism shall be vested not in the Department, but rather in Federal, State, and local law enforcement agencies with jurisdiction over the acts in question.

6 USC 112.

SEC. 102. SECRETARY; FUNCTIONS.

(a) **SECRETARY.**—

(1) **IN GENERAL.**—There is a Secretary of Homeland Security, appointed by the President, by and with the advice and consent of the Senate.

(2) **HEAD OF DEPARTMENT.**—The Secretary is the head of the Department and shall have direction, authority, and control over it.

(3) FUNCTIONS VESTED IN SECRETARY.—All functions of all officers, employees, and organizational units of the Department are vested in the Secretary.

(b) FUNCTIONS.—The Secretary—

(1) except as otherwise provided by this Act, may delegate any of the Secretary's functions to any officer, employee, or organizational unit of the Department;

(2) shall have the authority to make contracts, grants, and cooperative agreements, and to enter into agreements with other executive agencies, as may be necessary and proper to carry out the Secretary's responsibilities under this Act or otherwise provided by law; and

(3) shall take reasonable steps to ensure that information systems and databases of the Department are compatible with each other and with appropriate databases of other Departments.

(c) COORDINATION WITH NON-FEDERAL ENTITIES.—With respect to homeland security, the Secretary shall coordinate through the Office of State and Local Coordination (established under section 801) (including the provision of training and equipment) with State and local government personnel, agencies, and authorities, with the private sector, and with other entities, including by—

(1) coordinating with State and local government personnel, agencies, and authorities, and with the private sector, to ensure adequate planning, equipment, training, and exercise activities;

(2) coordinating and, as appropriate, consolidating, the Federal Government's communications and systems of communications relating to homeland security with State and local government personnel, agencies, and authorities, the private sector, other entities, and the public; and

(3) distributing or, as appropriate, coordinating the distribution of, warnings and information to State and local government personnel, agencies, and authorities and to the public.

(d) MEETINGS OF NATIONAL SECURITY COUNCIL.—The Secretary may, subject to the direction of the President, attend and participate in meetings of the National Security Council.

(e) ISSUANCE OF REGULATIONS.—The issuance of regulations by the Secretary shall be governed by the provisions of chapter 5 of title 5, United States Code, except as specifically provided in this Act, in laws granting regulatory authorities that are transferred by this Act, and in laws enacted after the date of enactment of this Act.

(f) SPECIAL ASSISTANT TO THE SECRETARY.—The Secretary shall appoint a Special Assistant to the Secretary who shall be responsible for—

(1) creating and fostering strategic communications with the private sector to enhance the primary mission of the Department to protect the American homeland;

(2) advising the Secretary on the impact of the Department's policies, regulations, processes, and actions on the private sector;

(3) interfacing with other relevant Federal agencies with homeland security missions to assess the impact of these agencies' actions on the private sector;

(4) creating and managing private sector advisory councils composed of representatives of industries and associations designated by the Secretary to—

(A) advise the Secretary on private sector products, applications, and solutions as they relate to homeland security challenges; and

(B) advise the Secretary on homeland security policies, regulations, processes, and actions that affect the participating industries and associations;

(5) working with Federal laboratories, federally funded research and development centers, other federally funded organizations, academia, and the private sector to develop innovative approaches to address homeland security challenges to produce and deploy the best available technologies for homeland security missions;

(6) promoting existing public-private partnerships and developing new public-private partnerships to provide for collaboration and mutual support to address homeland security challenges; and

(7) assisting in the development and promotion of private sector best practices to secure critical infrastructure.

(g) **STANDARDS POLICY.**—All standards activities of the Department shall be conducted in accordance with section 12(d) of the National Technology Transfer Advancement Act of 1995 (15 U.S.C. 272 note) and Office of Management and Budget Circular A-119.

6 USC 113.

SEC. 103. OTHER OFFICERS.

(a) **DEPUTY SECRETARY; UNDER SECRETARIES.**—There are the following officers, appointed by the President, by and with the advice and consent of the Senate:

(1) A Deputy Secretary of Homeland Security, who shall be the Secretary's first assistant for purposes of subchapter III of chapter 33 of title 5, United States Code.

(2) An Under Secretary for Information Analysis and Infrastructure Protection.

(3) An Under Secretary for Science and Technology.

(4) An Under Secretary for Border and Transportation Security.

(5) An Under Secretary for Emergency Preparedness and Response.

(6) A Director of the Bureau of Citizenship and Immigration Services.

(7) An Under Secretary for Management.

(8) Not more than 12 Assistant Secretaries.

(9) A General Counsel, who shall be the chief legal officer of the Department.

(b) **INSPECTOR GENERAL.**—There is an Inspector General, who shall be appointed as provided in section 3(a) of the Inspector General Act of 1978.

(c) **COMMANDANT OF THE COAST GUARD.**—To assist the Secretary in the performance of the Secretary's functions, there is a Commandant of the Coast Guard, who shall be appointed as provided in section 44 of title 14, United States Code, and who shall report directly to the Secretary. In addition to such duties as may be provided in this Act and as assigned to the Commandant by the Secretary, the duties of the Commandant shall include those required by section 2 of title 14, United States Code.

(d) OTHER OFFICERS.—To assist the Secretary in the performance of the Secretary's functions, there are the following officers, appointed by the President:

- (1) A Director of the Secret Service.
- (2) A Chief Information Officer.
- (3) A Chief Human Capital Officer.
- (4) A Chief Financial Officer.
- (5) An Officer for Civil Rights and Civil Liberties.

(e) PERFORMANCE OF SPECIFIC FUNCTIONS.—Subject to the provisions of this Act, every officer of the Department shall perform the functions specified by law for the official's office or prescribed by the Secretary.

TITLE II—INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION

Subtitle A—Directorate for Information Analysis and Infrastructure Protection; Access to Information

SEC. 201. DIRECTORATE FOR INFORMATION ANALYSIS AND INFRA- STRUCTURE PROTECTION.

6 USC 121.

(a) UNDER SECRETARY OF HOMELAND SECURITY FOR INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—

(1) IN GENERAL.—There shall be in the Department a Directorate for Information Analysis and Infrastructure Protection headed by an Under Secretary for Information Analysis and Infrastructure Protection, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) RESPONSIBILITIES.—The Under Secretary shall assist the Secretary in discharging the responsibilities assigned by the Secretary.

(b) ASSISTANT SECRETARY FOR INFORMATION ANALYSIS; ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—

(1) ASSISTANT SECRETARY FOR INFORMATION ANALYSIS.—There shall be in the Department an Assistant Secretary for Information Analysis, who shall be appointed by the President.

(2) ASSISTANT SECRETARY FOR INFRASTRUCTURE PROTECTION.—There shall be in the Department an Assistant Secretary for Infrastructure Protection, who shall be appointed by the President.

(3) RESPONSIBILITIES.—The Assistant Secretary for Information Analysis and the Assistant Secretary for Infrastructure Protection shall assist the Under Secretary for Information Analysis and Infrastructure Protection in discharging the responsibilities of the Under Secretary under this section.

(c) DISCHARGE OF INFORMATION ANALYSIS AND INFRASTRUCTURE PROTECTION.—The Secretary shall ensure that the responsibilities of the Department regarding information analysis and infrastructure protection are carried out through the Under Secretary for Information Analysis and Infrastructure Protection.

(d) RESPONSIBILITIES OF UNDER SECRETARY.—Subject to the direction and control of the Secretary, the responsibilities of the

Under Secretary for Information Analysis and Infrastructure Protection shall be as follows:

(1) To access, receive, and analyze law enforcement information, intelligence information, and other information from agencies of the Federal Government, State and local government agencies (including law enforcement agencies), and private sector entities, and to integrate such information in order to—

(A) identify and assess the nature and scope of terrorist threats to the homeland;

(B) detect and identify threats of terrorism against the United States; and

(C) understand such threats in light of actual and potential vulnerabilities of the homeland.

(2) To carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States (including an assessment of the probability of success of such attacks and the feasibility and potential efficacy of various countermeasures to such attacks).

(3) To integrate relevant information, analyses, and vulnerability assessments (whether such information, analyses, or assessments are provided or produced by the Department or others) in order to identify priorities for protective and support measures by the Department, other agencies of the Federal Government, State and local government agencies and authorities, the private sector, and other entities.

(4) To ensure, pursuant to section 202, the timely and efficient access by the Department to all information necessary to discharge the responsibilities under this section, including obtaining such information from other agencies of the Federal Government.

(5) To develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States, including power production, generation, and distribution systems, information technology and telecommunications systems (including satellites), electronic financial and property record storage and transmission systems, emergency preparedness communications systems, and the physical and technological assets that support such systems.

(6) To recommend measures necessary to protect the key resources and critical infrastructure of the United States in coordination with other agencies of the Federal Government and in cooperation with State and local government agencies and authorities, the private sector, and other entities.

(7) To administer the Homeland Security Advisory System, including—

(A) exercising primary responsibility for public advisories related to threats to homeland security; and

(B) in coordination with other agencies of the Federal Government, providing specific warning information, and advice about appropriate protective measures and countermeasures, to State and local government agencies and authorities, the private sector, other entities, and the public.

(8) To review, analyze, and make recommendations for improvements in the policies and procedures governing the sharing of law enforcement information, intelligence information, intelligence-related information, and other information relating to homeland security within the Federal Government and between the Federal Government and State and local government agencies and authorities.

(9) To disseminate, as appropriate, information analyzed by the Department within the Department, to other agencies of the Federal Government with responsibilities relating to homeland security, and to agencies of State and local governments and private sector entities with such responsibilities in order to assist in the deterrence, prevention, preemption of, or response to, terrorist attacks against the United States.

(10) To consult with the Director of Central Intelligence and other appropriate intelligence, law enforcement, or other elements of the Federal Government to establish collection priorities and strategies for information, including law enforcement-related information, relating to threats of terrorism against the United States through such means as the representation of the Department in discussions regarding requirements and priorities in the collection of such information.

(11) To consult with State and local governments and private sector entities to ensure appropriate exchanges of information, including law enforcement-related information, relating to threats of terrorism against the United States.

(12) To ensure that—

(A) any material received pursuant to this Act is protected from unauthorized disclosure and handled and used only for the performance of official duties; and

(B) any intelligence information under this Act is shared, retained, and disseminated consistent with the authority of the Director of Central Intelligence to protect intelligence sources and methods under the National Security Act of 1947 (50 U.S.C. 401 et seq.) and related procedures and, as appropriate, similar authorities of the Attorney General concerning sensitive law enforcement information.

(13) To request additional information from other agencies of the Federal Government, State and local government agencies, and the private sector relating to threats of terrorism in the United States, or relating to other areas of responsibility assigned by the Secretary, including the entry into cooperative agreements through the Secretary to obtain such information.

(14) To establish and utilize, in conjunction with the chief information officer of the Department, a secure communications and information technology infrastructure, including data-mining and other advanced analytical tools, in order to access, receive, and analyze data and information in furtherance of the responsibilities under this section, and to disseminate information acquired and analyzed by the Department, as appropriate.

(15) To ensure, in conjunction with the chief information officer of the Department, that any information databases and analytical tools developed or utilized by the Department—

(A) are compatible with one another and with relevant information databases of other agencies of the Federal Government; and

(B) treat information in such databases in a manner that complies with applicable Federal law on privacy.

(16) To coordinate training and other support to the elements and personnel of the Department, other agencies of the Federal Government, and State and local governments that provide information to the Department, or are consumers of information provided by the Department, in order to facilitate the identification and sharing of information revealed in their ordinary duties and the optimal utilization of information received from the Department.

(17) To coordinate with elements of the intelligence community and with Federal, State, and local law enforcement agencies, and the private sector, as appropriate.

(18) To provide intelligence and information analysis and support to other elements of the Department.

(19) To perform such other duties relating to such responsibilities as the Secretary may provide.

(e) STAFF.—

(1) IN GENERAL.—The Secretary shall provide the Directorate with a staff of analysts having appropriate expertise and experience to assist the Directorate in discharging responsibilities under this section.

(2) PRIVATE SECTOR ANALYSTS.—Analysts under this subsection may include analysts from the private sector.

(3) SECURITY CLEARANCES.—Analysts under this subsection shall possess security clearances appropriate for their work under this section.

(f) DETAIL OF PERSONNEL.—

(1) IN GENERAL.—In order to assist the Directorate in discharging responsibilities under this section, personnel of the agencies referred to in paragraph (2) may be detailed to the Department for the performance of analytic functions and related duties.

(2) COVERED AGENCIES.—The agencies referred to in this paragraph are as follows:

(A) The Department of State.

(B) The Central Intelligence Agency.

(C) The Federal Bureau of Investigation.

(D) The National Security Agency.

(E) The National Imagery and Mapping Agency.

(F) The Defense Intelligence Agency.

(G) Any other agency of the Federal Government that the President considers appropriate.

(3) COOPERATIVE AGREEMENTS.—The Secretary and the head of the agency concerned may enter into cooperative agreements for the purpose of detailing personnel under this subsection.

(4) BASIS.—The detail of personnel under this subsection may be on a reimbursable or non-reimbursable basis.

(g) FUNCTIONS TRANSFERRED.—In accordance with title XV, there shall be transferred to the Secretary, for assignment to the Under Secretary for Information Analysis and Infrastructure Protection under this section, the functions, personnel, assets, and liabilities of the following:

(1) The National Infrastructure Protection Center of the Federal Bureau of Investigation (other than the Computer Investigations and Operations Section), including the functions of the Attorney General relating thereto.

(2) The National Communications System of the Department of Defense, including the functions of the Secretary of Defense relating thereto.

(3) The Critical Infrastructure Assurance Office of the Department of Commerce, including the functions of the Secretary of Commerce relating thereto.

(4) The National Infrastructure Simulation and Analysis Center of the Department of Energy and the energy security and assurance program and activities of the Department, including the functions of the Secretary of Energy relating thereto.

(5) The Federal Computer Incident Response Center of the General Services Administration, including the functions of the Administrator of General Services relating thereto.

(h) INCLUSION OF CERTAIN ELEMENTS OF THE DEPARTMENT AS ELEMENTS OF THE INTELLIGENCE COMMUNITY.—Section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(a)) is amended—

50 USC 401a.

(1) by striking “and” at the end of subparagraph (I);

(2) by redesignating subparagraph (J) as subparagraph (K); and

(3) by inserting after subparagraph (I) the following new subparagraph:

“(J) the elements of the Department of Homeland Security concerned with the analyses of foreign intelligence information; and”.

SEC. 202. ACCESS TO INFORMATION.

6 USC 122.

(a) IN GENERAL.—

(1) THREAT AND VULNERABILITY INFORMATION.—Except as otherwise directed by the President, the Secretary shall have such access as the Secretary considers necessary to all information, including reports, assessments, analyses, and unevaluated intelligence relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary, and to all information concerning infrastructure or other vulnerabilities of the United States to terrorism, whether or not such information has been analyzed, that may be collected, possessed, or prepared by any agency of the Federal Government.

(2) OTHER INFORMATION.—The Secretary shall also have access to other information relating to matters under the responsibility of the Secretary that may be collected, possessed, or prepared by an agency of the Federal Government as the President may further provide.

(b) MANNER OF ACCESS.—Except as otherwise directed by the President, with respect to information to which the Secretary has access pursuant to this section—

(1) the Secretary may obtain such material upon request, and may enter into cooperative arrangements with other executive agencies to provide such material or provide Department officials with access to it on a regular or routine basis, including requests or arrangements involving broad categories of material, access to electronic databases, or both; and

(2) regardless of whether the Secretary has made any request or entered into any cooperative arrangement pursuant to paragraph (1), all agencies of the Federal Government shall promptly provide to the Secretary—

(A) all reports (including information reports containing intelligence which has not been fully evaluated), assessments, and analytical information relating to threats of terrorism against the United States and to other areas of responsibility assigned by the Secretary;

(B) all information concerning the vulnerability of the infrastructure of the United States, or other vulnerabilities of the United States, to terrorism, whether or not such information has been analyzed;

(C) all other information relating to significant and credible threats of terrorism against the United States, whether or not such information has been analyzed; and

(D) such other information or material as the President may direct.

(c) **TREATMENT UNDER CERTAIN LAWS.**—The Secretary shall be deemed to be a Federal law enforcement, intelligence, protective, national defense, immigration, or national security official, and shall be provided with all information from law enforcement agencies that is required to be given to the Director of Central Intelligence, under any provision of the following:

(1) The USA PATRIOT Act of 2001 (Public Law 107–56).

(2) Section 2517(6) of title 18, United States Code.

(3) Rule 6(e)(3)(C) of the Federal Rules of Criminal Procedure.

(d) **ACCESS TO INTELLIGENCE AND OTHER INFORMATION.**—

(1) **ACCESS BY ELEMENTS OF FEDERAL GOVERNMENT.**—Nothing in this title shall preclude any element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)), or any other element of the Federal Government with responsibility for analyzing terrorist threat information, from receiving any intelligence or other information relating to terrorism.

(2) **SHARING OF INFORMATION.**—The Secretary, in consultation with the Director of Central Intelligence, shall work to ensure that intelligence or other information relating to terrorism to which the Department has access is appropriately shared with the elements of the Federal Government referred to in paragraph (1), as well as with State and local governments, as appropriate.

Subtitle B—Critical Infrastructure Information

Critical
Infrastructure
Information Act
of 2002.

6 USC 101 note.

SEC. 211. SHORT TITLE.

This subtitle may be cited as the “Critical Infrastructure Information Act of 2002”.

6 USC 131.

SEC. 212. DEFINITIONS.

In this subtitle:

(1) **AGENCY.**—The term “agency” has the meaning given it in section 551 of title 5, United States Code.

(2) COVERED FEDERAL AGENCY.—The term “covered Federal agency” means the Department of Homeland Security.

(3) CRITICAL INFRASTRUCTURE INFORMATION.—The term “critical infrastructure information” means information not customarily in the public domain and related to the security of critical infrastructure or protected systems—

(A) actual, potential, or threatened interference with, attack on, compromise of, or incapacitation of critical infrastructure or protected systems by either physical or computer-based attack or other similar conduct (including the misuse of or unauthorized access to all types of communications and data transmission systems) that violates Federal, State, or local law, harms interstate commerce of the United States, or threatens public health or safety;

(B) the ability of any critical infrastructure or protected system to resist such interference, compromise, or incapacitation, including any planned or past assessment, projection, or estimate of the vulnerability of critical infrastructure or a protected system, including security testing, risk evaluation thereto, risk management planning, or risk audit; or

(C) any planned or past operational problem or solution regarding critical infrastructure or protected systems, including repair, recovery, reconstruction, insurance, or continuity, to the extent it is related to such interference, compromise, or incapacitation.

(4) CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.—The term “critical infrastructure protection program” means any component or bureau of a covered Federal agency that has been designated by the President or any agency head to receive critical infrastructure information.

(5) INFORMATION SHARING AND ANALYSIS ORGANIZATION.—The term “Information Sharing and Analysis Organization” means any formal or informal entity or collaboration created or employed by public or private sector organizations, for purposes of—

(A) gathering and analyzing critical infrastructure information in order to better understand security problems and interdependencies related to critical infrastructure and protected systems, so as to ensure the availability, integrity, and reliability thereof;

(B) communicating or disclosing critical infrastructure information to help prevent, detect, mitigate, or recover from the effects of a interference, compromise, or a incapacitation problem related to critical infrastructure or protected systems; and

(C) voluntarily disseminating critical infrastructure information to its members, State, local, and Federal Governments, or any other entities that may be of assistance in carrying out the purposes specified in subparagraphs (A) and (B).

(6) PROTECTED SYSTEM.—The term “protected system”—

(A) means any service, physical or computer-based system, process, or procedure that directly or indirectly affects the viability of a facility of critical infrastructure; and

(B) includes any physical or computer-based system, including a computer, computer system, computer or communications network, or any component hardware or element thereof, software program, processing instructions, or information or data in transmission or storage therein, irrespective of the medium of transmission or storage.

(7) VOLUNTARY.—

(A) IN GENERAL.—The term “voluntary”, in the case of any submittal of critical infrastructure information to a covered Federal agency, means the submittal thereof in the absence of such agency’s exercise of legal authority to compel access to or submission of such information and may be accomplished by a single entity or an Information Sharing and Analysis Organization on behalf of itself or its members.

(B) EXCLUSIONS.—The term “voluntary”—

(i) in the case of any action brought under the securities laws as is defined in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47))—

(I) does not include information or statements contained in any documents or materials filed with the Securities and Exchange Commission, or with Federal banking regulators, pursuant to section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 781(I)); and

(II) with respect to the submittal of critical infrastructure information, does not include any disclosure or writing that when made accompanied the solicitation of an offer or a sale of securities; and

(ii) does not include information or statements submitted or relied upon as a basis for making licensing or permitting determinations, or during regulatory proceedings.

6 USC 132.

SEC. 213. DESIGNATION OF CRITICAL INFRASTRUCTURE PROTECTION PROGRAM.

A critical infrastructure protection program may be designated as such by one of the following:

- (1) The President.
- (2) The Secretary of Homeland Security.

6 USC 133.

SEC. 214. PROTECTION OF VOLUNTARILY SHARED CRITICAL INFRASTRUCTURE INFORMATION.

(a) PROTECTION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, critical infrastructure information (including the identity of the submitting person or entity) that is voluntarily submitted to a covered Federal agency for use by that agency regarding the security of critical infrastructure and protected systems, analysis, warning, interdependency study, recovery, reconstitution, or other informational purpose, when accompanied by an express statement specified in paragraph (2)—

(A) shall be exempt from disclosure under section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act);

(B) shall not be subject to any agency rules or judicial doctrine regarding ex parte communications with a decision making official;

(C) shall not, without the written consent of the person or entity submitting such information, be used directly by such agency, any other Federal, State, or local authority, or any third party, in any civil action arising under Federal or State law if such information is submitted in good faith;

(D) shall not, without the written consent of the person or entity submitting such information, be used or disclosed by any officer or employee of the United States for purposes other than the purposes of this subtitle, except—

(i) in furtherance of an investigation or the prosecution of a criminal act; or

(ii) when disclosure of the information would be—

(I) to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee thereof or subcommittee of any such joint committee; or

(II) to the Comptroller General, or any authorized representative of the Comptroller General, in the course of the performance of the duties of the General Accounting Office.

(E) shall not, if provided to a State or local government or government agency—

(i) be made available pursuant to any State or local law requiring disclosure of information or records;

(ii) otherwise be disclosed or distributed to any party by said State or local government or government agency without the written consent of the person or entity submitting such information; or

(iii) be used other than for the purpose of protecting critical infrastructure or protected systems, or in furtherance of an investigation or the prosecution of a criminal act; and

(F) does not constitute a waiver of any applicable privilege or protection provided under law, such as trade secret protection.

(2) EXPRESS STATEMENT.—For purposes of paragraph (1), the term “express statement”, with respect to information or records, means—

(A) in the case of written information or records, a written marking on the information or records substantially similar to the following: “This information is voluntarily submitted to the Federal Government in expectation of protection from disclosure as provided by the provisions of the Critical Infrastructure Information Act of 2002.”; or

(B) in the case of oral information, a similar written statement submitted within a reasonable period following the oral communication.

(b) LIMITATION.—No communication of critical infrastructure information to a covered Federal agency made pursuant to this subtitle shall be considered to be an action subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(c) INDEPENDENTLY OBTAINED INFORMATION.—Nothing in this section shall be construed to limit or otherwise affect the ability of a State, local, or Federal Government entity, agency, or authority, or any third party, under applicable law, to obtain critical infrastructure information in a manner not covered by subsection (a), including any information lawfully and properly disclosed generally or broadly to the public and to use such information in any manner permitted by law.

(d) TREATMENT OF VOLUNTARY SUBMITTAL OF INFORMATION.—The voluntary submittal to the Government of information or records that are protected from disclosure by this subtitle shall not be construed to constitute compliance with any requirement to submit such information to a Federal agency under any other provision of law.

(e) PROCEDURES.—

(1) IN GENERAL.—The Secretary of the Department of Homeland Security shall, in consultation with appropriate representatives of the National Security Council and the Office of Science and Technology Policy, establish uniform procedures for the receipt, care, and storage by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government. The procedures shall be established not later than 90 days after the date of the enactment of this subtitle.

(2) ELEMENTS.—The procedures established under paragraph (1) shall include mechanisms regarding—

(A) the acknowledgement of receipt by Federal agencies of critical infrastructure information that is voluntarily submitted to the Government;

(B) the maintenance of the identification of such information as voluntarily submitted to the Government for purposes of and subject to the provisions of this subtitle;

(C) the care and storage of such information; and

(D) the protection and maintenance of the confidentiality of such information so as to permit the sharing of such information within the Federal Government and with State and local governments, and the issuance of notices and warnings related to the protection of critical infrastructure and protected systems, in such manner as to protect from public disclosure the identity of the submitting person or entity, or information that is proprietary, business sensitive, relates specifically to the submitting person or entity, and is otherwise not appropriately in the public domain.

(f) PENALTIES.—Whoever, being an officer or employee of the United States or of any department or agency thereof, knowingly publishes, divulges, discloses, or makes known in any manner or to any extent not authorized by law, any critical infrastructure information protected from disclosure by this subtitle coming to him in the course of this employment or official duties or by reason of any examination or investigation made by, or return, report, or record made to or filed with, such department or agency or officer or employee thereof, shall be fined under title 18 of the United States Code, imprisoned not more than 1 year, or both, and shall be removed from office or employment.

(g) AUTHORITY TO ISSUE WARNINGS.—The Federal Government may provide advisories, alerts, and warnings to relevant companies, targeted sectors, other governmental entities, or the general public

Deadline.

regarding potential threats to critical infrastructure as appropriate. In issuing a warning, the Federal Government shall take appropriate actions to protect from disclosure—

(1) the source of any voluntarily submitted critical infrastructure information that forms the basis for the warning; or

(2) information that is proprietary, business sensitive, relates specifically to the submitting person or entity, or is otherwise not appropriately in the public domain.

(h) **AUTHORITY TO DELEGATE.**—The President may delegate authority to a critical infrastructure protection program, designated under section 213, to enter into a voluntary agreement to promote critical infrastructure security, including with any Information Sharing and Analysis Organization, or a plan of action as otherwise defined in section 708 of the Defense Production Act of 1950 (50 U.S.C. App. 2158).

SEC. 215. NO PRIVATE RIGHT OF ACTION.

6 USC 134.

Nothing in this subtitle may be construed to create a private right of action for enforcement of any provision of this Act.

Subtitle C—Information Security

SEC. 221. PROCEDURES FOR SHARING INFORMATION.

6 USC 141.

The Secretary shall establish procedures on the use of information shared under this title that—

(1) limit the redissemination of such information to ensure that it is not used for an unauthorized purpose;

(2) ensure the security and confidentiality of such information;

(3) protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(4) provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

SEC. 222. PRIVACY OFFICER.

6 USC 142.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for privacy policy, including—

(1) assuring that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(2) assuring that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(3) evaluating legislative and regulatory proposals involving collection, use, and disclosure of personal information by the Federal Government;

(4) conducting a privacy impact assessment of proposed rules of the Department or that of the Department on the privacy of personal information, including the type of personal information collected and the number of people affected; and

(5) preparing a report to Congress on an annual basis on activities of the Department that affect privacy, including complaints of privacy violations, implementation of the Privacy Act of 1974, internal controls, and other matters.

6 USC 143.

SEC. 223. ENHANCEMENT OF NON-FEDERAL CYBERSECURITY.

In carrying out the responsibilities under section 201, the Under Secretary for Information Analysis and Infrastructure Protection shall—

(1) as appropriate, provide to State and local government entities, and upon request to private entities that own or operate critical information systems—

(A) analysis and warnings related to threats to, and vulnerabilities of, critical information systems; and

(B) in coordination with the Under Secretary for Emergency Preparedness and Response, crisis management support in response to threats to, or attacks on, critical information systems; and

(2) as appropriate, provide technical assistance, upon request, to the private sector and other government entities, in coordination with the Under Secretary for Emergency Preparedness and Response, with respect to emergency recovery plans to respond to major failures of critical information systems.

6 USC 144.

SEC. 224. NET GUARD.

The Under Secretary for Information Analysis and Infrastructure Protection may establish a national technology guard, to be known as “NET Guard”, comprised of local teams of volunteers with expertise in relevant areas of science and technology, to assist local communities to respond and recover from attacks on information systems and communications networks.

Cyber Security
Enhancement
Act of 2002.

6 USC 145.

28 USC 994 note.

SEC. 225. CYBER SECURITY ENHANCEMENT ACT OF 2002.

(a) **SHORT TITLE.**—This section may be cited as the “Cyber Security Enhancement Act of 2002”.

(b) **AMENDMENT OF SENTENCING GUIDELINES RELATING TO CERTAIN COMPUTER CRIMES.**—

(1) **DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION.**—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this subsection, the United States Sentencing Commission shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code.

(2) **REQUIREMENTS.**—In carrying out this subsection, the Sentencing Commission shall—

(A) ensure that the sentencing guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

(B) consider the following factors and the extent to which the guidelines may or may not account for them—

(i) the potential and actual loss resulting from the offense;

(ii) the level of sophistication and planning involved in the offense;

(iii) whether the offense was committed for purposes of commercial advantage or private financial benefit;

(iv) whether the defendant acted with malicious intent to cause harm in committing the offense;

(v) the extent to which the offense violated the privacy rights of individuals harmed;

(vi) whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice;

(vii) whether the violation was intended to or had the effect of significantly interfering with or disrupting a critical infrastructure; and

(viii) whether the violation was intended to or had the effect of creating a threat to public health or safety, or injury to any person;

(C) assure reasonable consistency with other relevant directives and with other sentencing guidelines;

(D) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(E) make any necessary conforming changes to the sentencing guidelines; and

(F) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

(c) STUDY AND REPORT ON COMPUTER CRIMES.—Not later than May 1, 2003, the United States Sentencing Commission shall submit a brief report to Congress that explains any actions taken by the Sentencing Commission in response to this section and includes any recommendations the Commission may have regarding statutory penalties for offenses under section 1030 of title 18, United States Code.

Deadline.

(d) EMERGENCY DISCLOSURE EXCEPTION.—

(1) IN GENERAL.—Section 2702(b) of title 18, United States Code, is amended—

(A) in paragraph (5), by striking “or” at the end;

(B) in paragraph (6)(A), by inserting “or” at the end;

(C) by striking paragraph (6)(C); and

(D) by adding at the end the following:

“(7) to a Federal, State, or local governmental entity, if the provider, in good faith, believes that an emergency involving danger of death or serious physical injury to any person requires disclosure without delay of communications relating to the emergency.”.

(2) REPORTING OF DISCLOSURES.—A government entity that receives a disclosure under section 2702(b) of title 18, United States Code, shall file, not later than 90 days after such disclosure, a report to the Attorney General stating the paragraph of that section under which the disclosure was made, the date of the disclosure, the entity to which the disclosure was made, the number of customers or subscribers to whom the information disclosed pertained, and the number of communications, if any, that were disclosed. The Attorney General shall publish all such reports into a single report to be submitted to Congress 1 year after the date of enactment of this Act.

Deadline.

Publication.

(e) GOOD FAITH EXCEPTION.—Section 2520(d)(3) of title 18, United States Code, is amended by inserting “or 2511(2)(i)” after “2511(3)”.

(f) INTERNET ADVERTISING OF ILLEGAL DEVICES.—Section 2512(1)(c) of title 18, United States Code, is amended—

(1) by inserting “or disseminates by electronic means” after “or other publication”; and

(2) by inserting “knowing the content of the advertisement and” before “knowing or having reason to know”.

(g) STRENGTHENING PENALTIES.—Section 1030(c) of title 18, United States Code, is amended—

(1) by striking “and” at the end of paragraph (3);

(2) in each of subparagraphs (A) and (C) of paragraph (4), by inserting “except as provided in paragraph (5),” before “a fine under this title”;

(3) in paragraph (4)(C), by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(5)(A) if the offender knowingly or recklessly causes or attempts to cause serious bodily injury from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for not more than 20 years, or both; and

“(B) if the offender knowingly or recklessly causes or attempts to cause death from conduct in violation of subsection (a)(5)(A)(i), a fine under this title or imprisonment for any term of years or for life, or both.”.

(h) PROVIDER ASSISTANCE.—

(1) SECTION 2703.—Section 2703(e) of title 18, United States Code, is amended by inserting “, statutory authorization” after “subpoena”.

(2) SECTION 2511.—Section 2511(2)(a)(ii) of title 18, United States Code, is amended by inserting “, statutory authorization,” after “court order” the last place it appears.

(i) EMERGENCIES.—Section 3125(a)(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by striking “or” at the end;

(2) in subparagraph (B), by striking the comma at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(C) an immediate threat to a national security interest; or

“(D) an ongoing attack on a protected computer (as defined in section 1030) that constitutes a crime punishable by a term of imprisonment greater than one year;”.

(j) PROTECTING PRIVACY.—

(1) SECTION 2511.—Section 2511(4) of title 18, United States Code, is amended—

(A) by striking paragraph (b); and

(B) by redesignating paragraph (c) as paragraph (b).

(2) SECTION 2701.—Section 2701(b) of title 18, United States Code, is amended—

(A) in paragraph (1), by inserting “, or in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State” after “commercial gain”;

(B) in paragraph (1)(A), by striking “one year” and inserting “5 years”;

(C) in paragraph (1)(B), by striking “two years” and inserting “10 years”; and

(D) by striking paragraph (2) and inserting the following:

“(2) in any other case—

“(A) a fine under this title or imprisonment for not more than 1 year or both, in the case of a first offense under this paragraph; and

“(B) a fine under this title or imprisonment for not more than 5 years, or both, in the case of an offense under this subparagraph that occurs after a conviction of another offense under this section.”.

Subtitle D—Office of Science and Technology

SEC. 231. ESTABLISHMENT OF OFFICE; DIRECTOR.

6 USC 161.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is hereby established within the Department of Justice an Office of Science and Technology (hereinafter in this title referred to as the “Office”).

(2) AUTHORITY.—The Office shall be under the general authority of the Assistant Attorney General, Office of Justice Programs, and shall be established within the National Institute of Justice.

(b) DIRECTOR.—The Office shall be headed by a Director, who shall be an individual appointed based on approval by the Office of Personnel Management of the executive qualifications of the individual.

SEC. 232. MISSION OF OFFICE; DUTIES.

6 USC 162.

(a) MISSION.—The mission of the Office shall be—

(1) to serve as the national focal point for work on law enforcement technology; and

(2) to carry out programs that, through the provision of equipment, training, and technical assistance, improve the safety and effectiveness of law enforcement technology and improve access to such technology by Federal, State, and local law enforcement agencies.

(b) DUTIES.—In carrying out its mission, the Office shall have the following duties:

(1) To provide recommendations and advice to the Attorney General.

(2) To establish and maintain advisory groups (which shall be exempt from the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)) to assess the law enforcement technology needs of Federal, State, and local law enforcement agencies.

(3) To establish and maintain performance standards in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113) for, and test and evaluate law enforcement technologies that may be used by, Federal, State, and local law enforcement agencies.

(4) To establish and maintain a program to certify, validate, and mark or otherwise recognize law enforcement technology products that conform to standards established and maintained by the Office in accordance with the National Technology Transfer and Advancement Act of 1995 (Public Law 104–113).

The program may, at the discretion of the Office, allow for supplier's declaration of conformity with such standards.

(5) To work with other entities within the Department of Justice, other Federal agencies, and the executive office of the President to establish a coordinated Federal approach on issues related to law enforcement technology.

(6) To carry out research, development, testing, evaluation, and cost-benefit analyses in fields that would improve the safety, effectiveness, and efficiency of law enforcement technologies used by Federal, State, and local law enforcement agencies, including, but not limited to—

(A) weapons capable of preventing use by unauthorized persons, including personalized guns;

(B) protective apparel;

(C) bullet-resistant and explosion-resistant glass;

(D) monitoring systems and alarm systems capable of providing precise location information;

(E) wire and wireless interoperable communication technologies;

(F) tools and techniques that facilitate investigative and forensic work, including computer forensics;

(G) equipment for particular use in counterterrorism, including devices and technologies to disable terrorist devices;

(H) guides to assist State and local law enforcement agencies;

(I) DNA identification technologies; and

(J) tools and techniques that facilitate investigations of computer crime.

(7) To administer a program of research, development, testing, and demonstration to improve the interoperability of voice and data public safety communications.

(8) To serve on the Technical Support Working Group of the Department of Defense, and on other relevant interagency panels, as requested.

(9) To develop, and disseminate to State and local law enforcement agencies, technical assistance and training materials for law enforcement personnel, including prosecutors.

(10) To operate the regional National Law Enforcement and Corrections Technology Centers and, to the extent necessary, establish additional centers through a competitive process.

(11) To administer a program of acquisition, research, development, and dissemination of advanced investigative analysis and forensic tools to assist State and local law enforcement agencies in combating cybercrime.

(12) To support research fellowships in support of its mission.

(13) To serve as a clearinghouse for information on law enforcement technologies.

(14) To represent the United States and State and local law enforcement agencies, as requested, in international activities concerning law enforcement technology.

(15) To enter into contracts and cooperative agreements and provide grants, which may require in-kind or cash matches from the recipient, as necessary to carry out its mission.

(16) To carry out other duties assigned by the Attorney General to accomplish the mission of the Office.

(c) COMPETITION REQUIRED.—Except as otherwise expressly provided by law, all research and development carried out by or through the Office shall be carried out on a competitive basis.

(d) INFORMATION FROM FEDERAL AGENCIES.—Federal agencies shall, upon request from the Office and in accordance with Federal law, provide the Office with any data, reports, or other information requested, unless compliance with such request is otherwise prohibited by law.

(e) PUBLICATIONS.—Decisions concerning publications issued by the Office shall rest solely with the Director of the Office.

(f) TRANSFER OF FUNDS.—The Office may transfer funds to other Federal agencies or provide funding to non-Federal entities through grants, cooperative agreements, or contracts to carry out its duties under this section.

(g) ANNUAL REPORT.—The Director of the Office shall include with the budget justification materials submitted to Congress in support of the Department of Justice budget for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the activities of the Office. Each such report shall include the following:

(1) For the period of 5 fiscal years beginning with the fiscal year for which the budget is submitted—

(A) the Director's assessment of the needs of Federal, State, and local law enforcement agencies for assistance with respect to law enforcement technology and other matters consistent with the mission of the Office; and

(B) a strategic plan for meeting such needs of such law enforcement agencies.

(2) For the fiscal year preceding the fiscal year for which such budget is submitted, a description of the activities carried out by the Office and an evaluation of the extent to which those activities successfully meet the needs assessed under paragraph (1)(A) in previous reports.

SEC. 233. DEFINITION OF LAW ENFORCEMENT TECHNOLOGY.

6 USC 163.

For the purposes of this title, the term “law enforcement technology” includes investigative and forensic technologies, corrections technologies, and technologies that support the judicial process.

SEC. 234. ABOLISHMENT OF OFFICE OF SCIENCE AND TECHNOLOGY OF NATIONAL INSTITUTE OF JUSTICE; TRANSFER OF FUNCTIONS.

6 USC 164.

(a) AUTHORITY TO TRANSFER FUNCTIONS.—The Attorney General may transfer to the Office any other program or activity of the Department of Justice that the Attorney General, in consultation with the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, determines to be consistent with the mission of the Office.

(b) TRANSFER OF PERSONNEL AND ASSETS.—With respect to any function, power, or duty, or any program or activity, that is established in the Office, those employees and assets of the element of the Department of Justice from which the transfer is made that the Attorney General determines are needed to perform that function, power, or duty, or for that program or activity, as the case may be, shall be transferred to the Office.

Deadline.

(c) **REPORT ON IMPLEMENTATION.**—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives a report on the implementation of this title. The report shall—

(1) provide an accounting of the amounts and sources of funding available to the Office to carry out its mission under existing authorizations and appropriations, and set forth the future funding needs of the Office; and

(2) include such other information and recommendations as the Attorney General considers appropriate.

6 USC 165.

SEC. 235. NATIONAL LAW ENFORCEMENT AND CORRECTIONS TECHNOLOGY CENTERS.

(a) **IN GENERAL.**—The Director of the Office shall operate and support National Law Enforcement and Corrections Technology Centers (hereinafter in this section referred to as “Centers”) and, to the extent necessary, establish new centers through a merit-based, competitive process.

(b) **PURPOSE OF CENTERS.**—The purpose of the Centers shall be to—

(1) support research and development of law enforcement technology;

(2) support the transfer and implementation of technology;

(3) assist in the development and dissemination of guidelines and technological standards; and

(4) provide technology assistance, information, and support for law enforcement, corrections, and criminal justice purposes.

(c) **ANNUAL MEETING.**—Each year, the Director shall convene a meeting of the Centers in order to foster collaboration and communication between Center participants.

Deadline.

(d) **REPORT.**—Not later than 12 months after the date of the enactment of this Act, the Director shall transmit to the Congress a report assessing the effectiveness of the existing system of Centers and identify the number of Centers necessary to meet the technology needs of Federal, State, and local law enforcement in the United States.

SEC. 236. COORDINATION WITH OTHER ENTITIES WITHIN DEPARTMENT OF JUSTICE.

Section 102 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3712) is amended in subsection (a)(5) by inserting “coordinate and” before “provide”.

SEC. 237. AMENDMENTS RELATING TO NATIONAL INSTITUTE OF JUSTICE.

Section 202(c) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3722(c)) is amended—

(1) in paragraph (3) by inserting “, including cost effectiveness where practical,” before “of projects”; and

(2) by striking “and” after the semicolon at the end of paragraph (8), striking the period at the end of paragraph (9) and inserting “; and”, and by adding at the end the following:

“(10) research and development of tools and technologies relating to prevention, detection, investigation, and prosecution of crime; and

“(11) support research, development, testing, training, and evaluation of tools and technology for Federal, State, and local law enforcement agencies.”.

TITLE III—SCIENCE AND TECHNOLOGY IN SUPPORT OF HOMELAND SECURITY

SEC. 301. UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

6 USC 181.

There shall be in the Department a Directorate of Science and Technology headed by an Under Secretary for Science and Technology.

SEC. 302. RESPONSIBILITIES AND AUTHORITIES OF THE UNDER SECRETARY FOR SCIENCE AND TECHNOLOGY.

6 USC 182.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the responsibility for—

(1) advising the Secretary regarding research and development efforts and priorities in support of the Department’s missions;

(2) developing, in consultation with other appropriate executive agencies, a national policy and strategic plan for, identifying priorities, goals, objectives and policies for, and coordinating the Federal Government’s civilian efforts to identify and develop countermeasures to chemical, biological, radiological, nuclear, and other emerging terrorist threats, including the development of comprehensive, research-based definable goals for such efforts and development of annual measurable objectives and specific targets to accomplish and evaluate the goals for such efforts;

(3) supporting the Under Secretary for Information Analysis and Infrastructure Protection, by assessing and testing homeland security vulnerabilities and possible threats;

(4) conducting basic and applied research, development, demonstration, testing, and evaluation activities that are relevant to any or all elements of the Department, through both intramural and extramural programs, except that such responsibility does not extend to human health-related research and development activities;

(5) establishing priorities for, directing, funding, and conducting national research, development, test and evaluation, and procurement of technology and systems for—

(A) preventing the importation of chemical, biological, radiological, nuclear, and related weapons and material; and

(B) detecting, preventing, protecting against, and responding to terrorist attacks;

(6) establishing a system for transferring homeland security developments or technologies to Federal, State, local government, and private sector entities;

(7) entering into work agreements, joint sponsorships, contracts, or any other agreements with the Department of Energy regarding the use of the national laboratories or sites and support of the science and technology base at those facilities;

(8) collaborating with the Secretary of Agriculture and the Attorney General as provided in section 212 of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401), as amended by section 1709(b);

(9) collaborating with the Secretary of Health and Human Services and the Attorney General in determining any new biological agents and toxins that shall be listed as “select agents” in Appendix A of part 72 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act (42 U.S.C. 262a);

(10) supporting United States leadership in science and technology;

(11) establishing and administering the primary research and development activities of the Department, including the long-term research and development needs and capabilities for all elements of the Department;

(12) coordinating and integrating all research, development, demonstration, testing, and evaluation activities of the Department;

(13) coordinating with other appropriate executive agencies in developing and carrying out the science and technology agenda of the Department to reduce duplication and identify unmet needs; and

(14) developing and overseeing the administration of guidelines for merit review of research and development projects throughout the Department, and for the dissemination of research conducted or sponsored by the Department.

6 USC 183.

SEC. 303. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The following programs and activities of the Department of Energy, including the functions of the Secretary of Energy relating thereto (but not including programs and activities relating to the strategic nuclear defense posture of the United States):

(A) The chemical and biological national security and supporting programs and activities of the nonproliferation and verification research and development program.

(B) The nuclear smuggling programs and activities within the proliferation detection program of the nonproliferation and verification research and development program. The programs and activities described in this subparagraph may be designated by the President either for transfer to the Department or for joint operation by the Secretary and the Secretary of Energy.

(C) The nuclear assessment program and activities of the assessment, detection, and cooperation program of the international materials protection and cooperation program.

(D) Such life sciences activities of the biological and environmental research program related to microbial pathogens as may be designated by the President for transfer to the Department.

(E) The Environmental Measurements Laboratory.

(F) The advanced scientific computing research program and activities at Lawrence Livermore National Laboratory.

(2) The National Bio-Weapons Defense Analysis Center of the Department of Defense, including the functions of the Secretary of Defense related thereto.

SEC. 304. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES. 6 USC 184.

(a) **IN GENERAL.**—With respect to civilian human health-related research and development activities relating to countermeasures for chemical, biological, radiological, and nuclear and other emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities, goals, objectives, and policies and develop a coordinated strategy for such activities in collaboration with the Secretary of Homeland Security to ensure consistency with the national policy and strategic plan developed pursuant to section 302(2).

(b) **EVALUATION OF PROGRESS.**—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

(c) **ADMINISTRATION OF COUNTERMEASURES AGAINST SMALLPOX.**—Section 224 of the Public Health Service Act (42 U.S.C. 233) is amended by adding the following:

“(p) **ADMINISTRATION OF SMALLPOX COUNTERMEASURES BY HEALTH PROFESSIONALS.**—

“(1) **IN GENERAL.**—For purposes of this section, and subject to other provisions of this subsection, a covered person shall be deemed to be an employee of the Public Health Service with respect to liability arising out of administration of a covered countermeasure against smallpox to an individual during the effective period of a declaration by the Secretary under paragraph (2)(A).

“(2) **DECLARATION BY SECRETARY CONCERNING COUNTERMEASURE AGAINST SMALLPOX.**—

“(A) **AUTHORITY TO ISSUE DECLARATION.**—

“(i) **IN GENERAL.**—The Secretary may issue a declaration, pursuant to this paragraph, concluding that an actual or potential bioterrorist incident or other actual or potential public health emergency makes advisable the administration of a covered countermeasure to a category or categories of individuals.

“(ii) **COVERED COUNTERMEASURE.**—The Secretary shall specify in such declaration the substance or substances that shall be considered covered countermeasures (as defined in paragraph (8)(A)) for purposes of administration to individuals during the effective period of the declaration.

“(iii) **EFFECTIVE PERIOD.**—The Secretary shall specify in such declaration the beginning and ending dates of the effective period of the declaration, and may subsequently amend such declaration to shorten or extend such effective period, provided that the new

Federal Register,
publication.

closing date is after the date when the declaration is amended.

“(iv) PUBLICATION.—The Secretary shall promptly publish each such declaration and amendment in the Federal Register.

“(B) LIABILITY OF UNITED STATES ONLY FOR ADMINISTRATIONS WITHIN SCOPE OF DECLARATION.—Except as provided in paragraph (5)(B)(ii), the United States shall be liable under this subsection with respect to a claim arising out of the administration of a covered countermeasure to an individual only if—

“(i) the countermeasure was administered by a qualified person, for a purpose stated in paragraph (7)(A)(i), and during the effective period of a declaration by the Secretary under subparagraph (A) with respect to such countermeasure; and

“(ii)(I) the individual was within a category of individuals covered by the declaration; or

“(II) the qualified person administering the countermeasure had reasonable grounds to believe that such individual was within such category.

“(C) PRESUMPTION OF ADMINISTRATION WITHIN SCOPE OF DECLARATION IN CASE OF ACCIDENTAL VACCINIA INOCULATION.—

“(i) IN GENERAL.—If vaccinia vaccine is a covered countermeasure specified in a declaration under subparagraph (A), and an individual to whom the vaccinia vaccine is not administered contracts vaccinia, then, under the circumstances specified in clause (ii), the individual—

“(I) shall be rebuttably presumed to have contracted vaccinia from an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B); and

“(II) shall (unless such presumption is rebutted) be deemed for purposes of this subsection to be an individual to whom a covered countermeasure was administered by a qualified person in accordance with the terms of such declaration and as described by subparagraph (B).

“(ii) CIRCUMSTANCES IN WHICH PRESUMPTION APPLIES.—The presumption and deeming stated in clause (i) shall apply if—

“(I) the individual contracts vaccinia during the effective period of a declaration under subparagraph (A) or by the date 30 days after the close of such period; or

“(II) the individual resides or has resided with an individual to whom such vaccine was administered as provided by clauses (i) and (ii) of subparagraph (B) and contracts vaccinia after such date.

“(3) EXCLUSIVITY OF REMEDY.—The remedy provided by subsection (a) shall be exclusive of any other civil action or proceeding for any claim or suit this subsection encompasses.

“(4) CERTIFICATION OF ACTION BY ATTORNEY GENERAL.—Subsection (c) applies to actions under this subsection, subject to the following provisions:

“(A) NATURE OF CERTIFICATION.—The certification by the Attorney General that is the basis for deeming an action or proceeding to be against the United States, and for removing an action or proceeding from a State court, is a certification that the action or proceeding is against a covered person and is based upon a claim alleging personal injury or death arising out of the administration of a covered countermeasure.

“(B) CERTIFICATION OF ATTORNEY GENERAL CONCLUSIVE.—The certification of the Attorney General of the facts specified in subparagraph (A) shall conclusively establish such facts for purposes of jurisdiction pursuant to this subsection.

“(5) DEFENDANT TO COOPERATE WITH UNITED STATES.—

“(A) IN GENERAL.—A covered person shall cooperate with the United States in the processing and defense of a claim or action under this subsection based upon alleged acts or omissions of such person.

“(B) CONSEQUENCES OF FAILURE TO COOPERATE.—Upon the motion of the United States or any other party and upon finding that such person has failed to so cooperate—

“(i) the court shall substitute such person as the party defendant in place of the United States and, upon motion, shall remand any such suit to the court in which it was instituted if it appears that the court lacks subject matter jurisdiction;

“(ii) the United States shall not be liable based on the acts or omissions of such person; and

“(iii) the Attorney General shall not be obligated to defend such action.

“(6) RECOURSE AGAINST COVERED PERSON IN CASE OF GROSS MISCONDUCT OR CONTRACT VIOLATION.—

“(A) IN GENERAL.—Should payment be made by the United States to any claimant bringing a claim under this subsection, either by way of administrative determination, settlement, or court judgment, the United States shall have, notwithstanding any provision of State law, the right to recover for that portion of the damages so awarded or paid, as well as interest and any costs of litigation, resulting from the failure of any covered person to carry out any obligation or responsibility assumed by such person under a contract with the United States or from any grossly negligent, reckless, or illegal conduct or willful misconduct on the part of such person.

“(B) VENUE.—The United States may maintain an action under this paragraph against such person in the district court of the United States in which such person resides or has its principal place of business.

“(7) DEFINITIONS.—As used in this subsection, terms have the following meanings:

“(A) COVERED COUNTERMEASURE.—The term ‘covered countermeasure’ or ‘covered countermeasure against smallpox’, means a substance that is—

“(i) used to prevent or treat smallpox (including the vaccinia or another vaccine); or

“(II) vaccinia immune globulin used to control or treat the adverse effects of vaccinia inoculation; and

“(ii) specified in a declaration under paragraph (2).

“(B) COVERED PERSON.—The term ‘covered person’, when used with respect to the administration of a covered countermeasure, includes any person who is—

“(i) a manufacturer or distributor of such countermeasure;

“(ii) a health care entity under whose auspices such countermeasure was administered;

“(iii) a qualified person who administered such countermeasure; or

“(iv) an official, agent, or employee of a person described in clause (i), (ii), or (iii).

“(C) QUALIFIED PERSON.—The term ‘qualified person’, when used with respect to the administration of a covered countermeasure, means a licensed health professional or other individual who is authorized to administer such countermeasure under the law of the State in which the countermeasure was administered.”.

6 USC 185.

SEC. 305. FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTERS.

Contracts.

The Secretary, acting through the Under Secretary for Science and Technology, shall have the authority to establish or contract with 1 or more federally funded research and development centers to provide independent analysis of homeland security issues, or to carry out other responsibilities under this Act, including coordinating and integrating both the extramural and intramural programs described in section 308.

6 USC 186.

SEC. 306. MISCELLANEOUS PROVISIONS.

(a) CLASSIFICATION.—To the greatest extent practicable, research conducted or supported by the Department shall be unclassified.

(b) CONSTRUCTION.—Nothing in this title shall be construed to preclude any Under Secretary of the Department from carrying out research, development, demonstration, or deployment activities, as long as such activities are coordinated through the Under Secretary for Science and Technology.

(c) REGULATIONS.—The Secretary, acting through the Under Secretary for Science and Technology, may issue necessary regulations with respect to research, development, demonstration, testing, and evaluation activities of the Department, including the conducting, funding, and reviewing of such activities.

Deadline.

(d) NOTIFICATION OF PRESIDENTIAL LIFE SCIENCES DESIGNATIONS.—Not later than 60 days before effecting any transfer of Department of Energy life sciences activities pursuant to section 303(1)(D) of this Act, the President shall notify the appropriate congressional committees of the proposed transfer and shall include the reasons for the transfer and a description of the effect of the transfer on the activities of the Department of Energy.

6 USC 187.

SEC. 307. HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.

(a) DEFINITIONS.—In this section:

(1) FUND.—The term “Fund” means the Acceleration Fund for Research and Development of Homeland Security Technologies established in subsection (c).

(2) HOMELAND SECURITY RESEARCH.—The term “homeland security research” means research relevant to the detection of, prevention of, protection against, response to, attribution of, and recovery from homeland security threats, particularly acts of terrorism.

(3) HSARPA.—The term “HSARPA” means the Homeland Security Advanced Research Projects Agency established in subsection (b).

(4) UNDER SECRETARY.—The term “Under Secretary” means the Under Secretary for Science and Technology.

(b) HOMELAND SECURITY ADVANCED RESEARCH PROJECTS AGENCY.—

(1) ESTABLISHMENT.—There is established the Homeland Security Advanced Research Projects Agency.

(2) DIRECTOR.—HSARPA shall be headed by a Director, who shall be appointed by the Secretary. The Director shall report to the Under Secretary.

(3) RESPONSIBILITIES.—The Director shall administer the Fund to award competitive, merit-reviewed grants, cooperative agreements or contracts to public or private entities, including businesses, federally funded research and development centers, and universities. The Director shall administer the Fund to—

(A) support basic and applied homeland security research to promote revolutionary changes in technologies that would promote homeland security;

(B) advance the development, testing and evaluation, and deployment of critical homeland security technologies; and

(C) accelerate the prototyping and deployment of technologies that would address homeland security vulnerabilities.

(4) TARGETED COMPETITIONS.—The Director may solicit proposals to address specific vulnerabilities identified by the Director.

(5) COORDINATION.—The Director shall ensure that the activities of HSARPA are coordinated with those of other relevant research agencies, and may run projects jointly with other agencies.

(6) PERSONNEL.—In hiring personnel for HSARPA, the Secretary shall have the hiring and management authorities described in section 1101 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (5 U.S.C. 3104 note; Public Law 105-261). The term of appointments for employees under subsection (c)(1) of that section may not exceed 5 years before the granting of any extension under subsection (c)(2) of that section.

(7) DEMONSTRATIONS.—The Director, periodically, shall hold homeland security technology demonstrations to improve contact among technology developers, vendors and acquisition personnel.

(c) FUND.—

(1) ESTABLISHMENT.—There is established the Acceleration Fund for Research and Development of Homeland Security Technologies, which shall be administered by the Director of HSARPA.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$500,000,000 to the Fund for fiscal year 2003 and such sums as may be necessary thereafter.

(3) COAST GUARD.—Of the funds authorized to be appropriated under paragraph (2), not less than 10 percent of such funds for each fiscal year through fiscal year 2005 shall be authorized only for the Under Secretary, through joint agreement with the Commandant of the Coast Guard, to carry out research and development of improved ports, waterways and coastal security surveillance and perimeter protection capabilities for the purpose of minimizing the possibility that Coast Guard cutters, aircraft, helicopters, and personnel will be diverted from non-homeland security missions to the ports, waterways and coastal security mission.

6 USC 188.

SEC. 308. CONDUCT OF RESEARCH, DEVELOPMENT, DEMONSTRATION, TESTING AND EVALUATION.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall carry out the responsibilities under section 302(4) through both extramural and intramural programs.

(b) EXTRAMURAL PROGRAMS.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary for Science and Technology, shall operate extramural research, development, demonstration, testing, and evaluation programs so as to—

(A) ensure that colleges, universities, private research institutes, and companies (and consortia thereof) from as many areas of the United States as practicable participate;

(B) ensure that the research funded is of high quality, as determined through merit review processes developed under section 302(14); and

(C) distribute funds through grants, cooperative agreements, and contracts.

(2) UNIVERSITY-BASED CENTERS FOR HOMELAND SECURITY.—

(A) ESTABLISHMENT.—The Secretary, acting through the Under Secretary for Science and Technology, shall establish within 1 year of the date of enactment of this Act a university-based center or centers for homeland security. The purpose of this center or centers shall be to establish a coordinated, university-based system to enhance the Nation's homeland security.

(B) CRITERIA FOR SELECTION.—In selecting colleges or universities as centers for homeland security, the Secretary shall consider the following criteria:

(i) Demonstrated expertise in the training of first responders.

(ii) Demonstrated expertise in responding to incidents involving weapons of mass destruction and biological warfare.

(iii) Demonstrated expertise in emergency medical services.

(iv) Demonstrated expertise in chemical, biological, radiological, and nuclear countermeasures.

(v) Strong affiliations with animal and plant diagnostic laboratories.

(vi) Demonstrated expertise in food safety.

(vii) Affiliation with Department of Agriculture laboratories or training centers.

(viii) Demonstrated expertise in water and wastewater operations.

(ix) Demonstrated expertise in port and waterway security.

(x) Demonstrated expertise in multi-modal transportation.

(xi) Nationally recognized programs in information security.

(xii) Nationally recognized programs in engineering.

(xiii) Demonstrated expertise in educational outreach and technical assistance.

(xiv) Demonstrated expertise in border transportation and security.

(xv) Demonstrated expertise in interdisciplinary public policy research and communication outreach regarding science, technology, and public policy.

(C) DISCRETION OF SECRETARY.—The Secretary shall have the discretion to establish such centers and to consider additional criteria as necessary to meet the evolving needs of homeland security and shall report to Congress concerning the implementation of this paragraph as necessary.

(D) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.

(c) INTRAMURAL PROGRAMS.—

(1) CONSULTATION.—In carrying out the duties under section 302, the Secretary, acting through the Under Secretary for Science and Technology, may draw upon the expertise of any laboratory of the Federal Government, whether operated by a contractor or the Government.

(2) LABORATORIES.—The Secretary, acting through the Under Secretary for Science and Technology, may establish a headquarters laboratory for the Department at any laboratory or site and may establish additional laboratory units at other laboratories or sites.

(3) CRITERIA FOR HEADQUARTERS LABORATORY.—If the Secretary chooses to establish a headquarters laboratory pursuant to paragraph (2), then the Secretary shall do the following:

(A) Establish criteria for the selection of the headquarters laboratory in consultation with the National Academy of Sciences, appropriate Federal agencies, and other experts.

(B) Publish the criteria in the Federal Register.

Federal Register,
publication.

(C) Evaluate all appropriate laboratories or sites against the criteria.

(D) Select a laboratory or site on the basis of the criteria.

(E) Report to the appropriate congressional committees on which laboratory was selected, how the selected laboratory meets the published criteria, and what duties the headquarters laboratory shall perform.

Reports.

(4) LIMITATION ON OPERATION OF LABORATORIES.—No laboratory shall begin operating as the headquarters laboratory

of the Department until at least 30 days after the transmittal of the report required by paragraph (3)(E).

6 USC 189.

SEC. 309. UTILIZATION OF DEPARTMENT OF ENERGY NATIONAL LABORATORIES AND SITES IN SUPPORT OF HOMELAND SECURITY ACTIVITIES.

(a) AUTHORITY TO UTILIZE NATIONAL LABORATORIES AND SITES.—

(1) **IN GENERAL.**—In carrying out the missions of the Department, the Secretary may utilize the Department of Energy national laboratories and sites through any 1 or more of the following methods, as the Secretary considers appropriate:

(A) A joint sponsorship arrangement referred to in subsection (b).

(B) A direct contract between the Department and the applicable Department of Energy laboratory or site, subject to subsection (c).

(C) Any “work for others” basis made available by that laboratory or site.

(D) Any other method provided by law.

(2) **ACCEPTANCE AND PERFORMANCE BY LABS AND SITES.**—Notwithstanding any other law governing the administration, mission, use, or operations of any of the Department of Energy national laboratories and sites, such laboratories and sites are authorized to accept and perform work for the Secretary, consistent with resources provided, and perform such work on an equal basis to other missions at the laboratory and not on a noninterference basis with other missions of such laboratory or site.

(b) JOINT SPONSORSHIP ARRANGEMENTS.—

(1) **LABORATORIES.**—The Department may be a joint sponsor, under a multiple agency sponsorship arrangement with the Department of Energy, of 1 or more Department of Energy national laboratories in the performance of work.

(2) **SITES.**—The Department may be a joint sponsor of a Department of Energy site in the performance of work as if such site were a federally funded research and development center and the work were performed under a multiple agency sponsorship arrangement with the Department.

(3) **PRIMARY SPONSOR.**—The Department of Energy shall be the primary sponsor under a multiple agency sponsorship arrangement referred to in paragraph (1) or (2).

(4) **LEAD AGENT.**—The Secretary of Energy shall act as the lead agent in coordinating the formation and performance of a joint sponsorship arrangement under this subsection between the Department and a Department of Energy national laboratory or site.

(5) **FEDERAL ACQUISITION REGULATION.**—Any work performed by a Department of Energy national laboratory or site under a joint sponsorship arrangement under this subsection shall comply with the policy on the use of federally funded research and development centers under the Federal Acquisition Regulations.

(6) **FUNDING.**—The Department shall provide funds for work at the Department of Energy national laboratories or

sites, as the case may be, under a joint sponsorship arrangement under this subsection under the same terms and conditions as apply to the primary sponsor of such national laboratory under section 303(b)(1)(C) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(b)(1)(C)) or of such site to the extent such section applies to such site as a federally funded research and development center by reason of this subsection.

(c) SEPARATE CONTRACTING.—To the extent that programs or activities transferred by this Act from the Department of Energy to the Department of Homeland Security are being carried out through direct contracts with the operator of a national laboratory or site of the Department of Energy, the Secretary of Homeland Security and the Secretary of Energy shall ensure that direct contracts for such programs and activities between the Department of Homeland Security and such operator are separate from the direct contracts of the Department of Energy with such operator.

(d) AUTHORITY WITH RESPECT TO COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS AND LICENSING AGREEMENTS.—In connection with any utilization of the Department of Energy national laboratories and sites under this section, the Secretary may permit the director of any such national laboratory or site to enter into cooperative research and development agreements or to negotiate licensing agreements with any person, any agency or instrumentality, of the United States, any unit of State or local government, and any other entity under the authority granted by section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a). Technology may be transferred to a non-Federal party to such an agreement consistent with the provisions of sections 11 and 12 of that Act (15 U.S.C. 3710, 3710a).

(e) REIMBURSEMENT OF COSTS.—In the case of an activity carried out by the operator of a Department of Energy national laboratory or site in connection with any utilization of such laboratory or site under this section, the Department of Homeland Security shall reimburse the Department of Energy for costs of such activity through a method under which the Secretary of Energy waives any requirement for the Department of Homeland Security to pay administrative charges or personnel costs of the Department of Energy or its contractors in excess of the amount that the Secretary of Energy pays for an activity carried out by such contractor and paid for by the Department of Energy.

(f) LABORATORY DIRECTED RESEARCH AND DEVELOPMENT BY THE DEPARTMENT OF ENERGY.—No funds authorized to be appropriated or otherwise made available to the Department in any fiscal year may be obligated or expended for laboratory directed research and development activities carried out by the Department of Energy unless such activities support the missions of the Department of Homeland Security.

(g) OFFICE FOR NATIONAL LABORATORIES.—There is established within the Directorate of Science and Technology an Office for National Laboratories, which shall be responsible for the coordination and utilization of the Department of Energy national laboratories and sites under this section in a manner to create a networked laboratory system for the purpose of supporting the missions of the Department.

Establishment.

(h) DEPARTMENT OF ENERGY COORDINATION ON HOMELAND SECURITY RELATED RESEARCH.—The Secretary of Energy shall

ensure that any research, development, test, and evaluation activities conducted within the Department of Energy that are directly or indirectly related to homeland security are fully coordinated with the Secretary to minimize duplication of effort and maximize the effective application of Federal budget resources.

6 USC 190.

SEC. 310. TRANSFER OF PLUM ISLAND ANIMAL DISEASE CENTER, DEPARTMENT OF AGRICULTURE.

(a) IN GENERAL.—In accordance with title XV, the Secretary of Agriculture shall transfer to the Secretary of Homeland Security the Plum Island Animal Disease Center of the Department of Agriculture, including the assets and liabilities of the Center.

(b) CONTINUED DEPARTMENT OF AGRICULTURE ACCESS.—On completion of the transfer of the Plum Island Animal Disease Center under subsection (a), the Secretary of Homeland Security and the Secretary of Agriculture shall enter into an agreement to ensure that the Department of Agriculture is able to carry out research, diagnostic, and other activities of the Department of Agriculture at the Center.

(c) DIRECTION OF ACTIVITIES.—The Secretary of Agriculture shall continue to direct the research, diagnostic, and other activities of the Department of Agriculture at the Center described in subsection (b).

(d) NOTIFICATION.—

(1) IN GENERAL.—At least 180 days before any change in the biosafety level at the Plum Island Animal Disease Center, the President shall notify Congress of the change and describe the reasons for the change.

(2) LIMITATION.—No change described in paragraph (1) may be made earlier than 180 days after the completion of the transition period (as defined in section 1501).

6 USC 191.

SEC. 311. HOMELAND SECURITY SCIENCE AND TECHNOLOGY ADVISORY COMMITTEE.

(a) ESTABLISHMENT.—There is established within the Department a Homeland Security Science and Technology Advisory Committee (in this section referred to as the “Advisory Committee”). The Advisory Committee shall make recommendations with respect to the activities of the Under Secretary for Science and Technology, including identifying research areas of potential importance to the security of the Nation.

(b) MEMBERSHIP.—

(1) APPOINTMENT.—The Advisory Committee shall consist of 20 members appointed by the Under Secretary for Science and Technology, which shall include emergency first-responders or representatives of organizations or associations of emergency first-responders. The Advisory Committee shall also include representatives of citizen groups, including economically disadvantaged communities. The individuals appointed as members of the Advisory Committee—

(A) shall be eminent in fields such as emergency response, research, engineering, new product development, business, and management consulting;

(B) shall be selected solely on the basis of established records of distinguished service;

(C) shall not be employees of the Federal Government; and

(D) shall be so selected as to provide representation of a cross-section of the research, development, demonstration, and deployment activities supported by the Under Secretary for Science and Technology.

(2) NATIONAL RESEARCH COUNCIL.—The Under Secretary for Science and Technology may enter into an arrangement for the National Research Council to select members of the Advisory Committee, but only if the panel used by the National Research Council reflects the representation described in paragraph (1).

(c) TERMS OF OFFICE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the term of office of each member of the Advisory Committee shall be 3 years.

(2) ORIGINAL APPOINTMENTS.—The original members of the Advisory Committee shall be appointed to three classes of three members each. One class shall have a term of 1 year, 1 a term of 2 years, and the other a term of 3 years.

(3) VACANCIES.—A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term.

(d) ELIGIBILITY.—A person who has completed two consecutive full terms of service on the Advisory Committee shall thereafter be ineligible for appointment during the 1-year period following the expiration of the second such term.

(e) MEETINGS.—The Advisory Committee shall meet at least quarterly at the call of the Chair or whenever one-third of the members so request in writing. Each member shall be given appropriate notice of the call of each meeting, whenever possible not less than 15 days before the meeting.

(f) QUORUM.—A majority of the members of the Advisory Committee not having a conflict of interest in the matter being considered by the Advisory Committee shall constitute a quorum.

(g) CONFLICT OF INTEREST RULES.—The Advisory Committee shall establish rules for determining when 1 of its members has a conflict of interest in a matter being considered by the Advisory Committee.

(h) REPORTS.—

(1) ANNUAL REPORT.—The Advisory Committee shall render an annual report to the Under Secretary for Science and Technology for transmittal to Congress on or before January 31 of each year. Such report shall describe the activities and recommendations of the Advisory Committee during the previous year.

(2) ADDITIONAL REPORTS.—The Advisory Committee may render to the Under Secretary for transmittal to Congress such additional reports on specific policy matters as it considers appropriate.

(i) FEDERAL ADVISORY COMMITTEE ACT EXEMPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

(j) TERMINATION.—The Department of Homeland Security Science and Technology Advisory Committee shall terminate 3 years after the effective date of this Act.

6 USC 192.

SEC. 312. HOMELAND SECURITY INSTITUTE.

(a) **ESTABLISHMENT.**—The Secretary shall establish a federally funded research and development center to be known as the “Homeland Security Institute” (in this section referred to as the “Institute”).

(b) **ADMINISTRATION.**—The Institute shall be administered as a separate entity by the Secretary.

(c) **DUTIES.**—The duties of the Institute shall be determined by the Secretary, and may include the following:

(1) Systems analysis, risk analysis, and simulation and modeling to determine the vulnerabilities of the Nation’s critical infrastructures and the effectiveness of the systems deployed to reduce those vulnerabilities.

(2) Economic and policy analysis to assess the distributed costs and benefits of alternative approaches to enhancing security.

(3) Evaluation of the effectiveness of measures deployed to enhance the security of institutions, facilities, and infrastructure that may be terrorist targets.

(4) Identification of instances when common standards and protocols could improve the interoperability and effective utilization of tools developed for field operators and first responders.

(5) Assistance for Federal agencies and departments in establishing testbeds to evaluate the effectiveness of technologies under development and to assess the appropriateness of such technologies for deployment.

(6) Design of metrics and use of those metrics to evaluate the effectiveness of homeland security programs throughout the Federal Government, including all national laboratories.

(7) Design of and support for the conduct of homeland security-related exercises and simulations.

(8) Creation of strategic technology development plans to reduce vulnerabilities in the Nation’s critical infrastructure and key resources.

(d) **CONSULTATION ON INSTITUTE ACTIVITIES.**—In carrying out the duties described in subsection (c), the Institute shall consult widely with representatives from private industry, institutions of higher education, nonprofit institutions, other Government agencies, and federally funded research and development centers.

(e) **USE OF CENTERS.**—The Institute shall utilize the capabilities of the National Infrastructure Simulation and Analysis Center.

(f) **ANNUAL REPORTS.**—The Institute shall transmit to the Secretary and Congress an annual report on the activities of the Institute under this section.

(g) **TERMINATION.**—The Homeland Security Institute shall terminate 3 years after the effective date of this Act.

6 USC 193.

SEC. 313. TECHNOLOGY CLEARINGHOUSE TO ENCOURAGE AND SUPPORT INNOVATIVE SOLUTIONS TO ENHANCE HOMELAND SECURITY.

(a) **ESTABLISHMENT OF PROGRAM.**—The Secretary, acting through the Under Secretary for Science and Technology, shall establish and promote a program to encourage technological innovation in facilitating the mission of the Department (as described in section 101).

(b) **ELEMENTS OF PROGRAM.**—The program described in subsection (a) shall include the following components:

(1) The establishment of a centralized Federal clearinghouse for information relating to technologies that would further the mission of the Department for dissemination, as appropriate, to Federal, State, and local government and private sector entities for additional review, purchase, or use.

(2) The issuance of announcements seeking unique and innovative technologies to advance the mission of the Department.

(3) The establishment of a technical assistance team to assist in screening, as appropriate, proposals submitted to the Secretary (except as provided in subsection (c)(2)) to assess the feasibility, scientific and technical merits, and estimated cost of such proposals, as appropriate.

(4) The provision of guidance, recommendations, and technical assistance, as appropriate, to assist Federal, State, and local government and private sector efforts to evaluate and implement the use of technologies described in paragraph (1) or (2).

(5) The provision of information for persons seeking guidance on how to pursue proposals to develop or deploy technologies that would enhance homeland security, including information relating to Federal funding, regulation, or acquisition.

(c) MISCELLANEOUS PROVISIONS.—

(1) **IN GENERAL.**—Nothing in this section shall be construed as authorizing the Secretary or the technical assistance team established under subsection (b)(3) to set standards for technology to be used by the Department, any other executive agency, any State or local government entity, or any private sector entity.

(2) **CERTAIN PROPOSALS.**—The technical assistance team established under subsection (b)(3) shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

(3) **COORDINATION.**—In carrying out this section, the Secretary shall coordinate with the Technical Support Working Group (organized under the April 1982 National Security Decision Directive Numbered 30).

TITLE IV—DIRECTORATE OF BORDER AND TRANSPORTATION SECURITY

Subtitle A—Under Secretary for Border and Transportation Security

SEC. 401. UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY. 6 USC 201.

There shall be in the Department a Directorate of Border and Transportation Security headed by an Under Secretary for Border and Transportation Security.

SEC. 402. RESPONSIBILITIES. 6 USC 202.

The Secretary, acting through the Under Secretary for Border and Transportation Security, shall be responsible for the following:

(1) Preventing the entry of terrorists and the instruments of terrorism into the United States.

(2) Securing the borders, territorial waters, ports, terminals, waterways, and air, land, and sea transportation systems of the United States, including managing and coordinating those functions transferred to the Department at ports of entry.

(3) Carrying out the immigration enforcement functions vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the date on which the transfer of functions specified under section 441 takes effect.

(4) Establishing and administering rules, in accordance with section 428, governing the granting of visas or other forms of permission, including parole, to enter the United States to individuals who are not a citizen or an alien lawfully admitted for permanent residence in the United States.

(5) Establishing national immigration enforcement policies and priorities.

(6) Except as provided in subtitle C, administering the customs laws of the United States.

(7) Conducting the inspection and related administrative functions of the Department of Agriculture transferred to the Secretary of Homeland Security under section 421.

(8) In carrying out the foregoing responsibilities, ensuring the speedy, orderly, and efficient flow of lawful traffic and commerce.

6 USC 203.

SEC. 403. FUNCTIONS TRANSFERRED.

In accordance with title XV (relating to transition provisions), there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of—

(1) the United States Customs Service of the Department of the Treasury, including the functions of the Secretary of the Treasury relating thereto;

(2) the Transportation Security Administration of the Department of Transportation, including the functions of the Secretary of Transportation, and of the Under Secretary of Transportation for Security, relating thereto;

(3) the Federal Protective Service of the General Services Administration, including the functions of the Administrator of General Services relating thereto;

(4) the Federal Law Enforcement Training Center of the Department of the Treasury; and

(5) the Office for Domestic Preparedness of the Office of Justice Programs, including the functions of the Attorney General relating thereto.

Subtitle B—United States Customs Service

6 USC 211.

SEC. 411. ESTABLISHMENT; COMMISSIONER OF CUSTOMS.

(a) ESTABLISHMENT.—There is established in the Department the United States Customs Service, under the authority of the Under Secretary for Border and Transportation Security, which shall be vested with those functions including, but not limited

to those set forth in section 415(7), and the personnel, assets, and liabilities attributable to those functions.

(b) COMMISSIONER OF CUSTOMS.—

(1) IN GENERAL.—There shall be at the head of the Customs Service a Commissioner of Customs, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) COMPENSATION.—Section 5314 of title 5, United States Code, is amended by striking

“Commissioner of Customs, Department of the Treasury” and inserting

“Commissioner of Customs, Department of Homeland Security.”.

(3) CONTINUATION IN OFFICE.—The individual serving as the Commissioner of Customs on the day before the effective date of this Act may serve as the Commissioner of Customs on and after such effective date until a Commissioner of Customs is appointed under paragraph (1).

SEC. 412. RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY. 6 USC 212.

(a) RETENTION OF CUSTOMS REVENUE FUNCTIONS BY SECRETARY OF THE TREASURY.—

(1) RETENTION OF AUTHORITY.—Notwithstanding section 403(a)(1), authority related to Customs revenue functions that was vested in the Secretary of the Treasury by law before the effective date of this Act under those provisions of law set forth in paragraph (2) shall not be transferred to the Secretary by reason of this Act, and on and after the effective date of this Act, the Secretary of the Treasury may delegate any such authority to the Secretary at the discretion of the Secretary of the Treasury. The Secretary of the Treasury shall consult with the Secretary regarding the exercise of any such authority not delegated to the Secretary.

(2) STATUTES.—The provisions of law referred to in paragraph (1) are the following: the Tariff Act of 1930; section 249 of the Revised Statutes of the United States (19 U.S.C. 3); section 2 of the Act of March 4, 1923 (19 U.S.C. 6); section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c); section 251 of the Revised Statutes of the United States (19 U.S.C. 66); section 1 of the Act of June 26, 1930 (19 U.S.C. 68); the Foreign Trade Zones Act (19 U.S.C. 81a et seq.); section 1 of the Act of March 2, 1911 (19 U.S.C. 198); the Trade Act of 1974; the Trade Agreements Act of 1979; the North American Free Trade Area Implementation Act; the Uruguay Round Agreements Act; the Caribbean Basin Economic Recovery Act; the Andean Trade Preference Act; the African Growth and Opportunity Act; and any other provision of law vesting customs revenue functions in the Secretary of the Treasury.

(b) MAINTENANCE OF CUSTOMS REVENUE FUNCTIONS.—

(1) MAINTENANCE OF FUNCTIONS.—Notwithstanding any other provision of this Act, the Secretary may not consolidate, discontinue, or diminish those functions described in paragraph (2) performed by the United States Customs Service (as established under section 411) on or after the effective date of this Act, reduce the staffing level, or reduce the resources

attributable to such functions, and the Secretary shall ensure that an appropriate management structure is implemented to carry out such functions.

(2) **FUNCTIONS.**—The functions referred to in paragraph (1) are those functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(c) **NEW PERSONNEL.**—The Secretary of the Treasury is authorized to appoint up to 20 new personnel to work with personnel of the Department in performing customs revenue functions.

6 USC 213.

SEC. 413. PRESERVATION OF CUSTOMS FUNDS.

Notwithstanding any other provision of this Act, no funds available to the United States Customs Service or collected under paragraphs (1) through (8) of section 13031(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985 may be transferred for use by any other agency or office in the Department.

6 USC 214.

SEC. 414. SEPARATE BUDGET REQUEST FOR CUSTOMS.

The President shall include in each budget transmitted to Congress under section 1105 of title 31, United States Code, a separate budget request for the United States Customs Service.

6 USC 215.

SEC. 415. DEFINITION.

In this subtitle, the term “customs revenue function” means the following:

(1) Assessing and collecting customs duties (including anti-dumping and countervailing duties and duties imposed under safeguard provisions), excise taxes, fees, and penalties due on imported merchandise, including classifying and valuing merchandise for purposes of such assessment.

(2) Processing and denial of entry of persons, baggage, cargo, and mail, with respect to the assessment and collection of import duties.

(3) Detecting and apprehending persons engaged in fraudulent practices designed to circumvent the customs laws of the United States.

(4) Enforcing section 337 of the Tariff Act of 1930 and provisions relating to import quotas and the marking of imported merchandise, and providing Customs Recordations for copyrights, patents, and trademarks.

(5) Collecting accurate import data for compilation of international trade statistics.

(6) Enforcing reciprocal trade agreements.

(7) Functions performed by the following personnel, and associated support staff, of the United States Customs Service on the day before the effective date of this Act: Import Specialists, Entry Specialists, Drawback Specialists, National Import Specialist, Fines and Penalties Specialists, attorneys of the Office of Regulations and Rulings, Customs Auditors, International Trade Specialists, Financial Systems Specialists.

(8) Functions performed by the following offices, with respect to any function described in any of paragraphs (1) through (7), and associated support staff, of the United States

Customs Service on the day before the effective date of this Act: the Office of Information and Technology, the Office of Laboratory Services, the Office of the Chief Counsel, the Office of Congressional Affairs, the Office of International Affairs, and the Office of Training and Development.

SEC. 416. GAO REPORT TO CONGRESS.

6 USC 216.

Not later than 3 months after the effective date of this Act, the Comptroller General of the United States shall submit to Congress a report that sets forth all trade functions performed by the executive branch, specifying each agency that performs each such function.

Deadline.

SEC. 417. ALLOCATION OF RESOURCES BY THE SECRETARY.

6 USC 217.

(a) **IN GENERAL.**—The Secretary shall ensure that adequate staffing is provided to assure that levels of customs revenue services provided on the day before the effective date of this Act shall continue to be provided.

(b) **NOTIFICATION OF CONGRESS.**—The Secretary shall notify the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least 90 days prior to taking any action which would—

(1) result in any significant reduction in customs revenue services, including hours of operation, provided at any office within the Department or any port of entry;

(2) eliminate or relocate any office of the Department which provides customs revenue services; or

(3) eliminate any port of entry.

(c) **DEFINITION.**—In this section, the term “customs revenue services” means those customs revenue functions described in paragraphs (1) through (6) and paragraph (8) of section 415.

SEC. 418. REPORTS TO CONGRESS.

6 USC 218.

(a) **CONTINUING REPORTS.**—The United States Customs Service shall, on and after the effective date of this Act, continue to submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate any report required, on the day before such the effective date of this Act, to be so submitted under any provision of law.

(b) **REPORT ON CONFORMING AMENDMENTS.**—Not later than 60 days after the date of enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives of proposed conforming amendments to the statutes set forth under section 412(a)(2) in order to determine the appropriate allocation of legal authorities described under this subsection. The Secretary of the Treasury shall also identify those authorities vested in the Secretary of the Treasury that are exercised by the Commissioner of Customs on or before the effective date of this section.

Deadline.

SEC. 419. CUSTOMS USER FEES.

(a) **IN GENERAL.**—Section 13031(f) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(f)) is amended—

(1) in paragraph (1), by striking subparagraph (B) and inserting the following:

“(B) amounts deposited into the Customs Commercial and Homeland Security Automation Account under paragraph (5).”;

(2) in paragraph (4), by striking “(other than the excess fees determined by the Secretary under paragraph (5))”; and

(3) by striking paragraph (5) and inserting the following:

“(5)(A) There is created within the general fund of the Treasury a separate account that shall be known as the ‘Customs Commercial and Homeland Security Automation Account’. In each of fiscal years 2003, 2004, and 2005 there shall be deposited into the Account from fees collected under subsection (a)(9)(A), \$350,000,000.

“(B) There is authorized to be appropriated from the Account in fiscal years 2003 through 2005 such amounts as are available in that Account for the development, establishment, and implementation of the Automated Commercial Environment computer system for the processing of merchandise that is entered or released and for other purposes related to the functions of the Department of Homeland Security. Amounts appropriated pursuant to this subparagraph are authorized to remain available until expended.

“(C) In adjusting the fee imposed by subsection (a)(9)(A) for fiscal year 2006, the Secretary of the Treasury shall reduce the amount estimated to be collected in fiscal year 2006 by the amount by which total fees deposited to the Account during fiscal years 2003, 2004, and 2005 exceed total appropriations from that Account.”.

Ante, p. 973.

(b) CONFORMING AMENDMENT.—Section 311(b) of the Customs Border Security Act of 2002 (Public Law 107-210) is amended by striking paragraph (2).

Subtitle C—Miscellaneous Provisions

6 USC 231.

SEC. 421. TRANSFER OF CERTAIN AGRICULTURAL INSPECTION FUNCTIONS OF THE DEPARTMENT OF AGRICULTURE.

(a) TRANSFER OF AGRICULTURAL IMPORT AND ENTRY INSPECTION FUNCTIONS.—There shall be transferred to the Secretary the functions of the Secretary of Agriculture relating to agricultural import and entry inspection activities under the laws specified in subsection (b).

(b) COVERED ANIMAL AND PLANT PROTECTION LAWS.—The laws referred to in subsection (a) are the following:

(1) The Act commonly known as the Virus-Serum-Toxin Act (the eighth paragraph under the heading “Bureau of Animal Industry” in the Act of March 4, 1913; 21 U.S.C. 151 et seq.).

(2) Section 1 of the Act of August 31, 1922 (commonly known as the Honeybee Act; 7 U.S.C. 281).

(3) Title III of the Federal Seed Act (7 U.S.C. 1581 et seq.).

(4) The Plant Protection Act (7 U.S.C. 7701 et seq.).

(5) The Animal Health Protection Act (subtitle E of title X of Public Law 107-171; 7 U.S.C. 8301 et seq.).

(6) The Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

(7) Section 11 of the Endangered Species Act of 1973 (16 U.S.C. 1540).

(c) EXCLUSION OF QUARANTINE ACTIVITIES.—For purposes of this section, the term “functions” does not include any quarantine activities carried out under the laws specified in subsection (b).

(d) EFFECT OF TRANSFER.—

(1) COMPLIANCE WITH DEPARTMENT OF AGRICULTURE REGULATIONS.—The authority transferred pursuant to subsection (a) shall be exercised by the Secretary in accordance with the regulations, policies, and procedures issued by the Secretary of Agriculture regarding the administration of the laws specified in subsection (b).

(2) RULEMAKING COORDINATION.—The Secretary of Agriculture shall coordinate with the Secretary whenever the Secretary of Agriculture prescribes regulations, policies, or procedures for administering the functions transferred under subsection (a) under a law specified in subsection (b).

(3) EFFECTIVE ADMINISTRATION.—The Secretary, in consultation with the Secretary of Agriculture, may issue such directives and guidelines as are necessary to ensure the effective use of personnel of the Department of Homeland Security to carry out the functions transferred pursuant to subsection (a).

(e) TRANSFER AGREEMENT.—

(1) AGREEMENT REQUIRED; REVISION.—Before the end of the transition period, as defined in section 1501, the Secretary of Agriculture and the Secretary shall enter into an agreement to effectuate the transfer of functions required by subsection (a). The Secretary of Agriculture and the Secretary may jointly revise the agreement as necessary thereafter.

(2) REQUIRED TERMS.—The agreement required by this subsection shall specifically address the following:

(A) The supervision by the Secretary of Agriculture of the training of employees of the Secretary to carry out the functions transferred pursuant to subsection (a).

(B) The transfer of funds to the Secretary under subsection (f).

(3) COOPERATION AND RECIPROCITY.—The Secretary of Agriculture and the Secretary may include as part of the agreement the following:

(A) Authority for the Secretary to perform functions delegated to the Animal and Plant Health Inspection Service of the Department of Agriculture regarding the protection of domestic livestock and plants, but not transferred to the Secretary pursuant to subsection (a).

(B) Authority for the Secretary of Agriculture to use employees of the Department of Homeland Security to carry out authorities delegated to the Animal and Plant Health Inspection Service regarding the protection of domestic livestock and plants.

(f) PERIODIC TRANSFER OF FUNDS TO DEPARTMENT OF HOMELAND SECURITY.—

(1) TRANSFER OF FUNDS.—Out of funds collected by fees authorized under sections 2508 and 2509 of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136, 136a), the Secretary of Agriculture shall transfer, from time to time in accordance with the agreement under subsection (e), to the Secretary funds for activities carried out by the Secretary for which such fees were collected.

(2) LIMITATION.—The proportion of fees collected pursuant to such sections that are transferred to the Secretary under this subsection may not exceed the proportion of the costs incurred by the Secretary to all costs incurred to carry out activities funded by such fees.

(g) TRANSFER OF DEPARTMENT OF AGRICULTURE EMPLOYEES.—Not later than the completion of the transition period defined under section 1501, the Secretary of Agriculture shall transfer to the Secretary not more than 3,200 full-time equivalent positions of the Department of Agriculture.

(h) PROTECTION OF INSPECTION ANIMALS.—Title V of the Agricultural Risk Protection Act of 2000 (7 U.S.C. 2279e, 2279f) is amended—

7 USC 2279e.

(1) in section 501(a)—

(A) by inserting “or the Department of Homeland Security” after “Department of Agriculture”; and

(B) by inserting “or the Secretary of Homeland Security” after “Secretary of Agriculture”;

7 USC 2279e,
2279f.

(2) by striking “Secretary” each place it appears (other than in sections 501(a) and 501(e)) and inserting “Secretary concerned”; and

(3) by adding at the end of section 501 the following new subsection:

“(e) SECRETARY CONCERNED DEFINED.—In this title, the term ‘Secretary concerned’ means—

“(1) the Secretary of Agriculture, with respect to an animal used for purposes of official inspections by the Department of Agriculture; and

“(2) the Secretary of Homeland Security, with respect to an animal used for purposes of official inspections by the Department of Homeland Security.”.

6 USC 232.

SEC. 422. FUNCTIONS OF ADMINISTRATOR OF GENERAL SERVICES.

(a) OPERATION, MAINTENANCE, AND PROTECTION OF FEDERAL BUILDINGS AND GROUNDS.—Nothing in this Act may be construed to affect the functions or authorities of the Administrator of General Services with respect to the operation, maintenance, and protection of buildings and grounds owned or occupied by the Federal Government and under the jurisdiction, custody, or control of the Administrator. Except for the law enforcement and related security functions transferred under section 403(3), the Administrator shall retain all powers, functions, and authorities vested in the Administrator under chapter 10 of title 40, United States Code, and other provisions of law that are necessary for the operation, maintenance, and protection of such buildings and grounds.

(b) COLLECTION OF RENTS AND FEES; FEDERAL BUILDINGS FUND.—

(1) STATUTORY CONSTRUCTION.—Nothing in this Act may be construed—

(A) to direct the transfer of, or affect, the authority of the Administrator of General Services to collect rents and fees, including fees collected for protective services; or

(B) to authorize the Secretary or any other official in the Department to obligate amounts in the Federal Buildings Fund established by section 490(f) of title 40, United States Code.

(2) **USE OF TRANSFERRED AMOUNTS.**—Any amounts transferred by the Administrator of General Services to the Secretary out of rents and fees collected by the Administrator shall be used by the Secretary solely for the protection of buildings or grounds owned or occupied by the Federal Government.

SEC. 423. FUNCTIONS OF TRANSPORTATION SECURITY ADMINISTRATION.

6 USC 233.

(a) **CONSULTATION WITH FEDERAL AVIATION ADMINISTRATION.**—The Secretary and other officials in the Department shall consult with the Administrator of the Federal Aviation Administration before taking any action that might affect aviation safety, air carrier operations, aircraft airworthiness, or the use of airspace. The Secretary shall establish a liaison office within the Department for the purpose of consulting with the Administrator of the Federal Aviation Administration.

(b) **REPORT TO CONGRESS.**—Not later than 60 days after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report containing a plan for complying with the requirements of section 44901(d) of title 49, United States Code, as amended by section 425 of this Act.

Deadline.

(c) **LIMITATIONS ON STATUTORY CONSTRUCTION.**—

(1) **GRANT OF AUTHORITY.**—Nothing in this Act may be construed to vest in the Secretary or any other official in the Department any authority over transportation security that is not vested in the Under Secretary of Transportation for Security, or in the Secretary of Transportation under chapter 449 of title 49, United States Code, on the day before the date of enactment of this Act.

(2) **OBLIGATION OF AIP FUNDS.**—Nothing in this Act may be construed to authorize the Secretary or any other official in the Department to obligate amounts made available under section 48103 of title 49, United States Code.

SEC. 424. PRESERVATION OF TRANSPORTATION SECURITY ADMINISTRATION AS A DISTINCT ENTITY.

6 USC 234.

(a) **IN GENERAL.**—Notwithstanding any other provision of this Act, and subject to subsection (b), the Transportation Security Administration shall be maintained as a distinct entity within the Department under the Under Secretary for Border Transportation and Security.

(b) **SUNSET.**—Subsection (a) shall cease to apply 2 years after the date of enactment of this Act.

SEC. 425. EXPLOSIVE DETECTION SYSTEMS.

Section 44901(d) of title 49, United States Code, is amended by adding at the end the following:

“(2) **DEADLINE.**—

“(A) **IN GENERAL.**—If, in his discretion or at the request of an airport, the Under Secretary of Transportation for Security determines that the Transportation Security Administration is not able to deploy explosive detection systems required to be deployed under paragraph (1) at all airports where explosive detection systems are required by December 31, 2002, then with respect to each airport for which the Under Secretary makes that determination—

“(i) the Under Secretary shall submit to the Senate Committee on Commerce, Science, and Transportation

and the House of Representatives Committee on Transportation and Infrastructure a detailed plan (which may be submitted in classified form) for the deployment of the number of explosive detection systems at that airport necessary to meet the requirements of paragraph (1) as soon as practicable at that airport but in no event later than December 31, 2003; and

“(ii) the Under Secretary shall take all necessary action to ensure that alternative means of screening all checked baggage is implemented until the requirements of paragraph (1) have been met.

“(B) CRITERIA FOR DETERMINATION.—In making a determination under subparagraph (A), the Under Secretary shall take into account—

“(i) the nature and extent of the required modifications to the airport’s terminal buildings, and the technical, engineering, design and construction issues;

“(ii) the need to ensure that such installations and modifications are effective; and

“(iii) the feasibility and cost-effectiveness of deploying explosive detection systems in the baggage sorting area or other non-public area rather than the lobby of an airport terminal building.

“(C) RESPONSE.—The Under Secretary shall respond to the request of an airport under subparagraph (A) within 14 days of receiving the request. A denial of request shall create no right of appeal or judicial review.

“(D) AIRPORT EFFORT REQUIRED.—Each airport with respect to which the Under Secretary makes a determination under subparagraph (A) shall—

“(i) cooperate fully with the Transportation Security Administration with respect to screening checked baggage and changes to accommodate explosive detection systems; and

“(ii) make security projects a priority for the obligation or expenditure of funds made available under chapter 417 or 471 until explosive detection systems required to be deployed under paragraph (1) have been deployed at that airport.

“(3) REPORTS.—Until the Transportation Security Administration has met the requirements of paragraph (1), the Under Secretary shall submit a classified report every 30 days after the date of enactment of this Act to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure describing the progress made toward meeting such requirements at each airport.”.

SEC. 426. TRANSPORTATION SECURITY.

(a) TRANSPORTATION SECURITY OVERSIGHT BOARD.—

(1) ESTABLISHMENT.—Section 115(a) of title 49, United States Code, is amended by striking “Department of Transportation” and inserting “Department of Homeland Security”.

(2) MEMBERSHIP.—Section 115(b)(1) of title 49, United States Code, is amended—

(A) by striking subparagraph (G);

(B) by redesignating subparagraphs (A) through (F) as subparagraphs (B) through (G), respectively; and

(C) by inserting before subparagraph (B) (as so redesignated) the following:

“(A) The Secretary of Homeland Security, or the Secretary’s designee.”.

(3) CHAIRPERSON.—Section 115(b)(2) of title 49, United States Code, is amended by striking “Secretary of Transportation” and inserting “Secretary of Homeland Security”.

(b) APPROVAL OF AIP GRANT APPLICATIONS FOR SECURITY ACTIVITIES.—Section 47106 of title 49, United States Code, is amended by adding at the end the following:

“(g) CONSULTATION WITH SECRETARY OF HOMELAND SECURITY.—The Secretary shall consult with the Secretary of Homeland Security before approving an application under this subchapter for an airport development project grant for activities described in section 47102(3)(B)(ii) only as they relate to security equipment or section 47102(3)(B)(x) only as they relate to installation of bulk explosive detection system.”.

SEC. 427. COORDINATION OF INFORMATION AND INFORMATION TECHNOLOGY.

6 USC 235.

(a) DEFINITION OF AFFECTED AGENCY.—In this section, the term “affected agency” means—

- (1) the Department;
- (2) the Department of Agriculture;
- (3) the Department of Health and Human Services; and
- (4) any other department or agency determined to be appropriate by the Secretary.

(b) COORDINATION.—The Secretary, in coordination with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall ensure that appropriate information (as determined by the Secretary) concerning inspections of articles that are imported or entered into the United States, and are inspected or regulated by 1 or more affected agencies, is timely and efficiently exchanged between the affected agencies.

(c) REPORT AND PLAN.—Not later than 18 months after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, the Secretary of Health and Human Services, and the head of each other department or agency determined to be appropriate by the Secretary, shall submit to Congress—

Deadline.

- (1) a report on the progress made in implementing this section; and
- (2) a plan to complete implementation of this section.

SEC. 428. VISA ISSUANCE.

6 USC 236.

(a) DEFINITION.—In this subsection, the term “consular office” has the meaning given that term under section 101(a)(9) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(9)).

(b) IN GENERAL.—Notwithstanding section 104(a) of the Immigration and Nationality Act (8 U.S.C. 1104(a)) or any other provision of law, and except as provided in subsection (c) of this section, the Secretary—

- (1) shall be vested exclusively with all authorities to issue regulations with respect to, administer, and enforce the provisions of such Act, and of all other immigration and nationality

laws, relating to the functions of consular officers of the United States in connection with the granting or refusal of visas, and shall have the authority to refuse visas in accordance with law and to develop programs of homeland security training for consular officers (in addition to consular training provided by the Secretary of State), which authorities shall be exercised through the Secretary of State, except that the Secretary shall not have authority to alter or reverse the decision of a consular officer to refuse a visa to an alien; and

(2) shall have authority to confer or impose upon any officer or employee of the United States, with the consent of the head of the executive agency under whose jurisdiction such officer or employee is serving, any of the functions specified in paragraph (1).

(c) AUTHORITY OF THE SECRETARY OF STATE.—

(1) IN GENERAL.—Notwithstanding subsection (b), the Secretary of State may direct a consular officer to refuse a visa to an alien if the Secretary of State deems such refusal necessary or advisable in the foreign policy or security interests of the United States.

(2) CONSTRUCTION REGARDING AUTHORITY.—Nothing in this section, consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law, shall be construed as affecting the authorities of the Secretary of State under the following provisions of law:

(A) Section 101(a)(15)(A) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(A)).

(B) Section 204(d)(2) of the Immigration and Nationality Act (8 U.S.C. 1154) (as it will take effect upon the entry into force of the Convention on Protection of Children and Cooperation in Respect to Inter-Country adoption).

(C) Section 212(a)(3)(B)(i)(IV)(bb) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(IV)(bb)).

(D) Section 212(a)(3)(B)(i)(VI) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)(VI)).

(E) Section 212(a)(3)(B)(vi)(II) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)(II)).

(F) Section 212(a)(3)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(C)).

(G) Section 212(a)(10)(C) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(10)(C)).

(H) Section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)).

(I) Section 219(a) of the Immigration and Nationality Act (8 U.S.C. 1189(a)).

(J) Section 237(a)(4)(C) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)(C)).

(K) Section 401 of the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 (22 U.S.C. 6034; Public Law 104-114).

(L) Section 613 of the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1999 (as contained in section 101(b) of division A of Public Law 105-277) (Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999); 112 Stat. 2681; H.R. 4328 (originally H.R. 4276) as amended by section 617 of Public Law 106-553.

(M) Section 103(f) of the Chemical Weapon Convention Implementation Act of 1998 (112 Stat. 2681–865).

(N) Section 801 of H.R. 3427, the Admiral James W. Nance and Meg Donovan Foreign Relations Authorization Act, Fiscal Years 2000 and 2001, as enacted by reference in Public Law 106–113.

(O) Section 568 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2002 (Public Law 107–115).

(P) Section 51 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2723).

(d) CONSULAR OFFICERS AND CHIEFS OF MISSIONS.—

(1) IN GENERAL.—Nothing in this section may be construed to alter or affect—

(A) the employment status of consular officers as employees of the Department of State; or

(B) the authority of a chief of mission under section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(2) CONSTRUCTION REGARDING DELEGATION OF AUTHORITY.—Nothing in this section shall be construed to affect any delegation of authority to the Secretary of State by the President pursuant to any proclamation issued under section 212(f) of the Immigration and Nationality Act (8 U.S.C. 1182(f)), consistent with the Secretary of Homeland Security's authority to refuse visas in accordance with law.

(e) ASSIGNMENT OF HOMELAND SECURITY EMPLOYEES TO DIPLOMATIC AND CONSULAR POSTS.—

(1) IN GENERAL.—The Secretary is authorized to assign employees of the Department to each diplomatic and consular post at which visas are issued, unless the Secretary determines that such an assignment at a particular post would not promote homeland security.

(2) FUNCTIONS.—Employees assigned under paragraph (1) shall perform the following functions:

(A) Provide expert advice and training to consular officers regarding specific security threats relating to the adjudication of individual visa applications or classes of applications.

(B) Review any such applications, either on the initiative of the employee of the Department or upon request by a consular officer or other person charged with adjudicating such applications.

(C) Conduct investigations with respect to consular matters under the jurisdiction of the Secretary.

(3) EVALUATION OF CONSULAR OFFICERS.—The Secretary of State shall evaluate, in consultation with the Secretary, as deemed appropriate by the Secretary, the performance of consular officers with respect to the processing and adjudication of applications for visas in accordance with performance standards developed by the Secretary for these procedures.

(4) REPORT.—The Secretary shall, on an annual basis, submit a report to Congress that describes the basis for each determination under paragraph (1) that the assignment of an employee of the Department at a particular diplomatic post would not promote homeland security.

(5) PERMANENT ASSIGNMENT; PARTICIPATION IN TERRORIST LOOKOUT COMMITTEE.—When appropriate, employees of the

Department assigned to perform functions described in paragraph (2) may be assigned permanently to overseas diplomatic or consular posts with country-specific or regional responsibility. If the Secretary so directs, any such employee, when present at an overseas post, shall participate in the terrorist lookout committee established under section 304 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1733).

(6) TRAINING AND HIRING.—

(A) IN GENERAL.—The Secretary shall ensure, to the extent possible, that any employees of the Department assigned to perform functions under paragraph (2) and, as appropriate, consular officers, shall be provided the necessary training to enable them to carry out such functions, including training in foreign languages, interview techniques, and fraud detection techniques, in conditions in the particular country where each employee is assigned, and in other appropriate areas of study.

(B) USE OF CENTER.—The Secretary is authorized to use the National Foreign Affairs Training Center, on a reimbursable basis, to obtain the training described in subparagraph (A).

Deadline.

(7) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary and the Secretary of State shall submit to Congress—

(A) a report on the implementation of this subsection; and

(B) any legislative proposals necessary to further the objectives of this subsection.

(8) EFFECTIVE DATE.—This subsection shall take effect on the earlier of—

(A) the date on which the President publishes notice in the Federal Register that the President has submitted a report to Congress setting forth a memorandum of understanding between the Secretary and the Secretary of State governing the implementation of this section; or

(B) the date occurring 1 year after the date of enactment of this Act.

(f) NO CREATION OF PRIVATE RIGHT OF ACTION.—Nothing in this section shall be construed to create or authorize a private right of action to challenge a decision of a consular officer or other United States official or employee to grant or deny a visa.

(g) STUDY REGARDING USE OF FOREIGN NATIONALS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall conduct a study of the role of foreign nationals in the granting or refusal of visas and other documents authorizing entry of aliens into the United States. The study shall address the following:

(A) The proper role, if any, of foreign nationals in the process of rendering decisions on such grants and refusals.

(B) Any security concerns involving the employment of foreign nationals.

(C) Whether there are cost-effective alternatives to the use of foreign nationals.

Deadline.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report

containing the findings of the study conducted under paragraph (1) to the Committee on the Judiciary, the Committee on International Relations, and the Committee on Government Reform of the House of Representatives, and the Committee on the Judiciary, the Committee on Foreign Relations, and the Committee on Government Affairs of the Senate.

(h) **REPORT.**—Not later than 120 days after the date of the enactment of this Act, the Director of the Office of Science and Technology Policy shall submit to Congress a report on how the provisions of this section will affect procedures for the issuance of student visas. Deadline.

(i) **VISA ISSUANCE PROGRAM FOR SAUDI ARABIA.**—Notwithstanding any other provision of law, after the date of the enactment of this Act all third party screening programs in Saudi Arabia shall be terminated. On-site personnel of the Department of Homeland Security shall review all visa applications prior to adjudication.

SEC. 429. INFORMATION ON VISA DENIALS REQUIRED TO BE ENTERED INTO ELECTRONIC DATA SYSTEM. 6 USC 237.

(a) **IN GENERAL.**—Whenever a consular officer of the United States denies a visa to an applicant, the consular officer shall enter the fact and the basis of the denial and the name of the applicant into the interoperable electronic data system implemented under section 202(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1722(a)).

(b) **PROHIBITION.**—In the case of any alien with respect to whom a visa has been denied under subsection (a)—

(1) no subsequent visa may be issued to the alien unless the consular officer considering the alien's visa application has reviewed the information concerning the alien placed in the interoperable electronic data system, has indicated on the alien's application that the information has been reviewed, and has stated for the record why the visa is being issued or a waiver of visa ineligibility recommended in spite of that information; and

(2) the alien may not be admitted to the United States without a visa issued in accordance with the procedures described in paragraph (1).

SEC. 430. OFFICE FOR DOMESTIC PREPAREDNESS. 6 USC 238.

(a) **IN GENERAL.**—The Office for Domestic Preparedness shall be within the Directorate of Border and Transportation Security.

(b) **DIRECTOR.**—There shall be a Director of the Office for Domestic Preparedness, who shall be appointed by the President, by and with the advice and consent of the Senate. The Director of the Office for Domestic Preparedness shall report directly to the Under Secretary for Border and Transportation Security. President.

(c) **RESPONSIBILITIES.**—The Office for Domestic Preparedness shall have the primary responsibility within the executive branch of Government for the preparedness of the United States for acts of terrorism, including—

(1) coordinating preparedness efforts at the Federal level, and working with all State, local, tribal, parish, and private sector emergency response providers on all matters pertaining to combating terrorism, including training, exercises, and equipment support;

(2) coordinating or, as appropriate, consolidating communications and systems of communications relating to homeland security at all levels of government;

(3) directing and supervising terrorism preparedness grant programs of the Federal Government (other than those programs administered by the Department of Health and Human Services) for all emergency response providers;

(4) incorporating the Strategy priorities into planning guidance on an agency level for the preparedness efforts of the Office for Domestic Preparedness;

(5) providing agency-specific training for agents and analysts within the Department, other agencies, and State and local agencies and international entities;

(6) as the lead executive branch agency for preparedness of the United States for acts of terrorism, cooperating closely with the Federal Emergency Management Agency, which shall have the primary responsibility within the executive branch to prepare for and mitigate the effects of nonterrorist-related disasters in the United States;

(7) assisting and supporting the Secretary, in coordination with other Directorates and entities outside the Department, in conducting appropriate risk analysis and risk management activities of State, local, and tribal governments consistent with the mission and functions of the Directorate; and

(8) those elements of the Office of National Preparedness of the Federal Emergency Management Agency which relate to terrorism, which shall be consolidated within the Department in the Office for Domestic Preparedness established under this section.

(d) FISCAL YEARS 2003 and 2004.—During fiscal year 2003 and fiscal year 2004, the Director of the Office for Domestic Preparedness established under this section shall manage and carry out those functions of the Office for Domestic Preparedness of the Department of Justice (transferred under this section) before September 11, 2001, under the same terms, conditions, policies, and authorities, and with the required level of personnel, assets, and budget before September 11, 2001.

Subtitle D—Immigration Enforcement Functions

6 USC 251.

SEC. 441. TRANSFER OF FUNCTIONS TO UNDER SECRETARY FOR BORDER AND TRANSPORTATION SECURITY.

In accordance with title XV (relating to transition provisions), there shall be transferred from the Commissioner of Immigration and Naturalization to the Under Secretary for Border and Transportation Security all functions performed under the following programs, and all personnel, assets, and liabilities pertaining to such programs, immediately before such transfer occurs:

- (1) The Border Patrol program.
- (2) The detention and removal program.
- (3) The intelligence program.
- (4) The investigations program.
- (5) The inspections program.

SEC. 442. ESTABLISHMENT OF BUREAU OF BORDER SECURITY.

6 USC 252.

(a) ESTABLISHMENT OF BUREAU.—

(1) **IN GENERAL.**—There shall be in the Department of Homeland Security a bureau to be known as the “Bureau of Border Security”.

(2) **ASSISTANT SECRETARY.**—The head of the Bureau of Border Security shall be the Assistant Secretary of the Bureau of Border Security, who—

(A) shall report directly to the Under Secretary for Border and Transportation Security; and

(B) shall have a minimum of 5 years professional experience in law enforcement, and a minimum of 5 years of management experience.

(3) **FUNCTIONS.**—The Assistant Secretary of the Bureau of Border Security—

(A) shall establish the policies for performing such functions as are—

(i) transferred to the Under Secretary for Border and Transportation Security by section 441 and delegated to the Assistant Secretary by the Under Secretary for Border and Transportation Security; or

(ii) otherwise vested in the Assistant Secretary by law;

(B) shall oversee the administration of such policies; and

(C) shall advise the Under Secretary for Border and Transportation Security with respect to any policy or operation of the Bureau of Border Security that may affect the Bureau of Citizenship and Immigration Services established under subtitle E, including potentially conflicting policies or operations.

(4) **PROGRAM TO COLLECT INFORMATION RELATING TO FOREIGN STUDENTS.**—The Assistant Secretary of the Bureau of Border Security shall be responsible for administering the program to collect information relating to nonimmigrant foreign students and other exchange program participants described in section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1372), including the Student and Exchange Visitor Information System established under that section, and shall use such information to carry out the enforcement functions of the Bureau.

(5) MANAGERIAL ROTATION PROGRAM.—

(A) **IN GENERAL.**—Not later than 1 year after the date on which the transfer of functions specified under section 441 takes effect, the Assistant Secretary of the Bureau of Border Security shall design and implement a managerial rotation program under which employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS-14 or above, shall—

Deadline.

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one local office of such bureau.

(B) **REPORT.**—Not later than 2 years after the date on which the transfer of functions specified under section

Deadline.

441 takes effect, the Secretary shall submit a report to the Congress on the implementation of such program.

(b) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Border Security.

(2) FUNCTIONS.—In consultation with Bureau of Border Security personnel in local offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration enforcement issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services (established under subtitle E), as appropriate.

(c) LEGAL ADVISOR.—There shall be a principal legal advisor to the Assistant Secretary of the Bureau of Border Security. The legal advisor shall provide specialized legal advice to the Assistant Secretary of the Bureau of Border Security and shall represent the bureau in all exclusion, deportation, and removal proceedings before the Executive Office for Immigration Review.

6 USC 253.

SEC. 443. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

The Under Secretary for Border and Transportation Security shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Border Security that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Border Security and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Border Security.

6 USC 254.

SEC. 444. EMPLOYEE DISCIPLINE.

The Under Secretary for Border and Transportation Security may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Border Security who willfully deceives the Congress or agency leadership on any matter.

6 USC 255.

SEC. 445. REPORT ON IMPROVING ENFORCEMENT FUNCTIONS.

Deadline.

(a) IN GENERAL.—The Secretary, not later than 1 year after being sworn into office, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Border Security, after the transfer of functions specified under section 441 takes effect, will enforce comprehensively, effectively, and fairly all the enforcement provisions of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) relating to such functions.

(b) CONSULTATION.—In carrying out subsection (a), the Secretary of Homeland Security shall consult with the Attorney General, the Secretary of State, the Director of the Federal Bureau of Investigation, the Secretary of the Treasury, the Secretary of Labor, the Commissioner of Social Security, the Director of the

Executive Office for Immigration Review, and the heads of State and local law enforcement agencies to determine how to most effectively conduct enforcement operations.

SEC. 446. SENSE OF CONGRESS REGARDING CONSTRUCTION OF FENCING NEAR SAN DIEGO, CALIFORNIA. 6 USC 256.

It is the sense of the Congress that completing the 14-mile border fence project required to be carried out under section 102(b) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1103 note) should be a priority for the Secretary.

Subtitle E—Citizenship and Immigration Services

SEC. 451. ESTABLISHMENT OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES. 6 USC 271.

(a) ESTABLISHMENT OF BUREAU.—

(1) IN GENERAL.—There shall be in the Department a bureau to be known as the “Bureau of Citizenship and Immigration Services”.

(2) DIRECTOR.—The head of the Bureau of Citizenship and Immigration Services shall be the Director of the Bureau of Citizenship and Immigration Services, who—

(A) shall report directly to the Deputy Secretary;

(B) shall have a minimum of 5 years of management experience; and

(C) shall be paid at the same level as the Assistant Secretary of the Bureau of Border Security.

(3) FUNCTIONS.—The Director of the Bureau of Citizenship and Immigration Services—

(A) shall establish the policies for performing such functions as are transferred to the Director by this section or this Act or otherwise vested in the Director by law;

(B) shall oversee the administration of such policies;

(C) shall advise the Deputy Secretary with respect to any policy or operation of the Bureau of Citizenship and Immigration Services that may affect the Bureau of Border Security of the Department, including potentially conflicting policies or operations;

(D) shall establish national immigration services policies and priorities;

(E) shall meet regularly with the Ombudsman described in section 452 to correct serious service problems identified by the Ombudsman; and

(F) shall establish procedures requiring a formal response to any recommendations submitted in the Ombudsman’s annual report to Congress within 3 months after its submission to Congress.

(4) MANAGERIAL ROTATION PROGRAM.—

(A) IN GENERAL.—Not later than 1 year after the effective date specified in section 455, the Director of the Bureau of Citizenship and Immigration Services shall design and implement a managerial rotation program under which

Deadline.

employees of such bureau holding positions involving supervisory or managerial responsibility and classified, in accordance with chapter 51 of title 5, United States Code, as a GS-14 or above, shall—

(i) gain some experience in all the major functions performed by such bureau; and

(ii) work in at least one field office and one service center of such bureau.

Deadline.

(B) REPORT.—Not later than 2 years after the effective date specified in section 455, the Secretary shall submit a report to Congress on the implementation of such program.

(5) PILOT INITIATIVES FOR BACKLOG ELIMINATION.—The Director of the Bureau of Citizenship and Immigration Services is authorized to implement innovative pilot initiatives to eliminate any remaining backlog in the processing of immigration benefit applications, and to prevent any backlog in the processing of such applications from recurring, in accordance with section 204(a) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)). Such initiatives may include measures such as increasing personnel, transferring personnel to focus on areas with the largest potential for backlog, and streamlining paperwork.

(b) TRANSFER OF FUNCTIONS FROM COMMISSIONER.—In accordance with title XV (relating to transition provisions), there are transferred from the Commissioner of Immigration and Naturalization to the Director of the Bureau of Citizenship and Immigration Services the following functions, and all personnel, infrastructure, and funding provided to the Commissioner in support of such functions immediately before the effective date specified in section 455:

(1) Adjudications of immigrant visa petitions.

(2) Adjudications of naturalization petitions.

(3) Adjudications of asylum and refugee applications.

(4) Adjudications performed at service centers.

(5) All other adjudications performed by the Immigration and Naturalization Service immediately before the effective date specified in section 455.

(c) CHIEF OF POLICY AND STRATEGY.—

(1) IN GENERAL.—There shall be a position of Chief of Policy and Strategy for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—In consultation with Bureau of Citizenship and Immigration Services personnel in field offices, the Chief of Policy and Strategy shall be responsible for—

(A) making policy recommendations and performing policy research and analysis on immigration services issues; and

(B) coordinating immigration policy issues with the Chief of Policy and Strategy for the Bureau of Border Security of the Department.

(d) LEGAL ADVISOR.—

(1) IN GENERAL.—There shall be a principal legal advisor to the Director of the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The legal advisor shall be responsible for—

(A) providing specialized legal advice, opinions, determinations, regulations, and any other assistance to the Director of the Bureau of Citizenship and Immigration Services with respect to legal matters affecting the Bureau of Citizenship and Immigration Services; and

(B) representing the Bureau of Citizenship and Immigration Services in visa petition appeal proceedings before the Executive Office for Immigration Review.

(e) BUDGET OFFICER.—

(1) IN GENERAL.—There shall be a Budget Officer for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—

(A) IN GENERAL.—The Budget Officer shall be responsible for—

(i) formulating and executing the budget of the Bureau of Citizenship and Immigration Services;

(ii) financial management of the Bureau of Citizenship and Immigration Services; and

(iii) collecting all payments, fines, and other debts for the Bureau of Citizenship and Immigration Services.

(f) CHIEF OF OFFICE OF CITIZENSHIP.—

(1) IN GENERAL.—There shall be a position of Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services.

(2) FUNCTIONS.—The Chief of the Office of Citizenship for the Bureau of Citizenship and Immigration Services shall be responsible for promoting instruction and training on citizenship responsibilities for aliens interested in becoming naturalized citizens of the United States, including the development of educational materials.

SEC. 452. CITIZENSHIP AND IMMIGRATION SERVICES OMBUDSMAN. 6 USC 272.

(a) IN GENERAL.—Within the Department, there shall be a position of Citizenship and Immigration Services Ombudsman (in this section referred to as the “Ombudsman”). The Ombudsman shall report directly to the Deputy Secretary. The Ombudsman shall have a background in customer service as well as immigration law.

(b) FUNCTIONS.—It shall be the function of the Ombudsman—

(1) to assist individuals and employers in resolving problems with the Bureau of Citizenship and Immigration Services;

(2) to identify areas in which individuals and employers have problems in dealing with the Bureau of Citizenship and Immigration Services; and

(3) to the extent possible, to propose changes in the administrative practices of the Bureau of Citizenship and Immigration Services to mitigate problems identified under paragraph (2).

(c) ANNUAL REPORTS.—

(1) OBJECTIVES.—Not later than June 30 of each calendar year, the Ombudsman shall report to the Committee on the Judiciary of the House of Representatives and the Senate on the objectives of the Office of the Ombudsman for the fiscal year beginning in such calendar year. Any such report shall contain full and substantive analysis, in addition to statistical information, and— Deadline.

(A) shall identify the recommendations the Office of the Ombudsman has made on improving services and responsiveness of the Bureau of Citizenship and Immigration Services;

(B) shall contain a summary of the most pervasive and serious problems encountered by individuals and employers, including a description of the nature of such problems;

(C) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action has been taken and the result of such action;

(D) shall contain an inventory of the items described in subparagraphs (A) and (B) for which action remains to be completed and the period during which each item has remained on such inventory;

(E) shall contain an inventory of the items described in subparagraphs (A) and (B) for which no action has been taken, the period during which each item has remained on such inventory, the reasons for the inaction, and shall identify any official of the Bureau of Citizenship and Immigration Services who is responsible for such inaction;

(F) shall contain recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers, including problems created by excessive backlogs in the adjudication and processing of immigration benefit petitions and applications; and

(G) shall include such other information as the Ombudsman may deem advisable.

(2) REPORT TO BE SUBMITTED DIRECTLY.—Each report required under this subsection shall be provided directly to the committees described in paragraph (1) without any prior comment or amendment from the Secretary, Deputy Secretary, Director of the Bureau of Citizenship and Immigration Services, or any other officer or employee of the Department or the Office of Management and Budget.

(d) OTHER RESPONSIBILITIES.—The Ombudsman—

(1) shall monitor the coverage and geographic allocation of local offices of the Ombudsman;

(2) shall develop guidance to be distributed to all officers and employees of the Bureau of Citizenship and Immigration Services outlining the criteria for referral of inquiries to local offices of the Ombudsman;

(3) shall ensure that the local telephone number for each local office of the Ombudsman is published and available to individuals and employers served by the office; and

(4) shall meet regularly with the Director of the Bureau of Citizenship and Immigration Services to identify serious service problems and to present recommendations for such administrative action as may be appropriate to resolve problems encountered by individuals and employers.

(e) PERSONNEL ACTIONS.—

(1) IN GENERAL.—The Ombudsman shall have the responsibility and authority—

(A) to appoint local ombudsmen and make available at least 1 such ombudsman for each State; and

(B) to evaluate and take personnel actions (including dismissal) with respect to any employee of any local office of the Ombudsman.

(2) CONSULTATION.—The Ombudsman may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services in carrying out the Ombudsman's responsibilities under this subsection.

(f) RESPONSIBILITIES OF BUREAU OF CITIZENSHIP AND IMMIGRATION SERVICES.—The Director of the Bureau of Citizenship and Immigration Services shall establish procedures requiring a formal response to all recommendations submitted to such director by the Ombudsman within 3 months after submission to such director.

(g) OPERATION OF LOCAL OFFICES.—

(1) IN GENERAL.—Each local ombudsman—

(A) shall report to the Ombudsman or the delegate thereof;

(B) may consult with the appropriate supervisory personnel of the Bureau of Citizenship and Immigration Services regarding the daily operation of the local office of such ombudsman;

(C) shall, at the initial meeting with any individual or employer seeking the assistance of such local office, notify such individual or employer that the local offices of the Ombudsman operate independently of any other component of the Department and report directly to Congress through the Ombudsman; and

(D) at the local ombudsman's discretion, may determine not to disclose to the Bureau of Citizenship and Immigration Services contact with, or information provided by, such individual or employer.

(2) MAINTENANCE OF INDEPENDENT COMMUNICATIONS.—

Each local office of the Ombudsman shall maintain a phone, facsimile, and other means of electronic communication access, and a post office address, that is separate from those maintained by the Bureau of Citizenship and Immigration Services, or any component of the Bureau of Citizenship and Immigration Services.

SEC. 453. PROFESSIONAL RESPONSIBILITY AND QUALITY REVIEW.

6 USC 273.

(a) IN GENERAL.—The Director of the Bureau of Citizenship and Immigration Services shall be responsible for—

(1) conducting investigations of noncriminal allegations of misconduct, corruption, and fraud involving any employee of the Bureau of Citizenship and Immigration Services that are not subject to investigation by the Inspector General for the Department;

(2) inspecting the operations of the Bureau of Citizenship and Immigration Services and providing assessments of the quality of the operations of such bureau as a whole and each of its components; and

(3) providing an analysis of the management of the Bureau of Citizenship and Immigration Services.

(b) SPECIAL CONSIDERATIONS.—In providing assessments in accordance with subsection (a)(2) with respect to a decision of the Bureau of Citizenship and Immigration Services, or any of its components, consideration shall be given to—

(1) the accuracy of the findings of fact and conclusions of law used in rendering the decision;

(2) any fraud or misrepresentation associated with the decision; and

(3) the efficiency with which the decision was rendered.

6 USC 274.

SEC. 454. EMPLOYEE DISCIPLINE.

The Director of the Bureau of Citizenship and Immigration Services may, notwithstanding any other provision of law, impose disciplinary action, including termination of employment, pursuant to policies and procedures applicable to employees of the Federal Bureau of Investigation, on any employee of the Bureau of Citizenship and Immigration Services who willfully deceives Congress or agency leadership on any matter.

6 USC 271 note.

SEC. 455. EFFECTIVE DATE.

Notwithstanding section 4, sections 451 through 456, and the amendments made by such sections, shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

6 USC 275.

SEC. 456. TRANSITION.

(a) REFERENCES.—With respect to any function transferred by this subtitle to, and exercised on or after the effective date specified in section 455 by, the Director of the Bureau of Citizenship and Immigration Services, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Bureau of Citizenship and Immigration Services; or

(2) to such component is deemed to refer to the Bureau of Citizenship and Immigration Services.

(b) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this subtitle may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in section 455.

(2) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed in connection with the functions transferred by this subtitle (and functions that the Secretary determines are properly related to the functions of the Bureau of Citizenship and Immigration Services), and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this subtitle, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Bureau of Citizenship and Immigration Services for allocation to the appropriate component of the Department. Unexpended funds transferred

pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated. The Secretary shall have the right to adjust or realign transfers of funds and personnel effected pursuant to this subtitle for a period of 2 years after the effective date specified in section 455.

SEC. 457. FUNDING FOR CITIZENSHIP AND IMMIGRATION SERVICES.

Section 286(m) of the Immigration and Nationality Act (8 U.S.C. 1356(m)) is amended by striking “services, including the costs of similar services provided without charge to asylum applicants or other immigrants.” and inserting “services.”.

SEC. 458. BACKLOG ELIMINATION.

Section 204(a)(1) of the Immigration Services and Infrastructure Improvements Act of 2000 (8 U.S.C. 1573(a)(1)) is amended by striking “not later than one year after the date of enactment of this Act;” and inserting “1 year after the date of the enactment of the Homeland Security Act of 2002;”.

SEC. 459. REPORT ON IMPROVING IMMIGRATION SERVICES.

6 USC 276.

(a) **IN GENERAL.**—The Secretary, not later than 1 year after the effective date of this Act, shall submit to the Committees on the Judiciary and Appropriations of the House of Representatives and of the Senate a report with a plan detailing how the Bureau of Citizenship and Immigration Services, after the transfer of functions specified in this subtitle takes effect, will complete efficiently, fairly, and within a reasonable time, the adjudications described in paragraphs (1) through (5) of section 451(b).

Deadline.

(b) **CONTENTS.**—For each type of adjudication to be undertaken by the Director of the Bureau of Citizenship and Immigration Services, the report shall include the following:

(1) Any potential savings of resources that may be implemented without affecting the quality of the adjudication.

(2) The goal for processing time with respect to the application.

(3) Any statutory modifications with respect to the adjudication that the Secretary considers advisable.

(c) **CONSULTATION.**—In carrying out subsection (a), the Secretary shall consult with the Secretary of State, the Secretary of Labor, the Assistant Secretary of the Bureau of Border Security of the Department, and the Director of the Executive Office for Immigration Review to determine how to streamline and improve the process for applying for and making adjudications described in section 451(b) and related processes.

SEC. 460. REPORT ON RESPONDING TO FLUCTUATING NEEDS.

6 USC 277.

Not later than 30 days after the date of the enactment of this Act, the Attorney General shall submit to Congress a report on changes in law, including changes in authorizations of appropriations and in appropriations, that are needed to permit the Immigration and Naturalization Service, and, after the transfer of functions specified in this subtitle takes effect, the Bureau of Citizenship and Immigration Services of the Department, to ensure a prompt and timely response to emergent, unforeseen, or impending changes in the number of applications for immigration benefits, and otherwise to ensure the accommodation of changing immigration service needs.

Deadline.

6 USC 278.

SEC. 461. APPLICATION OF INTERNET-BASED TECHNOLOGIES.

Deadline.

(a) **ESTABLISHMENT OF TRACKING SYSTEM.**—The Secretary, not later than 1 year after the effective date of this Act, in consultation with the Technology Advisory Committee established under subsection (c), shall establish an Internet-based system, that will permit a person, employer, immigrant, or nonimmigrant who has filings with the Secretary for any benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), access to online information about the processing status of the filing involved.

(b) **FEASIBILITY STUDY FOR ONLINE FILING AND IMPROVED PROCESSING.**—

(1) **ONLINE FILING.**—The Secretary, in consultation with the Technology Advisory Committee established under subsection (c), shall conduct a feasibility study on the online filing of the filings described in subsection (a). The study shall include a review of computerization and technology of the Immigration and Naturalization Service relating to the immigration services and processing of filings related to immigrant services. The study shall also include an estimate of the timeframe and cost and shall consider other factors in implementing such a filing system, including the feasibility of fee payment online.

Deadline.

(2) **REPORT.**—A report on the study under this subsection shall be submitted to the Committees on the Judiciary of the House of Representatives and the Senate not later than 1 year after the effective date of this Act.

(c) **TECHNOLOGY ADVISORY COMMITTEE.**—

Deadline.

(1) **ESTABLISHMENT.**—The Secretary shall establish, not later than 60 days after the effective date of this Act, an advisory committee (in this section referred to as the “Technology Advisory Committee”) to assist the Secretary in—

(A) establishing the tracking system under subsection (a); and

(B) conducting the study under subsection (b).

The Technology Advisory Committee shall be established after consultation with the Committees on the Judiciary of the House of Representatives and the Senate.

(2) **COMPOSITION.**—The Technology Advisory Committee shall be composed of representatives from high technology companies capable of establishing and implementing the system in an expeditious manner, and representatives of persons who may use the tracking system described in subsection (a) and the online filing system described in subsection (b)(1).

6 USC 279.

SEC. 462. CHILDREN’S AFFAIRS.

(a) **TRANSFER OF FUNCTIONS.**—There are transferred to the Director of the Office of Refugee Resettlement of the Department of Health and Human Services functions under the immigration laws of the United States with respect to the care of unaccompanied alien children that were vested by statute in, or performed by, the Commissioner of Immigration and Naturalization (or any officer, employee, or component of the Immigration and Naturalization Service) immediately before the effective date specified in subsection (d).

(b) **FUNCTIONS.**—

(1) **IN GENERAL.**—Pursuant to the transfer made by subsection (a), the Director of the Office of Refugee Resettlement shall be responsible for—

(A) coordinating and implementing the care and placement of unaccompanied alien children who are in Federal custody by reason of their immigration status, including developing a plan to be submitted to Congress on how to ensure that qualified and independent legal counsel is timely appointed to represent the interests of each such child, consistent with the law regarding appointment of counsel that is in effect on the date of the enactment of this Act;

(B) ensuring that the interests of the child are considered in decisions and actions relating to the care and custody of an unaccompanied alien child;

(C) making placement determinations for all unaccompanied alien children who are in Federal custody by reason of their immigration status;

(D) implementing the placement determinations;

(E) implementing policies with respect to the care and placement of unaccompanied alien children;

(F) identifying a sufficient number of qualified individuals, entities, and facilities to house unaccompanied alien children;

(G) overseeing the infrastructure and personnel of facilities in which unaccompanied alien children reside;

(H) reuniting unaccompanied alien children with a parent abroad in appropriate cases;

(I) compiling, updating, and publishing at least annually a state-by-state list of professionals or other entities qualified to provide guardian and attorney representation services for unaccompanied alien children;

(J) maintaining statistical information and other data on unaccompanied alien children for whose care and placement the Director is responsible, which shall include—

(i) biographical information, such as a child's name, gender, date of birth, country of birth, and country of habitual residence;

(ii) the date on which the child came into Federal custody by reason of his or her immigration status;

(iii) information relating to the child's placement, removal, or release from each facility in which the child has resided;

(iv) in any case in which the child is placed in detention or released, an explanation relating to the detention or release; and

(v) the disposition of any actions in which the child is the subject;

(K) collecting and compiling statistical information from the Department of Justice, the Department of Homeland Security, and the Department of State on each department's actions relating to unaccompanied alien children; and

(L) conducting investigations and inspections of facilities and other entities in which unaccompanied alien children reside.

(2) COORDINATION WITH OTHER ENTITIES; NO RELEASE ON OWN RECOGNIZANCE.—In making determinations described in paragraph (1)(C), the Director of the Office of Refugee Resettlement—

(A) shall consult with appropriate juvenile justice professionals, the Director of the Bureau of Citizenship and Immigration Services, and the Assistant Secretary of the Bureau of Border Security to ensure that such determinations ensure that unaccompanied alien children described in such subparagraph—

(i) are likely to appear for all hearings or proceedings in which they are involved;

(ii) are protected from smugglers, traffickers, or others who might seek to victimize or otherwise engage them in criminal, harmful, or exploitive activity; and

(iii) are placed in a setting in which they are not likely to pose a danger to themselves or others; and

(B) shall not release such children upon their own recognizance.

(3) DUTIES WITH RESPECT TO FOSTER CARE.—In carrying out the duties described in paragraph (1)(G), the Director of the Office of Refugee Resettlement is encouraged to use the refugee children foster care system established pursuant to section 412(d) of the Immigration and Nationality Act (8 U.S.C. 1522(d)) for the placement of unaccompanied alien children.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to transfer the responsibility for adjudicating benefit determinations under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) from the authority of any official of the Department of Justice, the Department of Homeland Security, or the Department of State.

(d) EFFECTIVE DATE.—Notwithstanding section 4, this section shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

(e) REFERENCES.—With respect to any function transferred by this section, any reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to a component of government from which such function is transferred—

(1) to the head of such component is deemed to refer to the Director of the Office of Refugee Resettlement; or

(2) to such component is deemed to refer to the Office of Refugee Resettlement of the Department of Health and Human Services.

(f) OTHER TRANSITION ISSUES.—

(1) EXERCISE OF AUTHORITIES.—Except as otherwise provided by law, a Federal official to whom a function is transferred by this section may, for purposes of performing the function, exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date specified in subsection (d).

(2) SAVINGS PROVISIONS.—Subsections (a), (b), and (c) of section 1512 shall apply to a transfer of functions under this section in the same manner as such provisions apply to a transfer of functions under this Act to the Department of Homeland Security.

(3) TRANSFER AND ALLOCATION OF APPROPRIATIONS AND PERSONNEL.—The personnel of the Department of Justice employed

in connection with the functions transferred by this section, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available to, the Immigration and Naturalization Service in connection with the functions transferred by this section, subject to section 202 of the Budget and Accounting Procedures Act of 1950, shall be transferred to the Director of the Office of Refugee Resettlement for allocation to the appropriate component of the Department of Health and Human Services. Unexpended funds transferred pursuant to this paragraph shall be used only for the purposes for which the funds were originally authorized and appropriated.

(g) DEFINITIONS.—As used in this section—

(1) the term “placement” means the placement of an unaccompanied alien child in either a detention facility or an alternative to such a facility; and

(2) the term “unaccompanied alien child” means a child who—

(A) has no lawful immigration status in the United States;

(B) has not attained 18 years of age; and

(C) with respect to whom—

(i) there is no parent or legal guardian in the United States; or

(ii) no parent or legal guardian in the United States is available to provide care and physical custody.

Subtitle F—General Immigration Provisions

SEC. 471. ABOLISHMENT OF INS.

6 USC 291.

(a) IN GENERAL.—Upon completion of all transfers from the Immigration and Naturalization Service as provided for by this Act, the Immigration and Naturalization Service of the Department of Justice is abolished.

(b) PROHIBITION.—The authority provided by section 1502 may be used to reorganize functions or organizational units within the Bureau of Border Security or the Bureau of Citizenship and Immigration Services, but may not be used to recombine the two bureaus into a single agency or otherwise to combine, join, or consolidate functions or organizational units of the two bureaus with each other.

SEC. 472. VOLUNTARY SEPARATION INCENTIVE PAYMENTS.

6 USC 292.

(a) DEFINITIONS.—For purposes of this section—

(1) the term “employee” means an employee (as defined by section 2105 of title 5, United States Code) who—

(A) has completed at least 3 years of current continuous service with 1 or more covered entities; and

(B) is serving under an appointment without time limitation,

but does not include any person under subparagraphs (A)–(G) of section 663(a)(2) of Public Law 104–208 (5 U.S.C. 5597 note);

(2) the term “covered entity” means—

(A) the Immigration and Naturalization Service;

(B) the Bureau of Border Security of the Department of Homeland Security; and

(C) the Bureau of Citizenship and Immigration Services of the Department of Homeland Security; and

(3) the term “transfer date” means the date on which the transfer of functions specified under section 441 takes effect.

(b) STRATEGIC RESTRUCTURING PLAN.—Before the Attorney General or the Secretary obligates any resources for voluntary separation incentive payments under this section, such official shall submit to the appropriate committees of Congress a strategic restructuring plan, which shall include—

(1) an organizational chart depicting the covered entities after their restructuring pursuant to this Act;

(2) a summary description of how the authority under this section will be used to help carry out that restructuring; and

(3) the information specified in section 663(b)(2) of Public Law 104-208 (5 U.S.C. 5597 note).

As used in the preceding sentence, the “appropriate committees of Congress” are the Committees on Appropriations, Government Reform, and the Judiciary of the House of Representatives, and the Committees on Appropriations, Governmental Affairs, and the Judiciary of the Senate.

(c) AUTHORITY.—The Attorney General and the Secretary may, to the extent necessary to help carry out their respective strategic restructuring plan described in subsection (b), make voluntary separation incentive payments to employees. Any such payment—

(1) shall be paid to the employee, in a lump sum, after the employee has separated from service;

(2) shall be paid from appropriations or funds available for the payment of basic pay of the employee;

(3) shall be equal to the lesser of—

(A) the amount the employee would be entitled to receive under section 5595(c) of title 5, United States Code; or

(B) an amount not to exceed \$25,000, as determined by the Attorney General or the Secretary;

(4) may not be made except in the case of any qualifying employee who voluntarily separates (whether by retirement or resignation) before the end of—

(A) the 3-month period beginning on the date on which such payment is offered or made available to such employee; or

(B) the 3-year period beginning on the date of the enactment of this Act,

whichever occurs first;

(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit; and

(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595 of title 5, United States Code, based on any other separation.

(d) ADDITIONAL AGENCY CONTRIBUTIONS TO THE RETIREMENT FUND.—

(1) IN GENERAL.—In addition to any payments which it is otherwise required to make, the Department of Justice and the Department of Homeland Security shall, for each fiscal year with respect to which it makes any voluntary separation incentive payments under this section, remit to the Office of Personnel Management for deposit in the Treasury of the United States to the credit of the Civil Service Retirement and Disability Fund the amount required under paragraph (2).

(2) AMOUNT REQUIRED.—The amount required under this paragraph shall, for any fiscal year, be the amount under subparagraph (A) or (B), whichever is greater.

(A) FIRST METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to the minimum amount necessary to offset the additional costs to the retirement systems under title 5, United States Code (payable out of the Civil Service Retirement and Disability Fund) resulting from the voluntary separation of the employees described in paragraph (3), as determined under regulations of the Office of Personnel Management.

(B) SECOND METHOD.—The amount under this subparagraph shall, for any fiscal year, be equal to 45 percent of the sum total of the final basic pay of the employees described in paragraph (3).

(3) COMPUTATIONS TO BE BASED ON SEPARATIONS OCCURRING IN THE FISCAL YEAR INVOLVED.—The employees described in this paragraph are those employees who receive a voluntary separation incentive payment under this section based on their separating from service during the fiscal year with respect to which the payment under this subsection relates.

(4) FINAL BASIC PAY DEFINED.—In this subsection, the term “final basic pay” means, with respect to an employee, the total amount of basic pay which would be payable for a year of service by such employee, computed using the employee’s final rate of basic pay, and, if last serving on other than a full-time basis, with appropriate adjustment therefor.

(e) EFFECT OF SUBSEQUENT EMPLOYMENT WITH THE GOVERNMENT.—An individual who receives a voluntary separation incentive payment under this section and who, within 5 years after the date of the separation on which the payment is based, accepts any compensated employment with the Government or works for any agency of the Government through a personal services contract, shall be required to pay, prior to the individual’s first day of employment, the entire amount of the incentive payment. Such payment shall be made to the covered entity from which the individual separated or, if made on or after the transfer date, to the Deputy Secretary or the Under Secretary for Border and Transportation Security (for transfer to the appropriate component of the Department of Homeland Security, if necessary).

(f) EFFECT ON EMPLOYMENT LEVELS.—

(1) INTENDED EFFECT.—Voluntary separations under this section are not intended to necessarily reduce the total number of full-time equivalent positions in any covered entity.

(2) USE OF VOLUNTARY SEPARATIONS.—A covered entity may redeploy or use the full-time equivalent positions vacated by

voluntary separations under this section to make other positions available to more critical locations or more critical occupations.

6 USC 293.

SEC. 473. AUTHORITY TO CONDUCT A DEMONSTRATION PROJECT RELATING TO DISCIPLINARY ACTION.

Deadline.

(a) **IN GENERAL.**—The Attorney General and the Secretary may each, during a period ending not later than 5 years after the date of the enactment of this Act, conduct a demonstration project for the purpose of determining whether one or more changes in the policies or procedures relating to methods for disciplining employees would result in improved personnel management.

(b) **SCOPE.**—A demonstration project under this section—

(1) may not cover any employees apart from those employed in or under a covered entity; and

(2) shall not be limited by any provision of chapter 43, 75, or 77 of title 5, United States Code.

(c) **PROCEDURES.**—Under the demonstration project—

(1) the use of alternative means of dispute resolution (as defined in section 571 of title 5, United States Code) shall be encouraged, whenever appropriate; and

(2) each covered entity under the jurisdiction of the official conducting the project shall be required to provide for the expeditious, fair, and independent review of any action to which section 4303 or subchapter II of chapter 75 of such title 5 would otherwise apply (except an action described in section 7512(5) of such title 5).

(d) **ACTIONS INVOLVING DISCRIMINATION.**—Notwithstanding any other provision of this section, if, in the case of any matter described in section 7702(a)(1)(B) of title 5, United States Code, there is no judicially reviewable action under the demonstration project within 120 days after the filing of an appeal or other formal request for review (referred to in subsection (c)(2)), an employee shall be entitled to file a civil action to the same extent and in the same manner as provided in section 7702(e)(1) of such title 5 (in the matter following subparagraph (C) thereof).

(e) **CERTAIN EMPLOYEES.**—Employees shall not be included within any project under this section if such employees are—

(1) neither managers nor supervisors; and

(2) within a unit with respect to which a labor organization is accorded exclusive recognition under chapter 71 of title 5, United States Code.

Notwithstanding the preceding sentence, an aggrieved employee within a unit (referred to in paragraph (2)) may elect to participate in a complaint procedure developed under the demonstration project in lieu of any negotiated grievance procedure and any statutory procedure (as such term is used in section 7121 of such title 5).

(f) **REPORTS.**—The General Accounting Office shall prepare and submit to the Committees on Government Reform and the Judiciary of the House of Representatives and the Committees on Governmental Affairs and the Judiciary of the Senate periodic reports on any demonstration project conducted under this section, such reports to be submitted after the second and fourth years of its operation. Upon request, the Attorney General or the Secretary shall furnish such information as the General Accounting Office may require to carry out this subsection.

(g) DEFINITION.—In this section, the term “covered entity” has the meaning given such term in section 472(a)(2).

SEC. 474. SENSE OF CONGRESS.

6 USC 294.

It is the sense of Congress that—

(1) the missions of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services are equally important and, accordingly, they each should be adequately funded; and

(2) the functions transferred under this subtitle should not, after such transfers take effect, operate at levels below those in effect prior to the enactment of this Act.

SEC. 475. DIRECTOR OF SHARED SERVICES.

6 USC 295.

(a) IN GENERAL.—Within the Office of Deputy Secretary, there shall be a Director of Shared Services.

(b) FUNCTIONS.—The Director of Shared Services shall be responsible for the coordination of resources for the Bureau of Border Security and the Bureau of Citizenship and Immigration Services, including—

(1) information resources management, including computer databases and information technology;

(2) records and file management; and

(3) forms management.

SEC. 476. SEPARATION OF FUNDING.

6 USC 296.

(a) IN GENERAL.—There shall be established separate accounts in the Treasury of the United States for appropriated funds and other deposits available for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(b) SEPARATE BUDGETS.—To ensure that the Bureau of Citizenship and Immigration Services and the Bureau of Border Security are funded to the extent necessary to fully carry out their respective functions, the Director of the Office of Management and Budget shall separate the budget requests for each such entity.

(c) FEES.—Fees imposed for a particular service, application, or benefit shall be deposited into the account established under subsection (a) that is for the bureau with jurisdiction over the function to which the fee relates.

(d) FEES NOT TRANSFERABLE.—No fee may be transferred between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security for purposes not authorized by section 286 of the Immigration and Nationality Act (8 U.S.C. 1356).

SEC. 477. REPORTS AND IMPLEMENTATION PLANS.

6 USC 297.

(a) DIVISION OF FUNDS.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division and transfer of funds, including unexpended funds, appropriations, and fees, between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

Deadline.

(b) DIVISION OF PERSONNEL.—The Secretary, not later than 120 days after the effective date of this Act, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate a report on the proposed division of personnel between the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

Deadline.

(c) IMPLEMENTATION PLAN.—

Deadline.

(1) IN GENERAL.—The Secretary, not later than 120 days after the effective date of this Act, and every 6 months thereafter until the termination of fiscal year 2005, shall submit to the Committees on Appropriations and the Judiciary of the House of Representatives and of the Senate an implementation plan to carry out this Act.

(2) CONTENTS.—The implementation plan should include details concerning the separation of the Bureau of Citizenship and Immigration Services and the Bureau of Border Security, including the following:

(A) Organizational structure, including the field structure.

(B) Chain of command.

(C) Procedures for interaction among such bureaus.

(D) Fraud detection and investigation.

(E) The processing and handling of removal proceedings, including expedited removal and applications for relief from removal.

(F) Recommendations for conforming amendments to the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(G) Establishment of a transition team.

(H) Methods to phase in the costs of separating the administrative support systems of the Immigration and Naturalization Service in order to provide for separate administrative support systems for the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(d) COMPTROLLER GENERAL STUDIES AND REPORTS.—

Deadline.

(1) STATUS REPORTS ON TRANSITION.—Not later than 18 months after the date on which the transfer of functions specified under section 441 takes effect, and every 6 months thereafter, until full implementation of this subtitle has been completed, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report containing the following:

(A) A determination of whether the transfers of functions made by subtitles D and E have been completed, and if a transfer of functions has not taken place, identifying the reasons why the transfer has not taken place.

(B) If the transfers of functions made by subtitles D and E have been completed, an identification of any issues that have arisen due to the completed transfers.

(C) An identification of any issues that may arise due to any future transfer of functions.

Deadline.

(2) REPORT ON MANAGEMENT.—Not later than 4 years after the date on which the transfer of functions specified under section 441 takes effect, the Comptroller General of the United States shall submit to the Committees on Appropriations and on the Judiciary of the House of Representatives and the Senate a report, following a study, containing the following:

(A) Determinations of whether the transfer of functions from the Immigration and Naturalization Service to the Bureau of Citizenship and Immigration Services and the

Bureau of Border Security have improved, with respect to each function transferred, the following:

- (i) Operations.
- (ii) Management, including accountability and communication.
- (iii) Financial administration.
- (iv) Recordkeeping, including information management and technology.

(B) A statement of the reasons for the determinations under subparagraph (A).

(C) Any recommendations for further improvements to the Bureau of Citizenship and Immigration Services and the Bureau of Border Security.

(3) REPORT ON FEES.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on the Judiciary of the House of Representatives and of the Senate a report examining whether the Bureau of Citizenship and Immigration Services is likely to derive sufficient funds from fees to carry out its functions in the absence of appropriated funds. Deadline.

SEC. 478. IMMIGRATION FUNCTIONS.

6 USC 298.

(a) ANNUAL REPORT.—

(1) IN GENERAL.—One year after the date of the enactment of this Act, and each year thereafter, the Secretary shall submit a report to the President, to the Committees on the Judiciary and Government Reform of the House of Representatives, and to the Committees on the Judiciary and Government Affairs of the Senate, on the impact the transfers made by this subtitle has had on immigration functions.

(2) MATTER INCLUDED.—The report shall address the following with respect to the period covered by the report:

(A) The aggregate number of all immigration applications and petitions received, and processed, by the Department.

(B) Region-by-region statistics on the aggregate number of immigration applications and petitions filed by an alien (or filed on behalf of an alien) and denied, disaggregated by category of denial and application or petition type.

(C) The quantity of backlogged immigration applications and petitions that have been processed, the aggregate number awaiting processing, and a detailed plan for eliminating the backlog.

(D) The average processing period for immigration applications and petitions, disaggregated by application or petition type.

(E) The number and types of immigration-related grievances filed with any official of the Department of Justice, and if those grievances were resolved.

(F) Plans to address grievances and improve immigration services.

(G) Whether immigration-related fees were used consistent with legal requirements regarding such use.

(H) Whether immigration-related questions conveyed by customers to the Department (whether conveyed in person, by telephone, or by means of the Internet) were answered effectively and efficiently.

(b) SENSE OF CONGRESS REGARDING IMMIGRATION SERVICES.—It is the sense of Congress that—

(1) the quality and efficiency of immigration services rendered by the Federal Government should be improved after the transfers made by this subtitle take effect; and

(2) the Secretary should undertake efforts to guarantee that concerns regarding the quality and efficiency of immigration services are addressed after such effective date.

TITLE V—EMERGENCY PREPAREDNESS AND RESPONSE

6 USC 311. SEC. 501. UNDER SECRETARY FOR EMERGENCY PREPAREDNESS AND RESPONSE.

There shall be in the Department a Directorate of Emergency Preparedness and Response headed by an Under Secretary for Emergency Preparedness and Response.

6 USC 312. SEC. 502. RESPONSIBILITIES.

The Secretary, acting through the Under Secretary for Emergency Preparedness and Response, shall include—

(1) helping to ensure the effectiveness of emergency response providers to terrorist attacks, major disasters, and other emergencies;

(2) with respect to the Nuclear Incident Response Team (regardless of whether it is operating as an organizational unit of the Department pursuant to this title)—

(A) establishing standards and certifying when those standards have been met;

(B) conducting joint and other exercises and training and evaluating performance; and

(C) providing funds to the Department of Energy and the Environmental Protection Agency, as appropriate, for homeland security planning, exercises and training, and equipment;

(3) providing the Federal Government's response to terrorist attacks and major disasters, including—

(A) managing such response;

(B) directing the Domestic Emergency Support Team, the Strategic National Stockpile, the National Disaster Medical System, and (when operating as an organizational unit of the Department pursuant to this title) the Nuclear Incident Response Team;

(C) overseeing the Metropolitan Medical Response System; and

(D) coordinating other Federal response resources in the event of a terrorist attack or major disaster;

(4) aiding the recovery from terrorist attacks and major disasters;

(5) building a comprehensive national incident management system with Federal, State, and local government personnel,

agencies, and authorities, to respond to such attacks and disasters;

(6) consolidating existing Federal Government emergency response plans into a single, coordinated national response plan; and

(7) developing comprehensive programs for developing interoperative communications technology, and helping to ensure that emergency response providers acquire such technology.

SEC. 503. FUNCTIONS TRANSFERRED.

6 USC 313.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and liabilities of the following entities:

(1) The Federal Emergency Management Agency, including the functions of the Director of the Federal Emergency Management Agency relating thereto.

(2) The Integrated Hazard Information System of the National Oceanic and Atmospheric Administration, which shall be renamed “FIRESAT”.

(3) The National Domestic Preparedness Office of the Federal Bureau of Investigation, including the functions of the Attorney General relating thereto.

(4) The Domestic Emergency Support Teams of the Department of Justice, including the functions of the Attorney General relating thereto.

(5) The Office of Emergency Preparedness, the National Disaster Medical System, and the Metropolitan Medical Response System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness relating thereto.

(6) The Strategic National Stockpile of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services relating thereto.

SEC. 504. NUCLEAR INCIDENT RESPONSE.

6 USC 314.

(a) IN GENERAL.—At the direction of the Secretary (in connection with an actual or threatened terrorist attack, major disaster, or other emergency in the United States), the Nuclear Incident Response Team shall operate as an organizational unit of the Department. While so operating, the Nuclear Incident Response Team shall be subject to the direction, authority, and control of the Secretary.

(b) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to limit the ordinary responsibility of the Secretary of Energy and the Administrator of the Environmental Protection Agency for organizing, training, equipping, and utilizing their respective entities in the Nuclear Incident Response Team, or (subject to the provisions of this title) from exercising direction, authority, and control over them when they are not operating as a unit of the Department.

SEC. 505. CONDUCT OF CERTAIN PUBLIC HEALTH-RELATED ACTIVITIES.

6 USC 315.

(a) IN GENERAL.—With respect to all public health-related activities to improve State, local, and hospital preparedness and response to chemical, biological, radiological, and nuclear and other

emerging terrorist threats carried out by the Department of Health and Human Services (including the Public Health Service), the Secretary of Health and Human Services shall set priorities and preparedness goals and further develop a coordinated strategy for such activities in collaboration with the Secretary.

(b) **EVALUATION OF PROGRESS.**—In carrying out subsection (a), the Secretary of Health and Human Services shall collaborate with the Secretary in developing specific benchmarks and outcome measurements for evaluating progress toward achieving the priorities and goals described in such subsection.

6 USC 316.

SEC. 506. DEFINITION.

In this title, the term “Nuclear Incident Response Team” means a resource that includes—

(1) those entities of the Department of Energy that perform nuclear or radiological emergency support functions (including accident response, search response, advisory, and technical operations functions), radiation exposure functions at the medical assistance facility known as the Radiation Emergency Assistance Center/Training Site (REAC/TS), radiological assistance functions, and related functions; and

(2) those entities of the Environmental Protection Agency that perform such support functions (including radiological emergency response functions) and related functions.

6 USC 317.

SEC. 507. ROLE OF FEDERAL EMERGENCY MANAGEMENT AGENCY.

(a) **IN GENERAL.**—The functions of the Federal Emergency Management Agency include the following:

(1) All functions and authorities prescribed by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(2) Carrying out its mission to reduce the loss of life and property and protect the Nation from all hazards by leading and supporting the Nation in a comprehensive, risk-based emergency management program—

(A) of mitigation, by taking sustained actions to reduce or eliminate long-term risk to people and property from hazards and their effects;

(B) of planning for building the emergency management profession to prepare effectively for, mitigate against, respond to, and recover from any hazard;

(C) of response, by conducting emergency operations to save lives and property through positioning emergency equipment and supplies, through evacuating potential victims, through providing food, water, shelter, and medical care to those in need, and through restoring critical public services;

(D) of recovery, by rebuilding communities so individuals, businesses, and governments can function on their own, return to normal life, and protect against future hazards; and

(E) of increased efficiencies, by coordinating efforts relating to mitigation, planning, response, and recovery.

(b) **FEDERAL RESPONSE PLAN.**—

(1) **ROLE OF FEMA.**—Notwithstanding any other provision of this Act, the Federal Emergency Management Agency shall

remain the lead agency for the Federal Response Plan established under Executive Order No. 12148 (44 Fed. Reg. 43239) and Executive Order No. 12656 (53 Fed. Reg. 47491).

(2) REVISION OF RESPONSE PLAN.—Not later than 60 days after the date of enactment of this Act, the Director of the Federal Emergency Management Agency shall revise the Federal Response Plan to reflect the establishment of and incorporate the Department. Deadline.

SEC. 508. USE OF NATIONAL PRIVATE SECTOR NETWORKS IN EMERGENCY RESPONSE. 6 USC 318.

To the maximum extent practicable, the Secretary shall use national private sector networks and infrastructure for emergency response to chemical, biological, radiological, nuclear, or explosive disasters, and other major disasters.

SEC. 509. USE OF COMMERCIALY AVAILABLE TECHNOLOGY, GOODS, AND SERVICES. 6 USC 319.

It is the sense of Congress that—

(1) the Secretary should, to the maximum extent possible, use off-the-shelf commercially developed technologies to ensure that the Department's information technology systems allow the Department to collect, manage, share, analyze, and disseminate information securely over multiple channels of communication; and

(2) in order to further the policy of the United States to avoid competing commercially with the private sector, the Secretary should rely on commercial sources to supply the goods and services needed by the Department.

TITLE VI—TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS

SEC. 601. TREATMENT OF CHARITABLE TRUSTS FOR MEMBERS OF THE ARMED FORCES OF THE UNITED STATES AND OTHER GOVERNMENTAL ORGANIZATIONS. 6 USC 331.

(a) FINDINGS.—Congress finds the following:

(1) Members of the Armed Forces of the United States defend the freedom and security of our Nation.

(2) Members of the Armed Forces of the United States have lost their lives while battling the evils of terrorism around the world.

(3) Personnel of the Central Intelligence Agency (CIA) charged with the responsibility of covert observation of terrorists around the world are often put in harm's way during their service to the United States.

(4) Personnel of the Central Intelligence Agency have also lost their lives while battling the evils of terrorism around the world.

(5) Employees of the Federal Bureau of Investigation (FBI) and other Federal agencies charged with domestic protection

of the United States put their lives at risk on a daily basis for the freedom and security of our Nation.

(6) United States military personnel, CIA personnel, FBI personnel, and other Federal agents in the service of the United States are patriots of the highest order.

(7) CIA officer Johnny Micheal Spann became the first American to give his life for his country in the War on Terrorism declared by President George W. Bush following the terrorist attacks of September 11, 2001.

(8) Johnny Micheal Spann left behind a wife and children who are very proud of the heroic actions of their patriot father.

(9) Surviving dependents of members of the Armed Forces of the United States who lose their lives as a result of terrorist attacks or military operations abroad receive a \$6,000 death benefit, plus a small monthly benefit.

(10) The current system of compensating spouses and children of American patriots is inequitable and needs improvement.

(b) DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Any charitable corporation, fund, foundation, or trust (or separate fund or account thereof) which otherwise meets all applicable requirements under law with respect to charitable entities and meets the requirements described in subsection (c) shall be eligible to characterize itself as a “Johnny Micheal Spann Patriot Trust”.

(c) REQUIREMENTS FOR THE DESIGNATION OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—The requirements described in this subsection are as follows:

(1) Not taking into account funds or donations reasonably necessary to establish a trust, at least 85 percent of all funds or donations (including any earnings on the investment of such funds or donations) received or collected by any Johnny Micheal Spann Patriot Trust must be distributed to (or, if placed in a private foundation, held in trust for) surviving spouses, children, or dependent parents, grandparents, or siblings of 1 or more of the following:

(A) members of the Armed Forces of the United States;

(B) personnel, including contractors, of elements of the intelligence community, as defined in section 3(4) of the National Security Act of 1947;

(C) employees of the Federal Bureau of Investigation; and

(D) officers, employees, or contract employees of the United States Government,

whose deaths occur in the line of duty and arise out of terrorist attacks, military operations, intelligence operations, or law enforcement operations or accidents connected with activities occurring after September 11, 2001, and related to domestic or foreign efforts to curb international terrorism, including the Authorization for Use of Military Force (Public Law 107-40; 115 Stat. 224).

(2) Other than funds or donations reasonably necessary to establish a trust, not more than 15 percent of all funds or donations (or 15 percent of annual earnings on funds invested in a private foundation) may be used for administrative purposes.

(3) No part of the net earnings of any Johnny Micheal Spann Patriot Trust may inure to the benefit of any individual based solely on the position of such individual as a shareholder, an officer or employee of such Trust.

(4) None of the activities of any Johnny Micheal Spann Patriot Trust shall be conducted in a manner inconsistent with any law that prohibits attempting to influence legislation.

(5) No Johnny Micheal Spann Patriot Trust may participate in or intervene in any political campaign on behalf of (or in opposition to) any candidate for public office, including by publication or distribution of statements.

(6) Each Johnny Micheal Spann Patriot Trust shall comply with the instructions and directions of the Director of Central Intelligence, the Attorney General, or the Secretary of Defense relating to the protection of intelligence sources and methods, sensitive law enforcement information, or other sensitive national security information, including methods for confidentially disbursing funds.

(7) Each Johnny Micheal Spann Patriot Trust that receives annual contributions totaling more than \$1,000,000 must be audited annually by an independent certified public accounting firm. Such audits shall be filed with the Internal Revenue Service, and shall be open to public inspection, except that the conduct, filing, and availability of the audit shall be consistent with the protection of intelligence sources and methods, of sensitive law enforcement information, and of other sensitive national security information.

(8) Each Johnny Micheal Spann Patriot Trust shall make distributions to beneficiaries described in paragraph (1) at least once every calendar year, beginning not later than 12 months after the formation of such Trust, and all funds and donations received and earnings not placed in a private foundation dedicated to such beneficiaries must be distributed within 36 months after the end of the fiscal year in which such funds, donations, and earnings are received.

(9)(A) When determining the amount of a distribution to any beneficiary described in paragraph (1), a Johnny Micheal Spann Patriot Trust should take into account the amount of any collateral source compensation that the beneficiary has received or is entitled to receive as a result of the death of an individual described in paragraph (1).

(B) Collateral source compensation includes all compensation from collateral sources, including life insurance, pension funds, death benefit programs, and payments by Federal, State, or local governments related to the death of an individual described in paragraph (1).

(d) TREATMENT OF JOHNNY MICHEAL SPANN PATRIOT TRUSTS.—Each Johnny Micheal Spann Patriot Trust shall refrain from conducting the activities described in clauses (i) and (ii) of section 301(20)(A) of the Federal Election Campaign Act of 1971 so that a general solicitation of funds by an individual described in paragraph (1) of section 323(e) of such Act will be permissible if such solicitation meets the requirements of paragraph (4)(A) of such section.

(e) NOTIFICATION OF TRUST BENEFICIARIES.—Notwithstanding any other provision of law, and in a manner consistent with the protection of intelligence sources and methods and sensitive law

enforcement information, and other sensitive national security information, the Secretary of Defense, the Director of the Federal Bureau of Investigation, or the Director of Central Intelligence, or their designees, as applicable, may forward information received from an executor, administrator, or other legal representative of the estate of a decedent described in subparagraph (A), (B), (C), or (D) of subsection (c)(1), to a Johnny Micheal Spann Patriot Trust on how to contact individuals eligible for a distribution under subsection (c)(1) for the purpose of providing assistance from such Trust: *Provided*, That, neither forwarding nor failing to forward any information under this subsection shall create any cause of action against any Federal department, agency, officer, agent, or employee.

Deadline.

(f) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in coordination with the Attorney General, the Director of the Federal Bureau of Investigation, and the Director of Central Intelligence, shall prescribe regulations to carry out this section.

TITLE VII—MANAGEMENT

6 USC 341.

SEC. 701. UNDER SECRETARY FOR MANAGEMENT.

(a) IN GENERAL.—The Secretary, acting through the Under Secretary for Management, shall be responsible for the management and administration of the Department, including the following:

- (1) The budget, appropriations, expenditures of funds, accounting, and finance.
- (2) Procurement.
- (3) Human resources and personnel.
- (4) Information technology and communications systems.
- (5) Facilities, property, equipment, and other material resources.
- (6) Security for personnel, information technology and communications systems, facilities, property, equipment, and other material resources.
- (7) Identification and tracking of performance measures relating to the responsibilities of the Department.
- (8) Grants and other assistance management programs.
- (9) The transition and reorganization process, to ensure an efficient and orderly transfer of functions and personnel to the Department, including the development of a transition plan.
- (10) The conduct of internal audits and management analyses of the programs and activities of the Department.
- (11) Any other management duties that the Secretary may designate.

(b) IMMIGRATION.—

(1) IN GENERAL.—In addition to the responsibilities described in subsection (a), the Under Secretary for Management shall be responsible for the following:

- (A) Maintenance of all immigration statistical information of the Bureau of Border Security and the Bureau of Citizenship and Immigration Services. Such statistical information shall include information and statistics of the

type contained in the publication entitled “Statistical Yearbook of the Immigration and Naturalization Service” prepared by the Immigration and Naturalization Service (as in effect immediately before the date on which the transfer of functions specified under section 441 takes effect), including region-by-region statistics on the aggregate number of applications and petitions filed by an alien (or filed on behalf of an alien) and denied by such bureau, and the reasons for such denials, disaggregated by category of denial and application or petition type.

(B) Establishment of standards of reliability and validity for immigration statistics collected by such bureaus.

(2) **TRANSFER OF FUNCTIONS.**—In accordance with title XV, there shall be transferred to the Under Secretary for Management all functions performed immediately before such transfer occurs by the Statistics Branch of the Office of Policy and Planning of the Immigration and Naturalization Service with respect to the following programs:

- (A) The Border Patrol program.
- (B) The detention and removal program.
- (C) The intelligence program.
- (D) The investigations program.
- (E) The inspections program.
- (F) Adjudication of immigrant visa petitions.
- (G) Adjudication of naturalization petitions.
- (H) Adjudication of asylum and refugee applications.
- (I) Adjudications performed at service centers.
- (J) All other adjudications performed by the Immigration and Naturalization Service.

SEC. 702. CHIEF FINANCIAL OFFICER.

6 USC 342.

The Chief Financial Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 703. CHIEF INFORMATION OFFICER.

6 USC 343.

The Chief Information Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct.

SEC. 704. CHIEF HUMAN CAPITAL OFFICER.

6 USC 344.

The Chief Human Capital Officer shall report to the Secretary, or to another official of the Department, as the Secretary may direct and shall ensure that all employees of the Department are informed of their rights and remedies under chapters 12 and 23 of title 5, United States Code, by—

- (1) participating in the 2302(c) Certification Program of the Office of Special Counsel;
- (2) achieving certification from the Office of Special Counsel of the Department’s compliance with section 2302(c) of title 5, United States Code; and
- (3) informing Congress of such certification not later than 24 months after the date of enactment of this Act.

SEC. 705. ESTABLISHMENT OF OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

6 USC 345.

(a) **IN GENERAL.**—The Secretary shall appoint in the Department an Officer for Civil Rights and Civil Liberties, who shall—

(1) review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling by employees and officials of the Department; and

(2) make public through the Internet, radio, television, or newspaper advertisements information on the responsibilities and functions of, and how to contact, the Officer.

(b) **REPORT.**—The Secretary shall submit to the President of the Senate, the Speaker of the House of Representatives, and the appropriate committees and subcommittees of Congress on an annual basis a report on the implementation of this section, including the use of funds appropriated to carry out this section, and detailing any allegations of abuses described under subsection (a)(1) and any actions taken by the Department in response to such allegations.

6 USC 346.

SEC. 706. CONSOLIDATION AND CO-LOCATION OF OFFICES.

Deadline.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall develop and submit to Congress a plan for consolidating and co-locating—

(1) any regional offices or field offices of agencies that are transferred to the Department under this Act, if such officers are located in the same municipality; and

(2) portions of regional and field offices of other Federal agencies, to the extent such offices perform functions that are transferred to the Secretary under this Act.

TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS

Subtitle A—Coordination with Non-Federal Entities

6 USC 361.

SEC. 801. OFFICE FOR STATE AND LOCAL GOVERNMENT COORDINATION.

(a) **ESTABLISHMENT.**—There is established within the Office of the Secretary the Office for State and Local Government Coordination, to oversee and coordinate departmental programs for and relationships with State and local governments.

(b) **RESPONSIBILITIES.**—The Office established under subsection (a) shall—

(1) coordinate the activities of the Department relating to State and local government;

(2) assess, and advocate for, the resources needed by State and local government to implement the national strategy for combating terrorism;

(3) provide State and local government with regular information, research, and technical support to assist local efforts at securing the homeland; and

(4) develop a process for receiving meaningful input from State and local government to assist the development of the

national strategy for combating terrorism and other homeland security activities.

Subtitle B—Inspector General

SEC. 811. AUTHORITY OF THE SECRETARY.

6 USC 371.

(a) IN GENERAL.—Notwithstanding the last two sentences of section 3(a) of the Inspector General Act of 1978, the Inspector General shall be under the authority, direction, and control of the Secretary with respect to audits or investigations, or the issuance of subpoenas, that require access to sensitive information concerning—

(1) intelligence, counterintelligence, or counterterrorism matters;

(2) ongoing criminal investigations or proceedings;

(3) undercover operations;

(4) the identity of confidential sources, including protected witnesses;

(5) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3 of such Code, or any provision of the Presidential Protection Assistance Act of 1976; or

(6) other matters the disclosure of which would, in the Secretary's judgment, constitute a serious threat to national security.

(b) PROHIBITION OF CERTAIN INVESTIGATIONS.—With respect to the information described in subsection (a), the Secretary may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpoena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpoena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described in subsection (a), to preserve the national security, or to prevent a significant impairment to the interests of the United States.

(c) NOTIFICATION REQUIRED.—If the Secretary exercises any power under subsection (a) or (b), the Secretary shall notify the Inspector General of the Department in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice and a written response thereto that includes—

Deadline.

(1) a statement as to whether the Inspector General agrees or disagrees with such exercise; and

(2) the reasons for any disagreement, to the President of the Senate and the Speaker of the House of Representatives and to appropriate committees and subcommittees of Congress.

(d) ACCESS TO INFORMATION BY CONGRESS.—The exercise of authority by the Secretary described in subsection (b) should not be construed as limiting the right of Congress or any committee of Congress to access any information it seeks.

(e) OVERSIGHT RESPONSIBILITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended by inserting after section 8I the following:

“SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF HOMELAND
SECURITY

“SEC. 8J. Notwithstanding any other provision of law, in carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Homeland Security shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the United States Customs Service and the Office of Inspections of the United States Secret Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.”

**SEC. 812. LAW ENFORCEMENT POWERS OF INSPECTOR GENERAL
AGENTS.**

(a) IN GENERAL.—Section 6 of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

“(e)(1) In addition to the authority otherwise provided by this Act, each Inspector General appointed under section 3, any Assistant Inspector General for Investigations under such an Inspector General, and any special agent supervised by such an Assistant Inspector General may be authorized by the Attorney General to—

“(A) carry a firearm while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General;

“(B) make an arrest without a warrant while engaged in official duties as authorized under this Act or other statute, or as expressly authorized by the Attorney General, for any offense against the United States committed in the presence of such Inspector General, Assistant Inspector General, or agent, or for any felony cognizable under the laws of the United States if such Inspector General, Assistant Inspector General, or agent has reasonable grounds to believe that the person to be arrested has committed or is committing such felony; and

“(C) seek and execute warrants for arrest, search of a premises, or seizure of evidence issued under the authority of the United States upon probable cause to believe that a violation has been committed.

“(2) The Attorney General may authorize exercise of the powers under this subsection only upon an initial determination that—

“(A) the affected Office of Inspector General is significantly hampered in the performance of responsibilities established by this Act as a result of the lack of such powers;

“(B) available assistance from other law enforcement agencies is insufficient to meet the need for such powers; and

“(C) adequate internal safeguards and management procedures exist to ensure proper exercise of such powers.

“(3) The Inspector General offices of the Department of Commerce, Department of Education, Department of Energy, Department of Health and Human Services, Department of Homeland Security, Department of Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of the Treasury, Department of Veterans Affairs, Agency for International Development, Environmental Protection Agency, Federal Deposit Insurance Corporation, Federal Emergency Management Agency, General Services Administration, National Aeronautics and

Space Administration, Nuclear Regulatory Commission, Office of Personnel Management, Railroad Retirement Board, Small Business Administration, Social Security Administration, and the Tennessee Valley Authority are exempt from the requirement of paragraph (2) of an initial determination of eligibility by the Attorney General.

“(4) The Attorney General shall promulgate, and revise as appropriate, guidelines which shall govern the exercise of the law enforcement powers established under paragraph (1).

“(5)(A) Powers authorized for an Office of Inspector General under paragraph (1) may be rescinded or suspended upon a determination by the Attorney General that any of the requirements under paragraph (2) is no longer satisfied or that the exercise of authorized powers by that Office of Inspector General has not complied with the guidelines promulgated by the Attorney General under paragraph (4).

“(B) Powers authorized to be exercised by any individual under paragraph (1) may be rescinded or suspended with respect to that individual upon a determination by the Attorney General that such individual has not complied with guidelines promulgated by the Attorney General under paragraph (4).

“(6) A determination by the Attorney General under paragraph (2) or (5) shall not be reviewable in or by any court.

“(7) To ensure the proper exercise of the law enforcement powers authorized by this subsection, the Offices of Inspector General described under paragraph (3) shall, not later than 180 days after the date of enactment of this subsection, collectively enter into a memorandum of understanding to establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office and within any Office that later receives an authorization under paragraph (2). The review process shall be established in consultation with the Attorney General, who shall be provided with a copy of the memorandum of understanding that establishes the review process. Under the review process, the exercise of the law enforcement powers by each Office of Inspector General shall be reviewed periodically by another Office of Inspector General or by a committee of Inspectors General. The results of each review shall be communicated in writing to the applicable Inspector General and to the Attorney General.

Deadline.

“(8) No provision of this subsection shall limit the exercise of law enforcement powers established under any other statutory authority, including United States Marshals Service special deputation.”.

(b) PROMULGATION OF INITIAL GUIDELINES.—

(1) DEFINITION.—In this subsection, the term “memoranda of understanding” means the agreements between the Department of Justice and the Inspector General offices described under section 6(e)(3) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) that—

5 USC app. 6 note.

(A) are in effect on the date of enactment of this Act; and

(B) authorize such offices to exercise authority that is the same or similar to the authority under section 6(e)(1) of such Act.

(2) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall promulgate

Deadline.

guidelines under section 6(e)(4) of the Inspector General Act of 1978 (5 U.S.C. App.) (as added by subsection (a) of this section) applicable to the Inspector General offices described under section 6(e)(3) of that Act.

(3) **MINIMUM REQUIREMENTS.**—The guidelines promulgated under this subsection shall include, at a minimum, the operational and training requirements in the memoranda of understanding.

(4) **NO LAPSE OF AUTHORITY.**—The memoranda of understanding in effect on the date of enactment of this Act shall remain in effect until the guidelines promulgated under this subsection take effect.

5 USC app. 6
note.

(c) **EFFECTIVE DATES.**—

(1) **IN GENERAL.**—Subsection (a) shall take effect 180 days after the date of enactment of this Act.

(2) **INITIAL GUIDELINES.**—Subsection (b) shall take effect on the date of enactment of this Act.

Subtitle C—United States Secret Service

6 USC 381.

SEC. 821. FUNCTIONS TRANSFERRED.

In accordance with title XV, there shall be transferred to the Secretary the functions, personnel, assets, and obligations of the United States Secret Service, which shall be maintained as a distinct entity within the Department, including the functions of the Secretary of the Treasury relating thereto.

Subtitle D—Acquisitions

6 USC 391.

SEC. 831. RESEARCH AND DEVELOPMENT PROJECTS.

(a) **AUTHORITY.**—During the 5-year period following the effective date of this Act, the Secretary may carry out a pilot program under which the Secretary may exercise the following authorities:

(1) **IN GENERAL.**—When the Secretary carries out basic, applied, and advanced research and development projects, including the expenditure of funds for such projects, the Secretary may exercise the same authority (subject to the same limitations and conditions) with respect to such research and projects as the Secretary of Defense may exercise under section 2371 of title 10, United States Code (except for subsections (b) and (f)), after making a determination that the use of a contract, grant, or cooperative agreement for such project is not feasible or appropriate. The annual report required under subsection (b) of this section, as applied to the Secretary by this paragraph, shall be submitted to the President of the Senate and the Speaker of the House of Representatives.

(2) **PROTOTYPE PROJECTS.**—The Secretary may, under the authority of paragraph (1), carry out prototype projects in accordance with the requirements and conditions provided for carrying out prototype projects under section 845 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160). In applying the authorities of that section 845, subsection (c) of that section shall apply with respect to prototype projects under this paragraph, and the Secretary shall

perform the functions of the Secretary of Defense under subsection (d) thereof.

(b) **REPORT.**—Not later than 2 years after the effective date of this Act, and annually thereafter, the Comptroller General shall report to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate on—

Deadline.

(1) whether use of the authorities described in subsection (a) attracts nontraditional Government contractors and results in the acquisition of needed technologies; and

(2) if such authorities were to be made permanent, whether additional safeguards are needed with respect to the use of such authorities.

(c) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—The Secretary may—

(1) procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109(b) of title 5, United States Code; and

(2) whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

(d) **DEFINITION OF NONTRADITIONAL GOVERNMENT CONTRACTOR.**—In this section, the term “nontraditional Government contractor” has the same meaning as the term “nontraditional defense contractor” as defined in section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2371 note).

SEC. 832. PERSONAL SERVICES.

6 USC 392.

The Secretary—

(1) may procure the temporary or intermittent services of experts or consultants (or organizations thereof) in accordance with section 3109 of title 5, United States Code; and

(2) may, whenever necessary due to an urgent homeland security need, procure temporary (not to exceed 1 year) or intermittent personal services, including the services of experts or consultants (or organizations thereof), without regard to the pay limitations of such section 3109.

SEC. 833. SPECIAL STREAMLINED ACQUISITION AUTHORITY.

6 USC 393.

(a) **AUTHORITY.**—

(1) **IN GENERAL.**—The Secretary may use the authorities set forth in this section with respect to any procurement made during the period beginning on the effective date of this Act and ending September 30, 2007, if the Secretary determines in writing that the mission of the Department (as described in section 101) would be seriously impaired without the use of such authorities.

(2) **DELEGATION.**—The authority to make the determination described in paragraph (1) may not be delegated by the Secretary to an officer of the Department who is not appointed by the President with the advice and consent of the Senate.

(3) **NOTIFICATION.**—Not later than the date that is 7 days after the date of any determination under paragraph (1), the Secretary shall submit to the Committee on Government

Deadline.

Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

(A) notification of such determination; and

(B) the justification for such determination.

(b) INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.—

(1) IN GENERAL.—The Secretary may designate certain employees of the Department to make procurements described in subsection (a) for which in the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be \$7,500.

(2) NUMBER OF EMPLOYEES.—The number of employees designated under paragraph (1) shall be—

(A) fewer than the number of employees of the Department who are authorized to make purchases without obtaining competitive quotations, pursuant to section 32(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c));

(B) sufficient to ensure the geographic dispersal of the availability of the use of the procurement authority under such paragraph at locations reasonably considered to be potential terrorist targets; and

(C) sufficiently limited to allow for the careful monitoring of employees designated under such paragraph.

(3) REVIEW.—Procurements made under the authority of this subsection shall be subject to review by a designated supervisor on not less than a monthly basis. The supervisor responsible for the review shall be responsible for no more than 7 employees making procurements under this subsection.

(c) SIMPLIFIED ACQUISITION PROCEDURES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem the simplified acquisition threshold referred to in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)) to be—

(A) in the case of a contract to be awarded and performed, or purchase to be made, within the United States, \$200,000; and

(B) in the case of a contract to be awarded and performed, or purchase to be made, outside of the United States, \$300,000.

(2) CONFORMING AMENDMENTS.—Section 18(c)(1) of the Office of Federal Procurement Policy Act is amended—

(A) by striking “or” at the end of subparagraph (F);

(B) by striking the period at the end of subparagraph (G) and inserting “; or”; and

(C) by adding at the end the following:

“(H) the procurement is by the Secretary of Homeland Security pursuant to the special procedures provided in section 833(c) of the Homeland Security Act of 2002.”.

(d) APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES.—

(1) IN GENERAL.—With respect to a procurement described in subsection (a), the Secretary may deem any item or service to be a commercial item for the purpose of Federal procurement laws.

(2) **LIMITATION.**—The \$5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)) and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall be deemed to be \$7,500,000 for purposes of property or services under the authority of this subsection.

(3) **CERTAIN AUTHORITY.**—Authority under a provision of law referred to in paragraph (2) that expires under section 4202(e) of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for a procurement described in subsection (a).

(e) **REPORT.**—Not later than 180 days after the end of fiscal year 2005, the Comptroller General shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a report on the use of the authorities provided in this section. The report shall contain the following:

(1) An assessment of the extent to which property and services acquired using authorities provided under this section contributed to the capacity of the Federal workforce to facilitate the mission of the Department as described in section 101.

(2) An assessment of the extent to which prices for property and services acquired using authorities provided under this section reflected the best value.

(3) The number of employees designated by each executive agency under subsection (b)(1).

(4) An assessment of the extent to which the Department has implemented subsections (b)(2) and (b)(3) to monitor the use of procurement authority by employees designated under subsection (b)(1).

(5) Any recommendations of the Comptroller General for improving the effectiveness of the implementation of the provisions of this section.

SEC. 834. UNSOLICITED PROPOSALS.

6 USC 394.

(a) **REGULATIONS REQUIRED.**—Within 1 year of the date of enactment of this Act, the Federal Acquisition Regulation shall be revised to include regulations with regard to unsolicited proposals.

Deadline.

(b) **CONTENT OF REGULATIONS.**—The regulations prescribed under subsection (a) shall require that before initiating a comprehensive evaluation, an agency contact point shall consider, among other factors, that the proposal—

(1) is not submitted in response to a previously published agency requirement; and

(2) contains technical and cost information for evaluation and overall scientific, technical or socioeconomic merit, or cost-related or price-related factors.

SEC. 835. PROHIBITION ON CONTRACTS WITH CORPORATE EXPATRIATES.

6 USC 395.

(a) **IN GENERAL.**—The Secretary may not enter into any contract with a foreign incorporated entity which is treated as an inverted domestic corporation under subsection (b).

(b) **INVERTED DOMESTIC CORPORATION.**—For purposes of this section, a foreign incorporated entity shall be treated as an inverted domestic corporation if, pursuant to a plan (or a series of related transactions)—

(1) the entity completes after the date of enactment of this Act, the direct or indirect acquisition of substantially all of the properties held directly or indirectly by a domestic corporation or substantially all of the properties constituting a trade or business of a domestic partnership;

(2) after the acquisition at least 80 percent of the stock (by vote or value) of the entity is held—

(A) in the case of an acquisition with respect to a domestic corporation, by former shareholders of the domestic corporation by reason of holding stock in the domestic corporation; or

(B) in the case of an acquisition with respect to a domestic partnership, by former partners of the domestic partnership by reason of holding a capital or profits interest in the domestic partnership; and

(3) the expanded affiliated group which after the acquisition includes the entity does not have substantial business activities in the foreign country in which or under the law of which the entity is created or organized when compared to the total business activities of such expanded affiliated group.

(c) DEFINITIONS AND SPECIAL RULES.—

(1) RULES FOR APPLICATION OF SUBSECTION (b).—In applying subsection (b) for purposes of subsection (a), the following rules shall apply:

(A) CERTAIN STOCK DISREGARDED.—There shall not be taken into account in determining ownership for purposes of subsection (b)(2)—

(i) stock held by members of the expanded affiliated group which includes the foreign incorporated entity; or

(ii) stock of such entity which is sold in a public offering related to the acquisition described in subsection (b)(1).

(B) PLAN DEEMED IN CERTAIN CASES.—If a foreign incorporated entity acquires directly or indirectly substantially all of the properties of a domestic corporation or partnership during the 4-year period beginning on the date which is after the date of enactment of this Act and which is 2 years before the ownership requirements of subsection (b)(2) are met, such actions shall be treated as pursuant to a plan.

(C) CERTAIN TRANSFERS DISREGARDED.—The transfer of properties or liabilities (including by contribution or distribution) shall be disregarded if such transfers are part of a plan a principal purpose of which is to avoid the purposes of this section.

(D) SPECIAL RULE FOR RELATED PARTNERSHIPS.—For purposes of applying subsection (b) to the acquisition of a domestic partnership, except as provided in regulations, all domestic partnerships which are under common control (within the meaning of section 482 of the Internal Revenue Code of 1986) shall be treated as I partnership.

(E) TREATMENT OF CERTAIN RIGHTS.—The Secretary shall prescribe such regulations as may be necessary to—

(i) treat warrants, options, contracts to acquire stock, convertible debt instruments, and other similar interests as stock; and

(ii) treat stock as not stock.

(2) **EXPANDED AFFILIATED GROUP.**—The term “expanded affiliated group” means an affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (without regard to section 1504(b) of such Code), except that section 1504 of such Code shall be applied by substituting “more than 50 percent” for “at least 80 percent” each place it appears.

(3) **FOREIGN INCORPORATED ENTITY.**—The term “foreign incorporated entity” means any entity which is, or but for subsection (b) would be, treated as a foreign corporation for purposes of the Internal Revenue Code of 1986.

(4) **OTHER DEFINITIONS.**—The terms “person”, “domestic”, and “foreign” have the meanings given such terms by paragraphs (1), (4), and (5) of section 7701(a) of the Internal Revenue Code of 1986, respectively.

(d) **WAIVERS.**—The Secretary shall waive subsection (a) with respect to any specific contract if the Secretary determines that the waiver is required in the interest of homeland security, or to prevent the loss of any jobs in the United States or prevent the Government from incurring any additional costs that otherwise would not occur.

Subtitle E—Human Resources Management

SEC. 841. ESTABLISHMENT OF HUMAN RESOURCES MANAGEMENT SYSTEM. 6 USC 411.

(a) **AUTHORITY.**—

(1) **SENSE OF CONGRESS.**—It is the sense of Congress that—

(A) it is extremely important that employees of the Department be allowed to participate in a meaningful way in the creation of any human resources management system affecting them;

(B) such employees have the most direct knowledge of the demands of their jobs and have a direct interest in ensuring that their human resources management system is conducive to achieving optimal operational efficiencies;

(C) the 21st century human resources management system envisioned for the Department should be one that benefits from the input of its employees; and

(D) this collaborative effort will help secure our homeland.

(2) **IN GENERAL.**—Subpart I of part III of title 5, United States Code, is amended by adding at the end the following:

“CHAPTER 97—DEPARTMENT OF HOMELAND SECURITY

“Sec.

“9701. Establishment of human resources management system.

“§ 9701. Establishment of human resources management system

“(a) IN GENERAL.—Notwithstanding any other provision of this part, the Secretary of Homeland Security may, in regulations prescribed jointly with the Director of the Office of Personnel Management, establish, and from time to time adjust, a human resources management system for some or all of the organizational units of the Department of Homeland Security.

“(b) SYSTEM REQUIREMENTS.—Any system established under subsection (a) shall—

“(1) be flexible;

“(2) be contemporary;

“(3) not waive, modify, or otherwise affect—

“(A) the public employment principles of merit and fitness set forth in section 2301, including the principles of hiring based on merit, fair treatment without regard to political affiliation or other nonmerit considerations, equal pay for equal work, and protection of employees against reprisal for whistleblowing;

“(B) any provision of section 2302, relating to prohibited personnel practices;

“(C)(i) any provision of law referred to in section 2302(b)(1), (8), and (9); or

“(ii) any provision of law implementing any provision of law referred to in section 2302(b)(1), (8), and (9) by—

“(I) providing for equal employment opportunity through affirmative action; or

“(II) providing any right or remedy available to any employee or applicant for employment in the civil service;

“(D) any other provision of this part (as described in subsection (c)); or

“(E) any rule or regulation prescribed under any provision of law referred to in any of the preceding subparagraphs of this paragraph;

“(4) ensure that employees may organize, bargain collectively, and participate through labor organizations of their own choosing in decisions which affect them, subject to any exclusion from coverage or limitation on negotiability established by law; and

“(5) permit the use of a category rating system for evaluating applicants for positions in the competitive service.

“(c) OTHER NONWAIVABLE PROVISIONS.—The other provisions of this part as referred to in subsection (b)(3)(D), are (to the extent not otherwise specified in subparagraph (A), (B), (C), or (D) of subsection (b)(3))—

“(1) subparts A, B, E, G, and H of this part; and

“(2) chapters 41, 45, 47, 55, 57, 59, 72, 73, and 79, and this chapter.

“(d) LIMITATIONS RELATING TO PAY.—Nothing in this section shall constitute authority—

“(1) to modify the pay of any employee who serves in—

“(A) an Executive Schedule position under subchapter II of chapter 53 of title 5, United States Code; or

“(B) a position for which the rate of basic pay is fixed in statute by reference to a section or level under subchapter II of chapter 53 of such title 5;

“(2) to fix pay for any employee or position at an annual rate greater than the maximum amount of cash compensation allowable under section 5307 of such title 5 in a year; or

“(3) to exempt any employee from the application of such section 5307.

“(e) PROVISIONS TO ENSURE COLLABORATION WITH EMPLOYEE REPRESENTATIVES.—

“(1) IN GENERAL.—In order to ensure that the authority of this section is exercised in collaboration with, and in a manner that ensures the participation of employee representatives in the planning, development, and implementation of any human resources management system or adjustments to such system under this section, the Secretary of Homeland Security and the Director of the Office of Personnel Management shall provide for the following:

“(A) NOTICE OF PROPOSAL.—The Secretary and the Director shall, with respect to any proposed system or adjustment—

“(i) provide to each employee representative representing any employees who might be affected, a written description of the proposed system or adjustment (including the reasons why it is considered necessary);

“(ii) give each representative 30 calendar days (unless extraordinary circumstances require earlier action) to review and make recommendations with respect to the proposal; and

“(iii) give any recommendations received from any such representatives under clause (ii) full and fair consideration in deciding whether or how to proceed with the proposal.

“(B) PRE-IMPLEMENTATION CONGRESSIONAL NOTIFICATION, CONSULTATION, AND MEDIATION.—Following receipt of recommendations, if any, from employee representatives with respect to a proposal described in subparagraph (A), the Secretary and the Director shall accept such modifications to the proposal in response to the recommendations as they determine advisable and shall, with respect to any parts of the proposal as to which they have not accepted the recommendations—

“(i) notify Congress of those parts of the proposal, together with the recommendations of employee representatives;

“(ii) meet and confer for not less than 30 calendar days with any representatives who have made recommendations, in order to attempt to reach agreement on whether or how to proceed with those parts of the proposal; and

“(iii) at the Secretary’s option, or if requested by a majority of the employee representatives who have made recommendations, use the services of the Federal Mediation and Conciliation Service during such meet and confer period to facilitate the process of attempting to reach agreement.

“(C) IMPLEMENTATION.—

“(i) Any part of the proposal as to which the representatives do not make a recommendation, or as to which their recommendations are accepted by the

Secretary and the Director, may be implemented immediately.

“(ii) With respect to any parts of the proposal as to which recommendations have been made but not accepted by the Secretary and the Director, at any time after 30 calendar days have elapsed since the initiation of the congressional notification, consultation, and mediation procedures set forth in subparagraph (B), if the Secretary determines, in the Secretary’s sole and unreviewable discretion, that further consultation and mediation is unlikely to produce agreement, the Secretary may implement any or all of such parts, including any modifications made in response to the recommendations as the Secretary determines advisable.

“(iii) The Secretary shall promptly notify Congress of the implementation of any part of the proposal and shall furnish with such notice an explanation of the proposal, any changes made to the proposal as a result of recommendations from employee representatives, and of the reasons why implementation is appropriate under this subparagraph.

“(D) CONTINUING COLLABORATION.—If a proposal described in subparagraph (A) is implemented, the Secretary and the Director shall—

“(i) develop a method for each employee representative to participate in any further planning or development which might become necessary; and

“(ii) give each employee representative adequate access to information to make that participation productive.

“(2) PROCEDURES.—Any procedures necessary to carry out this subsection shall be established by the Secretary and the Director jointly as internal rules of departmental procedure which shall not be subject to review. Such procedures shall include measures to ensure—

“(A) in the case of employees within a unit with respect to which a labor organization is accorded exclusive recognition, representation by individuals designated or from among individuals nominated by such organization;

“(B) in the case of any employees who are not within such a unit, representation by any appropriate organization which represents a substantial percentage of those employees or, if none, in such other manner as may be appropriate, consistent with the purposes of the subsection;

“(C) the fair and expeditious handling of the consultation and mediation process described in subparagraph (B) of paragraph (1), including procedures by which, if the number of employee representatives providing recommendations exceeds 5, such representatives select a committee or other unified representative with which the Secretary and Director may meet and confer; and

“(D) the selection of representatives in a manner consistent with the relative number of employees represented by the organizations or other representatives involved.

“(f) PROVISIONS RELATING TO APPELLATE PROCEDURES.—

“(1) SENSE OF CONGRESS.—It is the sense of Congress that—

“(A) employees of the Department are entitled to fair treatment in any appeals that they bring in decisions relating to their employment; and

“(B) in prescribing regulations for any such appeals procedures, the Secretary and the Director of the Office of Personnel Management—

“(i) should ensure that employees of the Department are afforded the protections of due process; and

“(ii) toward that end, should be required to consult with the Merit Systems Protection Board before issuing any such regulations.

“(2) REQUIREMENTS.—Any regulations under this section which relate to any matters within the purview of chapter 77—

“(A) shall be issued only after consultation with the Merit Systems Protection Board;

“(B) shall ensure the availability of procedures which shall—

“(i) be consistent with requirements of due process; and

“(ii) provide, to the maximum extent practicable, for the expeditious handling of any matters involving the Department; and

“(C) shall modify procedures under chapter 77 only insofar as such modifications are designed to further the fair, efficient, and expeditious resolution of matters involving the employees of the Department.

“(g) PROVISIONS RELATING TO LABOR-MANAGEMENT RELATIONS.—Nothing in this section shall be construed as conferring authority on the Secretary of Homeland Security to modify any of the provisions of section 842 of the Homeland Security Act of 2002.

“(h) SUNSET PROVISION.—Effective 5 years after the conclusion of the transition period defined under section 1501 of the Homeland Security Act of 2002, all authority to issue regulations under this section (including regulations which would modify, supersede, or terminate any regulations previously issued under this section) shall cease to be available.”.

(3) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for part III of title 5, United States Code, is amended by adding at the end of the following:

“97. Department of Homeland Security 9701”.

(b) EFFECT ON PERSONNEL.—

(1) NONSEPARATION OR NONREDUCTION IN GRADE OR COMPENSATION OF FULL-TIME PERSONNEL AND PART-TIME PERSONNEL HOLDING PERMANENT POSITIONS.—Except as otherwise provided in this Act, the transfer under this Act of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for 1 year after the date of transfer to the Department.

(2) POSITIONS COMPENSATED IN ACCORDANCE WITH EXECUTIVE SCHEDULE.—Any person who, on the day preceding such person's date of transfer pursuant to this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department

to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such position, for the duration of the service of such person in such new position.

(3) COORDINATION RULE.—Any exercise of authority under chapter 97 of title 5, United States Code (as amended by subsection (a)), including under any system established under such chapter, shall be in conformance with the requirements of this subsection.

6 USC 412.

SEC. 842. LABOR-MANAGEMENT RELATIONS.**(a) LIMITATION ON EXCLUSIONARY AUTHORITY.—**

(1) IN GENERAL.—No agency or subdivision of an agency which is transferred to the Department pursuant to this Act shall be excluded from the coverage of chapter 71 of title 5, United States Code, as a result of any order issued under section 7103(b)(1) of such title 5 after June 18, 2002, unless—

(A) the mission and responsibilities of the agency (or subdivision) materially change; and

(B) a majority of the employees within such agency (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) EXCLUSIONS ALLOWABLE.—Nothing in paragraph (1) shall affect the effectiveness of any order to the extent that such order excludes any portion of an agency or subdivision of an agency as to which—

(A) recognition as an appropriate unit has never been conferred for purposes of chapter 71 of such title 5; or

(B) any such recognition has been revoked or otherwise terminated as a result of a determination under subsection (b)(1).

(b) PROVISIONS RELATING TO BARGAINING UNITS.—

(1) LIMITATION RELATING TO APPROPRIATE UNITS.—Each unit which is recognized as an appropriate unit for purposes of chapter 71 of title 5, United States Code, as of the day before the effective date of this Act (and any subdivision of any such unit) shall, if such unit (or subdivision) is transferred to the Department pursuant to this Act, continue to be so recognized for such purposes, unless—

(A) the mission and responsibilities of such unit (or subdivision) materially change; and

(B) a majority of the employees within such unit (or subdivision) have as their primary duty intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

(2) LIMITATION RELATING TO POSITIONS OR EMPLOYEES.—No position or employee within a unit (or subdivision of a unit) as to which continued recognition is given in accordance with paragraph (1) shall be excluded from such unit (or subdivision), for purposes of chapter 71 of such title 5, unless the primary job duty of such position or employee—

(A) materially changes; and

(B) consists of intelligence, counterintelligence, or investigative work directly related to terrorism investigation.

In the case of any positions within a unit (or subdivision) which are first established on or after the effective date of this Act and any employees first appointed on or after such date, the preceding sentence shall be applied disregarding subparagraph (A).

(c) **WAIVER.**—If the President determines that the application of subsections (a), (b), and (d) would have a substantial adverse impact on the ability of the Department to protect homeland security, the President may waive the application of such subsections 10 days after the President has submitted to Congress a written explanation of the reasons for such determination.

(d) **COORDINATION RULE.**—No other provision of this Act or of any amendment made by this Act may be construed or applied in a manner so as to limit, supersede, or otherwise affect the provisions of this section, except to the extent that it does so by specific reference to this section.

(e) **RULE OF CONSTRUCTION.**—Nothing in section 9701(e) of title 5, United States Code, shall be considered to apply with respect to any agency or subdivision of any agency, which is excluded from the coverage of chapter 71 of title 5, United States Code, by virtue of an order issued in accordance with section 7103(b) of such title and the preceding provisions of this section (as applicable), or to any employees of any such agency or subdivision or to any individual or entity representing any such employees or any representatives thereof.

Subtitle F—Federal Emergency Procurement Flexibility

SEC. 851. DEFINITION.

6 USC 421.

In this subtitle, the term “executive agency” has the meaning given that term under section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

SEC. 852. PROCUREMENTS FOR DEFENSE AGAINST OR RECOVERY FROM TERRORISM OR NUCLEAR, BIOLOGICAL, CHEMICAL, OR RADIOLOGICAL ATTACK.

6 USC 422.

The authorities provided in this subtitle apply to any procurement of property or services by or for an executive agency that, as determined by the head of the executive agency, are to be used to facilitate defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack, but only if a solicitation of offers for the procurement is issued during the 1-year period beginning on the date of the enactment of this Act.

Applicability.

SEC. 853. INCREASED SIMPLIFIED ACQUISITION THRESHOLD FOR PROCUREMENTS IN SUPPORT OF HUMANITARIAN OR PEACEKEEPING OPERATIONS OR CONTINGENCY OPERATIONS.

6 USC 423.

(a) **TEMPORARY THRESHOLD AMOUNTS.**—For a procurement referred to in section 852 that is carried out in support of a humanitarian or peacekeeping operation or a contingency operation, the simplified acquisition threshold definitions shall be applied as if the amount determined under the exception provided for such an operation in those definitions were—

(1) in the case of a contract to be awarded and performed, or purchase to be made, inside the United States, \$200,000; or

(2) in the case of a contract to be awarded and performed, or purchase to be made, outside the United States, \$300,000.

(b) **SIMPLIFIED ACQUISITION THRESHOLD DEFINITIONS.**—In this section, the term “simplified acquisition threshold definitions” means the following:

(1) Section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11)).

(2) Section 309(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 259(d)).

(3) Section 2302(7) of title 10, United States Code.

Applicability.

(c) **SMALL BUSINESS RESERVE.**—For a procurement carried out pursuant to subsection (a), section 15(j) of the Small Business Act (15 U.S.C. 644(j)) shall be applied as if the maximum anticipated value identified therein is equal to the amounts referred to in subsection (a).

6 USC 424.

SEC. 854. INCREASED MICRO-PURCHASE THRESHOLD FOR CERTAIN PROCUREMENTS.

In the administration of section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) with respect to a procurement referred to in section 852, the amount specified in subsections (c), (d), and (f) of such section 32 shall be deemed to be \$7,500.

6 USC 425.

SEC. 855. APPLICATION OF CERTAIN COMMERCIAL ITEMS AUTHORITIES TO CERTAIN PROCUREMENTS.

(a) **AUTHORITY.**—

(1) **IN GENERAL.**—The head of an executive agency may apply the provisions of law listed in paragraph (2) to a procurement referred to in section 852 without regard to whether the property or services are commercial items.

(2) **COMMERCIAL ITEM LAWS.**—The provisions of law referred to in paragraph (1) are as follows:

(A) Sections 31 and 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 427, 430).

(B) Section 2304(g) of title 10, United States Code.

(C) Section 303(g) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)).

(b) **INAPPLICABILITY OF LIMITATION ON USE OF SIMPLIFIED ACQUISITION PROCEDURES.**—

(1) **IN GENERAL.**—The \$5,000,000 limitation provided in section 31(a)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)(2)), section 2304(g)(1)(B) of title 10, United States Code, and section 303(g)(1)(B) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(1)(B)) shall not apply to purchases of property or services to which any of the provisions of law referred to in subsection (a) are applied under the authority of this section.

(2) **OMB GUIDANCE.**—The Director of the Office of Management and Budget shall issue guidance and procedures for the use of simplified acquisition procedures for a purchase of property or services in excess of \$5,000,000 under the authority of this section.

(c) **CONTINUATION OF AUTHORITY FOR SIMPLIFIED PURCHASE PROCEDURES.**—Authority under a provision of law referred to in subsection (a)(2) that expires under section 4202(e) of the Clinger-

Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) shall, notwithstanding such section, continue to apply for use by the head of an executive agency as provided in subsections (a) and (b).

SEC. 856. USE OF STREAMLINED PROCEDURES.

6 USC 426.

(a) **REQUIRED USE.**—The head of an executive agency shall, when appropriate, use streamlined acquisition authorities and procedures authorized by law for a procurement referred to in section 852, including authorities and procedures that are provided under the following provisions of law:

(1) **FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.**—In title III of the Federal Property and Administrative Services Act of 1949:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 303 (41 U.S.C. 253), relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 303J (41 U.S.C. 253j), relating to orders under task and delivery order contracts.

(2) **TITLE 10, UNITED STATES CODE.**—In chapter 137 of title 10, United States Code:

(A) Paragraphs (1), (2), (6), and (7) of subsection (c) of section 2304, relating to use of procedures other than competitive procedures under certain circumstances (subject to subsection (e) of such section).

(B) Section 2304c, relating to orders under task and delivery order contracts.

(3) **OFFICE OF FEDERAL PROCUREMENT POLICY ACT.**—Paragraphs (1)(B), (1)(D), and (2) of section 18(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 416(c)), relating to inapplicability of a requirement for procurement notice.

(b) **WAIVER OF CERTAIN SMALL BUSINESS THRESHOLD REQUIREMENTS.**—Subclause (II) of section 8(a)(1)(D)(i) of the Small Business Act (15 U.S.C. 637(a)(1)(D)(i)) and clause (ii) of section 31(b)(2)(A) of such Act (15 U.S.C. 657a(b)(2)(A)) shall not apply in the use of streamlined acquisition authorities and procedures referred to in paragraphs (1)(A) and (2)(A) of subsection (a) for a procurement referred to in section 852.

SEC. 857. REVIEW AND REPORT BY COMPTROLLER GENERAL.

6 USC 427.

(a) **REQUIREMENTS.**—Not later than March 31, 2004, the Comptroller General shall—

Deadline.

(1) complete a review of the extent to which procurements of property and services have been made in accordance with this subtitle; and

(2) submit a report on the results of the review to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(b) **CONTENT OF REPORT.**—The report under subsection (a)(2) shall include the following matters:

(1) **ASSESSMENT.**—The Comptroller General’s assessment of—

(A) the extent to which property and services procured in accordance with this title have contributed to the capacity of the workforce of Federal Government employees

within each executive agency to carry out the mission of the executive agency; and

(B) the extent to which Federal Government employees have been trained on the use of technology.

(2) **RECOMMENDATIONS.**—Any recommendations of the Comptroller General resulting from the assessment described in paragraph (1).

(c) **CONSULTATION.**—In preparing for the review under subsection (a)(1), the Comptroller shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the specific issues and topics to be reviewed. The extent of coverage needed in areas such as technology integration, employee training, and human capital management, as well as the data requirements of the study, shall be included as part of the consultation.

6 USC 428.

SEC. 858. IDENTIFICATION OF NEW ENTRANTS INTO THE FEDERAL MARKETPLACE.

The head of each executive agency shall conduct market research on an ongoing basis to identify effectively the capabilities, including the capabilities of small businesses and new entrants into Federal contracting, that are available in the marketplace for meeting the requirements of the executive agency in furtherance of defense against or recovery from terrorism or nuclear, biological, chemical, or radiological attack. The head of the executive agency shall, to the maximum extent practicable, take advantage of commercially available market research methods, including use of commercial databases, to carry out the research.

Support Anti-terrorism by Fostering Effective Technologies Act of 2002.
6 USC 101 note.

Subtitle G—Support Anti-terrorism by Fostering Effective Technologies Act of 2002

SEC. 861. SHORT TITLE.

This subtitle may be cited as the “Support Anti-terrorism by Fostering Effective Technologies Act of 2002” or the “SAFETY Act”.

6 USC 441.

SEC. 862. ADMINISTRATION.

(a) **IN GENERAL.**—The Secretary shall be responsible for the administration of this subtitle.

(b) **DESIGNATION OF QUALIFIED ANTI-TERRORISM TECHNOLOGIES.**—The Secretary may designate anti-terrorism technologies that qualify for protection under the system of risk management set forth in this subtitle in accordance with criteria that shall include, but not be limited to, the following:

(1) Prior United States Government use or demonstrated substantial utility and effectiveness.

(2) Availability of the technology for immediate deployment in public and private settings.

(3) Existence of extraordinarily large or extraordinarily unquantifiable potential third party liability risk exposure to the Seller or other provider of such anti-terrorism technology.

(4) Substantial likelihood that such anti-terrorism technology will not be deployed unless protections under the system of risk management provided under this subtitle are extended.

(5) Magnitude of risk exposure to the public if such anti-terrorism technology is not deployed.

(6) Evaluation of all scientific studies that can be feasibly conducted in order to assess the capability of the technology to substantially reduce risks of harm.

(7) Anti-terrorism technology that would be effective in facilitating the defense against acts of terrorism, including technologies that prevent, defeat or respond to such acts.

(c) REGULATIONS.—The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States Code, as may be necessary to carry out this subtitle.

SEC. 863. LITIGATION MANAGEMENT.

6 USC 442.

(a) FEDERAL CAUSE OF ACTION.—

(1) IN GENERAL.—There shall exist a Federal cause of action for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. The substantive law for decision in any such action shall be derived from the law, including choice of law principles, of the State in which such acts of terrorism occurred, unless such law is inconsistent with or preempted by Federal law. Such Federal cause of action shall be brought only for claims for injuries that are proximately caused by sellers that provide qualified anti-terrorism technology to Federal and non-Federal government customers.

(2) JURISDICTION.—Such appropriate district court of the United States shall have original and exclusive jurisdiction over all actions for any claim for loss of property, personal injury, or death arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller.

(b) SPECIAL RULES.—In an action brought under this section for damages the following provisions apply:

(1) PUNITIVE DAMAGES.—No punitive damages intended to punish or deter, exemplary damages, or other damages not intended to compensate a plaintiff for actual losses may be awarded, nor shall any party be liable for interest prior to the judgment.

(2) NONECONOMIC DAMAGES.—

(A) IN GENERAL.—Noneconomic damages may be awarded against a defendant only in an amount directly proportional to the percentage of responsibility of such defendant for the harm to the plaintiff, and no plaintiff may recover noneconomic damages unless the plaintiff suffered physical harm.

(B) DEFINITION.—For purposes of subparagraph (A), the term “noneconomic damages” means damages for losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium, hedonic damages, injury to reputation, and any other nonpecuniary losses.

(c) **COLLATERAL SOURCES.**—Any recovery by a plaintiff in an action under this section shall be reduced by the amount of collateral source compensation, if any, that the plaintiff has received or is entitled to receive as a result of such acts of terrorism that result or may result in loss to the Seller.

(d) **GOVERNMENT CONTRACTOR DEFENSE.**—

(1) **IN GENERAL.**—Should a product liability or other lawsuit be filed for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in paragraphs (2) and (3) of this subsection, have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, there shall be a rebuttable presumption that the government contractor defense applies in such lawsuit. This presumption shall only be overcome by evidence showing that the Seller acted fraudulently or with willful misconduct in submitting information to the Secretary during the course of the Secretary's consideration of such technology under this subsection. This presumption of the government contractor defense shall apply regardless of whether the claim against the Seller arises from a sale of the product to Federal Government or non-Federal Government customers.

Applicability.

(2) **EXCLUSIVE RESPONSIBILITY.**—The Secretary will be exclusively responsible for the review and approval of anti-terrorism technology for purposes of establishing a government contractor defense in any product liability lawsuit for claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies approved by the Secretary, as provided in this paragraph and paragraph (3), have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller. Upon the Seller's submission to the Secretary for approval of anti-terrorism technology, the Secretary will conduct a comprehensive review of the design of such technology and determine whether it will perform as intended, conforms to the Seller's specifications, and is safe for use as intended. The Seller will conduct safety and hazard analyses on such technology and will supply the Secretary with all such information.

(3) **CERTIFICATE.**—For anti-terrorism technology reviewed and approved by the Secretary, the Secretary will issue a certificate of conformance to the Seller and place the anti-terrorism technology on an Approved Product List for Homeland Security.

(e) **EXCLUSION.**—Nothing in this section shall in any way limit the ability of any person to seek any form of recovery from any person, government, or other entity that—

(1) attempts to commit, knowingly participates in, aids and abets, or commits any act of terrorism, or any criminal act related to or resulting from such act of terrorism; or

(2) participates in a conspiracy to commit any such act of terrorism or any such criminal act.

SEC. 864. RISK MANAGEMENT.

(a) **IN GENERAL.**—

(1) **LIABILITY INSURANCE REQUIRED.**—Any person or entity that sells or otherwise provides a qualified anti-terrorism technology to Federal and non-Federal Government customers (“Seller”) shall obtain liability insurance of such types and in such amounts as shall be required in accordance with this section and certified by the Secretary to satisfy otherwise compensable third-party claims arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(2) **MAXIMUM AMOUNT.**—For the total claims related to 1 such act of terrorism, the Seller is not required to obtain liability insurance of more than the maximum amount of liability insurance reasonably available from private sources on the world market at prices and terms that will not unreasonably distort the sales price of Seller’s anti-terrorism technologies.

(3) **SCOPE OF COVERAGE.**—Liability insurance obtained pursuant to this subsection shall, in addition to the Seller, protect the following, to the extent of their potential liability for involvement in the manufacture, qualification, sale, use, or operation of qualified anti-terrorism technologies deployed in defense against or response or recovery from an act of terrorism:

(A) Contractors, subcontractors, suppliers, vendors and customers of the Seller.

(B) Contractors, subcontractors, suppliers, and vendors of the customer.

(4) **THIRD PARTY CLAIMS.**—Such liability insurance under this section shall provide coverage against third party claims arising out of, relating to, or resulting from the sale or use of anti-terrorism technologies.

(b) **RECIPROCAL WAIVER OF CLAIMS.**—The Seller shall enter into a reciprocal waiver of claims with its contractors, subcontractors, suppliers, vendors and customers, and contractors and subcontractors of the customers, involved in the manufacture, sale, use or operation of qualified anti-terrorism technologies, under which each party to the waiver agrees to be responsible for losses, including business interruption losses, that it sustains, or for losses sustained by its own employees resulting from an activity resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act.

(c) **EXTENT OF LIABILITY.**—Notwithstanding any other provision of law, liability for all claims against a Seller arising out of, relating to, or resulting from an act of terrorism when qualified anti-terrorism technologies have been deployed in defense against or response or recovery from such act and such claims result or may result in loss to the Seller, whether for compensatory or punitive damages or for contribution or indemnity, shall not be in an amount greater than the limits of liability insurance coverage required to be maintained by the Seller under this section.

SEC. 865. DEFINITIONS.

For purposes of this subtitle, the following definitions apply:

(1) **QUALIFIED ANTI-TERRORISM TECHNOLOGY.**—For purposes of this subtitle, the term “qualified anti-terrorism technology”

6 USC 444.

Applicability.

means any product, equipment, service (including support services), device, or technology (including information technology) designed, developed, modified, or procured for the specific purpose of preventing, detecting, identifying, or deterring acts of terrorism or limiting the harm such acts might otherwise cause, that is designated as such by the Secretary.

(2) ACT OF TERRORISM.—(A) The term “act of terrorism” means any act that the Secretary determines meets the requirements under subparagraph (B), as such requirements are further defined and specified by the Secretary.

(B) REQUIREMENTS.—An act meets the requirements of this subparagraph if the act—

(i) is unlawful;

(ii) causes harm to a person, property, or entity, in the United States, or in the case of a domestic United States air carrier or a United States-flag vessel (or a vessel based principally in the United States on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), in or outside the United States; and

(iii) uses or attempts to use instrumentalities, weapons or other methods designed or intended to cause mass destruction, injury or other loss to citizens or institutions of the United States.

(3) INSURANCE CARRIER.—The term “insurance carrier” means any corporation, association, society, order, firm, company, mutual, partnership, individual aggregation of individuals, or any other legal entity that provides commercial property and casualty insurance. Such term includes any affiliates of a commercial insurance carrier.

(4) LIABILITY INSURANCE.—

(A) IN GENERAL.—The term “liability insurance” means insurance for legal liabilities incurred by the insured resulting from—

(i) loss of or damage to property of others;

(ii) ensuing loss of income or extra expense incurred because of loss of or damage to property of others;

(iii) bodily injury (including) to persons other than the insured or its employees; or

(iv) loss resulting from debt or default of another.

(5) LOSS.—The term “loss” means death, bodily injury, or loss of or damage to property, including business interruption loss.

(6) NON-FEDERAL GOVERNMENT CUSTOMERS.—The term “non-Federal Government customers” means any customer of a Seller that is not an agency or instrumentality of the United States Government with authority under Public Law 85-804 to provide for indemnification under certain circumstances for third-party claims against its contractors, including but not limited to State and local authorities and commercial entities.

Subtitle H—Miscellaneous Provisions

SEC. 871. ADVISORY COMMITTEES.

6 USC 451.

(a) **IN GENERAL.**—The Secretary may establish, appoint members of, and use the services of, advisory committees, as the Secretary may deem necessary. An advisory committee established under this section may be exempted by the Secretary from Public Law 92–463, but the Secretary shall publish notice in the Federal Register announcing the establishment of such a committee and identifying its purpose and membership. Notwithstanding the preceding sentence, members of an advisory committee that is exempted by the Secretary under the preceding sentence who are special Government employees (as that term is defined in section 202 of title 18, United States Code) shall be eligible for certifications under subsection (b)(3) of section 208 of title 18, United States Code, for official actions taken as a member of such advisory committee.

(b) **TERMINATION.**—Any advisory committee established by the Secretary shall terminate 2 years after the date of its establishment, unless the Secretary makes a written determination to extend the advisory committee to a specified date, which shall not be more than 2 years after the date on which such determination is made. The Secretary may make any number of subsequent extensions consistent with this subsection.

SEC. 872. REORGANIZATION.

6 USC 452.

(a) **REORGANIZATION.**—The Secretary may allocate or reallocate functions among the officers of the Department, and may establish, consolidate, alter, or discontinue organizational units within the Department, but only—

(1) pursuant to section 1502(b); or

(2) after the expiration of 60 days after providing notice of such action to the appropriate congressional committees, which shall include an explanation of the rationale for the action.

(b) **LIMITATIONS.**—

(1) **IN GENERAL.**—Authority under subsection (a)(1) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by this Act.

(2) **ABOLITIONS.**—Authority under subsection (a)(2) does not extend to the abolition of any agency, entity, organizational unit, program, or function established or required to be maintained by statute.

SEC. 873. USE OF APPROPRIATED FUNDS.

6 USC 453.

(a) **DISPOSAL OF PROPERTY.**—

(1) **STRICT COMPLIANCE.**—If specifically authorized to dispose of real property in this or any other Act, the Secretary shall exercise this authority in strict compliance with section 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485).

(2) **DEPOSIT OF PROCEEDS.**—The Secretary shall deposit the proceeds of any exercise of property disposal authority into the miscellaneous receipts of the Treasury in accordance with section 3302(b) of title 31, United States Code.

(b) GIFTS.—Gifts or donations of services or property of or for the Department may not be accepted, used, or disposed of unless specifically permitted in advance in an appropriations Act and only under the conditions and for the purposes specified in such appropriations Act.

President.

(c) BUDGET REQUEST.—Under section 1105 of title 31, United States Code, the President shall submit to Congress a detailed budget request for the Department for fiscal year 2004, and for each subsequent fiscal year.

6 USC 454.

SEC. 874. FUTURE YEAR HOMELAND SECURITY PROGRAM.

(a) IN GENERAL.—Each budget request submitted to Congress for the Department under section 1105 of title 31, United States Code, shall, at or about the same time, be accompanied by a Future Years Homeland Security Program.

(b) CONTENTS.—The Future Years Homeland Security Program under subsection (a) shall be structured, and include the same type of information and level of detail, as the Future Years Defense Program submitted to Congress by the Department of Defense under section 221 of title 10, United States Code.

Deadline.

(c) EFFECTIVE DATE.—This section shall take effect with respect to the preparation and submission of the fiscal year 2005 budget request for the Department and for any subsequent fiscal year, except that the first Future Years Homeland Security Program shall be submitted not later than 90 days after the Department's fiscal year 2005 budget request is submitted to Congress.

6 USC 455.

SEC. 875. MISCELLANEOUS AUTHORITIES.

President.

(a) SEAL.—The Department shall have a seal, whose design is subject to the approval of the President.

(b) PARTICIPATION OF MEMBERS OF THE ARMED FORCES.—With respect to the Department, the Secretary shall have the same authorities that the Secretary of Transportation has with respect to the Department of Transportation under section 324 of title 49, United States Code.

(c) REDELEGATION OF FUNCTIONS.—Unless otherwise provided in the delegation or by law, any function delegated under this Act may be redelegated to any subordinate.

6 USC 456.

SEC. 876. MILITARY ACTIVITIES.

Nothing in this Act shall confer upon the Secretary any authority to engage in warfighting, the military defense of the United States, or other military activities, nor shall anything in this Act limit the existing authority of the Department of Defense or the Armed Forces to engage in warfighting, the military defense of the United States, or other military activities.

6 USC 457.

SEC. 877. REGULATORY AUTHORITY AND PREEMPTION.

(a) REGULATORY AUTHORITY.—Except as otherwise provided in sections 306(c), 862(c), and 1706(b), this Act vests no new regulatory authority in the Secretary or any other Federal official, and transfers to the Secretary or another Federal official only such regulatory authority as exists on the date of enactment of this Act within any agency, program, or function transferred to the Department pursuant to this Act, or that on such date of enactment is exercised by another official of the executive branch with respect to such agency, program, or function. Any such transferred authority may not be exercised by an official from whom it is transferred upon

transfer of such agency, program, or function to the Secretary or another Federal official pursuant to this Act. This Act may not be construed as altering or diminishing the regulatory authority of any other executive agency, except to the extent that this Act transfers such authority from the agency.

(b) **PREEMPTION OF STATE OR LOCAL LAW.**—Except as otherwise provided in this Act, this Act preempts no State or local law, except that any authority to preempt State or local law vested in any Federal agency or official transferred to the Department pursuant to this Act shall be transferred to the Department effective on the date of the transfer to the Department of that Federal agency or official.

SEC. 878. COUNTERNARCOTICS OFFICER.

6 USC 458.

The Secretary shall appoint a senior official in the Department to assume primary responsibility for coordinating policy and operations within the Department and between the Department and other Federal departments and agencies with respect to interdicting the entry of illegal drugs into the United States, and tracking and severing connections between illegal drug trafficking and terrorism. Such official shall—

- (1) ensure the adequacy of resources within the Department for illicit drug interdiction; and
- (2) serve as the United States Interdiction Coordinator for the Director of National Drug Control Policy.

SEC. 879. OFFICE OF INTERNATIONAL AFFAIRS.

6 USC 459.

(a) **ESTABLISHMENT.**—There is established within the Office of the Secretary an Office of International Affairs. The Office shall be headed by a Director, who shall be a senior official appointed by the Secretary.

(b) **DUTIES OF THE DIRECTOR.**—The Director shall have the following duties:

- (1) To promote information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security. Such exchange shall include the following:
 - (A) Exchange of information on research and development on homeland security technologies.
 - (B) Joint training exercises of first responders.
 - (C) Exchange of expertise on terrorism prevention, response, and crisis management.
- (2) To identify areas for homeland security information and training exchange where the United States has a demonstrated weakness and another friendly nation or nations have a demonstrated expertise.
- (3) To plan and undertake international conferences, exchange programs, and training activities.
- (4) To manage international activities within the Department in coordination with other Federal officials with responsibility for counter-terrorism matters.

SEC. 880. PROHIBITION OF THE TERRORISM INFORMATION AND PREVENTION SYSTEM.

6 USC 460.

Any and all activities of the Federal Government to implement the proposed component program of the Citizen Corps known as Operation TIPS (Terrorism Information and Prevention System) are hereby prohibited.

Deadline.
6 USC 461.

SEC. 881. REVIEW OF PAY AND BENEFIT PLANS.

Notwithstanding any other provision of this Act, the Secretary shall, in consultation with the Director of the Office of Personnel Management, review the pay and benefit plans of each agency whose functions are transferred under this Act to the Department and, within 90 days after the date of enactment, submit a plan to the President of the Senate and the Speaker of the House of Representatives and the appropriate committees and subcommittees of Congress, for ensuring, to the maximum extent practicable, the elimination of disparities in pay and benefits throughout the Department, especially among law enforcement personnel, that are inconsistent with merit system principles set forth in section 2301 of title 5, United States Code.

6 USC 462.

SEC. 882. OFFICE FOR NATIONAL CAPITAL REGION COORDINATION.**(a) ESTABLISHMENT.—**

(1) **IN GENERAL.**—There is established within the Office of the Secretary the Office of National Capital Region Coordination, to oversee and coordinate Federal programs for and relationships with State, local, and regional authorities in the National Capital Region, as defined under section 2674(f)(2) of title 10, United States Code.

(2) **DIRECTOR.**—The Office established under paragraph (1) shall be headed by a Director, who shall be appointed by the Secretary.

(3) **COOPERATION.**—The Secretary shall cooperate with the Mayor of the District of Columbia, the Governors of Maryland and Virginia, and other State, local, and regional officers in the National Capital Region to integrate the District of Columbia, Maryland, and Virginia into the planning, coordination, and execution of the activities of the Federal Government for the enhancement of domestic preparedness against the consequences of terrorist attacks.

(b) **RESPONSIBILITIES.**—The Office established under subsection

(a)(1) shall—

(1) coordinate the activities of the Department relating to the National Capital Region, including cooperation with the Office for State and Local Government Coordination;

(2) assess, and advocate for, the resources needed by State, local, and regional authorities in the National Capital Region to implement efforts to secure the homeland;

(3) provide State, local, and regional authorities in the National Capital Region with regular information, research, and technical support to assist the efforts of State, local, and regional authorities in the National Capital Region in securing the homeland;

(4) develop a process for receiving meaningful input from State, local, and regional authorities and the private sector in the National Capital Region to assist in the development of the homeland security plans and activities of the Federal Government;

(5) coordinate with Federal agencies in the National Capital Region on terrorism preparedness, to ensure adequate planning, information sharing, training, and execution of the Federal role in domestic preparedness activities;

(6) coordinate with Federal, State, local, and regional agencies, and the private sector in the National Capital Region

on terrorism preparedness to ensure adequate planning, information sharing, training, and execution of domestic preparedness activities among these agencies and entities; and

(7) serve as a liaison between the Federal Government and State, local, and regional authorities, and private sector entities in the National Capital Region to facilitate access to Federal grants and other programs.

(c) ANNUAL REPORT.—The Office established under subsection (a) shall submit an annual report to Congress that includes—

(1) the identification of the resources required to fully implement homeland security efforts in the National Capital Region;

(2) an assessment of the progress made by the National Capital Region in implementing homeland security efforts; and

(3) recommendations to Congress regarding the additional resources needed to fully implement homeland security efforts in the National Capital Region.

(d) LIMITATION.—Nothing contained in this section shall be construed as limiting the power of State and local governments.

SEC. 883. REQUIREMENT TO COMPLY WITH LAWS PROTECTING EQUAL EMPLOYMENT OPPORTUNITY AND PROVIDING WHISTLE-BLOWER PROTECTIONS.

6 USC 463.

Nothing in this Act shall be construed as exempting the Department from requirements applicable with respect to executive agencies—

(1) to provide equal employment protection for employees of the Department (including pursuant to the provisions in section 2302(b)(1) of title 5, United States Code, and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (Public Law 107–174)); or

(2) to provide whistleblower protections for employees of the Department (including pursuant to the provisions in section 2302(b)(8) and (9) of such title and the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002).

SEC. 884. FEDERAL LAW ENFORCEMENT TRAINING CENTER.

6 USC 464.

(a) IN GENERAL.—The transfer of an authority or an agency under this Act to the Department of Homeland Security does not affect training agreements already entered into with the Federal Law Enforcement Training Center with respect to the training of personnel to carry out that authority or the duties of that transferred agency.

(b) CONTINUITY OF OPERATIONS.—All activities of the Federal Law Enforcement Training Center transferred to the Department of Homeland Security under this Act shall continue to be carried out at the locations such activities were carried out before such transfer.

SEC. 885. JOINT INTERAGENCY TASK FORCE.

6 USC 465.

(a) ESTABLISHMENT.—The Secretary may establish and operate a permanent Joint Interagency Homeland Security Task Force composed of representatives from military and civilian agencies of the United States Government for the purposes of anticipating terrorist threats against the United States and taking appropriate actions to prevent harm to the United States.

(b) STRUCTURE.—It is the sense of Congress that the Secretary should model the Joint Interagency Homeland Security Task Force

on the approach taken by the Joint Interagency Task Forces for drug interdiction at Key West, Florida and Alameda, California, to the maximum extent feasible and appropriate.

6 USC 466.

SEC. 886. SENSE OF CONGRESS REAFFIRMING THE CONTINUED IMPORTANCE AND APPLICABILITY OF THE POSSE COMITATUS ACT.

(a) FINDINGS.—Congress finds the following:

(1) Section 1385 of title 18, United States Code (commonly known as the “Posse Comitatus Act”), prohibits the use of the Armed Forces as a posse comitatus to execute the laws except in cases and under circumstances expressly authorized by the Constitution or Act of Congress.

(2) Enacted in 1878, the Posse Comitatus Act was expressly intended to prevent United States Marshals, on their own initiative, from calling on the Army for assistance in enforcing Federal law.

(3) The Posse Comitatus Act has served the Nation well in limiting the use of the Armed Forces to enforce the law.

(4) Nevertheless, by its express terms, the Posse Comitatus Act is not a complete barrier to the use of the Armed Forces for a range of domestic purposes, including law enforcement functions, when the use of the Armed Forces is authorized by Act of Congress or the President determines that the use of the Armed Forces is required to fulfill the President’s obligations under the Constitution to respond promptly in time of war, insurrection, or other serious emergency.

(5) Existing laws, including chapter 15 of title 10, United States Code (commonly known as the “Insurrection Act”), and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), grant the President broad powers that may be invoked in the event of domestic emergencies, including an attack against the Nation using weapons of mass destruction, and these laws specifically authorize the President to use the Armed Forces to help restore public order.

(b) SENSE OF CONGRESS.—Congress reaffirms the continued importance of section 1385 of title 18, United States Code, and it is the sense of Congress that nothing in this Act should be construed to alter the applicability of such section to any use of the Armed Forces as a posse comitatus to execute the laws.

6 USC 467.

SEC. 887. COORDINATION WITH THE DEPARTMENT OF HEALTH AND HUMAN SERVICES UNDER THE PUBLIC HEALTH SERVICE ACT.

(a) IN GENERAL.—The annual Federal response plan developed by the Department shall be consistent with section 319 of the Public Health Service Act (42 U.S.C. 247d).

(b) DISCLOSURES AMONG RELEVANT AGENCIES.—

(1) IN GENERAL.—Full disclosure among relevant agencies shall be made in accordance with this subsection.

(2) PUBLIC HEALTH EMERGENCY.—During the period in which the Secretary of Health and Human Services has declared the existence of a public health emergency under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), the Secretary of Health and Human Services shall keep relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, fully and currently informed.

(3) **POTENTIAL PUBLIC HEALTH EMERGENCY.**—In cases involving, or potentially involving, a public health emergency, but in which no determination of an emergency by the Secretary of Health and Human Services under section 319(a) of the Public Health Service Act (42 U.S.C. 247d(a)), has been made, all relevant agencies, including the Department of Homeland Security, the Department of Justice, and the Federal Bureau of Investigation, shall keep the Secretary of Health and Human Services and the Director of the Centers for Disease Control and Prevention fully and currently informed.

SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE.

6 USC 468.

(a) **DEFINITIONS.**—In this section:

(1) **NON-HOMELAND SECURITY MISSIONS.**—The term “non-homeland security missions” means the following missions of the Coast Guard:

- (A) Marine safety.
- (B) Search and rescue.
- (C) Aids to navigation.
- (D) Living marine resources (fisheries law enforcement).
- (E) Marine environmental protection.
- (F) Ice operations.

(2) **HOMELAND SECURITY MISSIONS.**—The term “homeland security missions” means the following missions of the Coast Guard:

- (A) Ports, waterways and coastal security.
- (B) Drug interdiction.
- (C) Migrant interdiction.
- (D) Defense readiness.
- (E) Other law enforcement.

(b) **TRANSFER.**—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) **MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.**—Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Coast Guard to perform its missions shall be maintained intact and without significant reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(d) **CERTAIN TRANSFERS PROHIBITED.**—No mission, function, or asset (including for purposes of this subsection any ship, aircraft, or helicopter) of the Coast Guard may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the Coast Guard’s capability to perform its missions.

(e) **CHANGES TO MISSIONS.**—

(1) **PROHIBITION.**—The Secretary may not substantially or significantly reduce the missions of the Coast Guard or the Coast Guard’s capability to perform those missions, except as specified in subsequent Acts.

(2) **WAIVER.**—The Secretary may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling, and immediate need exists for

such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively if the restrictions under paragraph (1) are not waived.

(f) ANNUAL REVIEW.—

(1) IN GENERAL.—The Inspector General of the Department shall conduct an annual review that shall assess thoroughly the performance by the Coast Guard of all missions of the Coast Guard (including non-homeland security missions and homeland security missions) with a particular emphasis on examining the non-homeland security missions.

(2) REPORT.—The report under this paragraph shall be submitted to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Government Reform of the House of Representatives;

(C) the Committees on Appropriations of the Senate and the House of Representatives;

(D) the Committee on Commerce, Science, and Transportation of the Senate; and

(E) the Committee on Transportation and Infrastructure of the House of Representatives.

(g) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(h) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

Deadline.

(i) REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives that—

(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard's Integrated Deepwater System from 20 years to 10 years;

(2) includes an estimate of additional resources required;

(3) describes the resulting increased capabilities;

(4) outlines any increases in the Coast Guard's homeland security readiness;

(5) describes any increases in operational efficiencies; and

(6) provides a revised asset phase-in time line.

SEC. 889. HOMELAND SECURITY FUNDING ANALYSIS IN PRESIDENT'S BUDGET.

(a) IN GENERAL.—Section 1105(a) of title 31, United States Code, is amended by adding at the end the following:

“(33)(A)(i) a detailed, separate analysis, by budget function, by agency, and by initiative area (as determined by the administration) for the prior fiscal year, the current fiscal year, the fiscal years for which the budget is submitted, and the ensuing fiscal year identifying the amounts of gross and net appropriations or obligational authority and outlays that contribute to homeland security, with separate displays for mandatory and discretionary amounts, including—

“(I) summaries of the total amount of such appropriations or new obligational authority and outlays requested for homeland security;

“(II) an estimate of the current service levels of homeland security spending;

“(III) the most recent risk assessment and summary of homeland security needs in each initiative area (as determined by the administration); and

“(IV) an estimate of user fees collected by the Federal Government on behalf of homeland security activities;

“(ii) with respect to subclauses (I) through (IV) of clause (i), amounts shall be provided by account for each program, project and activity; and

“(iii) an estimate of expenditures for homeland security activities by State and local governments and the private sector for the prior fiscal year and the current fiscal year.

“(B) In this paragraph, consistent with the Office of Management and Budget’s June 2002 ‘Annual Report to Congress on Combatting Terrorism’, the term ‘homeland security’ refers to those activities that detect, deter, protect against, and respond to terrorist attacks occurring within the United States and its territories.

“(C) In implementing this paragraph, including determining what Federal activities or accounts constitute homeland security for purposes of budgetary classification, the Office of Management and Budget is directed to consult periodically, but at least annually, with the House and Senate Budget Committees, the House and Senate Appropriations Committees, and the Congressional Budget Office.”.

(b) **REPEAL OF DUPLICATIVE REPORTS.**—The following sections are repealed:

(1) Section 1051 of Public Law 105–85.

(2) Section 1403 of Public Law 105–261.

(c) **EFFECTIVE DATE.**—This section and the amendment made by this section shall apply beginning with respect to the fiscal year 2005 budget submission.

31 USC 1113
note.
50 USC 2301
note.
Applicability.
31 USC 1105
note.

SEC. 890. AIR TRANSPORTATION SAFETY AND SYSTEM STABILIZATION ACT.

The Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note) is amended—

(1) in section 408 by striking the last sentence of subsection (c); and

(2) in section 402 by striking paragraph (1) and inserting the following:

“(1) **AIR CARRIER.**—The term ‘air carrier’ means a citizen of the United States undertaking by any means, directly or indirectly, to provide air transportation and includes employees

and agents (including persons engaged in the business of providing air transportation security and their affiliates) of such citizen. For purposes of the preceding sentence, the term ‘agent’, as applied to persons engaged in the business of providing air transportation security, shall only include persons that have contracted directly with the Federal Aviation Administration on or after and commenced services no later than February 17, 2002, to provide such security, and had not been or are not debarred for any period within 6 months from that date.”.

Homeland
Security
Information
Sharing Act.
6 USC 481.

Subtitle I—Information Sharing

SEC. 891. SHORT TITLE; FINDINGS; AND SENSE OF CONGRESS.

(a) **SHORT TITLE.**—This subtitle may be cited as the “Homeland Security Information Sharing Act”.

(b) **FINDINGS.**—Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes terrorist attack.

(2) The Federal Government relies on State and local personnel to protect against terrorist attack.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attack.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(c) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 892. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

President.
6 USC 482.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—

(1) The President shall prescribe and implement procedures under which relevant Federal agencies—

(A) share relevant and appropriate homeland security information with other Federal agencies, including the Department, and appropriate State and local personnel;

(B) identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, determine whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—

(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with Federal agencies and appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include 1 or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau

of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this Act with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term “homeland security information” means any information possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term “intelligence community” has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term “State and local personnel” means any of the following persons involved in prevention, preparation, or response for terrorist attack:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private-sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal Government in procedures developed pursuant to this section.

(4) The term “State” includes the District of Columbia and any commonwealth, territory, or possession of the United States.

(g) CONSTRUCTION.—Nothing in this Act shall be construed as authorizing any department, bureau, agency, officer, or employee of the Federal Government to request, receive, or transmit to any other Government entity or personnel, or transmit to any State or local entity or personnel otherwise authorized by this Act to receive homeland security information, any information collected by the Federal Government solely for statistical purposes in violation of any other provision of law relating to the confidentiality of such information.

SEC. 893. REPORT.

6 USC 483.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to

Deadline.

the congressional committees specified in subsection (b) a report on the implementation of section 892. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 892, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

6 USC 484.

SEC. 894. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out section 892.

SEC. 895. AUTHORITY TO SHARE GRAND JURY INFORMATION.

18 USC app.

Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (2), by inserting “, or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6,” after “Rule 6”; and

(2) in paragraph (3)—

(A) in subparagraph (A)(ii), by inserting “or of a foreign government” after “(including personnel of a state or subdivision of a state”;

(B) in subparagraph (C)(i)—

(i) in subclause (I), by inserting before the semicolon the following: “or, upon a request by an attorney for the government, when sought by a foreign court or prosecutor for use in an official criminal investigation”;

(ii) in subclause (IV)—

(I) by inserting “or foreign” after “may disclose a violation of State”;

(II) by inserting “or of a foreign government” after “to an appropriate official of a State or subdivision of a State”; and

(III) by striking “or” at the end;

(iii) by striking the period at the end of subclause (V) and inserting “; or”; and

(iv) by adding at the end the following:

“(VI) when matters involve a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate federal, state, local, or foreign government official for the purpose of preventing or responding to such a threat.”; and

(C) in subparagraph (C)(iii)—

(i) by striking “Federal”;

(ii) by inserting “or clause (i)(VI)” after “clause (i)(V)”; and

(iii) by adding at the end the following: “Any state, local, or foreign official who receives information pursuant to clause (i)(VI) shall use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.”.

SEC. 896. AUTHORITY TO SHARE ELECTRONIC, WIRE, AND ORAL INTERCEPTION INFORMATION.

Section 2517 of title 18, United States Code, is amended by adding at the end the following:

“(7) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to a foreign investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure, and foreign investigative or law enforcement officers may use or disclose such contents or derivative evidence to the extent such use or disclosure is appropriate to the proper performance of their official duties.

“(8) Any investigative or law enforcement officer, or other Federal official in carrying out official duties as such Federal official, who by any means authorized by this chapter, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents or derivative evidence to any appropriate Federal, State, local, or foreign government official to the extent that such contents or derivative evidence reveals a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person’s official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.”.

SEC. 897. FOREIGN INTELLIGENCE INFORMATION.

(a) DISSEMINATION AUTHORIZED.—Section 203(d)(1) of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56; 50 U.S.C. 403-5d) is amended by adding at the end the following: “Consistent with the responsibility of the Director of Central Intelligence to protect intelligence sources and methods, and the responsibility of the Attorney General to protect sensitive law enforcement information, it shall be lawful for information revealing a threat of actual or potential attack

or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, obtained as part of a criminal investigation to be disclosed to any appropriate Federal, State, local, or foreign government official for the purpose of preventing or responding to such a threat. Any official who receives information pursuant to this provision may use that information only as necessary in the conduct of that person's official duties subject to any limitations on the unauthorized disclosure of such information, and any State, local, or foreign official who receives information pursuant to this provision may use that information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue.”.

18 USC 2517
note.

(b) CONFORMING AMENDMENTS.—Section 203(c) of that Act is amended—

(1) by striking “section 2517(6)” and inserting “paragraphs (6) and (8) of section 2517 of title 18, United States Code,”; and

(2) by inserting “and (VI)” after “Rule 6(e)(3)(C)(i)(V)”.

SEC. 898. INFORMATION ACQUIRED FROM AN ELECTRONIC SURVEILLANCE.

Section 106(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806) is amended by inserting after “law enforcement officers” the following: “or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)”.

SEC. 899. INFORMATION ACQUIRED FROM A PHYSICAL SEARCH.

Section 305(k)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1825) is amended by inserting after “law enforcement officers” the following: “or law enforcement personnel of a State or political subdivision of a State (including the chief executive officer of that State or political subdivision who has the authority to appoint or direct the chief law enforcement officer of that State or political subdivision)”.

TITLE IX—NATIONAL HOMELAND SECURITY COUNCIL

Establishment.
6 USC 491.

SEC. 901. NATIONAL HOMELAND SECURITY COUNCIL.

There is established within the Executive Office of the President a council to be known as the “Homeland Security Council” (in this title referred to as the “Council”).

6 USC 492.

SEC. 902. FUNCTION.

The function of the Council shall be to advise the President on homeland security matters.

6 USC 493.

SEC. 903. MEMBERSHIP.

The members of the Council shall be the following:

(1) The President.

- (2) The Vice President.
- (3) The Secretary of Homeland Security.
- (4) The Attorney General.
- (5) The Secretary of Defense.
- (6) Such other individuals as may be designated by the President.

SEC. 904. OTHER FUNCTIONS AND ACTIVITIES.

6 USC 494.

For the purpose of more effectively coordinating the policies and functions of the United States Government relating to homeland security, the Council shall—

- (1) assess the objectives, commitments, and risks of the United States in the interest of homeland security and to make resulting recommendations to the President;
- (2) oversee and review homeland security policies of the Federal Government and to make resulting recommendations to the President; and
- (3) perform such other functions as the President may direct.

SEC. 905. STAFF COMPOSITION.President.
6 USC 495.

The Council shall have a staff, the head of which shall be a civilian Executive Secretary, who shall be appointed by the President. The President is authorized to fix the pay of the Executive Secretary at a rate not to exceed the rate of pay payable to the Executive Secretary of the National Security Council.

SEC. 906. RELATION TO THE NATIONAL SECURITY COUNCIL.

6 USC 496.

The President may convene joint meetings of the Homeland Security Council and the National Security Council with participation by members of either Council or as the President may otherwise direct.

TITLE X—INFORMATION SECURITYFederal
Information
Security
Management Act
of 2002.
6 USC 101 note.**SEC. 1001. INFORMATION SECURITY.**

(a) **SHORT TITLE.**—This title may be cited as the “Federal Information Security Management Act of 2002”.

(b) **INFORMATION SECURITY.**—

(1) **IN GENERAL.**—Subchapter II of chapter 35 of title 44, United States Code, is amended to read as follows:

“SUBCHAPTER II—INFORMATION SECURITY**“§ 3531. Purposes**

“The purposes of this subchapter are to—

“(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

“(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

“(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

“(4) provide a mechanism for improved oversight of Federal agency information security programs;

“(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

“(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.”.

“§ 3532. Definitions

Applicability.

“(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

“(b) ADDITIONAL DEFINITIONS.—As used in this subchapter—

“(1) the term ‘information security’ means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

“(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

“(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information;

“(C) availability, which means ensuring timely and reliable access to and use of information; and

“(D) authentication, which means utilizing digital credentials to assure the identity of users and validate their access;

“(2) the term ‘national security system’ means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency, the function, operation, or use of which—

“(A) involves intelligence activities;

“(B) involves cryptologic activities related to national security;

“(C) involves command and control of military forces;

“(D) involves equipment that is an integral part of a weapon or weapons system; or

“(E) is critical to the direct fulfillment of military or intelligence missions provided that this definition does not apply to a system that is used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications);

“(3) the term ‘information technology’ has the meaning given that term in section 11101 of title 40; and

“(4) the term ‘information system’ means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation,

management, movement, control, display, switching, interchange, transmission, or reception of data or information, and includes—

- “(A) computers and computer networks;
- “(B) ancillary equipment;
- “(C) software, firmware, and related procedures;
- “(D) services, including support services; and
- “(E) related resources.

“§ 3533. Authority and functions of the Director

“(a) The Director shall oversee agency information security policies and practices, by—

“(1) promulgating information security standards under section 11331 of title 40;

“(2) overseeing the implementation of policies, principles, standards, and guidelines on information security;

“(3) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(A) information collected or maintained by or on behalf of an agency; or

“(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(4) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

“(5) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303(b)(5) of title 40, to enforce accountability for compliance with such requirements;

“(6) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3534(b);

“(7) coordinating information security policies and procedures with related information resources management policies and procedures; and

“(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

“(A) a summary of the findings of evaluations required by section 3535;

“(B) significant deficiencies in agency information security practices;

“(C) planned remedial action to address such deficiencies; and

“(D) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(9) of the National

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Deadline.

Institute of Standards and Technology Act (15 U.S.C. 278g-3).

“(b) Except for the authorities described in paragraphs (4) and (7) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

“§ 3534. Federal agency responsibilities

“(a) The head of each agency shall—

“(1) be responsible for—

“(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(i) information collected or maintained by or on behalf of the agency; and

“(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

“(i) information security standards promulgated by the Director under section 11331 of title 40; and

“(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

“(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

“(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

“(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

“(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40 for information security classifications and related requirements;

“(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

“(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

“(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

“(A) designating a senior agency information security officer who shall—

“(i) carry out the Chief Information Officer’s responsibilities under this section;

“(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

“(iii) have information security duties as that official’s primary duty; and

“(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

“(B) developing and maintaining an agencywide information security program as required by subsection (b);

“(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3533 of this title, and section 11331 of title 40;

“(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

“(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

“(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

“(b) Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3533(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

“(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

“(2) policies and procedures that—

“(A) are based on the risk assessments required by paragraph (1);

“(B) cost-effectively reduce information security risks to an acceptable level;

“(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

“(D) ensure compliance with—

“(i) the requirements of this subchapter;

“(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

“(iii) minimally acceptable system configuration requirements, as determined by the agency; and

“(iv) any other applicable requirements, including standards and guidelines for national security systems

issued in accordance with law and as directed by the President;

“(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

“(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

“(A) information security risks associated with their activities; and

“(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

“(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

“(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

“(B) may include testing relied on in a evaluation under section 3535;

“(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

“(7) procedures for detecting, reporting, and responding to security incidents, including—

“(A) mitigating risks associated with such incidents before substantial damage is done; and

“(B) notifying and consulting with, as appropriate—

“(i) law enforcement agencies and relevant Offices of Inspector General;

“(ii) an office designated by the President for any incident involving a national security system; and

“(iii) any other agency or office, in accordance with law or as directed by the President; and

“(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

“(c) Each agency shall—

“(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

“(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

“(A) annual agency budgets;

“(B) information resources management under subchapter 1 of this chapter;

“(C) information technology management under subtitle III of title 40;

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“(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

“(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101-576) (and the amendments made by that Act);

“(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

“(G) internal accounting and administrative controls under section 3512 of title 31, United States Code, (known as the ‘Federal Managers Financial Integrity Act’); and

“(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

“(A) as a material weakness in reporting under section 3512 of title 31; and

“(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

“(d)(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

“(A) the time periods; and

“(B) the resources, including budget, staffing, and training, that are necessary to implement the program required under subsection (b).

“(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

“(e) Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

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information.

“§ 3535. Annual independent evaluation

“(a)(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

“(2) Each evaluation by an agency under this section shall include—

“(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency’s information systems;

“(B) an assessment (made on the basis of the results of the testing) of compliance with—

“(i) the requirements of this subchapter; and

“(ii) related information security policies, procedures, standards, and guidelines; and

“(C) separate presentations, as appropriate, regarding information security relating to national security systems.

“(b) Subject to subsection (c)—

“(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector

General or by an independent external auditor, as determined by the Inspector General of the agency; and

“(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

“(c) For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

“(1) only by an entity designated by the agency head; and

“(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(d) The evaluation required by this section—

“(1) shall be performed in accordance with generally accepted government auditing standards; and

“(2) may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

“(e) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

“(f) Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

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“(g)(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3533(a)(8).

“(2) The Director’s report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

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“(h) The Comptroller General shall periodically evaluate and report to Congress on—

“(1) the adequacy and effectiveness of agency information security policies and practices; and

“(2) implementation of the requirements of this subchapter.

“§ 3536. National security systems

“The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

“(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from

the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

“(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

“(3) complies with the requirements of this subchapter.

“§ 3537. Authorization of appropriations

“There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

“§ 3538. Effect on existing law

“Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g–3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to Congress or the Comptroller General of the United States.”.

(2) CLERICAL AMENDMENT.—The items in the table of sections at the beginning of such chapter 35 under the heading “SUBCHAPTER II” are amended to read as follows:

“3531. Purposes.

“3532. Definitions.

“3533. Authority and functions of the Director.

“3534. Federal agency responsibilities.

“3535. Annual independent evaluation.

“3536. National security systems.

“3537. Authorization of appropriations.

“3538. Effect on existing law.”.

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.— 6 USC 511.

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3532(3) of title 44, United States Code.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection 2224(b), by striking “(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)” and inserting “(b) OBJECTIVES OF THE PROGRAM.—”;

(ii) in subsection 2224(b), by striking “(2) the program shall at a minimum meet the requirements of section 3534 and 3535 of title 44, United States Code.”; and

(iii) in subsection 2224(c), by inserting “, including through compliance with subtitle II of chapter 35 of title 44” after “infrastructure”.

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted Data or Formerly Restricted Data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

SEC. 1002. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Section 11331 of title 40, United States Code, is amended to read as follows:

“§ 11331. Responsibilities for Federal information systems standards

“(a) DEFINITION.—In this section, the term ‘information security’ has the meaning given that term in section 3532(b)(1) of title 44.

“(b) REQUIREMENT TO PRESCRIBE STANDARDS.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Except as provided under paragraph (2), the Director of the Office of Management and Budget shall, on the basis of proposed standards developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(a)) and in consultation with the Secretary of Homeland Security, promulgate information security standards pertaining to Federal information systems.

“(B) REQUIRED STANDARDS.—Standards promulgated under subparagraph (A) shall include—

“(i) standards that provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3(b)); and

“(ii) such standards that are otherwise necessary to improve the efficiency of operation or security of Federal information systems.

“(C) REQUIRED STANDARDS BINDING.—Information security standards described under subparagraph (B) shall be compulsory and binding.

“(2) STANDARDS AND GUIDELINES FOR NATIONAL SECURITY SYSTEMS.—Standards and guidelines for national security systems, as defined under section 3532(3) of title 44, shall be developed, promulgated, enforced, and overseen as otherwise authorized by law and as directed by the President.

“(c) APPLICATION OF MORE STRINGENT STANDARDS.—The head of an agency may employ standards for the cost-effective information security for all operations and assets within or under the supervision of that agency that are more stringent than the standards promulgated by the Director under this section, if such standards—

“(1) contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director; and

“(2) are otherwise consistent with policies and guidelines issued under section 3533 of title 44.

“(d) REQUIREMENTS REGARDING DECISIONS BY DIRECTOR.—

“(1) DEADLINE.—The decision regarding the promulgation of any standard by the Director under subsection (b) shall

President.

occur not later than 6 months after the submission of the proposed standard to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

“(2) NOTICE AND COMMENT.—A decision by the Director to significantly modify, or not promulgate, a proposed standard submitted to the Director by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), shall be made after the public is given an opportunity to comment on the Director’s proposed decision.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 113 of title 40, United States Code, is amended by striking the item relating to section 11331 and inserting the following:

“11331. Responsibilities for Federal information systems standards.”.

SEC. 1003. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Guidelines.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), is amended by striking the text and inserting the following:

“(a) The Institute shall—

“(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

“(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3532(b)(2) of title 44, United States Code);

“(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems; and

“(4) carry out the responsibilities described in paragraph (3) through the Computer Security Division.

“(b) The standards and guidelines required by subsection (a) shall include, at a minimum—

“(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

“(B) guidelines recommending the types of information and information systems to be included in each such category; and

“(C) minimum information security requirements for information and information systems in each such category;

“(2) a definition of and guidelines concerning detection and handling of information security incidents; and

“(3) guidelines developed in coordination with the National Security Agency for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

“(c) In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

“(1) consult with other agencies and offices (including, but not limited to, the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

“(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

“(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

“(2) provide the public with an opportunity to comment on proposed standards and guidelines;

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“(3) submit to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code—

“(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

“(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

“(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this Act;

“(5) ensure that such standards and guidelines do not require specific technological solutions or products, including any specific hardware or software security solutions;

“(6) ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

“(7) use flexible, performance-based standards and guidelines that, to the greatest extent possible, permit the use of off-the-shelf commercially developed information security products.

“(d) The Institute shall—

“(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Director of the Office of Management and Budget for promulgation under section 11331 of title 40, United States Code;

“(2) provide assistance to agencies regarding—

“(A) compliance with the standards and guidelines developed under subsection (a);

“(B) detecting and handling information security incidents; and

“(C) information security policies, procedures, and practices;

“(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

“(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

“(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

“(6) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

“(7) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

“(8) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Director of the Office of Management and Budget with such standards submitted to the Director; and

“(9) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

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“(e) As used in this section—

“(1) the term ‘agency’ has the same meaning as provided in section 3502(1) of title 44, United States Code;

“(2) the term ‘information security’ has the same meaning as provided in section 3532(1) of such title;

“(3) the term ‘information system’ has the same meaning as provided in section 3502(8) of such title;

“(4) the term ‘information technology’ has the same meaning as provided in section 11101 of title 40, United States Code; and

“(5) the term ‘national security system’ has the same meaning as provided in section 3532(b)(2) of such title.”.

SEC. 1004. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4), is amended—

(1) in subsection (a), by striking “Computer System Security and Privacy Advisory Board” and inserting “Information Security and Privacy Advisory Board”;

Government organization.

(2) in subsection (a)(1), by striking “computer or telecommunications” and inserting “information technology”;

(3) in subsection (a)(2)—

(A) by striking “computer or telecommunications technology” and inserting “information technology”; and

(B) by striking “computer or telecommunications equipment” and inserting “information technology”;

(4) in subsection (a)(3)—

(A) by striking “computer systems” and inserting “information system”; and

(B) by striking “computer systems security” and inserting “information security”;

(5) in subsection (b)(1) by striking “computer systems security” and inserting “information security”;

(6) in subsection (b) by striking paragraph (2) and inserting the following:

“(2) to advise the Institute and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and”;

(7) in subsection (b)(3) by inserting “annually” after “report”;

(8) by inserting after subsection (e) the following new subsection:

“(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.”;

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

“(h) As used in this section, the terms ‘information system’ and ‘information technology’ have the meanings given in section 20.”.

SEC. 1005. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **FEDERAL COMPUTER SYSTEM SECURITY TRAINING AND PLAN.**—

(1) **REPEAL.**—Section 11332 of title 40, United States Code, is repealed.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 113 of title 40, United States Code, as amended by striking the item relating to section 11332.

(b) **FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.**—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) is amended by striking subtitle G of title X (44 U.S.C. 3531 note).

(c) **PAPERWORK REDUCTION ACT.**—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding “and” at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking “sections 11331 and 11332(b) and (c) of title 40” and inserting “section 11331 of title 40 and subchapter II of this title”; and

(ii) by striking the semicolon and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end the following:

“(c) **INVENTORY OF INFORMATION SYSTEMS.**—(1) The head of each agency shall develop and maintain an inventory of the information systems (including national security systems) operated by or under the control of such agency;

“(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency;

“(3) Such inventory shall be—

“(A) updated at least annually;

“(B) made available to the Comptroller General; and

“(C) used to support information resources management, including—

“(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

“(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

“(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

“(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

“(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

“(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.”.

(3) Section 3506(g) of such title is amended—

(A) by adding “and” at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking “section 11332 of title 40” and inserting “subchapter II of this chapter”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking paragraph (3).

SEC. 1006. CONSTRUCTION.

6 USC 512.

Nothing in this Act, or the amendments made by this Act, affects the authority of the National Institute of Standards and Technology or the Department of Commerce relating to the development and promulgation of standards or guidelines under paragraphs (1) and (2) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)).

TITLE XI—DEPARTMENT OF JUSTICE DIVISIONS

Subtitle A—Executive Office for Immigration Review

SEC. 1101. LEGAL STATUS OF EOIR.

6 USC 521.

(a) EXISTENCE OF EOIR.—There is in the Department of Justice the Executive Office for Immigration Review, which shall be subject to the direction and regulation of the Attorney General under section 103(g) of the Immigration and Nationality Act, as added by section 1102.

Establishment.

SEC. 1102. AUTHORITIES OF THE ATTORNEY GENERAL.

Section 103 of the Immigration and Nationality Act (8 U.S.C. 1103) as amended by this Act, is further amended by—

(1) amending the heading to read as follows:

“POWERS AND DUTIES OF THE SECRETARY, THE UNDER SECRETARY,
AND THE ATTORNEY GENERAL”;

(2) in subsection (a)—

(A) by inserting “Attorney General,” after “President,”; and

(B) by redesignating paragraphs (8), (9), (8) (as added by section 372 of Public Law 104-208), and (9) (as added by section 372 of Public Law 104-208) as paragraphs (8), (9), (10), and (11), respectively; and

(3) by adding at the end the following new subsection:

“(g) ATTORNEY GENERAL.—

“(1) IN GENERAL.—The Attorney General shall have such authorities and functions under this Act and all other laws relating to the immigration and naturalization of aliens as were exercised by the Executive Office for Immigration Review, or by the Attorney General with respect to the Executive Office for Immigration Review, on the day before the effective date of the Immigration Reform, Accountability and Security Enhancement Act of 2002.

“(2) POWERS.—The Attorney General shall establish such regulations, prescribe such forms of bond, reports, entries, and other papers, issue such instructions, review such administrative determinations in immigration proceedings, delegate such authority, and perform such other acts as the Attorney General determines to be necessary for carrying out this section.”.

6 USC 522.

SEC. 1103. STATUTORY CONSTRUCTION.

Nothing in this Act, any amendment made by this Act, or in section 103 of the Immigration and Nationality Act, as amended by section 1102, shall be construed to limit judicial deference to regulations, adjudications, interpretations, orders, decisions, judgments, or any other actions of the Secretary of Homeland Security or the Attorney General.

Subtitle B—Transfer of the Bureau of Alcohol, Tobacco and Firearms to the Department of Justice

6 USC 531.

SEC. 1111. BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—There is established within the Department of Justice under the general authority of the Attorney General the Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this section referred to as the “Bureau”).

(2) DIRECTOR.—There shall be at the head of the Bureau a Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives (in this subtitle referred to as the “Director”). The Director shall be appointed by the Attorney General and shall perform such functions as the Attorney General shall direct. The Director shall receive compensation at the rate prescribed by law under section 5314 of title V, United States Code, for positions at level III of the Executive Schedule.

(3) COORDINATION.—The Attorney General, acting through the Director and such other officials of the Department of Justice as the Attorney General may designate, shall provide for the coordination of all firearms, explosives, tobacco enforcement, and arson enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among any officer, employee, or agency of the Department

of Justice involved in the performance of these and related functions.

(4) **PERFORMANCE OF TRANSFERRED FUNCTIONS.**—The Attorney General may make such provisions as the Attorney General determines appropriate to authorize the performance by any officer, employee, or agency of the Department of Justice of any function transferred to the Attorney General under this section.

(b) **RESPONSIBILITIES.**—Subject to the direction of the Attorney General, the Bureau shall be responsible for investigating—

(1) criminal and regulatory violations of the Federal firearms, explosives, arson, alcohol, and tobacco smuggling laws;

(2) the functions transferred by subsection (c); and

(3) any other function related to the investigation of violent crime or domestic terrorism that is delegated to the Bureau by the Attorney General.

(c) **TRANSFER OF AUTHORITIES, FUNCTIONS, PERSONNEL, AND ASSETS TO THE DEPARTMENT OF JUSTICE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), but notwithstanding any other provision of law, there are transferred to the Department of Justice the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms, which shall be maintained as a distinct entity within the Department of Justice, including the related functions of the Secretary of the Treasury.

(2) **ADMINISTRATION AND REVENUE COLLECTION FUNCTIONS.**—There shall be retained within the Department of the Treasury the authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms relating to the administration and enforcement of chapters 51 and 52 of the Internal Revenue Code of 1986, sections 4181 and 4182 of the Internal Revenue Code of 1986, and title 27, United States Code.

(3) **BUILDING PROSPECTUS.**—Prospectus PDC-98W10, giving the General Services Administration the authority for site acquisition, design, and construction of a new headquarters building for the Bureau of Alcohol, Tobacco and Firearms, is transferred, and deemed to apply, to the Bureau of Alcohol, Tobacco, Firearms, and Explosives established in the Department of Justice under subsection (a).

(d) **TAX AND TRADE BUREAU.**—

(1) **ESTABLISHMENT.**—There is established within the Department of the Treasury the Tax and Trade Bureau.

(2) **ADMINISTRATOR.**—The Tax and Trade Bureau shall be headed by an Administrator, who shall perform such duties as assigned by the Under Secretary for Enforcement of the Department of the Treasury. The Administrator shall occupy a career-reserved position within the Senior Executive Service.

(3) **RESPONSIBILITIES.**—The authorities, functions, personnel, and assets of the Bureau of Alcohol, Tobacco and Firearms that are not transferred to the Department of Justice under this section shall be retained and administered by the Tax and Trade Bureau.

SEC. 1112. TECHNICAL AND CONFORMING AMENDMENTS.

(a) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

5 USC app. 8D.

(1) in section 8D(b)(1) by striking “Bureau of Alcohol, Tobacco and Firearms” and inserting “Tax and Trade Bureau”; and

5 USC app. 9.

(2) in section 9(a)(1)(L)(i), by striking “Bureau of Alcohol, Tobacco, and Firearms” and inserting “Tax and Trade Bureau”.

(b) Section 1109(c)(2)(A)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (7 U.S.C. 1445-3(c)(2)(A)(i)) is amended by striking “(on ATF Form 3068) by manufacturers of tobacco products to the Bureau of Alcohol, Tobacco and Firearms” and inserting “by manufacturers of tobacco products to the Tax and Trade Bureau”.

8 USC 1701.

(c) Section 2(4)(J) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173; 8 U.S.C.A. 1701(4)(J)) is amended by striking “Bureau of Alcohol, Tobacco, and Firearms” and inserting “Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”.

(d) Section 3(1)(E) of the Firefighters’ Safety Study Act (15 U.S.C. 2223b(1)(E)) is amended by striking “the Bureau of Alcohol, Tobacco, and Firearms,” and inserting “the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,”.

(e) Chapter 40 of title 18, United States Code, is amended—

(1) by striking section 841(k) and inserting the following:

“(k) ‘Attorney General’ means the Attorney General of the United States.”;

(2) in section 846(a), by striking “the Attorney General and the Federal Bureau of Investigation, together with the Secretary” and inserting “the Federal Bureau of Investigation, together with the Bureau of Alcohol, Tobacco, Firearms, and Explosives”; and

18 USC 841-847.

(3) by striking “Secretary” each place it appears and inserting “Attorney General”.

(f) Chapter 44 of title 18, United States Code, is amended—

(1) in section 921(a)(4)(B), by striking “Secretary” and inserting “Attorney General”;

(2) in section 921(a)(4), by striking “Secretary of the Treasury” and inserting “Attorney General”;

(3) in section 921(a), by striking paragraph (18) and inserting the following:

“(18) The term ‘Attorney General’ means the Attorney General of the United States”;

(4) in section 922(p)(5)(A), by striking “after consultation with the Secretary” and inserting “after consultation with the Attorney General”;

(5) in section 923(l), by striking “Secretary of the Treasury” and inserting “Attorney General”; and

18 USC 921-923, 925, 926.

(6) by striking “Secretary” each place it appears, except before “of the Army” in section 921(a)(4) and before “of Defense” in section 922(p)(5)(A), and inserting the term “Attorney General”.

(g) Section 1261(a) of title 18, United States Code, is amended to read as follows:

“(a) The Attorney General—

“(1) shall enforce the provisions of this chapter; and

“(2) has the authority to issue regulations to carry out the provisions of this chapter.”.

(h) Section 1952(c) of title 18, United States Code, is amended by striking “Secretary of the Treasury” and inserting “Attorney General”.

(i) Chapter 114 of title 18, United States Code, is amended—

(1) by striking section 2341(5), and inserting the following:

“(5) the term ‘Attorney General’ means the Attorney General of the United States”; and

(2) by striking “Secretary” each place it appears and inserting “Attorney General”. 18 USC 2343, 2346.

(j) Section 6103(i)(8)(A)(i) of the Internal Revenue Code of 1986 (relating to confidentiality and disclosure of returns and return information) is amended by striking “or the Bureau of Alcohol, Tobacco and Firearms” and inserting “, the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, or the Tax and Trade Bureau, Department of the Treasury,”. 26 USC 6103.

(k) Section 7801(a) of the Internal Revenue Code of 1986 (relating to the authority of the Department of the Treasury) is amended— 26 USC 7801.

(1) by striking “SECRETARY.—Except” and inserting “SECRETARY.—

“(1) IN GENERAL.—Except”; and

(2) by adding at the end the following:

“(2) ADMINISTRATION AND ENFORCEMENT OF CERTAIN PROVISIONS BY ATTORNEY GENERAL.—

“(A) IN GENERAL.—The administration and enforcement of the following provisions of this title shall be performed by or under the supervision of the Attorney General; and the term ‘Secretary’ or ‘Secretary of the Treasury’ shall, when applied to those provisions, mean the Attorney General; and the term ‘internal revenue officer’ shall, when applied to those provisions, mean any officer of the Bureau of Alcohol, Tobacco, Firearms, and Explosives so designated by the Attorney General:

“(i) Chapter 53.

“(ii) Chapters 61 through 80, to the extent such chapters relate to the enforcement and administration of the provisions referred to in clause (i).

“(B) USE OF EXISTING RULINGS AND INTERPRETATIONS.—Nothing in this Act alters or repeals the rulings and interpretations of the Bureau of Alcohol, Tobacco, and Firearms in effect on the effective date of the Homeland Security Act of 2002, which concern the provisions of this title referred to in subparagraph (A). The Attorney General shall consult with the Secretary to achieve uniformity and consistency in administering provisions under chapter 53 of title 26, United States Code.”.

(l) Section 2006(2) of title 28, United States Code, is amended by inserting “, the Director, Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice,” after “the Secretary of the Treasury”.

(m) Section 713 of title 31, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 713. Audit of Internal Revenue Service, Tax and Trade Bureau, and Bureau of Alcohol, Tobacco, Firearms, and Explosives”;

(2) in subsection (a), by striking “Bureau of Alcohol, Tobacco, and Firearms,” and inserting “Tax and Trade Bureau, Department of the Treasury, and the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”; and

(3) in subsection (b)—

(A) in paragraph (1)(B), by striking “or the Bureau” and inserting “or either Bureau”;

(B) in paragraph (2)—

(i) by striking “or the Bureau” and inserting “or either Bureau”; and

(ii) by striking “and the Director of the Bureau” and inserting “the Tax and Trade Bureau, Department of the Treasury, and the Director of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”; and

(C) in paragraph (3), by striking “or the Bureau” and inserting “or either Bureau”.

(n) Section 9703 of title 31, United States Code, is amended—

(1) in subsection (a)(2)(B)—

(A) in clause (iii)(III), by inserting “and” after the semicolon;

(B) in clause (iv), by striking “; and” and inserting a period; and

(C) by striking clause (v);

(2) by striking subsection (o);

(3) by redesignating existing subsection (p) as subsection (o); and

(4) in subsection (o)(1), as redesignated by paragraph (3), by striking “Bureau of Alcohol, Tobacco and Firearms” and inserting “Tax and Trade Bureau”.

(o) Section 609N(2)(L) of the Justice Assistance Act of 1984 (42 U.S.C. 10502(2)(L)) is amended by striking “Bureau of Alcohol, Tobacco, and Firearms” and inserting “Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”.

(p) Section 32401(a) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13921(a)) is amended—

(1) by striking “Secretary of the Treasury” each place it appears and inserting “Attorney General”; and

(2) in subparagraph (3)(B), by striking “Bureau of Alcohol, Tobacco and Firearms” and inserting “Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice”.

(q) Section 80303 of title 49, United States Code, is amended—

(1) by inserting “or, when the violation of this chapter involves contraband described in paragraph (2) or (5) of section 80302(a), the Attorney General” after “section 80304 of this title.”; and

(2) by inserting “, the Attorney General,” after “by the Secretary”.

(r) Section 80304 of title 49, United States Code, is amended—

(1) in subsection (a), by striking “(b) and (c)” and inserting “(b), (c), and (d)”;

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c), the following:

“(d) ATTORNEY GENERAL.—The Attorney General, or officers, employees, or agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice designated by the Attorney General, shall carry out the laws referred to in section 80306(b) of this title to the extent that the violation of this chapter involves contraband described in section 80302 (a)(2) or (a)(5).”.

(s) Section 103 of the Gun Control Act of 1968 (Public Law 90-618; 82 Stat. 1226) is amended by striking “Secretary of the Treasury” and inserting “Attorney General”. 18 USC 921 note.

SEC. 1113. POWERS OF AGENTS OF THE BUREAU OF ALCOHOL, TOBACCO, FIREARMS, AND EXPLOSIVES.

Chapter 203 of title 18, United States Code, is amended by adding the following:

“§ 3051. Powers of Special Agents of Bureau of Alcohol, Tobacco, Firearms, and Explosives

“(a) Special agents of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, as well as any other investigator or officer charged by the Attorney General with the duty of enforcing any of the criminal, seizure, or forfeiture provisions of the laws of the United States, may carry firearms, serve warrants and subpoenas issued under the authority of the United States and make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

“(b) Any special agent of the Bureau of Alcohol, Tobacco, Firearms, and Explosives may, in respect to the performance of his or her duties, make seizures of property subject to forfeiture to the United States.

“(c)(1) Except as provided in paragraphs (2) and (3), and except to the extent that such provisions conflict with the provisions of section 983 of title 18, United States Code, insofar as section 983 applies, the provisions of the Customs laws relating to— Applicability.

“(A) the seizure, summary and judicial forfeiture, and condemnation of property;

“(B) the disposition of such property;

“(C) the remission or mitigation of such forfeiture; and

“(D) the compromise of claims,

shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under any applicable provision of law enforced or administered by the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

“(2) For purposes of paragraph (1), duties that are imposed upon a customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws of the United States shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or any other person as may be authorized or designated for that purpose by the Attorney General.

“(3) Notwithstanding any other provision of law, the disposition of firearms forfeited by reason of a violation of any law of the United States shall be governed by the provisions of section 5872(b) of the Internal Revenue Code of 1986.”.

Virginia.
6 USC 532.

SEC. 1114. EXPLOSIVES TRAINING AND RESEARCH FACILITY.

(a) **ESTABLISHMENT.**—There is established within the Bureau an Explosives Training and Research Facility at Fort AP Hill, Fredericksburg, Virginia.

(b) **PURPOSE.**—The facility established under subsection (a) shall be utilized to train Federal, State, and local law enforcement officers to—

- (1) investigate bombings and explosions;
- (2) properly handle, utilize, and dispose of explosive materials and devices;
- (3) train canines on explosive detection; and
- (4) conduct research on explosives.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—There are authorized to be appropriated such sums as may be necessary to establish and maintain the facility established under subsection (a).

(2) **AVAILABILITY OF FUNDS.**—Any amounts appropriated pursuant to paragraph (1) shall remain available until expended.

Government
organization.
6 USC 533.

SEC. 1115. PERSONNEL MANAGEMENT DEMONSTRATION PROJECT.

Notwithstanding any other provision of law, the Personnel Management Demonstration Project established under section 102 of title I of division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for Fiscal Year 1999 (Public Law 105-277; 122 Stat. 2681-585) shall be transferred to the Attorney General of the United States for continued use by the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of Justice, and the Secretary of the Treasury for continued use by the Tax and Trade Bureau.

Safe Explosives
Act.

Subtitle C—Explosives

18 USC 841 note.

SEC. 1121. SHORT TITLE.

This subtitle may be referred to as the “Safe Explosives Act”.

SEC. 1122. PERMITS FOR PURCHASERS OF EXPLOSIVES.

(a) **DEFINITIONS.**—Section 841 of title 18, United States Code, is amended—

(1) by striking subsection (j) and inserting the following:
“(j) ‘Permittee’ means any user of explosives for a lawful purpose, who has obtained either a user permit or a limited permit under the provisions of this chapter.”; and

(2) by adding at the end the following:
“(r) ‘Alien’ means any person who is not a citizen or national of the United States.

“(s) ‘Responsible person’ means an individual who has the power to direct the management and policies of the applicant pertaining to explosive materials.”.

(b) **PERMITS FOR PURCHASE OF EXPLOSIVES.**—Section 842 of title 18, United States Code, is amended—

- (1) in subsection (a)(2), by striking “and” at the end;
- (2) by striking subsection (a)(3) and inserting the following:
“(3) other than a licensee or permittee knowingly—
“(A) to transport, ship, cause to be transported, or receive any explosive materials; or

“(B) to distribute explosive materials to any person other than a licensee or permittee; or

“(4) who is a holder of a limited permit—

“(A) to transport, ship, cause to be transported, or receive in interstate or foreign commerce any explosive materials; or

“(B) to receive explosive materials from a licensee or permittee, whose premises are located outside the State of residence of the limited permit holder, or on more than 6 separate occasions, during the period of the permit, to receive explosive materials from 1 or more licensees or permittees whose premises are located within the State of residence of the limited permit holder.”; and

(3) by striking subsection (b) and inserting the following:

“(b) It shall be unlawful for any licensee or permittee to knowingly distribute any explosive materials to any person other than—

“(1) a licensee;

“(2) a holder of a user permit; or

“(3) a holder of a limited permit who is a resident of the State where distribution is made and in which the premises of the transferor are located.”.

(c) LICENSES AND USER PERMITS.—Section 843(a) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by inserting “or limited permit” after “user permit”; and

(B) by inserting before the period at the end the following: “, including the names of and appropriate identifying information regarding all employees who will be authorized by the applicant to possess explosive materials, as well as fingerprints and a photograph of each responsible person”;

(2) in the second sentence, by striking “\$200 for each” and inserting “\$50 for a limited permit and \$200 for any other”; and

(3) by striking the third sentence and inserting “Each license or user permit shall be valid for not longer than 3 years from the date of issuance and each limited permit shall be valid for not longer than 1 year from the date of issuance. Each license or permit shall be renewable upon the same conditions and subject to the same restrictions as the original license or permit, and upon payment of a renewal fee not to exceed one-half of the original fee.”.

(d) CRITERIA FOR APPROVING LICENSES AND PERMITS.—Section 843(b) of title 18, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) the applicant (or, if the applicant is a corporation, partnership, or association, each responsible person with respect to the applicant) is not a person described in section 842(i);”;

(2) in paragraph (4)—

(A) by inserting “(A) the Secretary verifies by inspection or, if the application is for an original limited permit or the first or second renewal of such a permit, by such other means as the Secretary determines appropriate, that” before “the applicant”; and

(B) by adding at the end the following:

“(B) subparagraph (A) shall not apply to an applicant for the renewal of a limited permit if the Secretary has verified, by inspection within the preceding 3 years, the matters described in subparagraph (A) with respect to the applicant; and”;

(3) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(6) none of the employees of the applicant who will be authorized by the applicant to possess explosive materials is any person described in section 842(i); and

“(7) in the case of a limited permit, the applicant has certified in writing that the applicant will not receive explosive materials on more than 6 separate occasions during the 12-month period for which the limited permit is valid.”.

(e) APPLICATION APPROVAL.—Section 843(c) of title 18, United States Code, is amended by striking “forty-five days” and inserting “90 days for licenses and permits,”.

(f) INSPECTION AUTHORITY.—Section 843(f) of title 18, United States Code, is amended—

(1) in the first sentence—

(A) by striking “permittees” and inserting “holders of user permits”; and

(B) by inserting “licensees and permittees” before “shall submit”;

(2) in the second sentence, by striking “permittee” the first time it appears and inserting “holder of a user permit”; and

(3) by adding at the end the following: “The Secretary may inspect the places of storage for explosive materials of an applicant for a limited permit or, at the time of renewal of such permit, a holder of a limited permit, only as provided in subsection (b)(4).”

(g) POSTING OF PERMITS.—Section 843(g) of title 18, United States Code, is amended by inserting “user” before “permits”.

(h) BACKGROUND CHECKS; CLEARANCES.—Section 843 of title 18, United States Code, is amended by adding at the end the following:

“(h)(1) If the Secretary receives, from an employer, the name and other identifying information of a responsible person or an employee who will be authorized by the employer to possess explosive materials in the course of employment with the employer, the Secretary shall determine whether the responsible person or employee is one of the persons described in any paragraph of section 842(i). In making the determination, the Secretary may take into account a letter or document issued under paragraph (2).

“(2)(A) If the Secretary determines that the responsible person or the employee is not one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing or electronically of the determination and issue, to the responsible person or employee, a letter of clearance, which confirms the determination.

“(B) If the Secretary determines that the responsible person or employee is one of the persons described in any paragraph of section 842(i), the Secretary shall notify the employer in writing

or electronically of the determination and issue to the responsible person or the employee, as the case may be, a document that—

“(i) confirms the determination;

“(ii) explains the grounds for the determination;

“(iii) provides information on how the disability may be relieved; and

“(iv) explains how the determination may be appealed.”.

(i) EFFECTIVE DATE.—

18 USC 843 note.

(1) IN GENERAL.—The amendments made by this section shall take effect 180 days after the date of enactment of this Act.

(2) EXCEPTION.—Notwithstanding any provision of this Act, a license or permit issued under section 843 of title 18, United States Code, before the date of enactment of this Act, shall remain valid until that license or permit is revoked under section 843(d) or expires, or until a timely application for renewal is acted upon.

SEC. 1123. PERSONS PROHIBITED FROM RECEIVING OR POSSESSING EXPLOSIVE MATERIALS.

(a) DISTRIBUTION OF EXPLOSIVES.—Section 842(d) of title 18, United States Code, is amended—

(1) in paragraph (5), by striking “or” at the end;

(2) in paragraph (6), by striking the period at the end and inserting “or who has been committed to a mental institution;”; and

(3) by adding at the end the following:

“(7) is an alien, other than an alien who—

“(A) is lawfully admitted for permanent residence (as defined in section 101 (a)(20) of the Immigration and Nationality Act); or

“(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

“(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

“(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

“(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or

receipt of explosive materials is in furtherance of the military purpose; or

“(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

“(8) has been discharged from the armed forces under dishonorable conditions;

“(9) having been a citizen of the United States, has renounced the citizenship of that person.”.

(b) POSSESSION OF EXPLOSIVE MATERIALS.—Section 842(i) of title 18, United States Code, is amended—

(1) in paragraph (3), by striking “or” at the end; and

(2) by inserting after paragraph (4) the following:

“(5) who is an alien, other than an alien who—

“(A) is lawfully admitted for permanent residence (as that term is defined in section 101(a)(20) of the Immigration and Nationality Act); or

“(B) is in lawful nonimmigrant status, is a refugee admitted under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or is in asylum status under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), and—

“(i) is a foreign law enforcement officer of a friendly foreign government, as determined by the Secretary in consultation with the Secretary of State, entering the United States on official law enforcement business, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of this official law enforcement business;

“(ii) is a person having the power to direct or cause the direction of the management and policies of a corporation, partnership, or association licensed pursuant to section 843(a), and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of such power;

“(iii) is a member of a North Atlantic Treaty Organization (NATO) or other friendly foreign military force, as determined by the Secretary in consultation with the Secretary of Defense, (whether or not admitted in a nonimmigrant status) who is present in the United States under military orders for training or other military purpose authorized by the United States, and the shipping, transporting, possession, or receipt of explosive materials is in furtherance of the military purpose; or

“(iv) is lawfully present in the United States in cooperation with the Director of Central Intelligence, and the shipment, transportation, receipt, or possession of the explosive materials is in furtherance of such cooperation;

“(6) who has been discharged from the armed forces under dishonorable conditions;

“(7) who, having been a citizen of the United States, has renounced the citizenship of that person”; and

(3) by inserting “or affecting” before “interstate” each place that term appears.

SEC. 1124. REQUIREMENT TO PROVIDE SAMPLES OF EXPLOSIVE MATERIALS AND AMMONIUM NITRATE.

Section 843 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

“(i) FURNISHING OF SAMPLES.—

“(1) IN GENERAL.—Licensed manufacturers and licensed importers and persons who manufacture or import explosive materials or ammonium nitrate shall, when required by letter issued by the Secretary, furnish—

“(A) samples of such explosive materials or ammonium nitrate;

“(B) information on chemical composition of those products; and

“(C) any other information that the Secretary determines is relevant to the identification of the explosive materials or to identification of the ammonium nitrate.

“(2) REIMBURSEMENT.—The Secretary shall, by regulation, authorize reimbursement of the fair market value of samples furnished pursuant to this subsection, as well as the reasonable costs of shipment.”.

Regulations.

SEC. 1125. DESTRUCTION OF PROPERTY OF INSTITUTIONS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 844(f)(1) of title 18, United States Code, is amended by inserting before the word “shall” the following: “or any institution or organization receiving Federal financial assistance,”.

SEC. 1126. RELIEF FROM DISABILITIES.

Section 845(b) of title 18, United States Code, is amended to read as follows:

“(b)(1) A person who is prohibited from shipping, transporting, receiving, or possessing any explosive under section 842(i) may apply to the Secretary for relief from such prohibition.

“(2) The Secretary may grant the relief requested under paragraph (1) if the Secretary determines that the circumstances regarding the applicability of section 842(i), and the applicant’s record and reputation, are such that the applicant will not be likely to act in a manner dangerous to public safety and that the granting of such relief is not contrary to the public interest.

“(3) A licensee or permittee who applies for relief, under this subsection, from the disabilities incurred under this chapter as a result of an indictment for or conviction of a crime punishable by imprisonment for a term exceeding 1 year shall not be barred by such disability from further operations under the license or permit pending final action on an application for relief filed pursuant to this section.”.

SEC. 1127. THEFT REPORTING REQUIREMENT.

Section 844 of title 18, United States Code, is amended by adding at the end the following:

“(p) THEFT REPORTING REQUIREMENT.—

“(1) IN GENERAL.—A holder of a license or permit who knows that explosive materials have been stolen from that licensee or permittee, shall report the theft to the Secretary not later than 24 hours after the discovery of the theft.

“(2) PENALTY.—A holder of a license or permit who does not report a theft in accordance with paragraph (1), shall be fined not more than \$10,000, imprisoned not more than 5 years, or both.”.

SEC. 1128. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as necessary to carry out this subtitle and the amendments made by this subtitle.

TITLE XII—AIRLINE WAR RISK INSURANCE LEGISLATION

**SEC. 1201. AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING
OUT OF ACTS OF TERRORISM.**

Section 44303 of title 49, United States Code, is amended—

(1) by inserting “(a) IN GENERAL.—” before “The Secretary of Transportation”;

49 USC 40101
note.

(2) by moving the text of paragraph (2) of section 201(b) of the Air Transportation Safety and System Stabilization Act (115 Stat. 235) to the end and redesignating such paragraph as subsection (b);

(3) in subsection (b) (as so redesignated)—

(A) by striking the subsection heading and inserting “AIR CARRIER LIABILITY FOR THIRD PARTY CLAIMS ARISING OUT OF ACTS OF TERRORISM.—”;

(B) in the first sentence by striking “the 180-day period following the date of enactment of this Act, the Secretary of Transportation” and inserting “the period beginning on September 22, 2001, and ending on December 31, 2003, the Secretary”; and

(C) in the last sentence by striking “this paragraph” and inserting “this subsection”.

SEC. 1202. EXTENSION OF INSURANCE POLICIES.

Section 44302 of title 49, United States Code, is amended by adding at the end the following:

“(f) EXTENSION OF POLICIES.—

“(1) IN GENERAL.—The Secretary shall extend through August 31, 2003, and may extend through December 31, 2003, the termination date of any insurance policy that the Department of Transportation issued to an air carrier under subsection (a) and that is in effect on the date of enactment of this subsection on no less favorable terms to the air carrier than existed on June 19, 2002; except that the Secretary shall amend the insurance policy, subject to such terms and conditions as the Secretary may prescribe, to add coverage for losses or injuries to aircraft hulls, passengers, and crew at the limits carried by air carriers for such losses and injuries as of such date of enactment and at an additional premium comparable to the premium charged for third-party casualty coverage under such policy.

“(2) SPECIAL RULES.—Notwithstanding paragraph (1)—

“(A) in no event shall the total premium paid by the air carrier for the policy, as amended, be more than twice

the premium that the air carrier was paying to the Department of Transportation for its third party policy as of June 19, 2002; and

“(B) the coverage in such policy shall begin with the first dollar of any covered loss that is incurred.”.

SEC. 1203. CORRECTION OF REFERENCE.

49 USC 44306.

Effective November 19, 2001, section 147 of the Aviation and Transportation Security Act (Public Law 107–71) is amended by striking “(b)” and inserting “(c)”.

Effective date.

SEC. 1204. REPORT.

Not later than 90 days after the date of enactment of this Act, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that—

Deadline.

(A) evaluates the availability and cost of commercial war risk insurance for air carriers and other aviation entities for passengers and third parties;

(B) analyzes the economic effect upon air carriers and other aviation entities of available commercial war risk insurance; and

(C) describes the manner in which the Department could provide an alternative means of providing aviation war risk reinsurance covering passengers, crew, and third parties through use of a risk-retention group or by other means.

TITLE XIII—FEDERAL WORKFORCE IMPROVEMENT

Chief Human
Capital Officers
Act of 2002.

Subtitle A—Chief Human Capital Officers

SEC. 1301. SHORT TITLE.

5 USC 101 note.

This title may be cited as the “Chief Human Capital Officers Act of 2002”.

SEC. 1302. AGENCY CHIEF HUMAN CAPITAL OFFICERS.

(a) IN GENERAL.—Part II of title 5, United States Code, is amended by inserting after chapter 13 the following:

“CHAPTER 14—AGENCY CHIEF HUMAN CAPITAL OFFICERS

“Sec.

“1401. Establishment of agency Chief Human Capital Officers.

“1402. Authority and functions of agency Chief Human Capital Officers.

“§ 1401. Establishment of agency Chief Human Capital Officers

“The head of each agency referred to under paragraphs (1) and (2) of section 901(b) of title 31 shall appoint or designate a Chief Human Capital Officer, who shall—

“(1) advise and assist the head of the agency and other agency officials in carrying out the agency’s responsibilities

for selecting, developing, training, and managing a high-quality, productive workforce in accordance with merit system principles;

“(2) implement the rules and regulations of the President and the Office of Personnel Management and the laws governing the civil service within the agency; and

“(3) carry out such functions as the primary duty of the Chief Human Capital Officer.

“§ 1402. Authority and functions of agency Chief Human Capital Officers

“(a) The functions of each Chief Human Capital Officer shall include—

“(1) setting the workforce development strategy of the agency;

“(2) assessing workforce characteristics and future needs based on the agency’s mission and strategic plan;

“(3) aligning the agency’s human resources policies and programs with organization mission, strategic goals, and performance outcomes;

“(4) developing and advocating a culture of continuous learning to attract and retain employees with superior abilities;

“(5) identifying best practices and benchmarking studies, and

“(6) applying methods for measuring intellectual capital and identifying links of that capital to organizational performance and growth.

“(b) In addition to the authority otherwise provided by this section, each agency Chief Human Capital Officer—

“(1) shall have access to all records, reports, audits, reviews, documents, papers, recommendations, or other material that—

“(A) are the property of the agency or are available to the agency; and

“(B) relate to programs and operations with respect to which that agency Chief Human Capital Officer has responsibilities under this chapter; and

“(2) may request such information or assistance as may be necessary for carrying out the duties and responsibilities provided by this chapter from any Federal, State, or local governmental entity.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters for chapters for part II of title 5, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“14. Agency Chief Human Capital Officers 1401”.

5 USC 1401 note.

SEC. 1303. CHIEF HUMAN CAPITAL OFFICERS COUNCIL.

(a) ESTABLISHMENT.—There is established a Chief Human Capital Officers Council, consisting of—

(1) the Director of the Office of Personnel Management, who shall act as chairperson of the Council;

(2) the Deputy Director for Management of the Office of Management and Budget, who shall act as vice chairperson of the Council; and

(3) the Chief Human Capital Officers of Executive departments and any other members who are designated by the Director of the Office of Personnel Management.

(b) **FUNCTIONS.**—The Chief Human Capital Officers Council shall meet periodically to advise and coordinate the activities of the agencies of its members on such matters as modernization of human resources systems, improved quality of human resources information, and legislation affecting human resources operations and organizations.

(c) **EMPLOYEE LABOR ORGANIZATIONS AT MEETINGS.**—The Chief Human Capital Officers Council shall ensure that representatives of Federal employee labor organizations are present at a minimum of 1 meeting of the Council each year. Such representatives shall not be members of the Council.

(d) **ANNUAL REPORT.**—Each year the Chief Human Capital Officers Council shall submit a report to Congress on the activities of the Council.

SEC. 1304. STRATEGIC HUMAN CAPITAL MANAGEMENT.

Section 1103 of title 5, United States Code, is amended by adding at the end the following:

“(c)(1) The Office of Personnel Management shall design a set of systems, including appropriate metrics, for assessing the management of human capital by Federal agencies.

“(2) The systems referred to under paragraph (1) shall be defined in regulations of the Office of Personnel Management and include standards for—

“(A)(i) aligning human capital strategies of agencies with the missions, goals, and organizational objectives of those agencies; and

“(ii) integrating those strategies into the budget and strategic plans of those agencies;

“(B) closing skill gaps in mission critical occupations;

“(C) ensuring continuity of effective leadership through implementation of recruitment, development, and succession plans;

“(D) sustaining a culture that cultivates and develops a high performing workforce;

“(E) developing and implementing a knowledge management strategy supported by appropriate investment in training and technology; and

“(F) holding managers and human resources officers accountable for efficient and effective human resources management in support of agency missions in accordance with merit system principles.”.

SEC. 1305. EFFECTIVE DATE.

5 USC 1103 note.

This subtitle shall take effect 180 days after the date of enactment of this Act.

Subtitle B—Reforms Relating to Federal Human Capital Management

SEC. 1311. INCLUSION OF AGENCY HUMAN CAPITAL STRATEGIC PLANNING IN PERFORMANCE PLANS AND PROGRAMS PERFORMANCE REPORTS.

(a) **PERFORMANCE PLANS.**—Section 1115 of title 31, United States Code, is amended—

(1) in subsection (a), by striking paragraph (3) and inserting the following:

“(3) provide a description of how the performance goals and objectives are to be achieved, including the operation processes, training, skills and technology, and the human, capital, information, and other resources and strategies required to meet those performance goals and objectives.”;

(2) by redesignating subsection (f) as subsection (g); and

(3) by inserting after subsection (e) the following:

“(f) With respect to each agency with a Chief Human Capital Officer, the Chief Human Capital Officer shall prepare that portion of the annual performance plan described under subsection (a)(3).”.

(b) PROGRAM PERFORMANCE REPORTS.—Section 1116(d) of title 31, United States Code, is amended—

(1) in paragraph (4), by striking “and” after the semicolon;

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

“(5) include a review of the performance goals and evaluation of the performance plan relative to the agency’s strategic human capital management; and”.

SEC. 1312. REFORM OF THE COMPETITIVE SERVICE HIRING PROCESS.

(a) IN GENERAL.—Chapter 33 of title 5, United States Code, is amended—

(1) in section 3304(a)—

(A) in paragraph (1), by striking “and” after the semicolon;

(B) in paragraph (2), by striking the period and inserting “; and”; and

(C) by adding at the end of the following:

“(3) authority for agencies to appoint, without regard to the provision of sections 3309 through 3318, candidates directly to positions for which—

“(A) public notice has been given; and

“(B) the Office of Personnel Management has determined that there exists a severe shortage of candidates or there is a critical hiring need.

Regulations.

The Office shall prescribe, by regulation, criteria for identifying such positions and may delegate authority to make determinations under such criteria.”; and

(2) by inserting after section 3318 the following:

“§ 3319. Alternative ranking and selection procedures

“(a) The Office, in exercising its authority under section 3304, or an agency to which the Office has delegated examining authority under section 1104(a)(2), may establish category rating systems for evaluating applicants for positions in the competitive service, under 2 or more quality categories based on merit consistent with regulations prescribed by the Office of Personnel Management, rather than assigned individual numerical ratings.

“(b) Within each quality category established under subsection (a), preference-eligibles shall be listed ahead of individuals who are not preference eligibles. For other than scientific and professional positions at GS-9 of the General Schedule (equivalent or higher), qualified preference-eligibles who have a compensable service-connected disability of 10 percent or more shall be listed in the highest quality category.

“(c)(1) An appointing official may select any applicant in the highest quality category or, if fewer than 3 candidates have been assigned to the highest quality category, in a merged category consisting of the highest and the second highest quality categories.

“(2) Notwithstanding paragraph (1), the appointing official may not pass over a preference-eligible in the same category from which selection is made, unless the requirements of section 3317(b) or 3318(b), as applicable, are satisfied.

“(d) Each agency that establishes a category rating system under this section shall submit in each of the 3 years following that establishment, a report to Congress on that system including information on—

“(1) the number of employees hired under that system;

“(2) the impact that system has had on the hiring of veterans and minorities, including those who are American Indian or Alaska Natives, Asian, Black or African American, and native Hawaiian or other Pacific Islanders; and

“(3) the way in which managers were trained in the administration of that system.

“(e) The Office of Personnel Management may prescribe such regulations as it considers necessary to carry out the provisions of this section.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 33 of title 5, United States Code, is amended by striking the item relating to section 3319 and inserting the following:

“3319. Alternative ranking and selection procedures.”.

SEC. 1313. PERMANENT EXTENSION, REVISION, AND EXPANSION OF AUTHORITIES FOR USE OF VOLUNTARY SEPARATION INCENTIVE PAY AND VOLUNTARY EARLY RETIREMENT.

(a) **VOLUNTARY SEPARATION INCENTIVE PAYMENTS.**—

(1) **IN GENERAL.**—

(A) **AMENDMENT TO TITLE 5, UNITED STATES CODE.**—

Chapter 35 of title 5, United States Code, is amended by inserting after subchapter I the following:

“SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

“§ 3521. Definitions

“In this subchapter, the term—

“(1) ‘agency’ means an Executive agency as defined under section 105; and

“(2) ‘employee’—

“(A) means an employee as defined under section 2105 employed by an agency and an individual employed by a county committee established under section 8(b)(5) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)(5)) who—

“(i) is serving under an appointment without time limitation; and

“(ii) has been currently employed for a continuous period of at least 3 years; and

“(B) shall not include—

“(i) a reemployed annuitant under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

“(ii) an employee having a disability on the basis of which such employee is or would be eligible for disability retirement under subchapter III of chapter 83 or 84 or another retirement system for employees of the Government;

“(iii) an employee who is in receipt of a decision notice of involuntary separation for misconduct or unacceptable performance;

“(iv) an employee who has previously received any voluntary separation incentive payment from the Federal Government under this subchapter or any other authority;

“(v) an employee covered by statutory reemployment rights who is on transfer employment with another organization; or

“(vi) any employee who—

“(I) during the 36-month period preceding the date of separation of that employee, performed service for which a student loan repayment benefit was or is to be paid under section 5379;

“(II) during the 24-month period preceding the date of separation of that employee, performed service for which a recruitment or relocation bonus was or is to be paid under section 5753; or

“(III) during the 12-month period preceding the date of separation of that employee, performed service for which a retention bonus was or is to be paid under section 5754.

“§ 3522. Agency plans; approval

“(a) Before obligating any resources for voluntary separation incentive payments, the head of each agency shall submit to the Office of Personnel Management a plan outlining the intended use of such incentive payments and a proposed organizational chart for the agency once such incentive payments have been completed.

“(b) The plan of an agency under subsection (a) shall include—

“(1) the specific positions and functions to be reduced or eliminated;

“(2) a description of which categories of employees will be offered incentives;

“(3) the time period during which incentives may be paid;

“(4) the number and amounts of voluntary separation incentive payments to be offered; and

“(5) a description of how the agency will operate without the eliminated positions and functions.

“(c) The Director of the Office of Personnel Management shall review each agency's plan and may make any appropriate modifications in the plan, in consultation with the Director of the Office of Management and Budget. A plan under this section may not be implemented without the approval of the Director of the Office of Personnel Management.

“§ 3523. Authority to provide voluntary separation incentive payments

“(a) A voluntary separation incentive payment under this subchapter may be paid to an employee only as provided in the plan of an agency established under section 3522.

“(b) A voluntary incentive payment—

“(1) shall be offered to agency employees on the basis of—

“(A) 1 or more organizational units;

“(B) 1 or more occupational series or levels;

“(C) 1 or more geographical locations;

“(D) skills, knowledge, or other factors related to a position;

“(E) specific periods of time during which eligible employees may elect a voluntary incentive payment; or

“(F) any appropriate combination of such factors;

“(2) shall be paid in a lump sum after the employee’s separation;

“(3) shall be equal to the lesser of—

“(A) an amount equal to the amount the employee would be entitled to receive under section 5595(c) if the employee were entitled to payment under such section (without adjustment for any previous payment made); or

“(B) an amount determined by the agency head, not to exceed \$25,000;

“(4) may be made only in the case of an employee who voluntarily separates (whether by retirement or resignation) under this subchapter;

“(5) shall not be a basis for payment, and shall not be included in the computation, of any other type of Government benefit;

“(6) shall not be taken into account in determining the amount of any severance pay to which the employee may be entitled under section 5595, based on another other separation; and

“(7) shall be paid from appropriations or funds available for the payment of the basic pay of the employee.

“§ 3524. Effect of subsequent employment with the Government

“(a) The term ‘employment’—

“(1) in subsection (b) includes employment under a personal services contract (or other direct contract) with the United States Government (other than an entity in the legislative branch); and

“(2) in subsection (c) does not include employment under such a contract.

“(b) An individual who has received a voluntary separation incentive payment under this subchapter and accepts any employment for compensation with the Government of the United States with 5 years after the date of the separation on which the payment is based shall be required to pay, before the individual’s first day of employment, the entire amount of the incentive payment to the agency that paid the incentive payment.

“(c)(1) If the employment under this section is with an agency, other than the General Accounting Office, the United States Postal Service, or the Postal Rate Commission, the Director of the Office

of Personnel Management may, at the request of the head of the agency, may waive the repayment if—

“(A) the individual involved possesses unique abilities and is the only qualified applicant available for the position; or

“(B) in case of an emergency involving a direct threat to life or property, the individual—

“(i) has skills directly related to resolving the emergency; and

“(ii) will serve on a temporary basis only so long as that individual’s services are made necessary by the emergency.

“(2) If the employment under this section is with an entity in the legislative branch, the head of the entity or the appointing official may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

“(3) If the employment under this section is with the judicial branch, the Director of the Administrative Office of the United States Courts may waive the repayment if the individual involved possesses unique abilities and is the only qualified applicant available for the position.

“§ 3525. Regulations

“The Office of Personnel Management may prescribe regulations to carry out this subchapter.”.

(B) TECHNICAL AND CONFORMING AMENDMENTS.—

Chapter 35 of title 5, United States Code, is amended—

(i) by striking the chapter heading and inserting the following:

“CHAPTER 35—RETENTION PREFERENCE, VOLUNTARY SEPARATION INCENTIVE PAYMENTS, RESTORATION, AND REEMPLOYMENT”;

and

(ii) in the table of sections by inserting after the item relating to section 3504 the following:

“SUBCHAPTER II—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

“3521. Definitions.

“3522. Agency plans; approval.

“3523. Authority to provide voluntary separation incentive payments.

“3524. Effect of subsequent employment with the Government.

“3525. Regulations.”.

5 USC 3521 note.

(2) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts may, by regulation, establish a program substantially similar to the program established under paragraph (1) for individuals serving in the judicial branch.

5 USC 3521 note.

(3) CONTINUATION OF OTHER AUTHORITY.—Any agency exercising any voluntary separation incentive authority in effect on the effective date of this subsection may continue to offer voluntary separation incentives consistent with that authority until that authority expires.

5 USC 3521 note.

(4) EFFECTIVE DATE.—This subsection shall take effect 60 days after the date of enactment of this Act.

(b) FEDERAL EMPLOYEE VOLUNTARY EARLY RETIREMENT.—

(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8336(d)(2) of title 5, United States Code, is amended to read as follows:

“(2)(A) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in subparagraph (D);

“(B) is serving under an appointment that is not time limited;

“(C) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

“(D) is separated from the service voluntarily during a period in which, as determined by the office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

Regulations.

“(i) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of function, or other substantial workforce restructuring (or shaping);

“(ii) a significant percentage of employees servicing in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

“(iii) identified as being in positions which are becoming surplus or excess to the agency’s future ability to carry out its mission effectively; and

“(E) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

“(i) 1 or more organizational units;

“(ii) 1 or more occupational series or levels;

“(iii) 1 or more geographical locations;

“(iv) specific periods;

“(v) skills, knowledge, or other factors related to a position; or

“(vi) any appropriate combination of such factors;”.

(2) FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.—Section 8414(b)(1) of title 5, United States Code, is amended by striking subparagraph (B) and inserting the following:

“(B)(i) has been employed continuously, by the agency in which the employee is serving, for at least the 31-day period ending on the date on which such agency requests the determination referred to in clause (iv);

“(ii) is serving under an appointment that is not time limited;

“(iii) has not been duly notified that such employee is to be involuntarily separated for misconduct or unacceptable performance;

“(iv) is separate from the service voluntarily during a period in which, as determined by the Office of Personnel Management (upon request of the agency) under regulations prescribed by the Office—

Regulations.

“(I) such agency (or, if applicable, the component in which the employee is serving) is undergoing substantial delayering, substantial reorganization, substantial reductions in force, substantial transfer of

function, or other substantial workforce restructuring (or shaping);

“(II) a significant percentage of employees serving in such agency (or component) are likely to be separated or subject to an immediate reduction in the rate of basic pay (without regard to subchapter VI of chapter 53, or comparable provisions); or

“(III) identified as being in positions which are becoming surplus or excess to the agency’s future ability to carry out its mission effectively; and

“(v) as determined by the agency under regulations prescribed by the Office, is within the scope of the offer of voluntary early retirement, which may be made on the basis of—

“(I) 1 or more organizational units;

“(II) 1 or more occupational series or levels;

“(III) 1 or more geographical locations;

“(IV) specific periods;

“(V) skills, knowledge, or other factors related to a position; or

“(VI) any appropriate combination of such factors.”.

(3) GENERAL ACCOUNTING OFFICE AUTHORITY.—The amendments made by this subsection shall not be construed to affect the authority under section 1 of Public Law 106–303 (5 U.S.C. 8336 note; 114 Stat. 1063).

(4) TECHNICAL AND CONFORMING AMENDMENTS.—Section 7001 of the 1998 Supplemental Appropriations and Rescissions Act (Public Law 105–174; 112 Stat. 91) is repealed.

(5) REGULATIONS.—The Office of Personnel Management may prescribe regulations to carry out this subsection.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the implementation of this section is intended to reshape the Federal workforce and not downsize the Federal workforce.

SEC. 1314. STUDENT VOLUNTEER TRANSIT SUBSIDY.

(a) IN GENERAL.—Section 7905(a)(1) of title 5, United States Code, is amended by striking “and a member of a uniformed service” and inserting “, a member of a uniformed service, and a student who provides voluntary services under section 3111”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 3111(c)(1) of title 5, United States Code, is amended by striking “chapter 81 of this title” and inserting “section 7905 (relating to commuting by means other than single-occupancy motor vehicles), chapter 81”.

Subtitle C—Reforms Relating to the Senior Executive Service

SEC. 1321. REPEAL OF RECERTIFICATION REQUIREMENTS OF SENIOR EXECUTIVES.

(a) IN GENERAL.—Title 5, United States Code, is amended—
(1) in chapter 33—

(A) in section 3393(g) by striking “3393a”;

(B) by repealing section 3393a; and

(C) in the table of sections by striking the item relating to section 3393a;

5 USC 8336 note,
8414 note.

5 USC 8336 note.

5 USC 3521 note.

(2) in chapter 35—

(A) in section 3592(a)—

- (i) in paragraph (1), by inserting “or” at the end;
- (ii) in paragraph (2), by striking “or” at the end;
- (iii) by striking paragraph (3); and
- (iv) by striking the last sentence;

(B) in section 3593(a), by striking paragraph (2) and inserting the following:

“(2) the appointee left the Senior Executive Service for reasons other than misconduct, neglect of duty, malfeasance, or less than fully successful executive performance as determined under subchapter II of chapter 43.”; and

(C) in section 3594(b)—

- (i) in paragraph (1), by inserting “or” at the end;
- (ii) in paragraph (2), by striking “or” at the end;

and

- (iii) by striking paragraph (3);

(3) in section 7701(c)(1)(A), by striking “or removal from the Senior Executive Service for failure to be recertified under section 3393a”;

(4) in chapter 83—

(A) in section 8336(h)(1), by striking “for failure to be recertified as a senior executive under section 3393a or”; and

(B) in section 8339(h), in the first sentence, by striking “, except that such reduction shall not apply in the case of an employee retiring under section 8336(h) for failure to be recertified as a senior executive”; and

(5) in chapter 84—

(A) in section 8414(a)(1), by striking “for failure to be recertified as a senior executive under section 3393a or”; and

(B) in section 8421(a)(2), by striking “, except that an individual entitled to an annuity under section 8414(a) for failure to be recertified as a senior executive shall be entitled to an annuity supplement without regard to such applicable retirement age”.

(b) SAVINGS PROVISION.—Notwithstanding the amendments made by subsection (a)(2)(A), an appeal under the final sentence of section 3592(a) of title 5, United States Code, that is pending on the day before the effective date of this section—

(1) shall not abate by reason of the enactment of the amendments made by subsection (a)(2)(A); and

(2) shall continue as if such amendments had not been enacted.

(c) APPLICATION.—The amendment made by subsection (a)(2)(B) shall not apply with respect to an individual who, before the effective date of this section, leaves the Senior Executive Service for failure to be recertified as a senior executive under section 3393a of title 5, United States Code.

SEC. 1322. ADJUSTMENT OF LIMITATION ON TOTAL ANNUAL COMPENSATION.

(a) IN GENERAL.—Section 5307 of title 5, United States Code, is amended by adding at the end the following:

“(d)(1) Notwithstanding any other provision of this section, subsection (a)(1) shall be applied by substituting ‘the total annual

5 USC 3592 note.

5 USC 3593 note.

Applicability.

compensation payable to the Vice President under section 104 of title 3' for 'the annual rate of basic pay payable for level I of the Executive Schedule' in the case of any employee who—

“(A) is paid under section 5376 or 5383 of this title or section 332(f), 603, or 604 of title 28; and

“(B) holds a position in or under an agency which is described in paragraph (2).

“(2) An agency described in this paragraph is any agency which, for purposes of the calendar year involved, has been certified under this subsection as having a performance appraisal system which (as designed and applied) makes meaningful distinctions based on relative performance.

“(3)(A) The Office of Personnel Management and the Office of Management and Budget jointly shall promulgate such regulations as may be necessary to carry out this subsection, including the criteria and procedures in accordance with which any determinations under this subsection shall be made.

“(B) An agency's certification under this subsection shall be for a period of 2 calendar years, except that such certification may be terminated at any time, for purposes of either or both of those years, upon a finding that the actions of such agency have not remained in conformance with applicable requirements.

“(C) Any certification or decertification under this subsection shall be made by the Office of Personnel Management, with the concurrence of the Office of Management and Budget.

“(4) Notwithstanding any provision of paragraph (3), any regulations, certifications, or other measures necessary to carry out this subsection with respect to employees within the judicial branch shall be the responsibility of the Director of the Administrative Office of the United States Courts. However, the regulations under this paragraph shall be consistent with those promulgated under paragraph (3).”.

(b) CONFORMING AMENDMENTS.—(1) Section 5307(a) of title 5, United States Code, is amended by inserting “or as otherwise provided under subsection (d),” after “under law,”.

(2) Section 5307(c) of such title is amended by striking “this section,” and inserting “this section (subject to subsection (d)),”.

Subtitle D—Academic Training

SEC. 1331. ACADEMIC TRAINING.

(a) ACADEMIC DEGREE TRAINING.—Section 4107 of title 5, United States Code, is amended to read as follows:

“§ 4107. Academic degree training

“(a) Subject to subsection (b), an agency may select and assign an employee to academic degree training and may pay or reimburse the costs of academic degree training from appropriated or other available funds if such training—

“(1) contributes significantly to—

“(A) meeting an identified agency training need;

“(B) resolving an identified agency staffing problem;

or

“(C) accomplishing goals in the strategic plan of the agency;

“(2) is part of a planned, systemic, and coordinated agency employee development program linked to accomplishing the strategic goals of the agency; and

“(3) is accredited and is provided by a college or university that is accredited by a nationally recognized body.

“(b) In exercising authority under subsection (a), an agency shall—

“(1) consistent with the merit system principles set forth in paragraphs (2) and (7) of section 2301(b), take into consideration the need to—

“(A) maintain a balanced workforce in which women, members of racial and ethnic minority groups, and persons with disabilities are appropriately represented in Government service; and

“(B) provide employees effective education and training to improve organizational and individual performance;

“(2) assure that the training is not for the sole purpose of providing an employee an opportunity to obtain an academic degree or qualify for appointment to a particular position for which the academic degree is a basic requirement;

“(3) assure that no authority under this subsection is exercised on behalf of any employee occupying or seeking to qualify for—

“(A) a noncareer appointment in the senior Executive Service; or

“(B) appointment to any position that is excepted from the competitive service because of its confidential policy-determining, policy-making or policy-advocating character; and

“(4) to the greatest extent practicable, facilitate the use of online degree training.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 41 of title 5, United States Code, is amended by striking the item relating to section 4107 and inserting the following:

“4107. Academic degree training.”.

SEC. 1332. MODIFICATIONS TO NATIONAL SECURITY EDUCATION PROGRAM.

5 USC 3301 note.

(a) FINDINGS AND POLICIES.—

(1) FINDINGS.—Congress finds that—

(A) the United States Government actively encourages and financially supports the training, education, and development of many United States citizens;

(B) as a condition of some of those supports, many of those citizens have an obligation to seek either compensated or uncompensated employment in the Federal sector; and

(C) it is in the United States national interest to maximize the return to the Nation of funds invested in the development of such citizens by seeking to employ them in the Federal sector.

(2) POLICY.—It shall be the policy of the United States Government to—

(A) establish procedures for ensuring that United States citizens who have incurred service obligations as the result of receiving financial support for education and

training from the United States Government and have applied for Federal positions are considered in all recruitment and hiring initiatives of Federal departments, bureaus, agencies, and offices; and

(B) advertise and open all Federal positions to United States citizens who have incurred service obligations with the United States Government as the result of receiving financial support for education and training from the United States Government.

(b) FULFILLMENT OF SERVICE REQUIREMENT IF NATIONAL SECURITY POSITIONS ARE UNAVAILABLE.—Section 802(b)(2) of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(1) in subparagraph (A), by striking clause (ii) and inserting the following:

“(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position in an agency or office of the Federal Government having national security responsibilities is available, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to the foreign country, foreign language, area study, or international field of study for which the scholarship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); or”;

(2) in subparagraph (B), by striking clause (ii) and inserting the following:

“(ii) if the recipient demonstrates to the Secretary (in accordance with such regulations) that no national security position is available upon the completion of the degree, work in other offices or agencies of the Federal Government or in the field of higher education in a discipline relating to foreign country, foreign language, area study, or international field of study for which the fellowship was awarded, for a period specified by the Secretary, which period shall be determined in accordance with clause (i); and”.

Arming Pilots
Against
Terrorism Act.

49 USC 40101
note.

TITLE XIV—ARMING PILOTS AGAINST TERRORISM

SEC. 1401. SHORT TITLE.

This title may be cited as the “Arming Pilots Against Terrorism Act”.

SEC. 1402. FEDERAL FLIGHT DECK OFFICER PROGRAM.

(a) IN GENERAL.—Subchapter I of chapter 449 of title 49, United States Code, is amended by adding at the end the following:

“§ 44921. Federal flight deck officer program

“(a) ESTABLISHMENT.—The Under Secretary of Transportation for Security shall establish a program to deputize volunteer pilots of air carriers providing passenger air transportation or intrastate passenger air transportation as Federal law enforcement officers to defend the flight decks of aircraft of such air carriers against

acts of criminal violence or air piracy. Such officers shall be known as ‘Federal flight deck officers’.

“(b) PROCEDURAL REQUIREMENTS.—

“(1) IN GENERAL.—Not later than 3 months after the date of enactment of this section, the Under Secretary shall establish procedural requirements to carry out the program under this section. Deadline.

“(2) COMMENCEMENT OF PROGRAM.—Beginning 3 months after the date of enactment of this section, the Under Secretary shall begin the process of training and deputizing pilots who are qualified to be Federal flight deck officers as Federal flight deck officers under the program.

“(3) ISSUES TO BE ADDRESSED.—The procedural requirements established under paragraph (1) shall address the following issues:

“(A) The type of firearm to be used by a Federal flight deck officer.

“(B) The type of ammunition to be used by a Federal flight deck officer.

“(C) The standards and training needed to qualify and requalify as a Federal flight deck officer.

“(D) The placement of the firearm of a Federal flight deck officer on board the aircraft to ensure both its security and its ease of retrieval in an emergency.

“(E) An analysis of the risk of catastrophic failure of an aircraft as a result of the discharge (including an accidental discharge) of a firearm to be used in the program into the avionics, electrical systems, or other sensitive areas of the aircraft.

“(F) The division of responsibility between pilots in the event of an act of criminal violence or air piracy if only 1 pilot is a Federal flight deck officer and if both pilots are Federal flight deck officers.

“(G) Procedures for ensuring that the firearm of a Federal flight deck officer does not leave the cockpit if there is a disturbance in the passenger cabin of the aircraft or if the pilot leaves the cockpit for personal reasons.

“(H) Interaction between a Federal flight deck officer and a Federal air marshal on board the aircraft.

“(I) The process for selection of pilots to participate in the program based on their fitness to participate in the program, including whether an additional background check should be required beyond that required by section 44936(a)(1).

“(J) Storage and transportation of firearms between flights, including international flights, to ensure the security of the firearms, focusing particularly on whether such security would be enhanced by requiring storage of the firearm at the airport when the pilot leaves the airport to remain overnight away from the pilot’s base airport.

“(K) Methods for ensuring that security personnel will be able to identify whether a pilot is authorized to carry a firearm under the program.

“(L) Methods for ensuring that pilots (including Federal flight deck officers) will be able to identify whether a passenger is a law enforcement officer who is authorized to carry a firearm aboard the aircraft.

“(M) Any other issues that the Under Secretary considers necessary.

“(N) The Under Secretary’s decisions regarding the methods for implementing each of the foregoing procedural requirements shall be subject to review only for abuse of discretion.

“(4) PREFERENCE.—In selecting pilots to participate in the program, the Under Secretary shall give preference to pilots who are former military or law enforcement personnel.

“(5) CLASSIFIED INFORMATION.—Notwithstanding section 552 of title 5 but subject to section 40119 of this title, information developed under paragraph (3)(E) shall not be disclosed.

“(6) NOTICE TO CONGRESS.—The Under Secretary shall provide notice to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate after completing the analysis required by paragraph (3)(E).

“(7) MINIMIZATION OF RISK.—If the Under Secretary determines as a result of the analysis under paragraph (3)(E) that there is a significant risk of the catastrophic failure of an aircraft as a result of the discharge of a firearm, the Under Secretary shall take such actions as may be necessary to minimize that risk.

“(c) TRAINING, SUPERVISION, AND EQUIPMENT.—

“(1) IN GENERAL.—The Under Secretary shall only be obligated to provide the training, supervision, and equipment necessary for a pilot to be a Federal flight deck officer under this section at no expense to the pilot or the air carrier employing the pilot.

“(2) TRAINING.—

“(A) IN GENERAL.—The Under Secretary shall base the requirements for the training of Federal flight deck officers under subsection (b) on the training standards applicable to Federal air marshals; except that the Under Secretary shall take into account the differing roles and responsibilities of Federal flight deck officers and Federal air marshals.

“(B) ELEMENTS.—The training of a Federal flight deck officer shall include, at a minimum, the following elements:

“(i) Training to ensure that the officer achieves the level of proficiency with a firearm required under subparagraph (C)(i).

“(ii) Training to ensure that the officer maintains exclusive control over the officer’s firearm at all times, including training in defensive maneuvers.

“(iii) Training to assist the officer in determining when it is appropriate to use the officer’s firearm and when it is appropriate to use less than lethal force.

“(C) TRAINING IN USE OF FIREARMS.—

“(i) STANDARD.—In order to be deputized as a Federal flight deck officer, a pilot must achieve a level of proficiency with a firearm that is required by the Under Secretary. Such level shall be comparable to the level of proficiency required of Federal air marshals.

“(ii) CONDUCT OF TRAINING.—The training of a Federal flight deck officer in the use of a firearm may

be conducted by the Under Secretary or by a firearms training facility approved by the Under Secretary.

“(iii) REQUALIFICATION.—The Under Secretary shall require a Federal flight deck officer to requalify to carry a firearm under the program. Such requalification shall occur at an interval required by the Under Secretary.

“(d) DEPUTIZATION.—

“(1) IN GENERAL.—The Under Secretary may deputize, as a Federal flight deck officer under this section, a pilot who submits to the Under Secretary a request to be such an officer and whom the Under Secretary determines is qualified to be such an officer.

“(2) QUALIFICATION.—A pilot is qualified to be a Federal flight deck officer under this section if—

“(A) the pilot is employed by an air carrier;

“(B) the Under Secretary determines (in the Under Secretary’s discretion) that the pilot meets the standards established by the Under Secretary for being such an officer; and

“(C) the Under Secretary determines that the pilot has completed the training required by the Under Secretary.

“(3) DEPUTIZATION BY OTHER FEDERAL AGENCIES.—The Under Secretary may request another Federal agency to deputize, as Federal flight deck officers under this section, those pilots that the Under Secretary determines are qualified to be such officers.

“(4) REVOCATION.—The Under Secretary may, (in the Under Secretary’s discretion) revoke the deputization of a pilot as a Federal flight deck officer if the Under Secretary finds that the pilot is no longer qualified to be such an officer.

“(e) COMPENSATION.—Pilots participating in the program under this section shall not be eligible for compensation from the Federal Government for services provided as a Federal flight deck officer. The Federal Government and air carriers shall not be obligated to compensate a pilot for participating in the program or for the pilot’s training or qualification and requalification to carry firearms under the program.

“(f) AUTHORITY TO CARRY FIREARMS.—

“(1) IN GENERAL.—The Under Secretary shall authorize a Federal flight deck officer to carry a firearm while engaged in providing air transportation or intrastate air transportation. Notwithstanding subsection (c)(1), the officer may purchase a firearm and carry that firearm aboard an aircraft of which the officer is the pilot in accordance with this section if the firearm is of a type that may be used under the program.

“(2) PREEMPTION.—Notwithstanding any other provision of Federal or State law, a Federal flight deck officer, whenever necessary to participate in the program, may carry a firearm in any State and from 1 State to another State.

“(3) CARRYING FIREARMS OUTSIDE UNITED STATES.—In consultation with the Secretary of State, the Under Secretary may take such action as may be necessary to ensure that a Federal flight deck officer may carry a firearm in a foreign country whenever necessary to participate in the program.

Standards.

“(g) **AUTHORITY TO USE FORCE.**—Notwithstanding section 44903(d), the Under Secretary shall prescribe the standards and circumstances under which a Federal flight deck officer may use, while the program under this section is in effect, force (including lethal force) against an individual in the defense of the flight deck of an aircraft in air transportation or intrastate air transportation.

“(h) **LIMITATION ON LIABILITY.**—

“(1) **LIABILITY OF AIR CARRIERS.**—An air carrier shall not be liable for damages in any action brought in a Federal or State court arising out of a Federal flight deck officer’s use of or failure to use a firearm.

“(2) **LIABILITY OF FEDERAL FLIGHT DECK OFFICERS.**—A Federal flight deck officer shall not be liable for damages in any action brought in a Federal or State court arising out of the acts or omissions of the officer in defending the flight deck of an aircraft against acts of criminal violence or air piracy unless the officer is guilty of gross negligence or willful misconduct.

“(3) **LIABILITY OF FEDERAL GOVERNMENT.**—For purposes of an action against the United States with respect to an act or omission of a Federal flight deck officer in defending the flight deck of an aircraft, the officer shall be treated as an employee of the Federal Government under chapter 171 of title 28, relating to tort claims procedure.

“(i) **PROCEDURES FOLLOWING ACCIDENTAL DISCHARGES.**—If an accidental discharge of a firearm under the pilot program results in the injury or death of a passenger or crew member on an aircraft, the Under Secretary—

“(1) shall revoke the deputization of the Federal flight deck officer responsible for that firearm if the Under Secretary determines that the discharge was attributable to the negligence of the officer; and

“(2) if the Under Secretary determines that a shortcoming in standards, training, or procedures was responsible for the accidental discharge, the Under Secretary may temporarily suspend the program until the shortcoming is corrected.

“(j) **LIMITATION ON AUTHORITY OF AIR CARRIERS.**—No air carrier shall prohibit or threaten any retaliatory action against a pilot employed by the air carrier from becoming a Federal flight deck officer under this section. No air carrier shall—

“(1) prohibit a Federal flight deck officer from piloting an aircraft operated by the air carrier; or

“(2) terminate the employment of a Federal flight deck officer, solely on the basis of his or her volunteering for or participating in the program under this section.

“(k) **APPLICABILITY.**—

“(1) **EXEMPTION.**—This section shall not apply to air carriers operating under part 135 of title 14, Code of Federal Regulations, and to pilots employed by such carriers to the extent that such carriers and pilots are covered by section 135.119 of such title or any successor to such section.

“(2) **PILOT DEFINED.**—The term ‘pilot’ means an individual who has final authority and responsibility for the operation and safety of the flight or, if more than 1 pilot is required for the operation of the aircraft or by the regulations under

which the flight is being conducted, the individual designated as second in command.”.

(b) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for such chapter is amended by inserting after the item relating to section 44920 the following:

“44921. Federal flight deck officer program.”.

(2) FLIGHT DECK SECURITY.—Section 128 of the Aviation and Transportation Security Act (Public Law 107-71) is repealed.

49 USC 44903
note.

(c) FEDERAL AIR MARSHAL PROGRAM.—

6 USC 513.

(1) SENSE OF CONGRESS.—It is the sense of Congress that the Federal air marshal program is critical to aviation security.

(2) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this Act, including any amendment made by this Act, shall be construed as preventing the Under Secretary of Transportation for Security from implementing and training Federal air marshals.

SEC. 1403. CREW TRAINING.

(a) IN GENERAL.—Section 44918(e) of title 49, United States Code, is amended—

(1) by striking “The Administrator” and inserting the following:

“(1) IN GENERAL.—The Under Secretary”;

(2) by adding at the end the following:

“(2) ADDITIONAL REQUIREMENTS.—In updating the training guidance, the Under Secretary, in consultation with the Administrator, shall issue a rule to—

Regulations.

“(A) require both classroom and effective hands-on situational training in the following elements of self defense:

“(i) recognizing suspicious activities and determining the seriousness of an occurrence;

“(ii) deterring a passenger who might present a problem;

“(iii) crew communication and coordination;

“(iv) the proper commands to give to passengers and attackers;

“(v) methods to subdue and restrain an attacker;

“(vi) use of available items aboard the aircraft for self-defense;

“(vii) appropriate and effective responses to defend oneself, including the use of force against an attacker;

“(viii) use of protective devices assigned to crew members (to the extent such devices are approved by the Administrator or Under Secretary);

“(ix) the psychology of terrorists to cope with their behavior and passenger responses to that behavior; and

“(x) how to respond to aircraft maneuvers that may be authorized to defend against an act of criminal violence or air piracy;

“(B) require training in the proper conduct of a cabin search, including the duty time required to conduct the search;

“(C) establish the required number of hours of training and the qualifications for the training instructors;

“(D) establish the intervals, number of hours, and elements of recurrent training;

“(E) ensure that air carriers provide the initial training required by this paragraph within 24 months of the date of enactment of this subparagraph; and

“(F) ensure that no person is required to participate in any hands-on training activity that that person believes will have an adverse impact on his or her health or safety.

“(3) RESPONSIBILITY OF UNDER SECRETARY.—(A) CONSULTATION.—In developing the rule under paragraph (2), the Under Secretary shall consult with law enforcement personnel and security experts who have expertise in self-defense training, terrorism experts, and representatives of air carriers, the provider of self-defense training for Federal air marshals, flight attendants, labor organizations representing flight attendants, and educational institutions offering law enforcement training programs.

“(B) DESIGNATION OF OFFICIAL.—The Under Secretary shall designate an official in the Transportation Security Administration to be responsible for overseeing the implementation of the training program under this subsection.

“(C) NECESSARY RESOURCES AND KNOWLEDGE.—The Under Secretary shall ensure that employees of the Administration responsible for monitoring the training program have the necessary resources and knowledge.”; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this section) with paragraphs (2) and (3) (as added by paragraph (2) of this section).

(b) ENHANCE SECURITY MEASURES.—Section 109(a) of the Aviation and Transportation Security Act (49 U.S.C. 114 note; 115 Stat. 613–614) is amended by adding at the end the following:

“(9) Require that air carriers provide flight attendants with a discreet, hands-free, wireless method of communicating with the pilots.”.

(c) BENEFITS AND RISKS OF PROVIDING FLIGHT ATTENDANTS WITH NONLETHAL WEAPONS.—

(1) STUDY.—The Under Secretary of Transportation for Security shall conduct a study to evaluate the benefits and risks of providing flight attendants with nonlethal weapons to aide in combating air piracy and criminal violence on commercial airlines.

(2) REPORT.—Not later than 6 months after the date of enactment of this Act, the Under Secretary shall transmit to Congress a report on the results of the study.

SEC. 1404. COMMERCIAL AIRLINE SECURITY STUDY.

(a) STUDY.—The Secretary of Transportation shall conduct a study of the following:

(1) The number of armed Federal law enforcement officers (other than Federal air marshals), who travel on commercial airliners annually and the frequency of their travel.

(2) The cost and resources necessary to provide such officers with supplemental training in aircraft anti-terrorism training that is comparable to the training that Federal air marshals are provided.

Deadline.

(3) The cost of establishing a program at a Federal law enforcement training center for the purpose of providing new Federal law enforcement recruits with standardized training comparable to the training that Federal air marshals are provided.

(4) The feasibility of implementing a certification program designed for the purpose of ensuring Federal law enforcement officers have completed the training described in paragraph (2) and track their travel over a 6-month period.

(5) The feasibility of staggering the flights of such officers to ensure the maximum amount of flights have a certified trained Federal officer on board.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study. The report may be submitted in classified and redacted form. Deadline.

SEC. 1405. AUTHORITY TO ARM FLIGHT DECK CREW WITH LESS-THAN-LETHAL WEAPONS.

(a) IN GENERAL.—Section 44903(i) of title 49, United States Code (as redesignated by section 6 of this Act) is amended by adding at the end the following:

“(3) REQUEST OF AIR CARRIERS TO USE LESS-THAN-LETHAL WEAPONS.—If, after the date of enactment of this paragraph, the Under Secretary receives a request from an air carrier for authorization to allow pilots of the air carrier to carry less-than-lethal weapons, the Under Secretary shall respond to that request within 90 days.”.

(b) CONFORMING AMENDMENTS.—Such section is further amended—

(1) in paragraph (1) by striking “Secretary” the first and third places it appears and inserting “Under Secretary”; and

(2) in paragraph (2) by striking “Secretary” each place it appears and inserting “Under Secretary”.

SEC. 1406. TECHNICAL AMENDMENTS.

Section 44903 of title 49, United States Code, is amended—

(1) by redesignating subsection (i) (relating to short-term assessment and deployment of emerging security technologies and procedures) as subsection (j);

(2) by redesignating the second subsection (h) (relating to authority to arm flight deck crew with less-than-lethal weapons) as subsection (i); and

(3) by redesignating the third subsection (h) (relating to limitation on liability for acts to thwart criminal violence for aircraft piracy) as subsection (k).

TITLE XV—TRANSITION

Subtitle A—Reorganization Plan

SEC. 1501. DEFINITIONS.

6 USC 541.

For purposes of this title:

(1) The term “agency” includes any entity, organizational unit, program, or function.

(2) The term “transition period” means the 12-month period beginning on the effective date of this Act.

6 USC 542.

SEC. 1502. REORGANIZATION PLAN.

Deadline.
President.

(a) **SUBMISSION OF PLAN.**—Not later than 60 days after the date of the enactment of this Act, the President shall transmit to the appropriate congressional committees a reorganization plan regarding the following:

(1) The transfer of agencies, personnel, assets, and obligations to the Department pursuant to this Act.

(2) Any consolidation, reorganization, or streamlining of agencies transferred to the Department pursuant to this Act.

(b) **PLAN ELEMENTS.**—The plan transmitted under subsection (a) shall contain, consistent with this Act, such elements as the President deems appropriate, including the following:

(1) Identification of any functions of agencies transferred to the Department pursuant to this Act that will not be transferred to the Department under the plan.

(2) Specification of the steps to be taken by the Secretary to organize the Department, including the delegation or assignment of functions transferred to the Department among officers of the Department in order to permit the Department to carry out the functions transferred under the plan.

(3) Specification of the funds available to each agency that will be transferred to the Department as a result of transfers under the plan.

(4) Specification of the proposed allocations within the Department of unexpended funds transferred in connection with transfers under the plan.

(5) Specification of any proposed disposition of property, facilities, contracts, records, and other assets and obligations of agencies transferred under the plan.

(6) Specification of the proposed allocations within the Department of the functions of the agencies and subdivisions that are not related directly to securing the homeland.

(c) **MODIFICATION OF PLAN.**—The President may, on the basis of consultations with the appropriate congressional committees, modify or revise any part of the plan until that part of the plan becomes effective in accordance with subsection (d).

(d) **EFFECTIVE DATE.**—

(1) **IN GENERAL.**—The reorganization plan described in this section, including any modifications or revisions of the plan under subsection (d), shall become effective for an agency on the earlier of—

(A) the date specified in the plan (or the plan as modified pursuant to subsection (d)), except that such date may not be earlier than 90 days after the date the President has transmitted the reorganization plan to the appropriate congressional committees pursuant to subsection (a); or

(B) the end of the transition period.

(2) **STATUTORY CONSTRUCTION.**—Nothing in this subsection may be construed to require the transfer of functions, personnel, records, balances of appropriations, or other assets of an agency on a single date.

(3) **SUPERSEDES EXISTING LAW.**—Paragraph (1) shall apply notwithstanding section 905(b) of title 5, United States Code.

Applicability.

SEC. 1503. REVIEW OF CONGRESSIONAL COMMITTEE STRUCTURES.

6 USC 543.

It is the sense of Congress that each House of Congress should review its committee structure in light of the reorganization of responsibilities within the executive branch by the establishment of the Department.

Subtitle B—Transitional Provisions

SEC. 1511. TRANSITIONAL AUTHORITIES.

6 USC 551.

(a) **PROVISION OF ASSISTANCE BY OFFICIALS.**—Until the transfer of an agency to the Department, any official having authority over or functions relating to the agency immediately before the effective date of this Act shall provide to the Secretary such assistance, including the use of personnel and assets, as the Secretary may request in preparing for the transfer and integration of the agency into the Department.

(b) **SERVICES AND PERSONNEL.**—During the transition period, upon the request of the Secretary, the head of any executive agency may, on a reimbursable basis, provide services or detail personnel to assist with the transition.

(c) **ACTING OFFICIALS.**—(1) During the transition period, pending the advice and consent of the Senate to the appointment of an officer required by this Act to be appointed by and with such advice and consent, the President may designate any officer whose appointment was required to be made by and with such advice and consent and who was such an officer immediately before the effective date of this Act (and who continues in office) or immediately before such designation, to act in such office until the same is filled as provided in this Act. While so acting, such officers shall receive compensation at the higher of—

(A) the rates provided by this Act for the respective offices in which they act; or

(B) the rates provided for the offices held at the time of designation.

(2) Nothing in this Act shall be understood to require the advice and consent of the Senate to the appointment by the President to a position in the Department of any officer whose agency is transferred to the Department pursuant to this Act and whose duties following such transfer are germane to those performed before such transfer.

(d) **TRANSFER OF PERSONNEL, ASSETS, OBLIGATIONS, AND FUNCTIONS.**—Upon the transfer of an agency to the Department—

(1) the personnel, assets, and obligations held by or available in connection with the agency shall be transferred to the Secretary for appropriate allocation, subject to the approval of the Director of the Office of Management and Budget and in accordance with the provisions of section 1531(a)(2) of title 31, United States Code; and

(2) the Secretary shall have all functions relating to the agency that any other official could by law exercise in relation to the agency immediately before such transfer, and shall have in addition all functions vested in the Secretary by this Act or other law.

(e) **PROHIBITION ON USE OF TRANSPORTATION TRUST FUNDS.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of this Act, no funds derived from the Highway Trust Fund,

Airport and Airway Trust Fund, Inland Waterway Trust Fund, or Harbor Maintenance Trust Fund, may be transferred to, made available to, or obligated by the Secretary or any other official in the Department.

(2) **LIMITATION.**—This subsection shall not apply to security-related funds provided to the Federal Aviation Administration for fiscal years preceding fiscal year 2003 for (A) operations, (B) facilities and equipment, or (C) research, engineering, and development.

6 USC 552.

SEC. 1512. SAVINGS PROVISIONS.

(a) **COMPLETED ADMINISTRATIVE ACTIONS.**—(1) Completed administrative actions of an agency shall not be affected by the enactment of this Act or the transfer of such agency to the Department, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) For purposes of paragraph (1), the term “completed administrative action” includes orders, determinations, rules, regulations, personnel actions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(b) **PENDING PROCEEDINGS.**—Subject to the authority of the Secretary under this Act—

(1) pending proceedings in an agency, including notices of proposed rulemaking, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue notwithstanding the enactment of this Act or the transfer of the agency to the Department, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance could have occurred if such enactment or transfer had not occurred; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted or the agency had not been transferred, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(c) **PENDING CIVIL ACTIONS.**—Subject to the authority of the Secretary under this Act, pending civil actions shall continue notwithstanding the enactment of this Act or the transfer of an agency to the Department, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment or transfer had not occurred.

(d) **REFERENCES.**—References relating to an agency that is transferred to the Department in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede such transfer or the effective date of this Act shall be deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to such an agency immediately before the effective date of this Act shall continue to apply following such transfer if they refer to the agency by name.

(e) **EMPLOYMENT PROVISIONS.**—(1) Notwithstanding the generality of the foregoing (including subsections (a) and (d)), in and for the Department the Secretary may, in regulations prescribed jointly with the Director of the Office of Personnel Management, adopt the rules, procedures, terms, and conditions, established by statute, rule, or regulation before the effective date of this Act, relating to employment in any agency transferred to the Department pursuant to this Act; and

(2) except as otherwise provided in this Act, or under authority granted by this Act, the transfer pursuant to this Act of personnel shall not alter the terms and conditions of employment, including compensation, of any employee so transferred.

(f) **STATUTORY REPORTING REQUIREMENTS.**—Any statutory reporting requirement that applied to an agency, transferred to the Department under this Act, immediately before the effective date of this Act shall continue to apply following that transfer if the statutory requirement refers to the agency by name.

SEC. 1513. TERMINATIONS.

6 USC 553.

Except as otherwise provided in this Act, whenever all the functions vested by law in any agency have been transferred pursuant to this Act, each position and office the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V, of the Executive Schedule, shall terminate.

SEC. 1514. NATIONAL IDENTIFICATION SYSTEM NOT AUTHORIZED.

6 USC 554.

Nothing in this Act shall be construed to authorize the development of a national identification system or card.

SEC. 1515. CONTINUITY OF INSPECTOR GENERAL OVERSIGHT.

6 USC 555.

Notwithstanding the transfer of an agency to the Department pursuant to this Act, the Inspector General that exercised oversight of such agency prior to such transfer shall continue to exercise oversight of such agency during the period of time, if any, between the transfer of such agency to the Department pursuant to this Act and the appointment of the Inspector General of the Department of Homeland Security in accordance with section 103(b).

SEC. 1516. INCIDENTAL TRANSFERS.

6 USC 556.

The Director of the Office of Management and Budget, in consultation with the Secretary, is authorized and directed to make such additional incidental dispositions of personnel, assets, and liabilities held, used, arising from, available, or to be made available, in connection with the functions transferred by this Act, as the Director may determine necessary to accomplish the purposes of this Act.

SEC. 1517. REFERENCE.

6 USC 557.

With respect to any function transferred by or under this Act (including under a reorganization plan that becomes effective under section 1502) and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which such function is so transferred.

TITLE XVI—CORRECTIONS TO EXISTING LAW RELATING TO AIRLINE TRANS- PORTATION SECURITY

SEC. 1601. RETENTION OF SECURITY SENSITIVE INFORMATION AUTHORITY AT DEPARTMENT OF TRANSPORTATION.

(a) Section 40119 of title 49, United States Code, is amended—
(1) in subsection (a)—

(A) by inserting “and the Administrator of the Federal Aviation Administration each” after “for Security”; and

(B) by striking “criminal violence and aircraft piracy” and inserting “criminal violence, aircraft piracy, and terrorism and to ensure security”; and

(2) in subsection (b)(1)—

(A) by striking “, the Under Secretary” and inserting “and the establishment of a Department of Homeland Security, the Secretary of Transportation”; and

(B) by striking “carrying out” and all that follows through “if the Under Secretary” and inserting “ensuring security under this title if the Secretary of Transportation”; and

(C) in subparagraph (C) by striking “the safety of passengers in transportation” and inserting “transportation safety”.

(b) Section 114 of title 49, United States Code, is amended by adding at the end the following:

“(s) NONDISCLOSURE OF SECURITY ACTIVITIES.—

“(1) IN GENERAL.—Notwithstanding section 552 of title 5, the Under Secretary shall prescribe regulations prohibiting the disclosure of information obtained or developed in carrying out security under authority of the Aviation and Transportation Security Act (Public Law 107-71) or under chapter 449 of this title if the Under Secretary decides that disclosing the information would—

“(A) be an unwarranted invasion of personal privacy;

“(B) reveal a trade secret or privileged or confidential commercial or financial information; or

“(C) be detrimental to the security of transportation.

“(2) AVAILABILITY OF INFORMATION TO CONGRESS.—Paragraph (1) does not authorize information to be withheld from a committee of Congress authorized to have the information.

“(3) LIMITATION ON TRANSFERABILITY OF DUTIES.—Except as otherwise provided by law, the Under Secretary may not transfer a duty or power under this subsection to another department, agency, or instrumentality of the United States.”.

SEC. 1602. INCREASE IN CIVIL PENALTIES.

Section 46301(a) of title 49, United States Code, is amended by adding at the end the following:

“(8) AVIATION SECURITY VIOLATIONS.—Notwithstanding paragraphs (1) and (2) of this subsection, the maximum civil penalty for violating chapter 449 or another requirement under this title administered by the Under Secretary of Transportation for Security shall be \$10,000; except that the maximum civil penalty shall be \$25,000 in the case of a person operating

Regulations.

an aircraft for the transportation of passengers or property for compensation (except an individual serving as an airman).”.

SEC. 1603. ALLOWING UNITED STATES CITIZENS AND UNITED STATES NATIONALS AS SCREENERS.

Section 44935(e)(2)(A)(ii) of title 49, United States Code, is amended by striking “citizen of the United States” and inserting “citizen of the United States or a national of the United States, as defined in section 1101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))”.

TITLE XVII—CONFORMING AND TECHNICAL AMENDMENTS

SEC. 1701. INSPECTOR GENERAL ACT OF 1978.

Section 11 of the Inspector General Act of 1978 (Public Law 95–452) is amended—

5 USC app. 11.

(1) by inserting “Homeland Security,” after “Transportation,” each place it appears; and

(2) by striking “; and” each place it appears in paragraph (1) and inserting “;”.

SEC. 1702. EXECUTIVE SCHEDULE.

(a) IN GENERAL.—Title 5, United States Code, is amended—

(1) in section 5312, by inserting “Secretary of Homeland Security.” as a new item after “Affairs.”;

(2) in section 5313, by inserting “Deputy Secretary of Homeland Security.” as a new item after “Affairs.”;

(3) in section 5314, by inserting “Under Secretaries, Department of Homeland Security.”, “Director of the Bureau of Citizenship and Immigration Services.” as new items after “Affairs.” the third place it appears;

(4) in section 5315, by inserting “Assistant Secretaries, Department of Homeland Security.”, “General Counsel, Department of Homeland Security.”, “Officer for Civil Rights and Civil Liberties, Department of Homeland Security.”, “Chief Financial Officer, Department of Homeland Security.”, “Chief Information Officer, Department of Homeland Security.”, and “Inspector General, Department of Homeland Security.” as new items after “Affairs.” the first place it appears; and

(5) in section 5315, by striking “Commissioner of Immigration and Naturalization, Department of Justice.”.

(b) SPECIAL EFFECTIVE DATE.—Notwithstanding section 4, the amendment made by subsection (a)(5) shall take effect on the date on which the transfer of functions specified under section 441 takes effect.

5 USC 5315 note.

SEC. 1703. UNITED STATES SECRET SERVICE.

(a) IN GENERAL.—(1) The United States Code is amended in section 202 of title 3, and in section 3056 of title 18, by striking “of the Treasury”, each place it appears and inserting “of Homeland Security”.

(2) Section 208 of title 3, United States Code, is amended by striking “of Treasury” each place it appears and inserting “of Homeland Security”.

3 USC 202 note.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date of transfer of the United States Secret Service to the Department.

SEC. 1704. COAST GUARD.

(a) **TITLE 14, UNITED STATES CODE.**—Title 14, United States Code, is amended in sections 1, 3, 53, 95, 145, 516, 666, 669, 673, 673a (as redesignated by subsection (e)(1)), 674, 687, and 688 by striking “of Transportation” each place it appears and inserting “of Homeland Security”.

(b) **TITLE 10, UNITED STATES CODE.**—(1) Title 10, United States Code, is amended in sections 101(9), 130b(a), 130b(c)(4), 130c(h)(1), 379, 513(d), 575(b)(2), 580(e)(6), 580a(e), 651(a), 671(c)(2), 708(a), 716(a), 717, 806(d)(2), 815(e), 888, 946(c)(1), 973(d), 978(d), 983(b)(1), 985(a), 1033(b)(1), 1033(d), 1034, 1037(c), 1044d(f), 1058(c), 1059(a), 1059(k)(1), 1073(a), 1074(c)(1), 1089(g)(2), 1090, 1091(a), 1124, 1143, 1143a(h), 1144, 1145(e), 1148, 1149, 1150(c), 1152(a), 1152(d)(1), 1153, 1175, 1212(a), 1408(h)(2), 1408(h)(8), 1463(a)(2), 1482a(b), 1510, 1552(a)(1), 1565(f), 1588(f)(4), 1589, 2002(a), 2302(1), 2306b(b), 2323(j)(2), 2376(2), 2396(b)(1), 2410a(a), 2572(a), 2575(a), 2578, 2601(b)(4), 2634(e), 2635(a), 2734(g), 2734a, 2775, 2830(b)(2), 2835, 2836, 4745(a), 5013a(a), 7361(b), 10143(b)(2), 10146(a), 10147(a), 10149(b), 10150, 10202(b), 10203(d), 10205(b), 10301(b), 12103(b), 12103(d), 12304, 12311(c), 12522(c), 12527(a)(2), 12731(b), 12731a(e), 16131(a), 16136(a), 16301(g), and 18501 by striking “of Transportation” each place it appears and inserting “of Homeland Security”.

(2) Section 801(1) of such title is amended by striking “the General Counsel of the Department of Transportation” and inserting “an official designated to serve as Judge Advocate General of the Coast Guard by the Secretary of Homeland Security”.

(3) Section 983(d)(2)(B) of such title is amended by striking “Department of Transportation” and inserting “Department of Homeland Security”.

(4) Section 2665(b) of such title is amended by striking “Department of Transportation” and inserting “Department in which the Coast Guard is operating”.

(5) Section 7045 of such title is amended—

(A) in subsections (a)(1) and (b), by striking “Secretaries of the Army, Air Force, and Transportation” both places it appears and inserting “Secretary of the Army, the Secretary of the Air Force, and the Secretary of Homeland Security”; and

(B) in subsection (b), by striking “Department of Transportation” and inserting “Department of Homeland Security”.

(6) Section 7361(b) of such title is amended in the subsection heading by striking “TRANSPORTATION” and inserting “HOMELAND SECURITY”.

(7) Section 12522(c) of such title is amended in the subsection heading by striking “TRANSPORTATION” and inserting “HOMELAND SECURITY”.

(c) **TITLE 37, UNITED STATES CODE.**—Title 37, United States Code, is amended in sections 101(5), 204(i)(4), 301a(a)(3), 306(d), 307(c), 308(a)(1), 308(d)(2), 308(f), 308b(e), 308c(c), 308d(a), 308e(f), 308g(g), 308h(f), 308i(e), 309(d), 316(d), 323(b), 323(g)(1), 325(i), 402(d), 402a(g)(1), 403(f)(3), 403(l)(1), 403b(i)(5), 406(b)(1), 417(a), 417(b), 418(a), 703, 1001(c), 1006(f), 1007(a), and 1011(d) by striking

“of Transportation” each place it appears and inserting “of Homeland Security”.

(d) TITLE 38, UNITED STATES CODE.—Title 38, United States Code, is amended in sections 101(25)(d), 1560(a), 3002(5), 3011(a)(1)(A)(ii)(I), 3011(a)(1)(A)(ii)(II), 3011(a)(1)(B)(ii)(III), 3011(a)(1)(C)(iii)(II)(cc), 3012(b)(1)(A)(v), 3012(b)(1)(B)(ii)(V), 3018(b)(3)(B)(iv), 3018A(a)(3), 3018B(a)(1)(C), 3018B(a)(2)(C), 3018C(a)(5), 3020(m), 3035(b)(2), 3035(c), 3035(d), 3035(e), 3680A(g), and 6105(c) by striking “of Transportation” each place it appears and inserting “of Homeland Security”.

(e) OTHER DEFENSE-RELATED LAWS.—(1) Section 363 of Public Law 104-193 (110 Stat. 2247) is amended—

(A) in subsection (a)(1) (10 U.S.C. 113 note), by striking “of Transportation” and inserting “of Homeland Security”; and

(B) in subsection (b)(1) (10 U.S.C. 704 note), by striking “of Transportation” and inserting “of Homeland Security”.

(2) Section 721(1) of Public Law 104-201 (10 U.S.C. 1073 note) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(3) Section 4463(a) of Public Law 102-484 (10 U.S.C. 1143a note) is amended by striking “after consultation with the Secretary of Transportation”.

(4) Section 4466(h) of Public Law 102-484 (10 U.S.C. 1143 note) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(5) Section 542(d) of Public Law 103-337 (10 U.S.C. 1293 note) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(6) Section 740 of Public Law 106-181 (10 U.S.C. 2576 note) is amended in subsections (b)(2), (c), and (d)(1) by striking “of Transportation” each place it appears and inserting “of Homeland Security”.

(7) Section 1407(b)(2) of the Defense Dependents’ Education Act of 1978 (20 U.S.C. 926(b)) is amended by striking “of Transportation” both places it appears and inserting “of Homeland Security”.

(8) Section 2301(5)(D) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6671(5)(D)) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(9) Section 2307(a) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6677(a)) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(10) Section 1034(a) of Public Law 105-85 (21 U.S.C. 1505a(a)) is amended by striking “of Transportation” and inserting “of Homeland Security”.

(11) The Military Selective Service Act is amended—

(A) in section 4(a) (50 U.S.C. App. 454(a)), by striking “of Transportation” in the fourth paragraph and inserting “of Homeland Security”;

(B) in section 4(b) (50 U.S.C. App. 454(b)), by striking “of Transportation” both places it appears and inserting “of Homeland Security”;

(C) in section 6(d)(1) (50 U.S.C. App. 456(d)(1)), by striking “of Transportation” both places it appears and inserting “of Homeland Security”;

(D) in section 9(c) (50 U.S.C. App. 459(c)), by striking “Secretaries of Army, Navy, Air Force, or Transportation” and

inserting “Secretary of a military department, and the Secretary of Homeland Security with respect to the Coast Guard,”; and (E) in section 15(e) (50 U.S.C. App. 465(e)), by striking “of Transportation” both places it appears and inserting “of Homeland Security”.

(f) TECHNICAL CORRECTION.—(1) Title 14, United States Code, is amended by redesignating section 673 (as added by section 309 of Public Law 104-324) as section 673a.

(2) The table of sections at the beginning of chapter 17 of such title is amended by redesignating the item relating to such section as section 673a.

10 USC 101 note.

(g) EFFECTIVE DATE.—The amendments made by this section (other than subsection (f)) shall take effect on the date of transfer of the Coast Guard to the Department.

SEC. 1705. STRATEGIC NATIONAL STOCKPILE AND SMALLPOX VACCINE DEVELOPMENT.

(a) IN GENERAL.—Section 121 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107-188; 42 U.S.C. 300hh-12) is amended—

(1) in subsection (a)(1)—

(A) by striking “Secretary of Health and Human Services” and inserting “Secretary of Homeland Security”;

(B) by inserting “the Secretary of Health and Human Services and” between “in coordination with” and “the Secretary of Veterans Affairs”; and

(C) by inserting “of Health and Human Services” after “as are determined by the Secretary”; and

(2) in subsections (a)(2) and (b), by inserting “of Health and Human Services” after “Secretary” each place it appears.

42 USC
300hh-12 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of transfer of the Strategic National Stockpile of the Department of Health and Human Services to the Department.

SEC. 1706. TRANSFER OF CERTAIN SECURITY AND LAW ENFORCEMENT FUNCTIONS AND AUTHORITIES.

(a) AMENDMENT TO TITLE 40.—Section 581 of title 40, United States Code, is amended—

(1) by striking subsection (a); and

(2) in subsection (b)—

(A) by inserting “and” after the semicolon at the end of paragraph (1);

(B) by striking “; and” at the end of paragraph (2) and inserting a period; and

(C) by striking paragraph (3).

(b) LAW ENFORCEMENT AUTHORITY.—

(1) IN GENERAL.—Section 1315 of title 40, United States Code, is amended to read as follows:

“§ 1315. Law enforcement authority of Secretary of Homeland Security for protection of public property

“(a) IN GENERAL.—To the extent provided for by transfers made pursuant to the Homeland Security Act of 2002, the Secretary of Homeland Security (in this section referred to as the ‘Secretary’) shall protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any

agency, instrumentality, or wholly owned or mixed-ownership corporation thereof) and the persons on the property.

“(b) OFFICERS AND AGENTS.—

“(1) DESIGNATION.—The Secretary may designate employees of the Department of Homeland Security, including employees transferred to the Department from the Office of the Federal Protective Service of the General Services Administration pursuant to the Homeland Security Act of 2002, as officers and agents for duty in connection with the protection of property owned or occupied by the Federal Government and persons on the property, including duty in areas outside the property to the extent necessary to protect the property and persons on the property.

“(2) POWERS.—While engaged in the performance of official duties, an officer or agent designated under this subsection may—

“(A) enforce Federal laws and regulations for the protection of persons and property;

“(B) carry firearms;

“(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or agent or for any felony cognizable under the laws of the United States if the officer or agent has reasonable grounds to believe that the person to be arrested has committed or is committing a felony;

“(D) serve warrants and subpoenas issued under the authority of the United States;

“(E) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Federal Government or persons on the property; and

“(F) carry out such other activities for the promotion of homeland security as the Secretary may prescribe.

“(c) REGULATIONS.—

“(1) IN GENERAL.—The Secretary, in consultation with the Administrator of General Services, may prescribe regulations necessary for the protection and administration of property owned or occupied by the Federal Government and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in paragraph (2), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

“(2) PENALTIES.—A person violating a regulation prescribed under this subsection shall be fined under title 18, United States Code, imprisoned for not more than 30 days, or both.

“(d) DETAILS.—

“(1) REQUESTS OF AGENCIES.—On the request of the head of a Federal agency having charge or control of property owned or occupied by the Federal Government, the Secretary may detail officers and agents designated under this section for the protection of the property and persons on the property.

“(2) APPLICABILITY OF REGULATIONS.—The Secretary may—

“(A) extend to property referred to in paragraph (1) the applicability of regulations prescribed under this section and enforce the regulations as provided in this section; or

“(B) utilize the authority and regulations of the requesting agency if agreed to in writing by the agencies.

“(3) FACILITIES AND SERVICES OF OTHER AGENCIES.—When the Secretary determines it to be economical and in the public interest, the Secretary may utilize the facilities and services of Federal, State, and local law enforcement agencies, with the consent of the agencies.

“(e) AUTHORITY OUTSIDE FEDERAL PROPERTY.—For the protection of property owned or occupied by the Federal Government and persons on the property, the Secretary may enter into agreements with Federal agencies and with State and local governments to obtain authority for officers and agents designated under this section to enforce Federal laws and State and local laws concurrently with other Federal law enforcement officers and with State and local law enforcement officers.

“(f) SECRETARY AND ATTORNEY GENERAL APPROVAL.—The powers granted to officers and agents designated under this section shall be exercised in accordance with guidelines approved by the Secretary and the Attorney General.

“(g) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed to—

“(1) preclude or limit the authority of any Federal law enforcement agency; or

“(2) restrict the authority of the Administrator of General Services to promulgate regulations affecting property under the Administrator’s custody and control.”.

40 USC 1315
note.

(2) DELEGATION OF AUTHORITY.—The Secretary may delegate authority for the protection of specific buildings to another Federal agency where, in the Secretary’s discretion, the Secretary determines it necessary for the protection of that building.

(3) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 40, United States Code, is amended by striking the item relating to section 1315 and inserting the following:

“1315. Law enforcement authority of Secretary of Homeland Security for protection of public property.”.

SEC. 1707. TRANSPORTATION SECURITY REGULATIONS.

Title 49, United States Code, is amended—

(1) in section 114(l)(2)(B), by inserting “for a period not to exceed 90 days” after “effective”; and

(2) in section 114(l)(2)(B), by inserting “ratified or” after “unless”.

Establishment.
50 USC 1522
note.

SEC. 1708. NATIONAL BIO-WEAPONS DEFENSE ANALYSIS CENTER.

There is established in the Department of Defense a National Bio-Weapons Defense Analysis Center, whose mission is to develop countermeasures to potential attacks by terrorists using weapons of mass destruction.

SEC. 1709. COLLABORATION WITH THE SECRETARY OF HOMELAND SECURITY.

42 USC 262a.

(a) DEPARTMENT OF HEALTH AND HUMAN SERVICES.—The second sentence of section 351A(e)(1) of the Public Health Service Act (42 U.S.C. 262A(e)(1)) is amended by striking “consultation with” and inserting “collaboration with the Secretary of Homeland Security and”.

(b) DEPARTMENT OF AGRICULTURE.—The second sentence of section 212(e)(1) of the Agricultural Bioterrorism Protection Act of 2002 (7 U.S.C. 8401) is amended by striking “consultation with” and inserting “collaboration with the Secretary of Homeland Security and”.

SEC. 1710. RAILROAD SAFETY TO INCLUDE RAILROAD SECURITY.

(a) INVESTIGATION AND SURVEILLANCE ACTIVITIES.—Section 20105 of title 49, United States Code, is amended—

(1) by striking “Secretary of Transportation” in the first sentence of subsection (a) and inserting “Secretary concerned”;

(2) by striking “Secretary” each place it appears (except the first sentence of subsection (a)) and inserting “Secretary concerned”;

(3) by striking “Secretary’s duties under chapters 203–213 of this title” in subsection (d) and inserting “duties under chapters 203–213 of this title (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security)”;

(4) by striking “chapter.” in subsection (f) and inserting “chapter (in the case of the Secretary of Transportation) and duties under section 114 of this title (in the case of the Secretary of Homeland Security).”; and

(5) by adding at the end the following new subsection:
“(g) DEFINITIONS.—In this section—

“(1) the term ‘safety’ includes security; and

“(2) the term ‘Secretary concerned’ means—

“(A) the Secretary of Transportation, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary; and

“(B) the Secretary of Homeland Security, with respect to railroad safety matters concerning such Secretary under laws administered by that Secretary.”.

(b) REGULATIONS AND ORDERS.—Section 20103(a) of such title is amended by inserting after “1970.” the following: “When prescribing a security regulation or issuing a security order that affects the safety of railroad operations, the Secretary of Homeland Security shall consult with the Secretary.”.

(c) NATIONAL UNIFORMITY OF REGULATION.—Section 20106 of such title is amended—

(1) by inserting “and laws, regulations, and orders related to railroad security” after “safety” in the first sentence;

(2) by inserting “or security” after “safety” each place it appears after the first sentence; and

(3) by striking “Transportation” in the second sentence and inserting “Transportation (with respect to railroad safety matters), or the Secretary of Homeland Security (with respect to railroad security matters).”.

SEC. 1711. HAZMAT SAFETY TO INCLUDE HAZMAT SECURITY.

(a) GENERAL REGULATORY AUTHORITY.—Section 5103 of title 49, United States Code, is amended—

(1) by striking “transportation” the first place it appears in subsection (b)(1) and inserting “transportation, including security.”;

(2) by striking “aspects” in subsection (b)(1)(B) and inserting “aspects, including security.”; and

(3) by adding at the end the following:

“(C) CONSULTATION.—When prescribing a security regulation or issuing a security order that affects the safety of the transportation of hazardous material, the Secretary of Homeland Security shall consult with the Secretary.”.

(b) PREEMPTION.—Section 5125 of that title is amended—

(1) by striking “chapter or a regulation prescribed under this chapter” in subsection (a)(1) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security”;

(2) by striking “chapter or a regulation prescribed under this chapter.” in subsection (a)(2) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.”; and

(3) by striking “chapter or a regulation prescribed under this chapter,” in subsection (b)(1) and inserting “chapter, a regulation prescribed under this chapter, or a hazardous materials transportation security regulation or directive issued by the Secretary of Homeland Security.”.

SEC. 1712. OFFICE OF SCIENCE AND TECHNOLOGY POLICY.

The National Science and Technology Policy, Organization, and Priorities Act of 1976 is amended—

(1) in section 204(b)(1) (42 U.S.C. 6613(b)(1)), by inserting “homeland security,” after “national security”; and

(2) in section 208(a)(1) (42 U.S.C. 6617(a)(1)), by inserting “the Office of Homeland Security,” after “National Security Council.”.

SEC. 1713. NATIONAL OCEANOGRAPHIC PARTNERSHIP PROGRAM.

Section 7902(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(13) The Under Secretary for Science and Technology of the Department of Homeland Security.

“(14) Other Federal officials the Council considers appropriate.”.

SEC. 1714. CLARIFICATION OF DEFINITION OF MANUFACTURER.

Section 2133(3) of the Public Health Service Act (42 U.S.C. 300aa-33(3)) is amended—

(1) in the first sentence, by striking “under its label any vaccine set forth in the Vaccine Injury Table” and inserting “any vaccine set forth in the Vaccine Injury table, including any component or ingredient of any such vaccine”; and

(2) in the second sentence, by inserting “including any component or ingredient of any such vaccine” before the period.

SEC. 1715. CLARIFICATION OF DEFINITION OF VACCINE-RELATED INJURY OR DEATH.

Section 2133(5) of the Public Health Service Act (42 U.S.C. 300aa-33(5)) is amended by adding at the end the following: “For purposes of the preceding sentence, an adulterant or contaminant shall not include any component or ingredient listed in a vaccine’s product license application or product label.”.

SEC. 1716. CLARIFICATION OF DEFINITION OF VACCINE.

Section 2133 of the Public Health Service Act (42 U.S.C. 300aa–33) is amended by adding at the end the following:

“(7) The term ‘vaccine’ means any preparation or suspension, including but not limited to a preparation or suspension containing an attenuated or inactive microorganism or subunit thereof or toxin, developed or administered to produce or enhance the body’s immune response to a disease or diseases and includes all components and ingredients listed in the vaccines’s product license application and product label.”.

SEC. 1717. EFFECTIVE DATE.

The amendments made by sections 1714, 1715, and 1716 shall apply to all actions or proceedings pending on or after the date of enactment of this Act, unless a court of competent jurisdiction has entered judgment (regardless of whether the time for appeal has expired) in such action or proceeding disposing of the entire action or proceeding.

42 USC
300aa–33 note.
Applicability.

Approved November 25, 2002.

LEGISLATIVE HISTORY—H.R. 5005 (S. 2452):

HOUSE REPORTS: No. 107–609, Pt. 1 (Select Comm. on Homeland Security).

SENATE REPORTS: No. 107–175 accompanying S. 2452 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 25, 26, considered and passed House.

Sept. 4, 5, 9, 10, 12, 13, 17–19, 23–26, 30, Oct. 1, Nov. 13–15, 19, considered and passed Senate, amended.

Nov. 22, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Nov. 25, Presidential remarks and statement.



Public Law 107–297
107th Congress

An Act

Nov. 26, 2002
[H.R. 3210]

To ensure the continued financial capacity of insurers to provide coverage for risks from terrorism.

Terrorism Risk
Insurance Act of
2002.

15 USC 6701
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Terrorism Risk Insurance Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TERRORISM INSURANCE PROGRAM

Sec. 101. Congressional findings and purpose.

Sec. 102. Definitions.

Sec. 103. Terrorism Insurance Program.

Sec. 104. General authority and administration of claims.

Sec. 105. Preemption and nullification of pre-existing terrorism exclusions.

Sec. 106. Preservation provisions.

Sec. 107. Litigation management.

Sec. 108. Termination of Program.

TITLE II—TREATMENT OF TERRORIST ASSETS

Sec. 201. Satisfaction of judgments from blocked assets of terrorists, terrorist organizations, and State sponsors of terrorism.

TITLE III—FEDERAL RESERVE BOARD PROVISIONS

Sec. 301. Certain authority of the Board of Governors of the Federal Reserve System.

15 USC 6701
note.

**TITLE I—TERRORISM INSURANCE
PROGRAM**

SEC. 101. CONGRESSIONAL FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds that—

(1) the ability of businesses and individuals to obtain property and casualty insurance at reasonable and predictable prices, in order to spread the risk of both routine and catastrophic loss, is critical to economic growth, urban development, and the construction and maintenance of public and private housing, as well as to the promotion of United States exports and foreign trade in an increasingly interconnected world;

(2) property and casualty insurance firms are important financial institutions, the products of which allow mutualization of risk and the efficient use of financial resources and enhance

the ability of the economy to maintain stability, while responding to a variety of economic, political, environmental, and other risks with a minimum of disruption;

(3) the ability of the insurance industry to cover the unprecedented financial risks presented by potential acts of terrorism in the United States can be a major factor in the recovery from terrorist attacks, while maintaining the stability of the economy;

(4) widespread financial market uncertainties have arisen following the terrorist attacks of September 11, 2001, including the absence of information from which financial institutions can make statistically valid estimates of the probability and cost of future terrorist events, and therefore the size, funding, and allocation of the risk of loss caused by such acts of terrorism;

(5) a decision by property and casualty insurers to deal with such uncertainties, either by terminating property and casualty coverage for losses arising from terrorist events, or by radically escalating premium coverage to compensate for risks of loss that are not readily predictable, could seriously hamper ongoing and planned construction, property acquisition, and other business projects, generate a dramatic increase in rents, and otherwise suppress economic activity; and

(6) the United States Government should provide temporary financial compensation to insured parties, contributing to the stabilization of the United States economy in a time of national crisis, while the financial services industry develops the systems, mechanisms, products, and programs necessary to create a viable financial services market for private terrorism risk insurance.

(b) PURPOSE.—The purpose of this title is to establish a temporary Federal program that provides for a transparent system of shared public and private compensation for insured losses resulting from acts of terrorism, in order to—

(1) protect consumers by addressing market disruptions and ensure the continued widespread availability and affordability of property and casualty insurance for terrorism risk; and

(2) allow for a transitional period for the private markets to stabilize, resume pricing of such insurance, and build capacity to absorb any future losses, while preserving State insurance regulation and consumer protections.

SEC. 102. DEFINITIONS.

In this title, the following definitions shall apply:

(1) ACT OF TERRORISM.—

(A) CERTIFICATION.—The term “act of terrorism” means any act that is certified by the Secretary, in concurrence with the Secretary of State, and the Attorney General of the United States—

(i) to be an act of terrorism;

(ii) to be a violent act or an act that is dangerous

to—

(I) human life;

(II) property; or

(III) infrastructure;

(iii) to have resulted in damage within the United States, or outside of the United States in the case of—

(I) an air carrier or vessel described in paragraph (5)(B); or

(II) the premises of a United States mission; and

(iv) to have been committed by an individual or individuals acting on behalf of any foreign person or foreign interest, as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

(B) LIMITATION.—No act shall be certified by the Secretary as an act of terrorism if—

(i) the act is committed as part of the course of a war declared by the Congress, except that this clause shall not apply with respect to any coverage for workers' compensation; or

(ii) property and casualty insurance losses resulting from the act, in the aggregate, do not exceed \$5,000,000.

(C) DETERMINATIONS FINAL.—Any certification of, or determination not to certify, an act as an act of terrorism under this paragraph shall be final, and shall not be subject to judicial review.

(D) NONDELEGATION.—The Secretary may not delegate or designate to any other officer, employee, or person, any determination under this paragraph of whether, during the effective period of the Program, an act of terrorism has occurred.

(2) AFFILIATE.—The term “affiliate” means, with respect to an insurer, any entity that controls, is controlled by, or is under common control with the insurer.

(3) CONTROL.—An entity has “control” over another entity, if—

(A) the entity directly or indirectly or acting through 1 or more other persons owns, controls, or has power to vote 25 percent or more of any class of voting securities of the other entity;

(B) the entity controls in any manner the election of a majority of the directors or trustees of the other entity; or

(C) the Secretary determines, after notice and opportunity for hearing, that the entity directly or indirectly exercises a controlling influence over the management or policies of the other entity.

(4) DIRECT EARNED PREMIUM.—The term “direct earned premium” means a direct earned premium for property and casualty insurance issued by any insurer for insurance against losses occurring at the locations described in subparagraphs (A) and (B) of paragraph (5).

(5) INSURED LOSS.—The term “insured loss” means any loss resulting from an act of terrorism (including an act of war, in the case of workers' compensation) that is covered by primary or excess property and casualty insurance issued by an insurer if such loss—

(A) occurs within the United States; or

(B) occurs to an air carrier (as defined in section 40102 of title 49, United States Code), to a United States flag vessel (or a vessel based principally in the United States, on which United States income tax is paid and whose insurance coverage is subject to regulation in the United States), regardless of where the loss occurs, or at the premises of any United States mission.

(6) INSURER.—The term “insurer” means any entity, including any affiliate thereof—

(A) that is—

(i) licensed or admitted to engage in the business of providing primary or excess insurance in any State;

(ii) not licensed or admitted as described in clause (i), if it is an eligible surplus line carrier listed on the Quarterly Listing of Alien Insurers of the NAIC, or any successor thereto;

(iii) approved for the purpose of offering property and casualty insurance by a Federal agency in connection with maritime, energy, or aviation activity;

(iv) a State residual market insurance entity or State workers’ compensation fund; or

(v) any other entity described in section 103(f), to the extent provided in the rules of the Secretary issued under section 103(f);

(B) that receives direct earned premiums for any type of commercial property and casualty insurance coverage, other than in the case of entities described in sections 103(d) and 103(f); and

(C) that meets any other criteria that the Secretary may reasonably prescribe.

(7) INSURER DEDUCTIBLE.—The term “insurer deductible” means—

(A) for the Transition Period, the value of an insurer’s direct earned premiums over the calendar year immediately preceding the date of enactment of this Act, multiplied by 1 percent;

(B) for Program Year 1, the value of an insurer’s direct earned premiums over the calendar year immediately preceding Program Year 1, multiplied by 7 percent;

(C) for Program Year 2, the value of an insurer’s direct earned premiums over the calendar year immediately preceding Program Year 2, multiplied by 10 percent;

(D) for Program Year 3, the value of an insurer’s direct earned premiums over the calendar year immediately preceding Program Year 3, multiplied by 15 percent; and

(E) notwithstanding subparagraphs (A) through (D), for the Transition Period, Program Year 1, Program Year 2, or Program Year 3, if an insurer has not had a full year of operations during the calendar year immediately preceding such Period or Program Year, such portion of the direct earned premiums of the insurer as the Secretary determines appropriate, subject to appropriate methodologies established by the Secretary for measuring such direct earned premiums.

(8) NAIC.—The term “NAIC” means the National Association of Insurance Commissioners.

(9) PERSON.—The term “person” means any individual, business or nonprofit entity (including those organized in the form of a partnership, limited liability company, corporation, or association), trust or estate, or a State or political subdivision of a State or other governmental unit.

(10) PROGRAM.—The term “Program” means the Terrorism Insurance Program established by this title.

(11) PROGRAM YEARS.—

(A) TRANSITION PERIOD.—The term “Transition Period” means the period beginning on the date of enactment of this Act and ending on December 31, 2002.

(B) PROGRAM YEAR 1.—The term “Program Year 1” means the period beginning on January 1, 2003 and ending on December 31, 2003.

(C) PROGRAM YEAR 2.—The term “Program Year 2” means the period beginning on January 1, 2004 and ending on December 31, 2004.

(D) PROGRAM YEAR 3.—The term “Program Year 3” means the period beginning on January 1, 2005 and ending on December 31, 2005.

(12) PROPERTY AND CASUALTY INSURANCE.—The term “property and casualty insurance”—

(A) means commercial lines of property and casualty insurance, including excess insurance, workers’ compensation insurance, and surety insurance; and

(B) does not include—

(i) Federal crop insurance issued or reinsured under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), or any other type of crop or livestock insurance that is privately issued or reinsured;

(ii) private mortgage insurance (as that term is defined in section 2 of the Homeowners Protection Act of 1998 (12 U.S.C. 4901)) or title insurance;

(iii) financial guaranty insurance issued by monoline financial guaranty insurance corporations;

(iv) insurance for medical malpractice;

(v) health or life insurance, including group life insurance;

(vi) flood insurance provided under the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.); or

(vii) reinsurance or retrocessional reinsurance.

(13) SECRETARY.—The term “Secretary” means the Secretary of the Treasury.

(14) STATE.—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, each of the United States Virgin Islands, and any territory or possession of the United States.

(15) UNITED STATES.—The term “United States” means the several States, and includes the territorial sea and the continental shelf of the United States, as those terms are defined in the Violent Crime Control and Law Enforcement Act of 1994 (18 U.S.C. 2280, 2281).

(16) RULE OF CONSTRUCTION FOR DATES.—With respect to any reference to a date in this title, such day shall be construed—

- (A) to begin at 12:01 a.m. on that date; and
- (B) to end at midnight on that date.

SEC. 103. TERRORISM INSURANCE PROGRAM.

(a) ESTABLISHMENT OF PROGRAM.—

(1) IN GENERAL.—There is established in the Department of the Treasury the Terrorism Insurance Program.

(2) AUTHORITY OF THE SECRETARY.—Notwithstanding any other provision of State or Federal law, the Secretary shall administer the Program, and shall pay the Federal share of compensation for insured losses in accordance with subsection (e).

(3) MANDATORY PARTICIPATION.—Each entity that meets the definition of an insurer under this title shall participate in the Program.

(b) CONDITIONS FOR FEDERAL PAYMENTS.—No payment may be made by the Secretary under this section with respect to an insured loss that is covered by an insurer, unless—

(1) the person that suffers the insured loss, or a person acting on behalf of that person, files a claim with the insurer;

(2) the insurer provides clear and conspicuous disclosure to the policyholder of the premium charged for insured losses covered by the Program and the Federal share of compensation for insured losses under the Program—

(A) in the case of any policy that is issued before the date of enactment of this Act, not later than 90 days after that date of enactment; Deadline.

(B) in the case of any policy that is issued within 90 days of the date of enactment of this Act, at the time of offer, purchase, and renewal of the policy; and

(C) in the case of any policy that is issued more than 90 days after the date of enactment of this Act, on a separate line item in the policy, at the time of offer, purchase, and renewal of the policy;

(3) the insurer processes the claim for the insured loss in accordance with appropriate business practices, and any reasonable procedures that the Secretary may prescribe; and

(4) the insurer submits to the Secretary, in accordance with such reasonable procedures as the Secretary may establish—

(A) a claim for payment of the Federal share of compensation for insured losses under the Program;

(B) written certification—

(i) of the underlying claim; and

(ii) of all payments made for insured losses; and

(C) certification of its compliance with the provisions of this subsection.

(c) MANDATORY AVAILABILITY.—

(1) INITIAL PROGRAM PERIODS.—During the period beginning on the first day of the Transition Period and ending on the last day of Program Year 2, each entity that meets the definition of an insurer under section 102—

(A) shall make available, in all of its property and casualty insurance policies, coverage for insured losses; and

(B) shall make available property and casualty insurance coverage for insured losses that does not differ materially from the terms, amounts, and other coverage limitations applicable to losses arising from events other than acts of terrorism.

Deadline.

(2) PROGRAM YEAR 3.—Not later than September 1, 2004, the Secretary shall, based on the factors referred to in section 108(d)(1), determine whether the provisions of subparagraphs (A) and (B) of paragraph (1) should be extended through Program Year 3.

Regulations.

(d) STATE RESIDUAL MARKET INSURANCE ENTITIES.—

(1) IN GENERAL.—The Secretary shall issue regulations, as soon as practicable after the date of enactment of this Act, that apply the provisions of this title to State residual market insurance entities and State workers' compensation funds.

(2) TREATMENT OF CERTAIN ENTITIES.—For purposes of the regulations issued pursuant to paragraph (1)—

(A) a State residual market insurance entity that does not share its profits and losses with private sector insurers shall be treated as a separate insurer; and

(B) a State residual market insurance entity that shares its profits and losses with private sector insurers shall not be treated as a separate insurer, and shall report to each private sector insurance participant its share of the insured losses of the entity, which shall be included in each private sector insurer's insured losses.

(3) TREATMENT OF PARTICIPATION IN CERTAIN ENTITIES.—Any insurer that participates in sharing profits and losses of a State residual market insurance entity shall include in its calculations of premiums any premiums distributed to the insurer by the State residual market insurance entity.

(e) INSURED LOSS SHARED COMPENSATION.—

(1) FEDERAL SHARE.—

(A) IN GENERAL.—The Federal share of compensation under the Program to be paid by the Secretary for insured losses of an insurer during the Transition Period and each Program Year shall be equal to 90 percent of that portion of the amount of such insured losses that exceeds the applicable insurer deductible required to be paid during such Transition Period or such Program Year.

(B) PROHIBITION ON DUPLICATIVE COMPENSATION.—The Federal share of compensation for insured losses under the Program shall be reduced by the amount of compensation provided by the Federal Government to any person under any other Federal program for those insured losses.

(2) CAP ON ANNUAL LIABILITY.—

(A) IN GENERAL.—Notwithstanding paragraph (1) or any other provision of Federal or State law, if the aggregate insured losses exceed \$100,000,000,000, during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during Program Year 2 or Program Year 3 (until such time as the Congress may act otherwise with respect to such losses)—

(i) the Secretary shall not make any payment under this title for any portion of the amount of such losses that exceeds \$100,000,000,000; and

(ii) no insurer that has met its insurer deductible shall be liable for the payment of any portion of that amount that exceeds \$100,000,000,000.

(B) INSURER SHARE.—For purposes of subparagraph (A), the Secretary shall determine the pro rata share of insured losses to be paid by each insurer that incurs insured losses under the Program.

(3) NOTICE TO CONGRESS.—The Secretary shall notify the Congress if estimated or actual aggregate insured losses exceed \$100,000,000,000 during the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, or during Program Year 2 or Program Year 3, and the Congress shall determine the procedures for and the source of any payments for such excess insured losses.

(4) FINAL NETTING.—The Secretary shall have sole discretion to determine the time at which claims relating to any insured loss or act of terrorism shall become final.

(5) DETERMINATIONS FINAL.—Any determination of the Secretary under this subsection shall be final, unless expressly provided, and shall not be subject to judicial review.

(6) INSURANCE MARKETPLACE AGGREGATE RETENTION AMOUNT.—For purposes of paragraph (7), the insurance marketplace aggregate retention amount shall be—

(A) for the period beginning on the first day of the Transition Period and ending on the last day of Program Year 1, the lesser of—

(i) \$10,000,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such period;

(B) for Program Year 2, the lesser of—

(i) \$12,500,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such Program Year; and

(C) for Program Year 3, the lesser of—

(i) \$15,000,000,000; and

(ii) the aggregate amount, for all insurers, of insured losses during such Program Year.

(7) RECOUPMENT OF FEDERAL SHARE.—

(A) MANDATORY RECOUPMENT AMOUNT.—For purposes of this paragraph, the mandatory recoupment amount for each of the periods referred to in subparagraphs (A), (B), and (C) of paragraph (6) shall be the difference between—

(i) the insurance marketplace aggregate retention amount under paragraph (6) for such period; and

(ii) the aggregate amount, for all insurers, of insured losses during such period that are not compensated by the Federal Government because such losses—

(I) are within the insurer deductible for the insurer subject to the losses; or

(II) are within the portion of losses of the insurer that exceed the insurer deductible, but are not compensated pursuant to paragraph (1).

(B) NO MANDATORY RECOUPMENT IF UNCOMPENSATED LOSSES EXCEED INSURANCE MARKETPLACE RETENTION.—Notwithstanding subparagraph (A), if the aggregate amount of uncompensated insured losses referred to in clause (ii) of such subparagraph for any period referred to in subparagraph (A), (B), or (C) of paragraph (6) is greater than the insurance marketplace aggregate retention amount under paragraph (6) for such period, the mandatory recoupment amount shall be \$0.

(C) MANDATORY ESTABLISHMENT OF SURCHARGES TO RECOUP MANDATORY RECOUPMENT AMOUNT.—The Secretary shall collect, for repayment of the Federal financial assistance provided in connection with all acts of terrorism (or acts of war, in the case of workers compensation) occurring during any of the periods referred to in subparagraph (A), (B), or (C) of paragraph (6), terrorism loss risk-spreading premiums in an amount equal to any mandatory recoupment amount for such period.

(D) DISCRETIONARY RECOUPMENT OF REMAINDER OF FINANCIAL ASSISTANCE.—To the extent that the amount of Federal financial assistance provided exceeds any mandatory recoupment amount, the Secretary may recoup, through terrorism loss risk-spreading premiums, such additional amounts that the Secretary believes can be recouped, based on—

- (i) the ultimate costs to taxpayers of no additional recoupment;
- (ii) the economic conditions in the commercial marketplace, including the capitalization, profitability, and investment returns of the insurance industry and the current cycle of the insurance markets;
- (iii) the affordability of commercial insurance for small- and medium-sized businesses; and
- (iv) such other factors as the Secretary considers appropriate.

(8) POLICY SURCHARGE FOR TERRORISM LOSS RISK-SPREADING PREMIUMS.—

(A) POLICYHOLDER PREMIUM.—Any amount established by the Secretary as a terrorism loss risk-spreading premium shall—

- (i) be imposed as a policyholder premium surcharge on property and casualty insurance policies in force after the date of such establishment;
- (ii) begin with such period of coverage during the year as the Secretary determines appropriate; and
- (iii) be based on a percentage of the premium amount charged for property and casualty insurance coverage under the policy.

(B) COLLECTION.—The Secretary shall provide for insurers to collect terrorism loss risk-spreading premiums and remit such amounts collected to the Secretary.

(C) PERCENTAGE LIMITATION.—A terrorism loss risk-spreading premium (including any additional amount included in such premium on a discretionary basis pursuant to paragraph (7)(D)) may not exceed, on an annual basis, the amount equal to 3 percent of the premium charged

for property and casualty insurance coverage under the policy.

(D) ADJUSTMENT FOR URBAN AND SMALLER COMMERCIAL AND RURAL AREAS AND DIFFERENT LINES OF INSURANCE.—

(i) ADJUSTMENTS.—In determining the method and manner of imposing terrorism loss risk-spreading premiums, including the amount of such premiums, the Secretary shall take into consideration—

(I) the economic impact on commercial centers of urban areas, including the effect on commercial rents and commercial insurance premiums, particularly rents and premiums charged to small businesses, and the availability of lease space and commercial insurance within urban areas;

(II) the risk factors related to rural areas and smaller commercial centers, including the potential exposure to loss and the likely magnitude of such loss, as well as any resulting cross-subsidization that might result; and

(III) the various exposures to terrorism risk for different lines of insurance.

(ii) RECOUPMENT OF ADJUSTMENTS.—Any mandatory recoupment amounts not collected by the Secretary because of adjustments under this subparagraph shall be recouped through additional terrorism loss risk-spreading premiums.

(E) TIMING OF PREMIUMS.—The Secretary may adjust the timing of terrorism loss risk-spreading premiums to provide for equivalent application of the provisions of this title to policies that are not based on a calendar year, or to apply such provisions on a daily, monthly, or quarterly basis, as appropriate.

(f) CAPTIVE INSURERS AND OTHER SELF-INSURANCE ARRANGEMENTS.—The Secretary may, in consultation with the NAIC or the appropriate State regulatory authority, apply the provisions of this title, as appropriate, to other classes or types of captive insurers and other self-insurance arrangements by municipalities and other entities (such as workers' compensation self-insurance programs and State workers' compensation reinsurance pools), but only if such application is determined before the occurrence of an act of terrorism in which such an entity incurs an insured loss and all of the provisions of this title are applied comparably to such entities.

(g) REINSURANCE TO COVER EXPOSURE.—

(1) OBTAINING COVERAGE.—This title may not be construed to limit or prevent insurers from obtaining reinsurance coverage for insurer deductibles or insured losses retained by insurers pursuant to this section, nor shall the obtaining of such coverage affect the calculation of such deductibles or retentions.

(2) LIMITATION ON FINANCIAL ASSISTANCE.—The amount of financial assistance provided pursuant to this section shall not be reduced by reinsurance paid or payable to an insurer from other sources, except that recoveries from such other sources, taken together with financial assistance for the Transition Period or a Program Year provided pursuant to this section, may not exceed the aggregate amount of the insurer's insured

losses for such period. If such recoveries and financial assistance for the Transition Period or a Program Year exceed such aggregate amount of insured losses for that period and there is no agreement between the insurer and any reinsurer to the contrary, an amount in excess of such aggregate insured losses shall be returned to the Secretary.

(h) GROUP LIFE INSURANCE STUDY.—

(1) STUDY.—The Secretary shall study, on an expedited basis, whether adequate and affordable catastrophe reinsurance for acts of terrorism is available to life insurers in the United States that issue group life insurance, and the extent to which the threat of terrorism is reducing the availability of group life insurance coverage for consumers in the United States.

(2) CONDITIONAL COVERAGE.—To the extent that the Secretary determines that such coverage is not or will not be reasonably available to both such insurers and consumers, the Secretary shall, in consultation with the NAIC—

(A) apply the provisions of this title, as appropriate, to providers of group life insurance; and

(B) provide such restrictions, limitations, or conditions with respect to any financial assistance provided that the Secretary deems appropriate, based on the study under paragraph (1).

(i) STUDY AND REPORT.—

(1) STUDY.—The Secretary, after consultation with the NAIC, representatives of the insurance industry, and other experts in the insurance field, shall conduct a study of the potential effects of acts of terrorism on the availability of life insurance and other lines of insurance coverage, including personal lines.

Deadline.

(2) REPORT.—Not later than 9 months after the date of enactment of this Act, the Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1).

SEC. 104. GENERAL AUTHORITY AND ADMINISTRATION OF CLAIMS.

(a) GENERAL AUTHORITY.—The Secretary shall have the powers and authorities necessary to carry out the Program, including authority—

(1) to investigate and audit all claims under the Program; and

Regulations.

(2) to prescribe regulations and procedures to effectively administer and implement the Program, and to ensure that all insurers and self-insured entities that participate in the Program are treated comparably under the Program.

(b) INTERIM RULES AND PROCEDURES.—The Secretary may issue interim final rules or procedures specifying the manner in which—

(1) insurers may file and certify claims under the Program;

(2) the Federal share of compensation for insured losses will be paid under the Program, including payments based on estimates of or actual insured losses;

(3) the Secretary may, at any time, seek repayment from or reimburse any insurer, based on estimates of insured losses under the Program, to effectuate the insured loss sharing provisions in section 103; and

(4) the Secretary will determine any final netting of payments under the Program, including payments owed to the

Federal Government from any insurer and any Federal share of compensation for insured losses owed to any insurer, to effectuate the insured loss sharing provisions in section 103.

(c) CONSULTATION.—The Secretary shall consult with the NAIC, as the Secretary determines appropriate, concerning the Program.

(d) CONTRACTS FOR SERVICES.—The Secretary may employ persons or contract for services as may be necessary to implement the Program.

(e) CIVIL PENALTIES.—

(1) IN GENERAL.—The Secretary may assess a civil monetary penalty in an amount not exceeding the amount under paragraph (2) against any insurer that the Secretary determines, on the record after opportunity for a hearing—

(A) has failed to charge, collect, or remit terrorism loss risk-spreading premiums under section 103(e) in accordance with the requirements of, or regulations issued under, this title;

(B) has intentionally provided to the Secretary erroneous information regarding premium or loss amounts;

(C) submits to the Secretary fraudulent claims under the Program for insured losses;

(D) has failed to provide the disclosures required under subsection (f); or

(E) has otherwise failed to comply with the provisions of, or the regulations issued under, this title.

(2) AMOUNT.—The amount under this paragraph is the greater of \$1,000,000 and, in the case of any failure to pay, charge, collect, or remit amounts in accordance with this title or the regulations issued under this title, such amount in dispute.

(3) RECOVERY OF AMOUNT IN DISPUTE.—A penalty under this subsection for any failure to pay, charge, collect, or remit amounts in accordance with this title or the regulations under this title shall be in addition to any such amounts recovered by the Secretary.

(f) SUBMISSION OF PREMIUM INFORMATION.—

(1) IN GENERAL.—The Secretary shall annually compile information on the terrorism risk insurance premium rates of insurers for the preceding year.

(2) ACCESS TO INFORMATION.—To the extent that such information is not otherwise available to the Secretary, the Secretary may require each insurer to submit to the NAIC terrorism risk insurance premium rates, as necessary to carry out paragraph (1), and the NAIC shall make such information available to the Secretary.

(3) AVAILABILITY TO CONGRESS.—The Secretary shall make information compiled under this subsection available to the Congress, upon request.

(g) FUNDING.—

(1) FEDERAL PAYMENTS.—There are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay the Federal share of compensation for insured losses under the Program.

(2) ADMINISTRATIVE EXPENSES.—There are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay reasonable costs of administering the Program.

SEC. 105. PREEMPTION AND NULLIFICATION OF PRE-EXISTING TERRORISM EXCLUSIONS.

(a) **GENERAL NULLIFICATION.**—Any terrorism exclusion in a contract for property and casualty insurance that is in force on the date of enactment of this Act shall be void to the extent that it excludes losses that would otherwise be insured losses.

(b) **GENERAL PREEMPTION.**—Any State approval of any terrorism exclusion from a contract for property and casualty insurance that is in force on the date of enactment of this Act, shall be void to the extent that it excludes losses that would otherwise be insured losses.

(c) **REINSTATEMENT OF TERRORISM EXCLUSIONS.**—Notwithstanding subsections (a) and (b) or any provision of State law, an insurer may reinstate a preexisting provision in a contract for property and casualty insurance that is in force on the date of enactment of this Act and that excludes coverage for an act of terrorism only—

(1) if the insurer has received a written statement from the insured that affirmatively authorizes such reinstatement; or

(2) if—

(A) the insured fails to pay any increased premium charged by the insurer for providing such terrorism coverage; and

(B) the insurer provided notice, at least 30 days before any such reinstatement, of—

(i) the increased premium for such terrorism coverage; and

(ii) the rights of the insured with respect to such coverage, including any date upon which the exclusion would be reinstated if no payment is received.

SEC. 106. PRESERVATION PROVISIONS.

(a) **STATE LAW.**—Nothing in this title shall affect the jurisdiction or regulatory authority of the insurance commissioner (or any agency or office performing like functions) of any State over any insurer or other person—

(1) except as specifically provided in this title; and

(2) except that—

(A) the definition of the term “act of terrorism” in section 102 shall be the exclusive definition of that term for purposes of compensation for insured losses under this title, and shall preempt any provision of State law that is inconsistent with that definition, to the extent that such provision of law would otherwise apply to any type of insurance covered by this title;

(B) during the period beginning on the date of enactment of this Act and ending on December 31, 2003, rates and forms for terrorism risk insurance covered by this title and filed with any State shall not be subject to prior approval or a waiting period under any law of a State that would otherwise be applicable, except that nothing in this title affects the ability of any State to invalidate a rate as excessive, inadequate, or unfairly discriminatory, and, with respect to forms, where a State has prior approval authority, it shall apply to allow subsequent review of such forms; and

(C) during the period beginning on the date of enactment of this Act and for so long as the Program is in effect, as provided in section 108, including authority in subsection 108(b), books and records of any insurer that are relevant to the Program shall be provided, or caused to be provided, to the Secretary, upon request by the Secretary, notwithstanding any provision of the laws of any State prohibiting or limiting such access.

(b) EXISTING REINSURANCE AGREEMENTS.—Nothing in this title shall be construed to alter, amend, or expand the terms of coverage under any reinsurance agreement in effect on the date of enactment of this Act. The terms and conditions of such an agreement shall be determined by the language of that agreement.

SEC. 107. LITIGATION MANAGEMENT.

(a) PROCEDURES AND DAMAGES.—

(1) IN GENERAL.—If the Secretary makes a determination pursuant to section 102 that an act of terrorism has occurred, there shall exist a Federal cause of action for property damage, personal injury, or death arising out of or resulting from such act of terrorism, which shall be the exclusive cause of action and remedy for claims for property damage, personal injury, or death arising out of or relating to such act of terrorism, except as provided in subsection (b).

(2) PREEMPTION OF STATE ACTIONS.—All State causes of action of any kind for property damage, personal injury, or death arising out of or resulting from an act of terrorism that are otherwise available under State law are hereby preempted, except as provided in subsection (b).

(3) SUBSTANTIVE LAW.—The substantive law for decision in any such action described in paragraph (1) shall be derived from the law, including choice of law principles, of the State in which such act of terrorism occurred, unless such law is otherwise inconsistent with or preempted by Federal law.

(4) JURISDICTION.—For each determination described in paragraph (1), not later than 90 days after the occurrence of an act of terrorism, the Judicial Panel on Multidistrict Litigation shall designate 1 district court or, if necessary, multiple district courts of the United States that shall have original and exclusive jurisdiction over all actions for any claim (including any claim for loss of property, personal injury, or death) relating to or arising out of an act of terrorism subject to this section. The Judicial Panel on Multidistrict Litigation shall select and assign the district court or courts based on the convenience of the parties and the just and efficient conduct of the proceedings. For purposes of personal jurisdiction, the district court or courts designated by the Judicial Panel on Multidistrict Litigation shall be deemed to sit in all judicial districts in the United States.

Deadline.

(5) PUNITIVE DAMAGES.—Any amounts awarded in an action under paragraph (1) that are attributable to punitive damages shall not count as insured losses for purposes of this title.

(b) EXCLUSION.—Nothing in this section shall in any way limit the liability of any government, an organization, or person who knowingly participates in, conspires to commit, aids and abets, or commits any act of terrorism with respect to which a determination described in subsection (a)(1) was made.

(c) **RIGHT OF SUBROGATION.**—The United States shall have the right of subrogation with respect to any payment or claim paid by the United States under this title.

(d) **RELATIONSHIP TO OTHER LAW.**—Nothing in this section shall be construed to affect—

(1) any party’s contractual right to arbitrate a dispute;

or

(2) any provision of the Air Transportation Safety and System Stabilization Act (Public Law 107–42; 49 U.S.C. 40101 note.).

Applicability.

(e) **EFFECTIVE PERIOD.**—This section shall apply only to actions described in subsection (a)(1) that arise out of or result from acts of terrorism that occur or occurred during the effective period of the Program.

SEC. 108. TERMINATION OF PROGRAM.

(a) **TERMINATION OF PROGRAM.**—The Program shall terminate on December 31, 2005.

(b) **CONTINUING AUTHORITY TO PAY OR ADJUST COMPENSATION.**—Following the termination of the Program, the Secretary may take such actions as may be necessary to ensure payment, recoupment, reimbursement, or adjustment of compensation for insured losses arising out of any act of terrorism occurring during the period in which the Program was in effect under this title, in accordance with the provisions of section 103 and regulations promulgated thereunder.

(c) **REPEAL; SAVINGS CLAUSE.**—This title is repealed on the final termination date of the Program under subsection (a), except that such repeal shall not be construed—

(1) to prevent the Secretary from taking, or causing to be taken, such actions under subsection (b) of this section, paragraph (4), (5), (6), (7), or (8) of section 103(e), or subsection (a)(1), (c), (d), or (e) of section 104, as in effect on the day before the date of such repeal, or applicable regulations promulgated thereunder, during any period in which the authority of the Secretary under subsection (b) of this section is in effect; or

(2) to prevent the availability of funding under section 104(g) during any period in which the authority of the Secretary under subsection (b) of this section is in effect.

(d) **STUDY AND REPORT ON THE PROGRAM.**—

(1) **STUDY.**—The Secretary, in consultation with the NAIC, representatives of the insurance industry and of policy holders, other experts in the insurance field, and other experts as needed, shall assess the effectiveness of the Program and the likely capacity of the property and casualty insurance industry to offer insurance for terrorism risk after termination of the Program, and the availability and affordability of such insurance for various policyholders, including railroads, trucking, and public transit.

Deadline.

(2) **REPORT.**—The Secretary shall submit a report to the Congress on the results of the study conducted under paragraph (1) not later than June 30, 2005.

TITLE II—TREATMENT OF TERRORIST ASSETS

SEC. 201. SATISFACTION OF JUDGMENTS FROM BLOCKED ASSETS OF TERRORISTS, TERRORIST ORGANIZATIONS, AND STATE SPONSORS OF TERRORISM.

(a) IN GENERAL.—Notwithstanding any other provision of law, and except as provided in subsection (b), in every case in which a person has obtained a judgment against a terrorist party on a claim based upon an act of terrorism, or for which a terrorist party is not immune under section 1605(a)(7) of title 28, United States Code, the blocked assets of that terrorist party (including the blocked assets of any agency or instrumentality of that terrorist party) shall be subject to execution or attachment in aid of execution in order to satisfy such judgment to the extent of any compensatory damages for which such terrorist party has been adjudged liable.

28 USC 1610
note.

(b) PRESIDENTIAL WAIVER.—

(1) IN GENERAL.—Subject to paragraph (2), upon determining on an asset-by-asset basis that a waiver is necessary in the national security interest, the President may waive the requirements of subsection (a) in connection with (and prior to the enforcement of) any judicial order directing attachment in aid of execution or execution against any property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

28 USC 1610
note.

(2) EXCEPTION.—A waiver under this subsection shall not apply to—

(A) property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations that has been used by the United States for any nondiplomatic purpose (including use as rental property), or the proceeds of such use; or

(B) the proceeds of any sale or transfer for value to a third party of any asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations.

(c) SPECIAL RULE FOR CASES AGAINST IRAN.—Section 2002 of the Victims of Trafficking and Violence Protection Act of 2000 (Public Law 106–386; 114 Stat. 1542), as amended by section 686 of Public Law 107–228, is further amended—

Ante, p. 1411.

(1) in subsection (a)(2)(A)(ii), by striking “July 27, 2000, or January 16, 2002” and inserting “July 27, 2000, any other date before October 28, 2000, or January 16, 2002”;

(2) in subsection (b)(2)(B), by inserting after “the date of enactment of this Act” the following: “(less amounts therein as to which the United States has an interest in subrogation pursuant to subsection (c) arising prior to the date of entry of the judgment or judgments to be satisfied in whole or in part hereunder)”;

(3) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

28 USC 1606,
1610 and note.

(4) by inserting after subsection (c) the following new subsection (d):

“(d) DISTRIBUTION OF ACCOUNT BALANCES AND PROCEEDS INADEQUATE TO SATISFY FULL AMOUNT OF COMPENSATORY AWARDS AGAINST IRAN.—

“(1) PRIOR JUDGMENTS.—

“(A) IN GENERAL.—In the event that the Secretary determines that 90 percent of the amounts available to be paid under subsection (b)(2) are inadequate to pay the total amount of compensatory damages awarded in judgments issued as of the date of the enactment of this subsection in cases identified in subsection (a)(2)(A) with respect to Iran, the Secretary shall, not later than 60 days after such date, make payment from such amounts available to be paid under subsection (b)(2) to each party to which such a judgment has been issued in an amount equal to a share, calculated under subparagraph (B), of 90 percent of the amounts available to be paid under subsection (b)(2) that have not been subrogated to the United States under this Act as of the date of enactment of this subsection.

“(B) CALCULATION OF PAYMENTS.—The share that is payable to a person under subparagraph (A), including any person issued a final judgment as of the date of enactment of this subsection in a suit filed on a date added by the amendment made by section 686 of Public Law 107-228, shall be equal to the proportion that the amount of unpaid compensatory damages awarded in a final judgment issued to that person bears to the total amount of all unpaid compensatory damages awarded to all persons to whom such judgments have been issued as of the date of enactment of this subsection in cases identified in subsection (a)(2)(A) with respect to Iran.

“(2) SUBSEQUENT JUDGMENT.—

“(A) IN GENERAL.—The Secretary shall pay to any person awarded a final judgment after the date of enactment of this subsection, in the case filed on January 16, 2002, and identified in subsection (a)(2)(A) with respect to Iran, an amount equal to a share, calculated under subparagraph (B), of the balance of the amounts available to be paid under subsection (b)(2) that remain following the disbursement of all payments as provided by paragraph (1). The Secretary shall make such payment not later than 30 days after such judgment is awarded.

“(B) CALCULATION OF PAYMENTS.—To the extent that funds are available, the amount paid under subparagraph (A) to such person shall be the amount the person would have been paid under paragraph (1) if the person had been awarded the judgment prior to the date of enactment of this subsection.

“(3) ADDITIONAL PAYMENTS.—

Deadline.

“(A) IN GENERAL.—Not later than 30 days after the disbursement of all payments under paragraphs (1) and (2), the Secretary shall make an additional payment to each person who received a payment under paragraph (1) or (2) in an amount equal to a share, calculated under subparagraph (B), of the balance of the amounts available to be paid under subsection (b)(2) that remain following the disbursement of all payments as provided by paragraphs (1) and (2).

“(B) CALCULATION OF PAYMENTS.—The share payable under subparagraph (A) to each such person shall be equal

to the proportion that the amount of compensatory damages awarded that person bears to the total amount of all compensatory damages awarded to all persons who received a payment under paragraph (1) or (2).

“(4) STATUTORY CONSTRUCTION.—Nothing in this subsection shall bar, or require delay in, enforcement of any judgment to which this subsection applies under any procedure or against assets otherwise available under this section or under any other provision of law.

“(5) CERTAIN RIGHTS AND CLAIMS NOT RELINQUISHED.—Any person receiving less than the full amount of compensatory damages awarded to that party in a judgment to which this subsection applies shall not be required to make the election set forth in subsection (a)(2)(B) or, with respect to subsection (a)(2)(D), the election relating to relinquishment of any right to execute or attach property that is subject to section 1610(f)(1)(A) of title 28, United States Code, except that such person shall be required to relinquish rights set forth—

“(A) in subsection (a)(2)(C); and

“(B) in subsection (a)(2)(D) with respect to enforcement against property that is at issue in claims against the United States before an international tribunal or that is the subject of awards by such tribunal.

“(6) GUIDELINES FOR ESTABLISHING CLAIMS OF A RIGHT TO PAYMENT.—The Secretary may promulgate reasonable guidelines through which any person claiming a right to payment under this section may inform the Secretary of the basis for such claim, including by submitting a certified copy of the final judgment under which such right is claimed and by providing commercially reasonable payment instructions. The Secretary shall take all reasonable steps necessary to ensure, to the maximum extent practicable, that such guidelines shall not operate to delay or interfere with payment under this section.”.

(d) DEFINITIONS.—In this section, the following definitions shall apply:

28 USC 1610
note.

(1) ACT OF TERRORISM.—The term “act of terrorism” means—

(A) any act or event certified under section 102(1);
or

(B) to the extent not covered by subparagraph (A), any terrorist activity (as defined in section 212(a)(3)(B)(iii) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(iii))).

(2) BLOCKED ASSET.—The term “blocked asset” means—

(A) any asset seized or frozen by the United States under section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) or under sections 202 and 203 of the International Emergency Economic Powers Act (50 U.S.C. 1701; 1702); and

(B) does not include property that—

(i) is subject to a license issued by the United States Government for final payment, transfer, or disposition by or to a person subject to the jurisdiction of the United States in connection with a transaction for which the issuance of such license has been specifically required by statute other than the International

Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) or the United Nations Participation Act of 1945 (22 U.S.C. 287 et seq.); or

(ii) in the case of property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, or that enjoys equivalent privileges and immunities under the law of the United States, is being used exclusively for diplomatic or consular purposes.

(3) CERTAIN PROPERTY.—The term “property subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations” and the term “asset subject to the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations” mean any property or asset, respectively, the attachment in aid of execution or execution of which would result in a violation of an obligation of the United States under the Vienna Convention on Diplomatic Relations or the Vienna Convention on Consular Relations, as the case may be.

(4) TERRORIST PARTY.—The term “terrorist party” means a terrorist, a terrorist organization (as defined in section 212(a)(3)(B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi))), or a foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

TITLE III—FEDERAL RESERVE BOARD PROVISIONS

SEC. 301. CERTAIN AUTHORITY OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

Section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended by adding at the end the following new subsection:

“(r)(1) Any action that this Act provides may be taken only upon the affirmative vote of 5 members of the Board may be taken upon the unanimous vote of all members then in office if there are fewer than 5 members in office at the time of the action.

“(2)(A) Any action that the Board is otherwise authorized to take under section 13(3) may be taken upon the unanimous vote of all available members then in office, if—

“(i) at least 2 members are available and all available members participate in the action;

“(ii) the available members unanimously determine that—

“(I) unusual and exigent circumstances exist and the borrower is unable to secure adequate credit accommodations from other sources;

“(II) action on the matter is necessary to prevent, correct, or mitigate serious harm to the economy or the stability of the financial system of the United States;

“(III) despite the use of all means available (including all available telephonic, telegraphic, and other electronic means), the other members of the Board have not been able to be contacted on the matter; and

“(IV) action on the matter is required before the number of Board members otherwise required to vote on the matter can be contacted through any available means (including all available telephonic, telegraphic, and other electronic means); and

“(iii) any credit extended by a Federal reserve bank pursuant to such action is payable upon demand of the Board.

“(B) The available members of the Board shall document in writing the determinations required by subparagraph (A)(ii), and such written findings shall be included in the record of the action and in the official minutes of the Board, and copies of such record shall be provided as soon as practicable to the members of the Board who were not available to participate in the action and to the Chairman of the Committee on Banking, Housing, and Urban Affairs of the Senate and to the Chairman of the Committee on Financial Services of the House of Representatives.”. Records.

Approved November 26, 2002.

LEGISLATIVE HISTORY—H.R. 3210 (S. 2600):

HOUSE REPORTS: Nos. 107-300, Pt. 1 (Comm. on Financial Services) and Pt. 2 (Comm. on Ways and Means) and 107-779 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 29, considered and passed House.

Vol. 148 (2002): July 25, considered and passed Senate, amended, in lieu of S. 2600.

Nov. 14, House agreed to conference report.

Nov. 19, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Nov. 26, Presidential remarks.



Public Law 107–298
107th Congress

An Act

Nov. 26, 2002
[H.R. 2546]

Real Interstate
Driver Equity
Act of 2002.
49 USC 10101
note.

To amend title 49, United States Code, to prohibit States from requiring a license or fee on account of the fact that a motor vehicle is providing interstate pre-arranged ground transportation service, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Real Interstate Driver Equity Act of 2002”.

SEC. 2. REGULATION OF INTERSTATE PRE-ARRANGED GROUND TRANSPORTATION SERVICE.

Section 14501 of title 49, United States Code, is amended by adding at the end the following:

“(d) PRE-ARRANGED GROUND TRANSPORTATION.—

“(1) IN GENERAL.—No State or political subdivision thereof and no interstate agency or other political agency of 2 or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law requiring a license or fee on account of the fact that a motor vehicle is providing pre-arranged ground transportation service if the motor carrier providing such service—

“(A) meets all applicable registration requirements under chapter 139 for the interstate transportation of passengers;

“(B) meets all applicable vehicle and intrastate passenger licensing requirements of the State or States in which the motor carrier is domiciled or registered to do business; and

“(C) is providing such service pursuant to a contract for—

“(i) transportation by the motor carrier from one State, including intermediate stops, to a destination in another State; or

“(ii) transportation by the motor carrier from one State, including intermediate stops in another State, to a destination in the original State.

“(2) INTERMEDIATE STOP DEFINED.—In this section, the term ‘intermediate stop’, with respect to transportation by a motor carrier, means a pause in the transportation in order for one or more passengers to engage in personal or business activity, but only if the driver providing the transportation to such passenger or passengers does not, before resuming the transportation of such passenger (or at least 1 of such passengers),

provide transportation to any other person not included among the passengers being transported when the pause began.

“(3) MATTERS NOT COVERED.—Nothing in this subsection shall be construed—

“(A) as subjecting taxicab service to regulation under chapter 135 or section 31138;

“(B) as prohibiting or restricting an airport, train, or bus terminal operator from contracting to provide preferential access or facilities to one or more providers of pre-arranged ground transportation service; and

“(C) as restricting the right of any State or political subdivision of a State to require, in a nondiscriminatory manner, that any individual operating a vehicle providing prearranged ground transportation service originating in the State or political subdivision have submitted to prelicensing drug testing or a criminal background investigation of the records of the State in which the operator is domiciled, by the State or political subdivision by which the operator is licensed to provide such service, or by the motor carrier providing such service, as a condition of providing such service.”.

SEC. 3. DEFINITIONS.

(a) IN GENERAL.—Section 13102 of title 49, United States Code, is amended—

(1) by redesignating paragraphs (17), (18), (19), (20), (21), and (22) as paragraphs (18), (19), (21), (22), (23), and (24), respectively;

(2) by inserting after paragraph (16) the following:

“(17) PRE-ARRANGED GROUND TRANSPORTATION SERVICE.—The term ‘pre-arranged ground transportation service’ means transportation for a passenger (or a group of passengers) that is arranged in advance (or is operated on a regular route or between specified points) and is provided in a motor vehicle with a seating capacity not exceeding 15 passengers (including the driver).”; and

(3) by inserting after paragraph (19) (as so redesignated) the following:

“(20) TAXICAB SERVICE.—The term ‘taxicab service’ means passenger transportation in a motor vehicle having a capacity of not more than 8 passengers (including the driver), not operated on a regular route or between specified places, and that—

“(A) is licensed as a taxicab by a State or a local jurisdiction; or

“(B) is offered by a person that—

“(i) provides local transportation for a fare determined (except with respect to transportation to or from airports) primarily on the basis of the distance traveled; and

“(ii) does not primarily provide transportation to or from airports.”.

(b) CONFORMING AMENDMENTS.—

(1) MOTOR CARRIER TRANSPORTATION.—Section 13506(a)(2) of title 49, United States Code, is amended to read as follows:

“(2) a motor vehicle providing taxicab service;”.

(2) MINIMUM FINANCIAL RESPONSIBILITY.—Section 31138(e)(2) of such title is amended to read as follows:

“(2) providing taxicab service (as defined in section 13102);”.

Approved November 26, 2002.

LEGISLATIVE HISTORY—H.R. 2546:

HOUSE REPORTS: No. 107–282 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 107–237 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 13, considered and passed House.

Vol. 148 (2002): Oct. 17, considered and passed Senate, amended.

Nov. 12, House concurred in Senate amendments.



Public Law 107–299
107th Congress

An Act

To reauthorize the National Sea Grant College Program Act, and for other purposes.

Nov. 26, 2002
[H.R. 3389]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Sea Grant College Program Act Amendments of 2002”.

National Sea
Grant College
Program Act
Amendments of
2002.
33 USC 1121
note.

SEC. 2. AMENDMENTS TO FINDINGS.

Section 202(a)(6) of the National Sea Grant College Program Act (33 U.S.C. 1121(a)(6)) is amended by striking the period at the end and inserting “, including strong collaborations between Administration scientists and scientists at academic institutions.”.

SEC. 3. REQUIREMENTS APPLICABLE TO NATIONAL SEA GRANT COLLEGE PROGRAM.

(a) **QUADRENNIAL STRATEGIC PLAN.**—Section 204(c)(1) of the National Sea Grant College Program Act (33 U.S.C. 1123(c)(1)) is amended to read as follows:

“(1) The Secretary, in consultation with the panel, sea grant colleges, and sea grant institutes, shall develop at least every 4 years a strategic plan that establishes priorities for the national sea grant college program, provides an appropriately balanced response to local, regional, and national needs, and is reflective of integration with the relevant portions of the strategic plans of the Department of Commerce and of the Administration.”.

(b) **PROGRAM EVALUATION AND RATING.**—

(1) **EVALUATION AND RATING REQUIREMENT.**—Section 204(d)(3)(A) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(3)(A)) is amended to read as follows:

“(A)(i) evaluate the performance of the programs of sea grant colleges and sea grant institutes, using the priorities, guidelines, and qualifications established by the Secretary under subsection (c), and determine which of the programs are the best managed and carry out the highest quality research, education, extension, and training activities; and

“(ii) rate the programs according to their relative performance (as determined under clause (i)) into no less than 5 categories, with each of the 2 best-performing categories containing no more than 25 percent of the programs;”.

Contracts.
33 USC 1123
note.

(2) REVIEW OF EVALUATION AND RATING PROCESS.—(A) After 3 years after the date of the enactment of this Act, the Secretary of Commerce, acting through the Under Secretary of Commerce for Oceans and Atmosphere, shall contract with the National Academy of Sciences—

(i) to review the effectiveness of the evaluation and rating system under the amendment made by paragraph (1) in determining the relative performance of programs of sea grant colleges and sea grant institutes;

(ii) to evaluate whether the sea grant programs have improved as a result of the evaluation process; and

(iii) to make appropriate recommendations to improve the overall effectiveness of the evaluation process.

Reports.
Deadline.

(B) The National Academy of Sciences shall submit a report to the Congress on the findings and recommendations of the panel under subparagraph (A) by not later than 4 years after the date of the enactment of this Act.

(c) ALLOCATION OF FUNDING.—Section 204(d)(3)(B) of the National Sea Grant College Program Act (33 U.S.C. 1123(d)(3)(B)) is amended by striking “and” after the semicolon at the end of clause (ii) and by adding at the end the following:

“(iv) encourage and promote coordination and cooperation between the research, education, and outreach programs of the Administration and those of academic institutions; and”.

SEC. 4. COST SHARE.

Section 205(a) of the National Sea Grant College Program Act (33 U.S.C. 1124(a)) is amended by striking “section 204(d)(6)” and inserting “section 204(c)(4)(F)”.

SEC. 5. FELLOWSHIPS.

Deadline.
Reports.

(a) ENSURING EQUAL ACCESS.—Section 208(a) of the National Sea Grant College Program Act (33 U.S.C. 1127(a)) is amended by adding at the end the following: “The Secretary shall strive to ensure equal access for minority and economically disadvantaged students to the program carried out under this subsection. Not later than 1 year after the date of the enactment of the National Sea Grant College Program Act Amendments of 2002, and every 2 years thereafter, the Secretary shall submit a report to the Congress describing the efforts by the Secretary to ensure equal access for minority and economically disadvantaged students to the program carried out under this subsection, and the results of such efforts.”.

(b) POSTDOCTORAL FELLOWS.—Section 208(c) of the National Sea Grant College Program Act (33 U.S.C. 1127(c)) is repealed.

SEC. 6. TERMS OF MEMBERSHIP FOR SEA GRANT REVIEW PANEL.

Section 209(c)(2) of the National Sea Grant College Program Act (33 U.S.C. 1128(c)(2)) is amended by striking the first sentence and inserting the following: “The term of office of a voting member of the panel shall be 3 years for a member appointed before the date of enactment of the National Sea Grant College Program Act Amendments of 2002, and 4 years for a member appointed or reappointed after the date of enactment of the National Sea Grant College Program Act Amendments of 2002. The Director may extend the term of office of a voting member of the panel

appointed before the date of enactment of the National Sea Grant College Program Act Amendments of 2002 by up to 1 year.”.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

Subsections (a), (b), and (c) of section 212 of the National Sea Grant College Program Act (33 U.S.C. 1131) are amended to read as follows:

“(a) AUTHORIZATION.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary to carry out this title—

“(A) \$60,000,000 for fiscal year 2003;

“(B) \$75,000,000 for fiscal year 2004;

“(C) \$77,500,000 for fiscal year 2005;

“(D) \$80,000,000 for fiscal year 2006;

“(E) \$82,500,000 for fiscal year 2007; and

“(F) \$85,000,000 for fiscal year 2008.

“(2) PRIORITY ACTIVITIES.—In addition to the amounts authorized under paragraph (1), there are authorized to be appropriated for each of fiscal years 2003 through 2008—

“(A) \$5,000,000 for competitive grants for university research on the biology and control of zebra mussels and other important aquatic nonnative species;

“(B) \$5,000,000 for competitive grants for university research on oyster diseases, oyster restoration, and oyster-related human health risks;

“(C) \$5,000,000 for competitive grants for university research on the biology, prevention, and forecasting of harmful algal blooms, including *Pfiesteria piscicida*; and

“(D) \$3,000,000 for competitive grants for fishery extension activities conducted by sea grant colleges or sea grant institutes to enhance, and not supplant, existing core program funding.

“(b) LIMITATIONS.—

“(1) ADMINISTRATION.—There may not be used for administration of programs under this title in a fiscal year more than 5 percent of the lesser of—

“(A) the amount authorized to be appropriated under this title for the fiscal year; or

“(B) the amount appropriated under this title for the fiscal year.

“(2) USE FOR OTHER OFFICES OR PROGRAMS.—Sums appropriated under the authority of subsection (a)(2) shall not be available for administration of this title by the National Sea Grant Office, for any other Administration or department program, or for any other administrative expenses.

“(c) DISTRIBUTION OF FUNDS.—In any fiscal year in which the appropriations made under subsection (a)(1) exceed the amounts appropriated for fiscal year 2003 for the purposes described in such subsection, the Secretary shall distribute any excess amounts (except amounts used for the administration of the sea grant program) to any combination of the following:

“(1) sea grant programs, according to their rating under section 204(d)(3)(A);

“(2) national strategic investments authorized under section 204(b)(4);

“(3) a college, university, institution, association, or alliance for activities that are necessary for it to be designated as a sea grant college or sea grant institute; and

“(4) a sea grant college or sea grant institute designated after the date of enactment of the National Sea Grant College Program Act Amendments of 2002 but not yet evaluated under section 204(d)(3)(A).”.

SEC. 8. ANNUAL REPORT ON PROGRESS IN BECOMING DESIGNATED AS SEA GRANT COLLEGES AND SEA GRANT INSTITUTES.

33 USC 1126. (16 Section 207 of the National Sea Grant College Program Act U.S.C. 1126) is amended by adding at the end the following: “(e) ANNUAL REPORT ON PROGRESS.—

“(1) REPORT REQUIREMENT.—The Secretary shall report annually to the Committee on Resources and the Committee on Science of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, on efforts and progress made by colleges, universities, institutions, associations, and alliances to become designated under this section as sea grant colleges or sea grant institutes, including efforts and progress made by sea grant institutes in being designated as sea grant colleges.

“(2) TERRITORIES AND FREELY ASSOCIATED STATES.—The report shall include description of—

“(A) efforts made by colleges, universities, associations, institutions, and alliances in United States territories and freely associated States to develop the expertise necessary to be designated as a sea grant institute or sea grant college;

“(B) the administrative, technical, and financial assistance provided by the Secretary to those entities seeking to be designated; and

“(C) the additional actions or activities necessary for those entities to meet the qualifications for such designation under subsection (a)(1).”.

33 USC 857–20.

SEC. 9. COORDINATION.

Deadline.
Reports.

Not later than February 15 of each year, the Under Secretary of Commerce for Oceans and Atmosphere and the Director of the National Science Foundation shall jointly submit to the Committees on Resources and Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on how the oceans and coastal research activities of the National Oceanic and Atmospheric Administration, including the Coastal Ocean Program and the National Sea Grant College Program, and of the National Science Foundation will be coordinated during the fiscal year following the fiscal year in which the report is submitted. The report shall describe in detail any

overlapping ocean and coastal research interests between the agencies and specify how such research interests will be pursued by the programs in a complementary manner.

Approved November 26, 2002.

LEGISLATIVE HISTORY—H.R. 3389 (S. 2428):

HOUSE REPORTS: No. 107-369, Pt. 1 (Comm. on Resources) and Pt. 2 (Comm. on Science).

SENATE REPORTS: No. 107-187 accompanying S. 2428 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 19, considered and passed House.

Oct. 10, considered and passed Senate, amended.

Nov. 12, House concurred in Senate amendment.



Public Law 107–300
107th Congress

An Act

Nov. 26, 2002
[H.R. 4878]

Improper
Payments
Information Act
of 2002.
31 USC 3321
note.

31 USC 3321
note.

To provide for estimates and reports of improper payments by Federal agencies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Improper Payments Information Act of 2002”.

SEC. 2. ESTIMATES OF IMPROPER PAYMENTS AND REPORTS ON ACTIONS TO REDUCE THEM.

(a) **IDENTIFICATION OF SUSCEPTIBLE PROGRAMS AND ACTIVITIES.**—The head of each agency shall, in accordance with guidance prescribed by the Director of the Office of Management and Budget, annually review all programs and activities that it administers and identify all such programs and activities that may be susceptible to significant improper payments.

(b) **ESTIMATION OF IMPROPER PAYMENT.**—With respect to each program and activity identified under subsection (a), the head of the agency concerned shall—

(1) estimate the annual amount of improper payments; and

(2) submit those estimates to Congress before March 31 of the following applicable year, with all agencies using the same method of reporting, as determined by the Director of the Office of Management and Budget.

(c) **REPORTS ON ACTIONS TO REDUCE IMPROPER PAYMENTS.**—With respect to any program or activity of an agency with estimated improper payments under subsection (b) that exceed \$10,000,000, the head of the agency shall provide with the estimate under subsection (b) a report on what actions the agency is taking to reduce the improper payments, including—

(1) a discussion of the causes of the improper payments identified, actions taken to correct those causes, and results of the actions taken to address those causes;

(2) a statement of whether the agency has the information systems and other infrastructure it needs in order to reduce improper payments to minimal cost-effective levels;

(3) if the agency does not have such systems and infrastructure, a description of the resources the agency has requested in its budget submission to obtain the necessary information systems and infrastructure; and

(4) a description of the steps the agency has taken to ensure that agency managers (including the agency head) are held accountable for reducing improper payments.

Deadline.

(d) DEFINITIONS.—For the purposes of this section:

(1) AGENCY.—The term “agency” means an executive agency, as that term is defined in section 102 of title 31, United States Code.

(2) IMPROPER PAYMENT.—The term “improper payment”—

(A) means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(B) includes any payment to an ineligible recipient, any payment for an ineligible service, any duplicate payment, payments for services not received, and any payment that does not account for credit for applicable discounts.

(3) PAYMENT.—The term “payment” means any payment (including a commitment for future payment, such as a loan guarantee) that is—

(A) made by a Federal agency, a Federal contractor, or a governmental or other organization administering a Federal program or activity; and

(B) derived from Federal funds or other Federal resources or that will be reimbursed from Federal funds or other Federal resources.

(e) APPLICATION.—This section—

(1) applies with respect to the administration of programs, and improper payments under programs, in fiscal years after fiscal year 2002; and

(2) requires the inclusion of estimates under subsection (b)(2) only in annual budget submissions for fiscal years after fiscal year 2003.

(f) GUIDANCE BY THE OFFICE OF MANAGEMENT AND BUDGET.—Deadline.
Not later than 6 months after the date of enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of this section.

Approved November 26, 2002.

LEGISLATIVE HISTORY—H.R. 4878:

SENATE REPORTS: No. 107-333 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 148 (2002):

July 9, considered and passed House.

Oct. 17, considered and passed Senate, amended.

Nov. 12, House concurred in Senate amendment.



Public Law 107-301
107th Congress

An Act

Nov. 26, 2002
[H.R. 5349]

To facilitate the use of a portion of the former O'Reilly General Hospital in Springfield, Missouri, by the local Boys and Girls Club through the release of the reversionary interest and other interests retained by the United States in 1955 when the land was conveyed to the State of Missouri.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF RETAINED RIGHTS, INTERESTS, AND RESERVATIONS, FORMER O'REILLY GENERAL HOSPITAL, SPRINGFIELD, MISSOURI.

Notwithstanding the first section of the Act of August 9, 1955 (chapter 661; 69 Stat. 592), the Administrator of General Services shall release, without consideration, all right, title, and interest retained by the United States in and to the portion of the former O'Reilly General Hospital in Springfield, Missouri, conveyed to the State of Missouri pursuant to such Act.

SEC. 2. INSTRUMENT OF RELEASE.

As soon as possible after the date of the enactment of this Act, the Administrator of General Services shall execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of interests required by section 1.

Approved November 26, 2002.

LEGISLATIVE HISTORY—H.R. 5349:

CONGRESSIONAL RECORD, Vol. 148 (2002):
Oct. 10, considered and passed House.
Nov. 13, considered and passed Senate.



Public Law 107–302
107th Congress

An Act

To authorize the Court Services and Offender Supervision Agency of the District of Columbia to provide for the interstate supervision of offenders on parole, probation, and supervised release.

Nov. 26, 2002
[S. 3044]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Court Services and Offender Supervision Agency Interstate Supervision Act of 2002”.

SEC. 2. INTERSTATE SUPERVISION.

Section 11233(b)(2) of the National Capital Revitalization and Self-Government Improvement Act of 1997 (sec. 24–133(b)(2), D.C. Official Code) is amended—

(1) by amending subparagraph (G) to read as follows:

“(G) arrange for the supervision of District of Columbia offenders on parole, probation, and supervised release who seek to reside in jurisdictions outside the District of Columbia;”;

(2) by striking the period at the end of subparagraph (H) and inserting a semicolon; and

(3) by adding at the end the following new subparagraphs:

“(I) arrange for the supervision of offenders on parole, probation, and supervised release from jurisdictions outside the District of Columbia who seek to reside in the District of Columbia; and

Court Services
and Offender
Supervision
Agency
Interstate
Supervision Act
of 2002.

Contracts.

“(J) have the authority to enter into agreements, including the Interstate Compact for Adult Offender Supervision, with any State or group of States in accordance with the Agency’s responsibilities under subparagraphs (G) and (I).”.

Approved November 26, 2002.

LEGISLATIVE HISTORY—S. 3044:

SENATE REPORTS: No. 107-332 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 13, considered and passed Senate.

Nov. 14, considered and passed House.



Public Law 107–303
107th Congress

An Act

To amend the Federal Water Pollution Control Act to authorize the Administrator of the Environmental Protection Agency to carry out projects and conduct research for remediation of sediment contamination in areas of concern in the Great Lakes, and for other purposes.

Nov. 27, 2002
[H.R. 1070]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Great Lakes and Lake Champlain Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GREAT LAKES

Sec. 101. Short title.

Sec. 102. Report on remedial action plans.

Sec. 103. Remediation of sediment contamination in areas of concern in the Great Lakes.

Sec. 104. Relationship to Federal and State authorities.

Sec. 105. Authorization of appropriations.

Sec. 106. Research and development program.

TITLE II—LAKE CHAMPLAIN

Sec. 201. Short title.

Sec. 202. Lake Champlain Basin Program.

TITLE III—MISCELLANEOUS

Sec. 301. Phase II storm water program.

Sec. 302. Preservation of reporting requirements.

Sec. 303. Repeal.

Sec. 304. Cross Harbor Freight Movement Project EIS, New York City.

Sec. 305. Center for Brownfields Excellence.

Sec. 306. Louisiana Highway 1026 Project, Louisiana.

TITLE I—GREAT LAKES

SEC. 101. SHORT TITLE.

This title may be cited as the “Great Lakes Legacy Act of 2002”.

SEC. 102. REPORT ON REMEDIAL ACTION PLANS.

Section 118(c)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(3)) is amended by adding at the end the following:

“(E) **REPORT.**—Not later than 1 year after the date of enactment of this subparagraph, the Administrator shall submit to Congress a report on such actions, time periods,

Great Lakes and
Lake Champlain
Act of 2002.

33 USC 1251
note.

Great Lakes
Legacy Act of
2002.
33 USC 1251
note.

Deadline.

and resources as are necessary to fulfill the duties of the Agency relating to oversight of Remedial Action Plans under—

- “(i) this paragraph; and
- “(ii) the Great Lakes Water Quality Agreement.”.

SEC. 103. REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN IN THE GREAT LAKES.

Section 118(c) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)) is amended by adding at the end the following:

“(12) REMEDIATION OF SEDIMENT CONTAMINATION IN AREAS OF CONCERN.—

“(A) IN GENERAL.—In accordance with this paragraph, the Administrator, acting through the Program Office, may carry out projects that meet the requirements of subparagraph (B).

“(B) ELIGIBLE PROJECTS.—A project meets the requirements of this subparagraph if the project is to be carried out in an area of concern located wholly or partially in the United States and the project—

- “(i) monitors or evaluates contaminated sediment;
- “(ii) subject to subparagraph (D), implements a plan to remediate contaminated sediment; or
- “(iii) prevents further or renewed contamination of sediment.

“(C) PRIORITY.—In selecting projects to carry out under this paragraph, the Administrator shall give priority to a project that—

- “(i) constitutes remedial action for contaminated sediment;
- “(ii)(I) has been identified in a Remedial Action Plan submitted under paragraph (3); and
- “(II) is ready to be implemented;
- “(iii) will use an innovative approach, technology, or technique that may provide greater environmental benefits, or equivalent environmental benefits at a reduced cost; or
- “(iv) includes remediation to be commenced not later than 1 year after the date of receipt of funds for the project.

“(D) LIMITATION.—The Administrator may not carry out a project under this paragraph for remediation of contaminated sediments located in an area of concern—

- “(i) if an evaluation of remedial alternatives for the area of concern has not been conducted, including a review of the short-term and long-term effects of the alternatives on human health and the environment;
- or

- “(ii) if the Administrator determines that the area of concern is likely to suffer significant further or renewed contamination from existing sources of pollutants causing sediment contamination following completion of the project.

“(E) NON-FEDERAL SHARE.—

- “(i) IN GENERAL.—The non-Federal share of the cost of a project carried out under this paragraph shall be at least 35 percent.

“(ii) IN-KIND CONTRIBUTIONS.—The non-Federal share of the cost of a project carried out under this paragraph may include the value of in-kind services contributed by a non-Federal sponsor.

“(iii) NON-FEDERAL SHARE.—The non-Federal share of the cost of a project carried out under this paragraph—

“(I) may include monies paid pursuant to, or the value of any in-kind service performed under, an administrative order on consent or judicial consent decree; but

“(II) may not include any funds paid pursuant to, or the value of any in-kind service performed under, a unilateral administrative order or court order.

“(iv) OPERATION AND MAINTENANCE.—The non-Federal share of the cost of the operation and maintenance of a project carried out under this paragraph shall be 100 percent.

“(F) MAINTENANCE OF EFFORT.—The Administrator may not carry out a project under this paragraph unless the non-Federal sponsor enters into such agreements with the Administrator as the Administrator may require to ensure that the non-Federal sponsor will maintain its aggregate expenditures from all other sources for remediation programs in the area of concern in which the project is located at or above the average level of such expenditures in the 2 fiscal years preceding the date on which the project is initiated.

“(G) COORDINATION.—In carrying out projects under this paragraph, the Administrator shall coordinate with the Secretary of the Army, and with the Governors of States in which the projects are located, to ensure that Federal and State assistance for remediation in areas of concern is used as efficiently as practicable.

“(H) AUTHORIZATION OF APPROPRIATIONS.—

“(i) IN GENERAL.—In addition to other amounts authorized under this section, there is authorized to be appropriated to carry out this paragraph \$50,000,000 for each of fiscal years 2004 through 2008.

“(ii) AVAILABILITY.—Funds made available under clause (i) shall remain available until expended.

“(13) PUBLIC INFORMATION PROGRAM.—

“(A) IN GENERAL.—The Administrator, acting through the Program Office and in coordination with States, Indian tribes, local governments, and other entities, may carry out a public information program to provide information relating to the remediation of contaminated sediment to the public in areas of concern that are located wholly or partially in the United States.

“(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this paragraph \$1,000,000 for each of fiscal years 2004 through 2008.”.

SEC. 104. RELATIONSHIP TO FEDERAL AND STATE AUTHORITIES.

Section 118(g) of the Federal Water Pollution Control Act (33 U.S.C. 1268(g)) is amended—

- (1) by striking “construed to affect” and inserting the following: “construed—
“(1) to affect”;
- (2) by striking the period at the end and inserting “; or”;
- and
- (3) by adding at the end the following:
“(2) to affect any other Federal or State authority that is being used or may be used to facilitate the cleanup and protection of the Great Lakes.”.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

Section 118(h) of the Federal Water Pollution Control Act (33 U.S.C. 1268(h)) is amended—

- (1) by striking the second sentence; and
- (2) in the first sentence—
 - (A) by striking “not to exceed \$11,000,000” and inserting “not to exceed—
“(1) \$11,000,000”;
 - (B) by striking the period at the end and inserting a semicolon; and
 - (C) by adding at the end the following:
“(2) such sums as are necessary for each of fiscal years 1992 through 2003; and
“(3) \$25,000,000 for each of fiscal years 2004 through 2008.”.

33 USC 1271a.

SEC. 106. RESEARCH AND DEVELOPMENT PROGRAM.

(a) **IN GENERAL.**—In coordination with other Federal, State, and local officials, the Administrator of the Environmental Protection Agency may conduct research on the development and use of innovative approaches, technologies, and techniques for the remediation of sediment contamination in areas of concern that are located wholly or partially in the United States.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **IN GENERAL.**—In addition to amounts authorized under other laws, there is authorized to be appropriated to carry out this section \$3,000,000 for each of fiscal years 2004 through 2008.

(2) **AVAILABILITY.**—Funds appropriated under paragraph (1) shall remain available until expended.

TITLE II—LAKE CHAMPLAIN

Daniel Patrick
Moynihan Lake
Champlain Basin
Program Act of
2002.
33 USC 1251
note.

SEC. 201. SHORT TITLE.

This title may be cited as the “Daniel Patrick Moynihan Lake Champlain Basin Program Act of 2002”.

SEC. 202. LAKE CHAMPLAIN BASIN PROGRAM.

Section 120 of the Federal Water Pollution Control Act (33 U.S.C. 1270) is amended—

- (1) by striking the section heading and all that follows through “There is established” in subsection (a) and inserting the following:

“SEC. 120. LAKE CHAMPLAIN BASIN PROGRAM.

“(a) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—There is established”;

(2) in subsection (a) (as amended by paragraph (1)), by adding at the end the following:

“(2) IMPLEMENTATION.—The Administrator—

“(A) may provide support to the State of Vermont, the State of New York, and the New England Interstate Water Pollution Control Commission for the implementation of the Lake Champlain Basin Program; and

“(B) shall coordinate actions of the Environmental Protection Agency under subparagraph (A) with the actions of other appropriate Federal agencies.”;

(3) in subsection (d), by striking “(1)”;

(4) in subsection (e)—

(A) in paragraph (1), by striking “(hereafter in this section referred to as the ‘Plan’)”; and

(B) in paragraph (2)—

(i) in subparagraph (D), by striking “and” at the end;

(ii) in subparagraph (E), by striking the period at the end and inserting “; and”; and

(iii) by adding at the end the following:

“(F) be reviewed and revised, as necessary, at least once every 5 years, in consultation with the Administrator and other appropriate Federal agencies.”;

(5) in subsection (f)—

(A) in paragraph (1), by striking “the Management Conference,” and inserting “participants in the Lake Champlain Basin Program,”; and

(B) in paragraph (2), by striking “development of the Plan” and all that follows and inserting “development and implementation of the Plan.”;

(6) in subsection (g)—

(A) by striking “(g)” and all that follows through “the term” and inserting the following:

“(g) DEFINITIONS.—In this section:

“(1) LAKE CHAMPLAIN BASIN PROGRAM.—The term ‘Lake Champlain Basin Program’ means the coordinated efforts among the Federal Government, State governments, and local governments to implement the Plan.

“(2) LAKE CHAMPLAIN DRAINAGE BASIN.—The term”;

(B) in paragraph (2) (as designated by subparagraph

(A))—

(i) by inserting “Hamilton,” after “Franklin,”; and

(ii) by inserting “Bennington,” after “Rutland,”;

and

(C) by adding at the end the following:

“(3) PLAN.—The term ‘Plan’ means the plan developed under subsection (e).”;

(7) by striking subsection (h) and inserting the following:

“(h) NO EFFECT ON CERTAIN AUTHORITY.—Nothing in this section—

“(1) affects the jurisdiction or powers of—

“(A) any department or agency of the Federal Government or any State government; or

“(B) any international organization or entity related to Lake Champlain created by treaty or memorandum to which the United States is a signatory;

“(2) provides new regulatory authority for the Environmental Protection Agency; or

“(3) affects section 304 of the Great Lakes Critical Programs Act of 1990 (Public Law 101-596; 33 U.S.C. 1270 note).”; and (8) in subsection (i)—

(A) by striking “section \$2,000,000” and inserting “section—

“(1) \$2,000,000”;

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(2) such sums as are necessary for each of fiscal years 1996 through 2003; and

“(3) \$11,000,000 for each of fiscal years 2004 through 2008.”.

TITLE III—MISCELLANEOUS

SEC. 301. PHASE II STORM WATER PROGRAM.

Notwithstanding any other provision of law, for fiscal year 2003, funds made available to a State to carry out nonpoint source management programs under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) may, at the option of the State, be used to carry out projects and activities in the State relating to the development or implementation of phase II of the storm water program of the Environmental Protection Agency established by the rule entitled “National Pollutant Discharge Elimination System—Regulations for Revision of the Water Pollution Control Program Addressing Storm Water Discharges”, promulgated by the Administrator of the Environmental Protection Agency on December 8, 1999 (64 Fed. Reg. 68722).

SEC. 302. PRESERVATION OF REPORTING REQUIREMENTS.

31 USC 1113
note.

(a) IN GENERAL.—Section 3003(a)(1) of the Federal Reports Elimination and Sunset Act of 1995 (31 U.S.C. 1113 note; Public Law 104-66) does not apply to any report required to be submitted under any of the following provisions of law:

(1) EFFECTS OF POLLUTION ON ESTUARIES OF THE UNITED STATES.—Section 104(n)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)).

(2) IMPLEMENTATION OF GREAT LAKES WATER QUALITY AGREEMENT OF 1978.—Section 118(c)(10) of the Federal Water Pollution Control Act (33 U.S.C. 1268(c)(10)).

(3) COMPREHENSIVE CONSERVATION AND MANAGEMENT PLAN FOR LONG ISLAND SOUND.—Section 119(c)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1269(c)(7)).

(4) LEVEL B PLAN ON ALL RIVER BASINS.—Section 209(b) of the Federal Water Pollution Control Act (33 U.S.C. 1289(b)).

(5) STATE REPORTS ON WATER QUALITY OF ALL NAVIGABLE WATERS.—Section 305(b) of the Federal Water Pollution Control Act (33 U.S.C. 1315(b)).

(6) EXEMPTIONS FROM WATER POLLUTION CONTROL REQUIREMENTS FOR EXECUTIVE AGENCIES.—Section 313(a) of the Federal Water Pollution Control Act (33 U.S.C. 1323(a)).

(7) STATUS OF WATER QUALITY IN UNITED STATES LAKES.—Section 314(a) of the Federal Water Pollution Control Act (33 U.S.C. 1324(a)).

(8) NATIONAL ESTUARY PROGRAM ACTIVITIES.—Section 320(j)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1330(j)(2)).

(9) REPORTS ON CONTRACTS ENTERED INTO RELATING TO PROCUREMENT FROM VIOLATORS OF WATER QUALITY STANDARDS.—Section 508(e) of the Federal Water Pollution Control Act (33 U.S.C. 1368(e)).

(10) NATIONAL REQUIREMENTS AND COSTS OF WATER POLLUTION CONTROL.—Section 516 of the Federal Water Pollution Control Act (33 U.S.C. 1375).

(b) OTHER REPORTS.—

(1) IN GENERAL.—Effective November 10, 1998, section 501 of the Federal Reports Elimination Act of 1998 (Public Law 105-362; 112 Stat. 3283) is amended by striking subsections (a), (b), (c), and (d).

Effective date.

(2) APPLICABILITY.—The Federal Water Pollution Control Act (33 U.S.C. 1254(n)(3)) shall be applied and administered on and after the date of enactment of this Act as if the amendments made by subsections (a), (b), (c), and (d) of section 501 of the Federal Reports Elimination Act of 1998 (Public Law 105-362; 112 Stat. 3283) had not been enacted.

33 USC 1254,
1266, 1285, 1290,
1324, 1329, 1330,
1375.
33 USC 1254
note.

SEC. 303. REPEAL.

20 USC 50 note.

Title VII of Public Law 105-78 (20 U.S.C. 50 note; 111 Stat. 1524) (other than section 702) is repealed.

SEC. 304. CROSS HARBOR FREIGHT MOVEMENT PROJECT EIS, NEW YORK CITY.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 305) is amended in item number 1320 of the table by striking “Reconstruct 79th Street Traffic Circle, New York City” and inserting “Cross Harbor Freight Movement Project EIS, New York City”.

SEC. 305. CENTER FOR BROWNFIELDS EXCELLENCE.

(a) IN GENERAL.—To demonstrate the transfer of technology and expertise from the Federal Government to the private sector, and to demonstrate the effectiveness of the reuse by the private sector of properties and assets that the Federal Government has determined, through applicable statutes and processes, that it no longer needs, the Administrator of the Environmental Protection Agency shall make a grant to not less than one eligible sponsor to establish and operate a center for Brownfields Excellence.

(b) RESPONSIBILITIES OF CENTER.—The responsibilities of a center established under this section shall include the transfer of technology and expertise in the redevelopment of abandoned or underutilized property that may have environmental contamination and the dissemination of information regarding successful models for such redevelopment.

(c) PRIORITY.—In carrying out this section, the Administrator shall give priority consideration to a grant application submitted by an eligible sponsor that meets the following criteria:

(1) Demonstrated ability to facilitate the return of property that may have environmental contamination to productive use.

(2) Demonstrated ability to facilitate public-private partnerships and regional cooperation.

(3) Capability to provide leadership in making both national and regional contributions to addressing the problem of underutilized or abandoned properties.

(4) Demonstrated ability to work with Federal departments and agencies to facilitate reuse by the private sector of properties and assets no longer needed by the Federal Government.

(5) Demonstrated ability to foster technology transfer.

(d) **ELIGIBLE SPONSOR DEFINED.**—In this section, the term “eligible sponsor” means a regional nonprofit community redevelopment organization assisting an area that—

(1) has lost jobs due to the closure of a private sector or Federal installation; and

(2) as a result, has an underemployed workforce and underutilized or abandoned properties.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$1,000,000.

SEC. 306. LOUISIANA HIGHWAY 1026 PROJECT, LOUISIANA.

Section 1602 of the Transportation Equity Act for the 21st Century (112 Stat. 272) is amended in item number 426 of the table by striking “Louisiana Highway 16” and inserting the following: “Louisiana Highway 1026”.

Approved November 27, 2002.

LEGISLATIVE HISTORY—H.R. 1070:

HOUSE REPORTS: No. 107–587, Pt. 1 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 107–312 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 4, considered and passed House.

Oct. 17, considered and passed Senate, amended.

Nov. 12, House concurred in Senate amendment.



Public Law 107-304
107th Congress

An Act

To amend title 5, United States Code, to allow certain catch-up contributions to the Thrift Savings Plan to be made by participants age 50 or over; to reauthorize the Merit Systems Protection Board and the Office of Special Counsel; and for other purposes.

Nov. 27, 2002
[H.R. 3340]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. THRIFT SAVINGS PLAN CATCH-UP CONTRIBUTIONS.

(a) **CIVIL SERVICE RETIREMENT SYSTEM.**—Paragraph (2) of section 8351(b) of title 5, United States Code, is amended by adding at the end the following:

“(C) Notwithstanding any limitation under this paragraph, an eligible participant (as defined by section 414(v) of the Internal Revenue Code of 1986) may make such additional contributions to the Thrift Savings Fund as are permitted by such section 414(v) and regulations of the Executive Director consistent therewith.”.

(b) **FEDERAL EMPLOYEES’ RETIREMENT SYSTEM.**—

(1) **PROVISION APPLICABLE TO EMPLOYEES GENERALLY.**—

Subsection (a) of section 8432 of title 5, United States Code, is amended by adding at the end the following:

“(3) Notwithstanding any limitation under this subsection, an eligible participant (as defined by section 414(v) of the Internal Revenue Code of 1986) may make such additional contributions to the Thrift Savings Fund as are permitted by such section 414(v) and regulations of the Executive Director consistent therewith.”.

(2) **PROVISION APPLICABLE TO CERTAIN OTHER INDIVIDUALS.**—Section 8440f of title 5, United States Code, is amended—

(A) by striking “The maximum” and inserting “(a) The maximum”; and

(B) by adding at the end the following:

“(b) Notwithstanding any limitation under this section, an eligible participant (as defined by section 414(v) of the Internal Revenue Code of 1986) may make such additional contributions to the Thrift Savings Fund as are permitted by such section 414(v) and regulations of the Executive Director consistent therewith.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as of the earliest practicable date, as determined by the Executive Director (appointed under section 8474(a) of title 5, United States Code) in regulations.

5 USC 8351 note.

SEC. 2. REAUTHORIZATION OF MERIT SYSTEM PROTECTION BOARD AND OFFICE OF SPECIAL COUNSEL.

(a) MERIT SYSTEMS PROTECTION BOARD.—Section 8(a)(1) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note) is amended by striking “1998, 1999, 2000, 2001 and 2002” and inserting “2003, 2004, 2005, 2006, and 2007”.

(b) OFFICE OF SPECIAL COUNSEL.—Section 8(a)(2) of the Whistleblower Protection Act of 1989 (5 U.S.C. 5509 note) is amended by striking “1993, 1994, 1995, 1996, and 1997,” and inserting “2003, 2004, 2005, 2006, and 2007”.

5 USC 5509 note.

(c) EFFECTIVE DATE.—This section shall be effective as of October 1, 2002.

SEC. 3. DISCLOSURE OF VIOLATIONS OF LAW; RETURN OF DOCUMENTS.

Section 1213(g) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking the last sentence; and

(2) by striking paragraph (3) and inserting the following:

“(3) If the Special Counsel does not transmit the information to the head of the agency under paragraph (2), the Special Counsel shall inform the individual of—

“(A) the reasons why the disclosure may not be further acted on under this chapter; and

“(B) other offices available for receiving disclosures, should the individual wish to pursue the matter further.”.

5 USC 8901 note.

SEC. 4. CONTINUATION OF HEALTH BENEFITS COVERAGE FOR INDIVIDUALS ENROLLED IN A PLAN ADMINISTERED BY THE OVERSEAS PRIVATE INVESTMENT CORPORATION.

(a) ENROLLMENT IN CHAPTER 89 PLAN.—For purposes of the administration of chapter 89 of title 5, United States Code, any period of enrollment under a health benefits plan administered by the Overseas Private Investment Corporation before the effective date of this Act shall be deemed to be a period of enrollment in a health benefits plan under chapter 89 of such title.

(b) CONTINUED COVERAGE.—

(1) IN GENERAL.—Any individual who, as of the enrollment eligibility date, is covered by a health benefits plan administered by the Overseas Private Investment Corporation may enroll in an approved health benefits plan described under section 8903 or 8903a of title 5, United States Code—

(A) either as an individual or for self and family, if such individual is an employee, annuitant, or former spouse as defined under section 8901 of such title; and

(B) for coverage effective on and after such date.

(2) INDIVIDUALS CURRENTLY UNDER CONTINUED COVERAGE.—An individual who, as of the enrollment eligibility date, is entitled to continued coverage under a health benefits plan administered by the Overseas Private Investment Corporation—

(A) shall be deemed to be entitled to continued coverage under section 8905a of title 5, United States Code, for the same period that would have been permitted under the plan administered by the Overseas Private Investment Corporation; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in

accordance with section 8905a of such title for coverage effective on and after such date.

(3) UNMARRIED DEPENDENT CHILDREN.—An individual who, as of the enrollment eligibility date, is covered as an unmarried dependent child under a health benefits plan administered by the Overseas Private Investment Corporation and who is not a member of family as defined under section 8901(5) of title 5, United States Code—

(A) shall be deemed to be entitled to continued coverage under section 8905a of such title as though the individual had ceased to meet the requirements for being considered an unmarried dependent child under chapter 89 of such title as of such date; and

(B) may enroll in an approved health benefits plan described under section 8903 or 8903a of such title in accordance with section 8905a for continued coverage effective on and after such date.

(c) TRANSFERS TO THE EMPLOYEES HEALTH BENEFITS FUND.—

(1) IN GENERAL.—The Overseas Private Investment Corporation shall transfer to the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, amounts determined by the Director of the Office of Personnel Management, after consultation with the Overseas Private Investment Corporation, to be necessary to reimburse the Fund for the cost of providing benefits under this section not otherwise paid for by the individuals covered by this section.

(2) AVAILABILITY OF FUNDS.—The amounts transferred under paragraph (1) shall be held in the Fund and used by the Office in addition to amounts available under section 8906(g)(1) of title 5, United States Code.

(d) ADMINISTRATION AND REGULATIONS.—The Office of Personnel Management—

(1) shall administer this section to provide for—

(A) a period of notice and open enrollment for individuals affected by this section; and Notice.

(B) no lapse of health coverage for individuals who enroll in a health benefits plan under chapter 89 of title 5, United States Code, in accordance with this section; and

(2) may prescribe regulations to implement this section.

(e) ENROLLMENT ELIGIBILITY DATE.—For purposes of this section, the term “enrollment eligibility date” means the last day on which coverage under a health benefits plan administered by the Overseas Private Investment Corporation is available. Such

date shall be determined by the Office of Personnel Management in consultation with the Overseas Private Investment Corporation.

Approved November 27, 2002.

LEGISLATIVE HISTORY—H.R. 3340:

HOUSE REPORTS: No. 107-686 (Comm. on Government Reform).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 7, considered and passed House.

Nov. 13, considered and passed Senate.



Public Law 107–305
107th Congress

An Act

To authorize funding for computer and network security research and development and research fellowship programs, and for other purposes.

Nov. 27, 2002
[H.R. 3394]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Cyber Security Research and Development Act”.

Cyber Security
Research and
Development Act.
Communications
and tele-
communications.

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Revolutionary advancements in computing and communications technology have interconnected government, commercial, scientific, and educational infrastructures—including critical infrastructures for electric power, natural gas and petroleum production and distribution, telecommunications, transportation, water supply, banking and finance, and emergency and government services—in a vast, interdependent physical and electronic network.

(2) Exponential increases in interconnectivity have facilitated enhanced communications, economic growth, and the delivery of services critical to the public welfare, but have also increased the consequences of temporary or prolonged failure.

(3) A Department of Defense Joint Task Force concluded after a 1997 United States information warfare exercise that the results “clearly demonstrated our lack of preparation for a coordinated cyber and physical attack on our critical military and civilian infrastructure”.

(4) Computer security technology and systems implementation lack—

(A) sufficient long term research funding;

(B) adequate coordination across Federal and State government agencies and among government, academia, and industry; and

(C) sufficient numbers of outstanding researchers in the field.

(5) Accordingly, Federal investment in computer and network security research and development must be significantly increased to—

(A) improve vulnerability assessment and technological and systems solutions;

(B) expand and improve the pool of information security professionals, including researchers, in the United States workforce; and

(C) better coordinate information sharing and collaboration among industry, government, and academic research projects.

(6) While African-Americans, Hispanics, and Native Americans constitute 25 percent of the total United States workforce and 30 percent of the college-age population, members of these minorities comprise less than 7 percent of the United States computer and information science workforce.

15 USC 7402.

SEC. 3. DEFINITIONS.

In this Act:

(1) **DIRECTOR.**—The term “Director” means the Director of the National Science Foundation.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term “institution of higher education” has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

15 USC 7403.

SEC. 4. NATIONAL SCIENCE FOUNDATION RESEARCH.

(a) **COMPUTER AND NETWORK SECURITY RESEARCH GRANTS.**—

(1) **IN GENERAL.**—The Director shall award grants for basic research on innovative approaches to the structure of computer and network hardware and software that are aimed at enhancing computer security. Research areas may include—

(A) authentication, cryptography, and other secure data communications technology;

(B) computer forensics and intrusion detection;

(C) reliability of computer and network applications, middleware, operating systems, control systems, and communications infrastructure;

(D) privacy and confidentiality;

(E) network security architecture, including tools for security administration and analysis;

(F) emerging threats;

(G) vulnerability assessments and techniques for quantifying risk;

(H) remote access and wireless security; and

(I) enhancement of law enforcement ability to detect, investigate, and prosecute cyber-crimes, including those that involve piracy of intellectual property.

(2) **MERIT REVIEW; COMPETITION.**—Grants shall be awarded under this section on a merit-reviewed competitive basis.

(3) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) \$35,000,000 for fiscal year 2003;

(B) \$40,000,000 for fiscal year 2004;

(C) \$46,000,000 for fiscal year 2005;

(D) \$52,000,000 for fiscal year 2006; and

(E) \$60,000,000 for fiscal year 2007.

(b) **COMPUTER AND NETWORK SECURITY RESEARCH CENTERS.**—

(1) **IN GENERAL.**—The Director shall award multiyear grants, subject to the availability of appropriations, to institutions of higher education, nonprofit research institutions, or

consortia thereof to establish multidisciplinary Centers for Computer and Network Security Research. Institutions of higher education, nonprofit research institutions, or consortia thereof receiving such grants may partner with 1 or more government laboratories or for-profit institutions, or other institutions of higher education or nonprofit research institutions.

(2) MERIT REVIEW; COMPETITION.—Grants shall be awarded under this subsection on a merit-reviewed competitive basis.

(3) PURPOSE.—The purpose of the Centers shall be to generate innovative approaches to computer and network security by conducting cutting-edge, multidisciplinary research in computer and network security, including the research areas described in subsection (a)(1).

(4) APPLICATIONS.—An institution of higher education, nonprofit research institution, or consortia thereof seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the research projects that will be undertaken by the Center and the contributions of each of the participating entities;

(B) how the Center will promote active collaboration among scientists and engineers from different disciplines, such as computer scientists, engineers, mathematicians, and social science researchers;

(C) how the Center will contribute to increasing the number and quality of computer and network security researchers and other professionals, including individuals from groups historically underrepresented in these fields; and

(D) how the center will disseminate research results quickly and widely to improve cyber security in information technology networks, products, and services.

(5) CRITERIA.—In evaluating the applications submitted under paragraph (4), the Director shall consider, at a minimum—

(A) the ability of the applicant to generate innovative approaches to computer and network security and effectively carry out the research program;

(B) the experience of the applicant in conducting research on computer and network security and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract and provide adequate support for a diverse group of undergraduate and graduate students and postdoctoral fellows to pursue computer and network security research; and

(D) the extent to which the applicant will partner with government laboratories, for-profit entities, other institutions of higher education, or nonprofit research institutions, and the role the partners will play in the research undertaken by the Center.

(6) ANNUAL MEETING.—The Director shall convene an annual meeting of the Centers in order to foster collaboration and communication between Center participants.

(7) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the National Science Foundation to carry out this subsection—

- (A) \$12,000,000 for fiscal year 2003;
- (B) \$24,000,000 for fiscal year 2004;
- (C) \$36,000,000 for fiscal year 2005;
- (D) \$36,000,000 for fiscal year 2006; and
- (E) \$36,000,000 for fiscal year 2007.

15 USC 7404.

SEC. 5. NATIONAL SCIENCE FOUNDATION COMPUTER AND NETWORK SECURITY PROGRAMS.

(a) COMPUTER AND NETWORK SECURITY CAPACITY BUILDING GRANTS.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education (or consortia thereof) to establish or improve undergraduate and master's degree programs in computer and network security, to increase the number of students, including the number of students from groups historically underrepresented in these fields, who pursue undergraduate or master's degrees in fields related to computer and network security, and to provide students with experience in government or industry related to their computer and network security studies.

(2) MERIT REVIEW.—Grants shall be awarded under this subsection on a merit-reviewed competitive basis.

(3) USE OF FUNDS.—Grants awarded under this subsection shall be used for activities that enhance the ability of an institution of higher education (or consortium thereof) to provide high-quality undergraduate and master's degree programs in computer and network security and to recruit and retain increased numbers of students to such programs. Activities may include—

(A) revising curriculum to better prepare undergraduate and master's degree students for careers in computer and network security;

(B) establishing degree and certificate programs in computer and network security;

(C) creating opportunities for undergraduate students to participate in computer and network security research projects;

(D) acquiring equipment necessary for student instruction in computer and network security, including the installation of testbed networks for student use;

(E) providing opportunities for faculty to work with local or Federal Government agencies, private industry, nonprofit research institutions, or other academic institutions to develop new expertise or to formulate new research directions in computer and network security;

(F) establishing collaborations with other academic institutions or academic departments that seek to establish, expand, or enhance programs in computer and network security;

(G) establishing student internships in computer and network security at government agencies or in private industry;

(H) establishing collaborations with other academic institutions to establish or enhance a web-based collection

of computer and network security courseware and laboratory exercises for sharing with other institutions of higher education, including community colleges;

(I) establishing or enhancing bridge programs in computer and network security between community colleges and universities; and

(J) any other activities the Director determines will accomplish the goals of this subsection.

(4) SELECTION PROCESS.—

(A) APPLICATION.—An institution of higher education (or a consortium thereof) seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(i) a description of the applicant's computer and network security research and instructional capacity, and in the case of an application from a consortium of institutions of higher education, a description of the role that each member will play in implementing the proposal;

(ii) a comprehensive plan by which the institution or consortium will build instructional capacity in computer and information security;

(iii) a description of relevant collaborations with government agencies or private industry that inform the instructional program in computer and network security;

(iv) a survey of the applicant's historic student enrollment and placement data in fields related to computer and network security and a study of potential enrollment and placement for students enrolled in the proposed computer and network security program; and

(v) a plan to evaluate the success of the proposed computer and network security program, including post-graduation assessment of graduate school and job placement and retention rates as well as the relevance of the instructional program to graduate study and to the workplace.

(B) AWARDS.—(i) The Director shall ensure, to the extent practicable, that grants are awarded under this subsection in a wide range of geographic areas and categories of institutions of higher education, including minority serving institutions.

(ii) The Director shall award grants under this subsection for a period not to exceed 5 years.

(5) ASSESSMENT REQUIRED.—The Director shall evaluate the program established under this subsection no later than 6 years after the establishment of the program. At a minimum, the Director shall evaluate the extent to which the program achieved its objectives of increasing the quality and quantity of students, including students from groups historically underrepresented in computer and network security related disciplines, pursuing undergraduate or master's degrees in computer and network security.

Deadline.

(6) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

- (A) \$15,000,000 for fiscal year 2003;
- (B) \$20,000,000 for fiscal year 2004;
- (C) \$20,000,000 for fiscal year 2005;
- (D) \$20,000,000 for fiscal year 2006; and
- (E) \$20,000,000 for fiscal year 2007.

(b) SCIENTIFIC AND ADVANCED TECHNOLOGY ACT OF 1992.—

(1) GRANTS.—The Director shall provide grants under the Scientific and Advanced Technology Act of 1992 (42 U.S.C. 1862i) for the purposes of section 3(a) and (b) of that Act, except that the activities supported pursuant to this subsection shall be limited to improving education in fields related to computer and network security.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

- (A) \$1,000,000 for fiscal year 2003;
- (B) \$1,250,000 for fiscal year 2004;
- (C) \$1,250,000 for fiscal year 2005;
- (D) \$1,250,000 for fiscal year 2006; and
- (E) \$1,250,000 for fiscal year 2007.

(c) GRADUATE TRAINEESHIPS IN COMPUTER AND NETWORK SECURITY RESEARCH.—

(1) IN GENERAL.—The Director shall establish a program to award grants to institutions of higher education to establish traineeship programs for graduate students who pursue computer and network security research leading to a doctorate degree by providing funding and other assistance, and by providing graduate students with research experience in government or industry related to the students' computer and network security studies.

(2) MERIT REVIEW.—Grants shall be provided under this subsection on a merit-reviewed competitive basis.

(3) USE OF FUNDS.—An institution of higher education shall use grant funds for the purposes of—

(A) providing traineeships to students who are citizens, nationals, or lawfully admitted permanent resident aliens of the United States and are pursuing research in computer or network security leading to a doctorate degree;

(B) paying tuition and fees for students receiving traineeships under subparagraph (A);

(C) establishing scientific internship programs for students receiving traineeships under subparagraph (A) in computer and network security at for-profit institutions, nonprofit research institutions, or government laboratories; and

(D) other costs associated with the administration of the program.

(4) TRAINEESHIP AMOUNT.—Traineeships provided under paragraph (3)(A) shall be in the amount of \$25,000 per year, or the level of the National Science Foundation Graduate Research Fellowships, whichever is greater, for up to 3 years.

(5) **SELECTION PROCESS.**—An institution of higher education seeking funding under this subsection shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the instructional program and research opportunities in computer and network security available to graduate students at the applicant's institution; and

(B) the internship program to be established, including the opportunities that will be made available to students for internships at for-profit institutions, nonprofit research institutions, and government laboratories.

(6) **REVIEW OF APPLICATIONS.**—In evaluating the applications submitted under paragraph (5), the Director shall consider—

(A) the ability of the applicant to effectively carry out the proposed program;

(B) the quality of the applicant's existing research and education programs;

(C) the likelihood that the program will recruit increased numbers of students, including students from groups historically underrepresented in computer and network security related disciplines, to pursue and earn doctorate degrees in computer and network security;

(D) the nature and quality of the internship program established through collaborations with government laboratories, nonprofit research institutions, and for-profit institutions;

(E) the integration of internship opportunities into graduate students' research; and

(F) the relevance of the proposed program to current and future computer and network security needs.

(7) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the National Science Foundation to carry out this subsection—

(A) \$10,000,000 for fiscal year 2003;

(B) \$20,000,000 for fiscal year 2004;

(C) \$20,000,000 for fiscal year 2005;

(D) \$20,000,000 for fiscal year 2006; and

(E) \$20,000,000 for fiscal year 2007.

(d) **GRADUATE RESEARCH FELLOWSHIPS PROGRAM SUPPORT.**—Computer and network security shall be included among the fields of specialization supported by the National Science Foundation's Graduate Research Fellowships program under section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869).

(e) **CYBER SECURITY FACULTY DEVELOPMENT TRAINEESHIP PROGRAM.**—

(1) **IN GENERAL.**—The Director shall establish a program to award grants to institutions of higher education to establish traineeship programs to enable graduate students to pursue academic careers in cyber security upon completion of doctoral degrees.

(2) **MERIT REVIEW; COMPETITION.**—Grants shall be awarded under this section on a merit-reviewed competitive basis.

(3) **APPLICATION.**—Each institution of higher education desiring to receive a grant under this subsection shall submit

an application to the Director at such time, in such manner, and containing such information as the Director shall require.

(4) **USE OF FUNDS.**—Funds received by an institution of higher education under this paragraph shall—

(A) be made available to individuals on a merit-reviewed competitive basis and in accordance with the requirements established in paragraph (7);

(B) be in an amount that is sufficient to cover annual tuition and fees for doctoral study at an institution of higher education for the duration of the graduate traineeship, and shall include, in addition, an annual living stipend of \$25,000; and

(C) be provided to individuals for a duration of no more than 5 years, the specific duration of each graduate traineeship to be determined by the institution of higher education, on a case-by-case basis.

(5) **REPAYMENT.**—Each graduate traineeship shall—

(A) subject to paragraph (5)(B), be subject to full repayment upon completion of the doctoral degree according to a repayment schedule established and administered by the institution of higher education;

(B) be forgiven at the rate of 20 percent of the total amount of the graduate traineeship assistance received under this section for each academic year that a recipient is employed as a full-time faculty member at an institution of higher education for a period not to exceed 5 years; and

(C) be monitored by the institution of higher education receiving a grant under this subsection to ensure compliance with this subsection.

(6) **EXCEPTIONS.**—The Director may provide for the partial or total waiver or suspension of any service obligation or payment by an individual under this section whenever compliance by the individual is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

(7) **ELIGIBILITY.**—To be eligible to receive a graduate traineeship under this section, an individual shall—

(A) be a citizen, national, or lawfully admitted permanent resident alien of the United States; and

(B) demonstrate a commitment to a career in higher education.

(8) **CONSIDERATION.**—In making selections for graduate traineeships under this paragraph, an institution receiving a grant under this subsection shall consider, to the extent possible, a diverse pool of applicants whose interests are of an interdisciplinary nature, encompassing the social scientific as well as the technical dimensions of cyber security.

(9) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the National Science Foundation to carry out this paragraph \$5,000,000 for each of fiscal years 2003 through 2007.

SEC. 6. CONSULTATION.

In carrying out sections 4 and 5, the Director shall consult with other Federal agencies.

SEC. 7. FOSTERING RESEARCH AND EDUCATION IN COMPUTER AND NETWORK SECURITY.

Section 3(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)) is amended—

- (1) by striking “and” at the end of paragraph (6);
- (2) by striking “Congress.” in paragraph (7) and inserting “Congress ; and”; and
- (3) by adding at the end the following:
 - “(8) to take a leading role in fostering and supporting research and education activities to improve the security of networked information systems.”.

SEC. 8. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY PROGRAMS. 15 USC 7406.

(a) RESEARCH PROGRAM.—The National Institute of Standards and Technology Act (15 U.S.C. 271 et seq.) is amended—

- (1) by moving section 22 to the end of the Act and redesignating it as section 32; and
- (2) by inserting after section 21 the following new section:

“SEC. 22. RESEARCH PROGRAM ON SECURITY OF COMPUTER SYSTEMS 15 USC 278h.

“(a) ESTABLISHMENT.—The Director shall establish a program of assistance to institutions of higher education that enter into partnerships with for-profit entities to support research to improve the security of computer systems. The partnerships may also include government laboratories and nonprofit research institutions. The program shall—

- “(1) include multidisciplinary, long-term research;
- “(2) include research directed toward addressing needs identified through the activities of the Computer System Security and Privacy Advisory Board under section 20(f); and
- “(3) promote the development of a robust research community working at the leading edge of knowledge in subject areas relevant to the security of computer systems by providing support for graduate students, post-doctoral researchers, and senior researchers.

“(b) FELLOWSHIPS.—

“(1) POST-DOCTORAL RESEARCH FELLOWSHIPS.—The Director is authorized to establish a program to award post-doctoral research fellowships to individuals who are citizens, nationals, or lawfully admitted permanent resident aliens of the United States and are seeking research positions at institutions, including the Institute, engaged in research activities related to the security of computer systems, including the research areas described in section 4(a)(1) of the Cyber Security Research and Development Act.

“(2) SENIOR RESEARCH FELLOWSHIPS.—The Director is authorized to establish a program to award senior research fellowships to individuals seeking research positions at institutions, including the Institute, engaged in research activities related to the security of computer systems, including the research areas described in section 4(a)(1) of the Cyber Security Research and Development Act. Senior research fellowships shall be made available for established researchers at institutions of higher education who seek to change research fields and pursue studies related to the security of computer systems.

“(3) ELIGIBILITY.—

“(A) IN GENERAL.—To be eligible for an award under this subsection, an individual shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require.

“(B) STIPENDS.—Under this subsection, the Director is authorized to provide stipends for post-doctoral research fellowships at the level of the Institute’s Post Doctoral Research Fellowship Program and senior research fellowships at levels consistent with support for a faculty member in a sabbatical position.

“(c) AWARDS; APPLICATIONS.—

“(1) IN GENERAL.—The Director is authorized to award grants or cooperative agreements to institutions of higher education to carry out the program established under subsection (a). No funds made available under this section shall be made available directly to any for-profit partners.

“(2) ELIGIBILITY.—To be eligible for an award under this section, an institution of higher education shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

“(A) the number of graduate students anticipated to participate in the research project and the level of support to be provided to each;

“(B) the number of post-doctoral research positions included under the research project and the level of support to be provided to each;

“(C) the number of individuals, if any, intending to change research fields and pursue studies related to the security of computer systems to be included under the research project and the level of support to be provided to each; and

“(D) how the for-profit entities, nonprofit research institutions, and any other partners will participate in developing and carrying out the research and education agenda of the partnership.

“(d) PROGRAM OPERATION.—

“(1) MANAGEMENT.—The program established under subsection (a) shall be managed by individuals who shall have both expertise in research related to the security of computer systems and knowledge of the vulnerabilities of existing computer systems. The Director shall designate such individuals as program managers.

“(2) MANAGERS MAY BE EMPLOYEES.—Program managers designated under paragraph (1) may be new or existing employees of the Institute or individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970, except that individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970 shall not directly manage such employees.

“(3) MANAGER RESPONSIBILITY.—Program managers designated under paragraph (1) shall be responsible for—

“(A) establishing and publicizing the broad research goals for the program;

“(B) soliciting applications for specific research projects to address the goals developed under subparagraph (A);

“(C) selecting research projects for support under the program from among applications submitted to the Institute, following consideration of—

“(i) the novelty and scientific and technical merit of the proposed projects;

“(ii) the demonstrated capabilities of the individual or individuals submitting the applications to successfully carry out the proposed research;

“(iii) the impact the proposed projects will have on increasing the number of computer security researchers;

“(iv) the nature of the participation by for-profit entities and the extent to which the proposed projects address the concerns of industry; and

“(v) other criteria determined by the Director, based on information specified for inclusion in applications under subsection (c); and

“(D) monitoring the progress of research projects supported under the program.

“(4) REPORTS.—The Director shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science annually on the use and responsibility of individuals on assignment at the Institute under the Intergovernmental Personnel Act of 1970 who are performing duties under subsection (d).

“(e) REVIEW OF PROGRAM.—

“(1) PERIODIC REVIEW.—The Director shall periodically review the portfolio of research awards monitored by each program manager designated in accordance with subsection (d). In conducting those reviews, the Director shall seek the advice of the Computer System Security and Privacy Advisory Board, established under section 21, on the appropriateness of the research goals and on the quality and utility of research projects managed by program managers in accordance with subsection (d).

“(2) COMPREHENSIVE 5-YEAR REVIEW.—The Director shall also contract with the National Research Council for a comprehensive review of the program established under subsection (a) during the 5th year of the program. Such review shall include an assessment of the scientific quality of the research conducted, the relevance of the research results obtained to the goals of the program established under subsection (d)(3)(A), and the progress of the program in promoting the development of a substantial academic research community working at the leading edge of knowledge in the field. The Director shall submit to Congress a report on the results of the review under this paragraph no later than 6 years after the initiation of the program.

Reports.
Deadline.

“(f) DEFINITIONS.—In this section:

“(1) COMPUTER SYSTEM.—The term ‘computer system’ has the meaning given that term in section 20(d)(1).

“(2) INSTITUTION OF HIGHER EDUCATION.—The term ‘institution of higher education’ has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).”.

(b) AMENDMENT OF COMPUTER SYSTEM DEFINITION.—Section 20(d)(1)(B)(i) of National Institute of Standards and Technology Act (15 U.S.C. 278g-3(d)(1)(B)(i)) is amended to read as follows:

“(i) computers and computer networks;”.

(c) CHECKLISTS FOR GOVERNMENT SYSTEMS.—

(1) IN GENERAL.—The Director of the National Institute of Standards and Technology shall develop, and revise as necessary, a checklist setting forth settings and option selections that minimize the security risks associated with each computer hardware or software system that is, or is likely to become, widely used within the Federal Government.

(2) PRIORITIES FOR DEVELOPMENT; EXCLUDED SYSTEMS.—The Director of the National Institute of Standards and Technology may establish priorities for the development of checklists under this paragraph on the basis of the security risks associated with the use of the system, the number of agencies that use a particular system, the usefulness of the checklist to Federal agencies that are users or potential users of the system, or such other factors as the Director determines to be appropriate. The Director of the National Institute of Standards and Technology may exclude from the application of paragraph (1) any computer hardware or software system for which the Director of the National Institute of Standards and Technology determines that the development of a checklist is inappropriate because of the infrequency of use of the system, the obsolescence of the system, or the inutility or impracticability of developing a checklist for the system.

(3) DISSEMINATION OF CHECKLISTS.—The Director of the National Institute of Standards and Technology shall make any checklist developed under this paragraph for any computer hardware or software system available to each Federal agency that is a user or potential user of the system.

(4) AGENCY USE REQUIREMENTS.—The development of a checklist under paragraph (1) for a computer hardware or software system does not—

(A) require any Federal agency to select the specific settings or options recommended by the checklist for the system;

(B) establish conditions or prerequisites for Federal agency procurement or deployment of any such system;

(C) represent an endorsement of any such system by the Director of the National Institute of Standards and Technology; nor

(D) preclude any Federal agency from procuring or deploying other computer hardware or software systems for which no such checklist has been developed.

(d) FEDERAL AGENCY INFORMATION SECURITY PROGRAMS.—

(1) IN GENERAL.—In developing the agencywide information security program required by section 3534(b) of title 44, United States Code, an agency that deploys a computer hardware or software system for which the Director of the National Institute of Standards and Technology has developed a checklist under subsection (c) of this section—

(A) shall include in that program an explanation of how the agency has considered such checklist in deploying that system; and

(B) may treat the explanation as if it were a portion of the agency's annual performance plan properly classified under criteria established by an Executive Order (within the meaning of section 1115(d) of title 31, United States Code).

(2) LIMITATION.—Paragraph (1) does not apply to any computer hardware or software system for which the National Institute of Standards and Technology does not have responsibility under section 20(a)(3) of the National Institute of Standards and Technology Act (15 U.S.C.278g-3(a)(3)).

SEC. 9. COMPUTER SECURITY REVIEW, PUBLIC MEETINGS, AND INFORMATION.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is amended by adding at the end the following new subsection:

“(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary \$1,060,000 for fiscal year 2003 and \$1,090,000 for fiscal year 2004 to enable the Computer System Security and Privacy Advisory Board, established by section 21, to identify emerging issues, including research needs, related to computer security, privacy, and cryptography and, as appropriate, to convene public meetings on those subjects, receive presentations, and publish reports, digests, and summaries for public distribution on those subjects.”.

SEC. 10. INTRAMURAL SECURITY RESEARCH.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), as amended by this Act, is further amended by redesignating subsection (e) as subsection (f), and by inserting after subsection (d) the following:

“(e) INTRAMURAL SECURITY RESEARCH.—As part of the research activities conducted in accordance with subsection (b)(4), the Institute shall—

“(1) conduct a research program to address emerging technologies associated with assembling a networked computer system from components while ensuring it maintains desired security properties;

“(2) carry out research associated with improving the security of real-time computing and communications systems for use in process control; and

“(3) carry out multidisciplinary, long-term, high-risk research on ways to improve the security of computer systems.”.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

15 USC 7407.

There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology—

(1) for activities under section 22 of the National Institute of Standards and Technology Act, as added by section 8 of this Act—

(A) \$25,000,000 for fiscal year 2003;

(B) \$40,000,000 for fiscal year 2004;

(C) \$55,000,000 for fiscal year 2005;

(D) \$70,000,000 for fiscal year 2006;

(E) \$85,000,000 for fiscal year 2007; and

(2) for activities under section 20(f) of the National Institute of Standards and Technology Act, as added by section 10 of this Act—

- (A) \$6,000,000 for fiscal year 2003;
- (B) \$6,200,000 for fiscal year 2004;
- (C) \$6,400,000 for fiscal year 2005;
- (D) \$6,600,000 for fiscal year 2006; and
- (E) \$6,800,000 for fiscal year 2007.

15 USC 7408.

SEC. 12. NATIONAL ACADEMY OF SCIENCES STUDY ON COMPUTER AND NETWORK SECURITY IN CRITICAL INFRASTRUCTURES.

Deadline.
Contracts.

(a) **STUDY.**—Not later than 3 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall enter into an arrangement with the National Research Council of the National Academy of Sciences to conduct a study of the vulnerabilities of the Nation's network infrastructure and make recommendations for appropriate improvements. The National Research Council shall—

(1) review existing studies and associated data on the architectural, hardware, and software vulnerabilities and interdependencies in United States critical infrastructure networks;

(2) identify and assess gaps in technical capability for robust critical infrastructure network security and make recommendations for research priorities and resource requirements; and

(3) review any and all other essential elements of computer and network security, including security of industrial process controls, to be determined in the conduct of the study.

Deadline.

(b) **REPORT.**—The Director of the National Institute of Standards and Technology shall transmit a report containing the results of the study and recommendations required by subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science not later than 21 months after the date of enactment of this Act.

(c) **SECURITY.**—The Director of the National Institute of Standards and Technology shall ensure that no information that is classified is included in any publicly released version of the report required by this section.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Commerce for the National Institute of Standards and Technology for the purposes of carrying out this section, \$700,000.

15 USC 7409.

SEC. 13. COORDINATION OF FEDERAL CYBER SECURITY RESEARCH AND DEVELOPMENT

The Director of the National Science Foundation and the Director of the National Institute of Standards and Technology shall coordinate the research programs authorized by this Act or pursuant to amendments made by this Act. The Director of the Office of Science and Technology Policy shall work with the Director of the National Science Foundation and the Director of the National Institute of Standards and Technology to ensure that programs authorized by this Act or pursuant to amendments made by this Act are taken into account in any government-wide cyber security research effort.

SEC. 14. OFFICE OF SPACE COMMERCIALIZATION.

Section 8(a) of the Technology Administration Act of 1998 (15 U.S.C. 1511e(a)) is amended by inserting “the Technology Administration of” after “within”.

SEC. 15. TECHNICAL CORRECTION OF NATIONAL CONSTRUCTION SAFETY TEAM ACT. 15 USC 7301.

Section 2(c)(1)(d) of the National Construction Safety Team Act is amended by striking “section 8;” and inserting “section 7;”.

SEC. 16. GRANT ELIGIBILITY REQUIREMENTS AND COMPLIANCE WITH IMMIGRATION LAWS. 15 USC 7410.

(a) **IMMIGRATION STATUS.**—No grant or fellowship may be awarded under this Act, directly or indirectly, to any individual who is in violation of the terms of his or her status as a non-immigrant under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)).

(b) **ALIENS FROM CERTAIN COUNTRIES.**—No grant or fellowship may be awarded under this Act, directly or indirectly, to any alien from a country that is a state sponsor of international terrorism, as defined under section 306(b) of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C. 1735(b)), unless the Secretary of State determines, in consultation with the Attorney General and the heads of other appropriate agencies, that such alien does not pose a threat to the safety or national security of the United States.

(c) **NON-COMPLYING INSTITUTIONS.**—No grant or fellowship may be awarded under this Act, directly or indirectly, to any institution of higher education or non-profit institution (or consortia thereof) that has—

(1) materially failed to comply with the recordkeeping and reporting requirements to receive nonimmigrant students or exchange visitor program participants under section 101(a)(15)(F), (M), or (J) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(F), (M), or (J)), or section 641 of the Illegal Immigration Reform and Responsibility Act of 1996 (8 U.S.C. 1372), as required by section 502 of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C. 1762); or

(2) been suspended or terminated pursuant to section 502(c) of the Enhanced Border Security and VISA Entry Reform Act (8 U.S.C. 1762(c)).

SEC. 17. REPORT ON GRANT AND FELLOWSHIP PROGRAMS.

15 USC 7411.

Within 24 months after the date of enactment of this Act, the Director, in consultation with the Assistant to the President for National Security Affairs, shall submit to Congress a report reviewing this Act to ensure that the programs and fellowships are being awarded under this Act to individuals and institutions of higher education who are in compliance with the Immigration

and Nationality Act (8 U.S.C. 1101 et seq.) in order to protect our national security.

Approved November 27, 2002.

LEGISLATIVE HISTORY—H.R. 3394 (S. 2182):

HOUSE REPORTS: No. 107-355, Pt. 1 (Comm. on Science).

SENATE REPORTS: No. 107-239 accompanying S. 2182 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Feb. 7, considered and passed House.

Oct. 16, considered and passed Senate, amended, in lieu of S. 2182.

Nov. 12, House concurred in Senate amendment.



Public Law 107–306
107th Congress

An Act

To authorize appropriations for fiscal year 2003 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Nov. 27, 2002
[H.R. 4628]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Intelligence Authorization Act for Fiscal Year 2003”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—INTELLIGENCE ACTIVITIES

Sec. 101. Authorization of appropriations.

Sec. 102. Classified schedule of authorizations.

Sec. 103. Personnel ceiling adjustments.

Sec. 104. Intelligence Community Management Account.

Sec. 105. Authorization of emergency supplemental appropriations for fiscal year 2002.

Sec. 106. Additional authorizations of appropriations for intelligence for the war on terrorism.

Sec. 107. Specific authorization of funds for intelligence or intelligence-related activities for which fiscal year 2003 appropriations exceed amounts authorized.

Sec. 108. Incorporation of reporting requirements.

Sec. 109. Preparation and submittal of reports, reviews, studies, and plans relating to intelligence activities of Department of Defense or Department of Energy.

**TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM**

Sec. 201. Authorization of appropriations.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

Sec. 301. Increase in employee compensation and benefits authorized by law.

Sec. 302. Restriction on conduct of intelligence activities.

Sec. 303. Sense of Congress on intelligence community contracting.

Subtitle B—Intelligence

Sec. 311. Specificity of National Foreign Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence.

Sec. 312. Prohibition on compliance with requests for information submitted by foreign governments.

Sec. 313. National Virtual Translation Center.

Subtitle C—Personnel

Sec. 321. Standards and qualifications for the performance of intelligence activities.

Intelligence
Authorization
Act for Fiscal
Year 2003.

- Sec. 322. Modification of excepted agency voluntary leave transfer authority.
- Sec. 323. Sense of Congress on diversity in the workforce of intelligence community agencies.
- Sec. 324. Annual report on hiring and retention of minority employees in the intelligence community.
- Sec. 325. Report on establishment of a Civilian Linguist Reserve Corps.

Subtitle D—Education

- Sec. 331. Scholarships and work-study for pursuit of graduate degrees in science and technology.
- Sec. 332. Cooperative relationship between the National Security Education Program and the Foreign Language Center of the Defense Language Institute.
- Sec. 333. Establishment of National Flagship Language Initiative within the National Security Education Program.
- Sec. 334. Report on the National Security Education Program.

Subtitle E—Terrorism

- Sec. 341. Foreign Terrorist Asset Tracking Center.
- Sec. 342. Semiannual report on financial intelligence on terrorist assets (FITA).
- Sec. 343. Terrorist Identification Classification System.

Subtitle F—Other Matters

- Sec. 351. Additional one-year suspension of reorganization of Diplomatic Telecommunications Service Program Office.
- Sec. 352. Standardized transliteration of names into the Roman alphabet.
- Sec. 353. Definition of congressional intelligence committees in National Security Act of 1947.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

- Sec. 401. Two-year extension of Central Intelligence Agency Voluntary Separation Pay Act.
- Sec. 402. Implementation of compensation reform plan.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

- Sec. 501. Use of funds for counterdrug and counterterrorism activities for Colombia.
- Sec. 502. Protection of operational files of the National Reconnaissance Office.
- Sec. 503. Eligibility of employees in Intelligence Senior Level positions for Presidential Rank Awards.

TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

- Sec. 601. Establishment of Commission.
- Sec. 602. Purposes.
- Sec. 603. Composition of Commission.
- Sec. 604. Functions of Commission.
- Sec. 605. Powers of Commission.
- Sec. 606. Nonapplicability of Federal Advisory Committee Act.
- Sec. 607. Staff of Commission.
- Sec. 608. Compensation and travel expenses.
- Sec. 609. Security clearances for Commission members and staff.
- Sec. 610. Reports of Commission; termination.
- Sec. 611. Funding.

TITLE VII—INFORMATION SHARING

- Sec. 701. Short title.
- Sec. 702. Findings and sense of Congress.
- Sec. 703. Facilitating homeland security information sharing procedures.
- Sec. 704. Report.
- Sec. 705. Authorization of appropriations.
- Sec. 706. Coordination provision.

TITLE VIII—REPORTING REQUIREMENTS

Subtitle A—Overdue Reports

- Sec. 801. Deadline for submittal of various overdue reports.

Subtitle B—Submittal of Reports to Intelligence Committees

- Sec. 811. Dates for submittal of various annual and semiannual reports to the congressional intelligence committees.

Subtitle C—Recurring Annual Reports

- Sec. 821. Annual report on threat of attack on the United States using weapons of mass destruction.
- Sec. 822. Annual report on covert leases.
- Sec. 823. Annual report on improvement of financial statements of certain elements of the intelligence community for auditing purposes.
- Sec. 824. Annual report on activities of Federal Bureau of Investigation personnel outside the United States.
- Sec. 825. Annual reports of inspectors general of the intelligence community on proposed resources and activities of their offices.
- Sec. 826. Annual report on counterdrug intelligence matters.
- Sec. 827. Annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets.

Subtitle D—Other Reports

- Sec. 831. Report on effect of country-release restrictions on allied intelligence-sharing relationships.
- Sec. 832. Evaluation of policies and procedures of Department of State on protection of classified information at department headquarters.

Subtitle E—Repeal of Certain Report Requirements

- Sec. 841. Repeal of certain report requirements.

TITLE IX—COUNTERINTELLIGENCE ACTIVITIES

- Sec. 901. Short title; purpose.
- Sec. 902. National Counterintelligence Executive.
- Sec. 903. National Counterintelligence Policy Board.
- Sec. 904. Office of the National Counterintelligence Executive.

TITLE X—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

- Sec. 1001. Findings.
- Sec. 1002. National Commission for the Review of the Research and Development Programs of the United States Intelligence Community.
- Sec. 1003. Powers of Commission.
- Sec. 1004. Staff of Commission.
- Sec. 1005. Compensation and travel expenses.
- Sec. 1006. Treatment of information relating to national security.
- Sec. 1007. Final report; termination.
- Sec. 1008. Assessments of final report.
- Sec. 1009. Inapplicability of certain administrative provisions.
- Sec. 1010. Funding.
- Sec. 1011. Definitions.

TITLE I—INTELLIGENCE ACTIVITIES**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Funds are hereby authorized to be appropriated for fiscal year 2003 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.
- (2) The Department of Defense.
- (3) The Defense Intelligence Agency.
- (4) The National Security Agency.
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
- (6) The Department of State.
- (7) The Department of the Treasury.
- (8) The Department of Energy.
- (9) The Federal Bureau of Investigation.
- (10) The National Reconnaissance Office.

- (11) The National Imagery and Mapping Agency.
- (12) The Coast Guard.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) **SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.**—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 2003, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared to accompany the conference report on H.R. 4628 of the One Hundred Seventh Congress.

President.

(b) **AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.**—The Schedule of Authorizations shall be made available to the Committees on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) **AUTHORITY FOR ADJUSTMENTS.**—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 2003 under section 102 when the Director of Central Intelligence determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community, exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) **NOTICE TO INTELLIGENCE COMMITTEES.**—The Director of Central Intelligence shall notify promptly the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever the Director exercises the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 2003 the sum of \$158,254,000. Within such amount, funds identified in the classified Schedule of Authorizations referred to in section 102(a) for advanced research and development shall remain available until September 30, 2004.

(b) **AUTHORIZED PERSONNEL LEVELS.**—The elements within the Intelligence Community Management Account of the Director of Central Intelligence are authorized 322 full-time personnel as of September 30, 2003. Personnel serving in such elements may be permanent employees of the Intelligence Community Management Account or personnel detailed from other elements of the United States Government.

(c) **CLASSIFIED AUTHORIZATIONS.**—

(1) **AUTHORIZATION OF APPROPRIATIONS.**—In addition to amounts authorized to be appropriated for the Intelligence Community Management Account by subsection (a), there are also authorized to be appropriated for the Intelligence Community Management Account for fiscal year 2003 such additional

amounts as are specified in the classified Schedule of Authorizations referred to in section 102(a). Such additional amounts for research and development shall remain available until September 30, 2004.

(2) **AUTHORIZATION OF PERSONNEL.**—In addition to the personnel authorized by subsection (b) for elements of the Intelligence Community Management Account as of September 30, 2003, there are hereby authorized such additional personnel for such elements as of that date as are specified in the classified Schedule of Authorizations.

(d) **REIMBURSEMENT.**—Except as provided in section 113 of the National Security Act of 1947 (50 U.S.C. 404h), during fiscal year 2003 any officer or employee of the United States or a member of the Armed Forces who is detailed to the staff of the Intelligence Community Management Account from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

(e) **NATIONAL DRUG INTELLIGENCE CENTER.**—

21 USC 873 note.

(1) **IN GENERAL.**—Of the amount authorized to be appropriated in subsection (a), \$34,100,000 shall be available for the National Drug Intelligence Center. Within such amount, funds provided for research, development, testing, and evaluation purposes shall remain available until September 30, 2004, and funds provided for procurement purposes shall remain available until September 30, 2005.

(2) **TRANSFER OF FUNDS.**—The Director of Central Intelligence shall transfer to the Attorney General funds available for the National Drug Intelligence Center under paragraph (1). The Attorney General shall utilize funds so transferred for the activities of the National Drug Intelligence Center.

(3) **LIMITATION.**—Amounts available for the National Drug Intelligence Center may not be used in contravention of the provisions of section 103(d)(1) of the National Security Act of 1947 (50 U.S.C. 403-3(d)(1)).

(4) **AUTHORITY.**—Notwithstanding any other provision of law, the Attorney General shall retain full authority over the operations of the National Drug Intelligence Center.

SEC. 105. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.

(a) **AUTHORIZATION.**—Amounts authorized to be appropriated for fiscal year 2002 under section 101 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107-108) for the conduct of the intelligence activities of elements of the United States Government listed in such section are hereby increased, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization were increased by the following:

(1) The Emergency Supplemental Act, 2002 (contained in division B of Public Law 107-117), including section 304 of such Act (115 Stat. 2300).

(2) The 2002 Supplemental Appropriations Act for Further Recovery From and Response To Terrorist Attacks on the United States (Public Law 107-206), for such amounts as are

designated by Congress as an emergency requirement pursuant to section 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901(b)(2)(A)).

(b) **RATIFICATION.**—For purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414), any obligation or expenditure of those amounts deemed to have been specifically authorized by the Acts referred to in subsection (a) is hereby ratified and confirmed.

SEC. 106. ADDITIONAL AUTHORIZATIONS OF APPROPRIATIONS FOR INTELLIGENCE FOR THE WAR ON TERRORISM.

(a) **IN GENERAL.**—Subject to subsection (b), the amounts requested in the letter dated July 3, 2002, of the President to the Speaker of the House of Representatives, related to the Defense Emergency Response Fund and that are designated for the incremental costs of intelligence and intelligence-related activities for the war on terrorism are authorized.

(b) **LIMITATIONS.**—The amounts referred to in subsection (a)—

(1) are authorized only for activities directly related to identifying, responding to, or protecting against acts or threatened acts of terrorism;

(2) are not authorized to correct programmatic or fiscal deficiencies in major acquisition programs which will not achieve initial operational capabilities within two years of the date of the enactment of this Act; and

(3) are not available until the end of the 10-day period that begins on the date written notice is provided to the Select Committee on Intelligence and the Committee on Appropriations of the Senate and the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives.

SEC. 107. SPECIFIC AUTHORIZATION OF FUNDS FOR INTELLIGENCE OR INTELLIGENCE-RELATED ACTIVITIES FOR WHICH FISCAL YEAR 2003 APPROPRIATIONS EXCEED AMOUNTS AUTHORIZED.

Funds appropriated for an intelligence or intelligence-related activity for fiscal year 2003 in excess of the amount specified for such activity in the classified Schedule of Authorizations prepared to accompany this Act shall be deemed to be specifically authorized by Congress for purposes of section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)).

SEC. 108. INCORPORATION OF REPORTING REQUIREMENTS.

(a) **IN GENERAL.**—Each requirement to submit a report to the congressional intelligence committees that is included in the joint explanatory statement to accompany the conference report on the bill H.R. 4628 of the One Hundred Seventh Congress, or in the classified annex to this Act, is hereby incorporated into this Act, and is hereby made a requirement in law.

(b) **CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.**—In this section, the term “congressional intelligence committees” means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 109. PREPARATION AND SUBMITTAL OF REPORTS, REVIEWS, STUDIES, AND PLANS RELATING TO INTELLIGENCE ACTIVITIES OF DEPARTMENT OF DEFENSE OR DEPARTMENT OF ENERGY.

50 USC 415b
note.

(a) CONSULTATION IN PREPARATION.—(1) The Director of Central Intelligence shall ensure that any report, review, study, or plan required to be prepared or conducted by a provision of this Act, including a provision of the classified Schedule of Authorizations referred to in section 102(a) or the classified annex to this Act, that involves the intelligence or intelligence-related activities of the Department of Defense or the Department of Energy is prepared or conducted in consultation with the Secretary of Defense or the Secretary of Energy, as appropriate.

(2) The Secretary of Defense or the Secretary of Energy may carry out any consultation required by this subsection through an official of the Department of Defense or the Department of Energy, as the case may be, designated by such Secretary for that purpose.

(b) SUBMITTAL.—Any report, review, study, or plan referred to in subsection (a) shall be submitted, in addition to any other committee of Congress specified for submittal in the provision concerned, to the following committees of Congress:

(1) The Committees on Armed Services and Appropriations and the Select Committee on Intelligence of the Senate.

(2) The Committees on Armed Services and Appropriations and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 2003 the sum of \$222,500,000.

TITLE III—GENERAL PROVISIONS

Subtitle A—Recurring General Provisions

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. SENSE OF CONGRESS ON INTELLIGENCE COMMUNITY CONTRACTING.

It is the sense of Congress that the Director of Central Intelligence should continue to direct that elements of the intelligence community, whenever compatible with the national security interests of the United States and consistent with operational and security concerns related to the conduct of intelligence activities, and where fiscally sound, should competitively award contracts in a manner that maximizes the procurement of products properly designated as having been made in the United States.

Subtitle B—Intelligence**SEC. 311. SPECIFICITY OF NATIONAL FOREIGN INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTERNARCOTICS, AND COUNTERINTELLIGENCE.**

(a) IN GENERAL.—Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.) is amended by adding at the end the following new section:

“SPECIFICITY OF NATIONAL FOREIGN INTELLIGENCE PROGRAM BUDGET AMOUNTS FOR COUNTERTERRORISM, COUNTERPROLIFERATION, COUNTERNARCOTICS, AND COUNTERINTELLIGENCE

50 USC 415a.

“SEC. 506. (a) IN GENERAL.—The budget justification materials submitted to Congress in support of the budget of the President for a fiscal year that is submitted to Congress under section 1105(a) of title 31, United States Code, shall set forth separately the aggregate amount requested for that fiscal year for the National Foreign Intelligence Program for each of the following:

- “(1) Counterterrorism.
- “(2) Counterproliferation.
- “(3) Counternarcotics.
- “(4) Counterintelligence.

“(b) ELECTION OF CLASSIFIED OR UNCLASSIFIED FORM.—Amounts set forth under subsection (a) may be set forth in unclassified form or classified form, at the election of the Director of Central Intelligence.”.

(b) CLERICAL AMENDMENT.—The table of sections for that Act is amended by inserting after the item relating to section 505 the following new item:

“Sec. 506. Specificity of National Foreign Intelligence Program budget amounts for counterterrorism, counterproliferation, counternarcotics, and counterintelligence.”.

SEC. 312. PROHIBITION ON COMPLIANCE WITH REQUESTS FOR INFORMATION SUBMITTED BY FOREIGN GOVERNMENTS.

Section 552(a)(3) of title 5, United States Code, is amended—

(1) in subparagraph (A) by inserting “and except as provided in subparagraph (E),” after “of this subsection,”; and

(2) by adding at the end the following:

“(E) An agency, or part of an agency, that is an element of the intelligence community (as that term is defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4))) shall not make any record available under this paragraph to—

“(i) any government entity, other than a State, territory, commonwealth, or district of the United States, or any subdivision thereof; or

“(ii) a representative of a government entity described in clause (i).”.

SEC. 313. NATIONAL VIRTUAL TRANSLATION CENTER.

50 USC 404n.

(a) **ESTABLISHMENT.**—The Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the intelligence community an element with the function of connecting the elements of the intelligence community engaged in the acquisition, storage, translation, or analysis of voice or data in digital form.

(b) **DESIGNATION.**—The element established under subsection (a) shall be known as the National Virtual Translation Center.

(c) **ADMINISTRATIVE MATTERS.**—(1) The Director shall retain direct supervision and control over the element established under subsection (a).

(2) The element established under subsection (a) shall connect elements of the intelligence community utilizing the most current available information technology that is applicable to the function of the element.

(d) **DEADLINE FOR ESTABLISHMENT.**—The element required by subsection (a) shall be established as soon as practicable after the date of the enactment of this Act, but not later than 90 days after that date.

Subtitle C—Personnel

SEC. 321. STANDARDS AND QUALIFICATIONS FOR THE PERFORMANCE OF INTELLIGENCE ACTIVITIES.

Section 104 of the National Security Act of 1947 (50 U.S.C. 403-4) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

“(g) **STANDARDS AND QUALIFICATIONS FOR PERFORMANCE OF INTELLIGENCE ACTIVITIES.**—The Director, acting as the head of the intelligence community, shall, in consultation with the heads of effected agencies, develop standards and qualifications for persons engaged in the performance of intelligence activities within the intelligence community.”.

SEC. 322. MODIFICATION OF EXCEPTED AGENCY VOLUNTARY LEAVE TRANSFER AUTHORITY.

(a) **IN GENERAL.**—Section 6339 of title 5, United States Code, is amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) as subsection (b); and

(3) by inserting after subsection (b) (as so redesignated by paragraph (2)) the following:

“(c)(1) Notwithstanding any provision of subsection (b), the head of an excepted agency may, at his sole discretion, by regulation establish a program under which an individual employed in or under such excepted agency may participate in a leave transfer program established under the provisions of this subchapter outside of this section, including provisions permitting the transfer of

annual leave accrued or accumulated by such employee to, or permitting such employee to receive transferred leave from, an employee of any other agency (including another excepted agency having a program under this subsection).

“(2) To the extent practicable and consistent with the protection of intelligence sources and methods, any program established under paragraph (1) shall be consistent with the provisions of this subchapter outside of this section and with any regulations issued by the Office of Personnel Management implementing this subchapter.”.

(b) CONFORMING AMENDMENTS.—Section 6339 of such title is amended—

(1) in paragraph (2) of subsection (b) (as so redesignated by subsection (a)(2)), by striking “under this section” and inserting “under this subsection”; and

(2) in subsection (d), by striking “of Personnel Management”.

SEC. 323. SENSE OF CONGRESS ON DIVERSITY IN THE WORKFORCE OF INTELLIGENCE COMMUNITY AGENCIES.

(a) FINDINGS.—Congress finds the following:

(1) The United States is engaged in a war against terrorism that requires the active participation of the intelligence community.

(2) Certain intelligence agencies, among them the Federal Bureau of Investigation and the Central Intelligence Agency, have announced that they will be hiring several hundred new agents to help conduct the war on terrorism.

(3) Former Directors of the Federal Bureau of Investigation, the Central Intelligence Agency, the National Security Agency, and the Defense Intelligence Agency have stated that a more diverse intelligence community would be better equipped to gather and analyze information on diverse communities.

(4) The Central Intelligence Agency and the National Security Agency were authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 1987.

(5) The Defense Intelligence Agency was authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 1988.

(6) The National Imagery and Mapping Agency was authorized to establish an undergraduate training program for the purpose of recruiting and training minority operatives in 2000.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Director of the Federal Bureau of Investigation (with respect to the intelligence and intelligence-related activities of the Bureau), the Director of Central Intelligence, the Director of the National Security Agency, and the Director of the Defense Intelligence Agency should make the creation of a more diverse workforce a priority in hiring decisions; and

(2) the Director of Central Intelligence, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and the Director of the National Imagery and Mapping Agency should increase their minority recruitment efforts through the undergraduate training program provided for under law.

SEC. 324. ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES IN THE INTELLIGENCE COMMUNITY.

Section 114 of the National Security Act of 1947 (50 U.S.C. 404i) is amended—

- (1) by redesignating subsection (c) as subsection (d); and
- (2) by inserting after subsection (b) the following new subsection:

“(c) ANNUAL REPORT ON HIRING AND RETENTION OF MINORITY EMPLOYEES.—(1) The Director of Central Intelligence shall, on an annual basis, submit to Congress a report on the employment of covered persons within each element of the intelligence community for the preceding fiscal year.

“(2) Each such report shall include disaggregated data by category of covered person from each element of the intelligence community on the following:

“(A) Of all individuals employed in the element during the fiscal year involved, the aggregate percentage of such individuals who are covered persons.

“(B) Of all individuals employed in the element during the fiscal year involved at the levels referred to in clauses (i) and (ii), the percentage of covered persons employed at such levels:

“(i) Positions at levels 1 through 15 of the General Schedule.

“(ii) Positions at levels above GS-15.

“(C) Of all individuals hired by the element involved during the fiscal year involved, the percentage of such individuals who are covered persons.

“(3) Each such report shall be submitted in unclassified form, but may contain a classified annex.

“(4) Nothing in this subsection shall be construed as providing for the substitution of any similar report required under another provision of law.

“(5) In this subsection, the term ‘covered persons’ means—

- “(A) racial and ethnic minorities;
- “(B) women; and
- “(C) individuals with disabilities.”.

SEC. 325. REPORT ON ESTABLISHMENT OF A CIVILIAN LINGUIST RESERVE CORPS.

(a) REPORT.—The Secretary of Defense, acting through the Director of the National Security Education Program, shall prepare a report on the feasibility of establishing a Civilian Linguist Reserve Corps comprised of individuals with advanced levels of proficiency in foreign languages who are United States citizens who would be available upon a call of the President to perform such service or duties with respect to such foreign languages in the Federal Government as the President may specify. In preparing the report, the Secretary shall consult with such organizations having expertise in training in foreign languages as the Secretary determines appropriate.

(b) MATTERS CONSIDERED.—

(1) IN GENERAL.—In conducting the study, the Secretary shall develop a proposal for the structure and operations of the Civilian Linguist Reserve Corps. The proposal shall establish requirements for performance of duties and levels of proficiency in foreign languages of the members of the Civilian

Linguist Reserve Corps, including maintenance of language skills and specific training required for performance of duties as a linguist of the Federal Government, and shall include recommendations on such other matters as the Secretary determines appropriate.

(2) CONSIDERATION OF USE OF DEFENSE LANGUAGE INSTITUTE AND LANGUAGE REGISTRIES.—In developing the proposal under paragraph (1), the Secretary shall consider the appropriateness of using—

(A) the Defense Language Institute to conduct testing for language skills proficiency and performance, and to provide language refresher courses; and

(B) foreign language skill registries of the Department of Defense or of other agencies or departments of the United States to identify individuals with sufficient proficiency in foreign languages.

(3) CONSIDERATION OF THE MODEL OF THE RESERVE COMPONENTS OF THE ARMED FORCES.—In developing the proposal under paragraph (1), the Secretary shall consider the provisions of title 10, United States Code, establishing and governing service in the Reserve Components of the Armed Forces, as a model for the Civilian Linguist Reserve Corps.

Deadline.

(c) COMPLETION OF REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to Congress the report prepared under subsection (a).

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Defense \$300,000 to carry out this section.

Subtitle D—Education

SEC. 331. SCHOLARSHIPS AND WORK-STUDY FOR PURSUIT OF GRADUATE DEGREES IN SCIENCE AND TECHNOLOGY.

(a) PROGRAM AUTHORIZED.—The National Security Act of 1947 is amended—

50 USC 442.

(1) by redesignating title X as title XI;

50 USC 442.

(2) by redesignating section 1001 as section 1101; and

(3) by inserting after title IX the following new title X:

“TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

“SCHOLARSHIPS AND WORK-STUDY FOR PURSUIT OF GRADUATE DEGREES IN SCIENCE AND TECHNOLOGY

50 USC 441g.

“SEC. 1001. (a) PROGRAM AUTHORIZED.—The Director of Central Intelligence may carry out a program to provide scholarships and work-study for individuals who are pursuing graduate degrees in fields of study in science and technology that are identified by the Director as appropriate to meet the future needs of the intelligence community for qualified scientists and engineers.

“(b) ADMINISTRATION.—If the Director carries out the program under subsection (a), the Director shall administer the program through the Assistant Director of Central Intelligence for Administration.

“(c) IDENTIFICATION OF FIELDS OF STUDY.—If the Director carries out the program under subsection (a), the Director shall identify

fields of study under subsection (a) in consultation with the other heads of the elements of the intelligence community.

“(d) ELIGIBILITY FOR PARTICIPATION.—An individual eligible to participate in the program is any individual who—

“(1) either—

“(A) is an employee of the intelligence community;

or

“(B) meets criteria for eligibility for employment in the intelligence community that are established by the Director;

“(2) is accepted in a graduate degree program in a field of study in science or technology identified under subsection (a); and

“(3) is eligible for a security clearance at the level of Secret or above.

“(e) REGULATIONS.—If the Director carries out the program under subsection (a), the Director shall prescribe regulations for purposes of the administration of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections for the National Security Act of 1947 is amended by striking the items relating to title X and section 1001 and inserting the following new items:

“TITLE X—EDUCATION IN SUPPORT OF NATIONAL INTELLIGENCE

“Sec. 1001. Scholarships and work-study for pursuit of graduate degrees in science and technology.

“TITLE XI—OTHER PROVISIONS

“Sec. 1101. Applicability to United States intelligence activities of Federal laws implementing international treaties and agreements.”.

SEC. 332. COOPERATIVE RELATIONSHIP BETWEEN THE NATIONAL SECURITY EDUCATION PROGRAM AND THE FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.

Section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended by adding at the end the following new subsection:

“(h) USE OF AWARDS TO ATTEND THE FOREIGN LANGUAGE CENTER OF THE DEFENSE LANGUAGE INSTITUTE.—(1) The Secretary shall provide for the admission of award recipients to the Foreign Language Center of the Defense Language Institute (hereinafter in this subsection referred to as the ‘Center’). An award recipient may apply a portion of the applicable scholarship or fellowship award for instruction at the Center on a space-available basis as a Department of Defense sponsored program to defray the additive instructional costs.

“(2) Except as the Secretary determines necessary, an award recipient who receives instruction at the Center shall be subject to the same regulations with respect to attendance, discipline, discharge, and dismissal as apply to other persons attending the Center.

“(3) In this subsection, the term ‘award recipient’ means an undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been awarded a fellowship under subsection (a)(1)(B) who—

“(A) is in good standing;

“(B) has completed all academic study in a foreign country, as provided for under the scholarship or fellowship; and

“(C) would benefit from instruction provided at the Center.”.

SEC. 333. ESTABLISHMENT OF NATIONAL FLAGSHIP LANGUAGE INITIATIVE WITHIN THE NATIONAL SECURITY EDUCATION PROGRAM.

(a) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—

(1) EXPANSION OF GRANT PROGRAM AUTHORITY.—Subsection (a)(1) of section 802 of the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1902) is amended—

(A) by striking “and” at the end of subparagraph (B)(ii);

(B) by striking the period at the end of subparagraph (C) and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(D) awarding grants to institutions of higher education to carry out activities under the National Flagship Language Initiative (described in subsection (i)).”.

(2) PROVISIONS OF NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—Such section, as amended by section 332, is further amended by adding at the end the following new subsection:

“(i) NATIONAL FLAGSHIP LANGUAGE INITIATIVE.—(1) Under the National Flagship Language Initiative, institutions of higher education shall establish, operate, or improve activities designed to train students in programs in a range of disciplines to achieve advanced levels of proficiency in those foreign languages that the Secretary identifies as being the most critical in the interests of the national security of the United States.

“(2) An undergraduate student who has been awarded a scholarship under subsection (a)(1)(A) or a graduate student who has been awarded a fellowship under subsection (a)(1)(B) may participate in the activities carried out under the National Flagship Language Initiative.

“(3) An institution of higher education that receives a grant pursuant to subsection (a)(1)(D) shall give special consideration to applicants who are employees of the Federal Government.

“(4) For purposes of this subsection, the Foreign Language Center of the Defense Language Institute and any other educational institution that provides training in foreign languages operated by the Department of Defense or an agency in the intelligence community is deemed to be an institution of higher education, and may carry out the types of activities permitted under the National Flagship Language Initiative.”.

(3) INAPPLICABILITY OF FUNDING ALLOCATION RULES.—Subsection (a)(2) of such section is amended by adding at the end the following flush sentences:

“The funding allocation under this paragraph shall not apply to grants under paragraph (1)(D) for the National Flagship Language Initiative described in subsection (i). For the authorization of appropriations for the National Flagship Language Initiative, see section 811.”.

(4) BOARD REQUIREMENT.—Section 803(d)(4) of such Act (50 U.S.C. 1903(d)(4)) is amended—

(A) by striking “and” at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph (D) and inserting “; and”; and

(C) by adding at the end the following new subparagraph:

“(E) which foreign languages are critical to the national security interests of the United States for purposes of section 802(a)(1)(D) (relating to grants for the National Flagship Language Initiative).”.

(b) **FUNDING.**—The David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.) is amended by adding at the end the following new section:

“SEC. 811. ADDITIONAL ANNUAL AUTHORIZATION OF APPROPRIATIONS. 50 USC 1911.

“(a) **IN GENERAL.**—In addition to amounts that may be made available to the Secretary under the Fund for a fiscal year, there is authorized to be appropriated to the Secretary for each fiscal year, beginning with fiscal year 2003, \$10,000,000, to carry out the grant program for the National Flagship Language Initiative under section 802(a)(1)(D).

“(b) **AVAILABILITY OF APPROPRIATED FUNDS.**—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) shall remain available until expended.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on the date the Secretary of Defense submits the report required under section 334 of this Act and notifies the appropriate committees of Congress (as defined in subsection (c) of that section) that the programs carried out under the David L. Boren National Security Education Act of 1991 are being managed in a fiscally and programmatically sound manner. 50 USC 1902 note.

(d) **CONSTRUCTION.**—Nothing in this section shall be construed as affecting any program or project carried out under the David L. Boren National Security Education Act of 1991 as in effect on the date that precedes the date of the enactment of this Act. 50 USC 1902 note.

SEC. 334. REPORT ON THE NATIONAL SECURITY EDUCATION PROGRAM.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the matters described in subsection (b) with respect to the David L. Boren National Security Education Act of 1991 (50 U.S.C. 1901 et seq.). Deadline.

(b) **COVERED MATTERS.**—The matters described in this subsection are as follows:

(1) **EFFECTIVENESS OF PROGRAM.**—An evaluation of the National Security Education Program, including an assessment of the effectiveness of the program in meeting its goals and an assessment of the administrative costs of the program in relation to the amounts of scholarships, fellowships, and grants awarded.

(2) **CONVERSION OF FUNDING.**—An assessment of the advisability of converting funding of the National Security Education Program from funding through the National Security Education Trust Fund under section 804 of that Act (50 U.S.C. 1904) to funding through appropriations.

(3) **RECOMMENDATIONS.**—On any matter covered by paragraph (1) or (2), such recommendations for legislation with respect to such matter as the Secretary considers appropriate.

(c) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Select Committee on Intelligence and the Committees on Armed Services and Appropriations of the Senate; and
 (2) the Permanent Select Committee on Intelligence and the Committees on Armed Services and Appropriations of the House of Representatives.

Subtitle E—Terrorism

50 USC 404n-1.

SEC. 341. FOREIGN TERRORIST ASSET TRACKING CENTER.

(a) ESTABLISHMENT.—The Director of Central Intelligence, acting as the head of the intelligence community, shall establish in the Central Intelligence Agency an element responsible for conducting all-source intelligence analysis of information relating to the financial capabilities, practices, and activities of individuals, groups, and nations associated with international terrorism in their activities relating to international terrorism.

(b) DESIGNATION.—The element established under subsection (a) shall be known as the Foreign Terrorist Asset Tracking Center.

(c) DEADLINE FOR ESTABLISHMENT.—The element required by subsection (a) shall be established as soon as practicable after the date of the enactment of this Act, but not later than 90 days after that date.

SEC. 342. SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS (FITA).

(a) SEMIANNUAL REPORT.—

(1) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by adding at the end the following new section:

“SEMIANNUAL REPORT ON FINANCIAL INTELLIGENCE ON TERRORIST ASSETS

50 USC 404m.

“SEC. 118. (a) SEMIANNUAL REPORT.—On a semiannual basis, the Secretary of the Treasury (acting through the head of the Office of Intelligence Support) shall submit a report to the appropriate congressional committees that fully informs the committees concerning operations against terrorist financial networks. Each such report shall include with respect to the preceding six-month period—

“(1) the total number of asset seizures, designations, and other actions against individuals or entities found to have engaged in financial support of terrorism;

“(2) the total number of applications for asset seizure and designations of individuals or entities suspected of having engaged in financial support of terrorist activities that were granted, modified, or denied;

“(3) the total number of physical searches of offices, residences, or financial records of individuals or entities suspected of having engaged in financial support for terrorist activity; and

“(4) whether the financial intelligence information seized in these cases has been shared on a full and timely basis with the all departments, agencies, and other entities of the United States Government involved in intelligence activities participating in the Foreign Terrorist Asset Tracking Center.

“(b) IMMEDIATE NOTIFICATION FOR EMERGENCY DESIGNATION.—In the case of a designation of an individual or entity, or the assets of an individual or entity, as having been found to have engaged in terrorist activities, the Secretary of the Treasury shall report such designation within 24 hours of such a designation to the appropriate congressional committees.

“(c) SUBMITTAL DATE OF REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of the reports required to be submitted under subsection (a) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507.

“(d) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’ means the following:

“(1) The Permanent Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Financial Services of the House of Representatives.

“(2) The Select Committee on Intelligence, the Committee on Appropriations, and the Committee on Banking, Housing, and Urban Affairs of the Senate.”.

(2) CLERICAL AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting after the item relating to section 117 the following new item:

“Sec. 118. Semiannual report on financial intelligence on terrorist assets.”.

(b) CONFORMING AMENDMENT.—Section 501(f) of the National Security Act of 1947 (50 U.S.C. 413(f)) is amended by inserting before the period the following: “, and includes financial intelligence activities”.

SEC. 343. TERRORIST IDENTIFICATION CLASSIFICATION SYSTEM.

50 USC 404n-2.

(a) REQUIREMENT.—(1) The Director of Central Intelligence, acting as head of the Intelligence Community, shall—

(A) establish and maintain a list of individuals who are known or suspected international terrorists, and of organizations that are known or suspected international terrorist organizations; and

(B) ensure that pertinent information on the list is shared with the departments, agencies, and organizations described by subsection (c).

(2) The list under paragraph (1), and the mechanisms for sharing information on the list, shall be known as the “Terrorist Identification Classification System”.

(b) ADMINISTRATION.—(1) The Director shall prescribe requirements for the inclusion of an individual or organization on the list required by subsection (a), and for the deletion or omission from the list of an individual or organization currently on the list.

(2) The Director shall ensure that the information utilized to determine the inclusion, or deletion or omission, of an individual or organization on or from the list is derived from all-source intelligence.

(3) The Director shall ensure that the list is maintained in accordance with existing law and regulations governing the collection, storage, and dissemination of intelligence concerning United States persons.

(c) INFORMATION SHARING.—Subject to section 103(c)(6) of the National Security Act of 1947 (50 U.S.C. 403-3(c)(6)), relating to the protection of intelligence sources and methods, the Director shall provide for the sharing of the list, and information on the list, with such departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations as the Director considers appropriate.

(d) REPORTING AND CERTIFICATION.—(1) The Director shall review on an annual basis the information provided by various departments and agencies for purposes of the list under subsection (a) in order to determine whether or not the information so provided is derived from the widest possible range of intelligence available to such departments and agencies.

(2) The Director shall, as a result of each review under paragraph (1), certify whether or not the elements of the intelligence community responsible for the collection of intelligence related to the list have provided information for purposes of the list that is derived from the widest possible range of intelligence available to such department and agencies.

Deadline.

(e) REPORT ON CRITERIA FOR INFORMATION SHARING.—(1) Not later than March 1, 2003, the Director shall submit to the congressional intelligence committees a report describing the criteria used to determine which types of information on the list required by subsection (a) are to be shared, and which types of information are not to be shared, with various departments and agencies of the Federal Government, State and local government agencies, and entities of foreign governments and international organizations.

(2) The report shall include a description of the circumstances in which the Director has determined that sharing information on the list with the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c) would be inappropriate due to the concerns addressed by section 103(c)(6) of the National Security Act of 1947, relating to the protection of sources and methods, and any instance in which the sharing of information on the list has been inappropriate in light of such concerns.

(f) SYSTEM ADMINISTRATION REQUIREMENTS.—(1) The Director shall, to the maximum extent practicable, ensure the interoperability of the Terrorist Identification Classification System with relevant information systems of the departments and agencies of the Federal Government, and of State and local governments, described by subsection (c).

(2) The Director shall ensure that the System utilizes technologies that are effective in aiding the identification of individuals in the field.

Deadline.

(g) REPORT ON STATUS OF SYSTEM.—(1) Not later than one year after the date of the enactment of this Act, the Director shall, in consultation with the Director of Homeland Security, submit to the congressional intelligence committees a report on the status of the Terrorist Identification Classification System. The report shall contain a certification on the following:

(A) Whether the System contains the intelligence information necessary to facilitate the contribution of the System to the domestic security of the United States.

(B) Whether the departments and agencies having access to the System have access in a manner that permits such

departments and agencies to carry out appropriately their domestic security responsibilities.

(C) Whether the System is operating in a manner that maximizes its contribution to the domestic security of the United States.

(D) If a certification under subparagraph (A), (B), or (C) is in the negative, the modifications or enhancements of the System necessary to ensure a future certification in the positive.

(2) The report shall be submitted in unclassified form, but may include a classified annex.

(h) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term “congressional intelligence committees” means—

(1) the Select Committee on Intelligence of the Senate; and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

Subtitle F—Other Matters

SEC. 351. ADDITIONAL ONE-YEAR SUSPENSION OF REORGANIZATION OF DIPLOMATIC TELECOMMUNICATIONS SERVICE PROGRAM OFFICE.

Section 311 of the Intelligence Authorization Act for Fiscal Year 2002 (Public Law 107–108; 22 U.S.C. 7301 note; 115 Stat. 1401) is amended—

(1) in the heading, by striking “**ONE-YEAR**” and inserting “**TWO-YEAR**”; and

(2) in the text, by striking “October 1, 2002” and inserting “October 1, 2003”.

SEC. 352. STANDARDIZED transliteration of names into the Roman alphabet.

50 USC 403–3
note.

(a) METHOD OF transliteration REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Director of Central Intelligence shall provide for a standardized method for transliterating into the Roman alphabet personal and place names originally rendered in any language that uses an alphabet other than the Roman alphabet.

Deadline.

(b) USE BY INTELLIGENCE COMMUNITY.—The Director shall ensure the use of the method established under subsection (a) in—

(1) all communications among the elements of the intelligence community; and

(2) all intelligence products of the intelligence community.

SEC. 353. DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES IN NATIONAL SECURITY ACT OF 1947.

(a) IN GENERAL.—Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended by adding at the end the following new paragraph:

“(7) The term ‘congressional intelligence committees’ means—

“(A) the Select Committee on Intelligence of the Senate;

and

“(B) the Permanent Select Committee on Intelligence of the House of Representatives.”.

(b) CONFORMING AMENDMENTS.—(1) That Act is further amended by striking “Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives” and inserting “congressional intelligence committees” in each of the following provisions:

(A) Section 104(d)(4) (50 U.S.C. 403-4(d)(4)).

(B) Section 603(a) (50 U.S.C. 423(a)).

(2) That Act is further amended by striking “Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate” and inserting “congressional intelligence committees” in each of the following provisions:

(A) Section 301(j) (50 U.S.C. 409a(j)).

(B) Section 801(b)(2) (50 U.S.C. 435(b)(2)).

(C) Section 903 (50 U.S.C. 441b).

(3) That Act is further amended by striking “intelligence committees” and inserting “congressional intelligence committees” each place it appears in each of the following provisions:

(A) Section 501 (50 U.S.C. 413).

(B) Section 502 (50 U.S.C. 413a).

(C) Section 503 (50 U.S.C. 413b).

(D) Section 504(d)(2) (50 U.S.C. 414(d)(2)).

(4) Section 104(d)(5) of that Act (50 U.S.C. 403-4(d)(5)) is amended by striking “Select Committee on Intelligence of the Senate and to the Permanent Select Committee on Intelligence of the House of Representatives” and inserting “congressional intelligence committees”.

(5) Section 105C(a)(3)(C) of that Act (50 U.S.C. 403-5c(a)(3)(C)) is amended—

(A) by striking clauses (i) and (ii) and inserting the following new clause (i):

“(i) The congressional intelligence committees.”; and

(B) by redesignating clauses (iii), (iv), (v), and (vi) as clauses (ii), (iii), (iv), and (v), respectively.

(6) Section 114 of that Act (50 U.S.C. 404i), as amended by section 324, is amended by striking subsection (d), as so redesignated, and inserting the following new subsection (d):

“(d) CONGRESSIONAL LEADERSHIP DEFINED.—In this section, the term ‘congressional leadership’ means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.”.

(7) Section 501(a) of that Act (50 U.S.C. 413(a)), as amended by paragraph (3) of this subsection, is further amended—

(A) by striking paragraph (2); and

(B) by redesignating paragraph (3) as paragraph (2).

(8) Section 503(c)(4) of that Act (50 U.S.C. 413b(c)(4)) is amended by striking “intelligence committee” and inserting “congressional intelligence committee”.

(9) Section 602(c) of that Act (50 U.S.C. 422(c)) is amended by striking “the Select Committee on Intelligence of the Senate or to the Permanent Select Committee on Intelligence of the House of Representatives” and inserting “either congressional intelligence committee”.

(10) Section 701(c)(3) of that Act (50 U.S.C. 431(c)(3)) is amended by striking “intelligence committees of the Congress” and inserting “congressional intelligence committees”.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. TWO-YEAR EXTENSION OF CENTRAL INTELLIGENCE AGENCY VOLUNTARY SEPARATION PAY ACT.

Section 2 of the Central Intelligence Agency Voluntary Separation Pay Act (50 U.S.C. 403-4 note) is amended—

(1) in subsection (f), by striking “September 30, 2003” and inserting “September 30, 2005”; and

(2) in subsection (i), by striking “or 2003” and inserting “2003, 2004, or 2005”.

SEC. 402. IMPLEMENTATION OF COMPENSATION REFORM PLAN.

50 USC 403-4
note.

(a) DELAY ON IMPLEMENTATION ON COMPENSATION REFORM PLAN.—(1) The Director of Central Intelligence may not implement before the implementation date (described in paragraph (2)) a plan for the compensation of employees of the Central Intelligence Agency that differs from the plan in effect on October 1, 2002.

(2) The implementation date referred to in paragraph (1) is February 1, 2004, or the date on which the Director submits to the congressional intelligence committees a report on the pilot project conducted under subsection (b), whichever is later.

(3) It is the sense of Congress that an employee performance evaluation mechanism with evaluation training for managers and employees of the Central Intelligence Agency should be phased in before the implementation of any new compensation plan.

(b) PILOT PROJECT.—(1) The Director shall conduct a pilot project to test the efficacy and fairness of a plan for the compensation of employees of the Central Intelligence Agency that differs from the plan in effect on October 1, 2002, within any one component of the Central Intelligence Agency selected by the Director, other than a component for which a pilot project on employee compensation has been previously conducted.

(2) The pilot project under paragraph (1) shall be conducted for a period of at least 1 year.

(3) Not later than the date that is 45 days after the completion of the pilot project under paragraph (1), the Director shall submit to the congressional intelligence committees a report that contains an evaluation of the project and such recommendations as the Director considers appropriate for the modification of the plans for the compensation of employees throughout the Agency which are in effect on such date.

Deadline.

(c) SENSE OF CONGRESS ON IMPLEMENTATION OF COMPENSATION REFORM PLAN FOR THE NATIONAL SECURITY AGENCY.—It is the sense of Congress that—

(1) the Director of the National Security Agency should not implement before February 1, 2004, a plan for the compensation of employees of the National Security Agency that differs from the plan in effect on October 1, 2002; and

(2) an employee performance evaluation mechanism with evaluation training for managers and employees of the National Security Agency should be phased in before the implementation of any new compensation plan.

(d) CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.—In this section, the term “congressional intelligence committees” means

the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. USE OF FUNDS FOR COUNTERDRUG AND COUNTERTERRORISM ACTIVITIES FOR COLOMBIA.

(a) **AUTHORITY.**—Funds designated for intelligence or intelligence-related purposes for assistance to the Government of Colombia for counterdrug activities for fiscal years 2002 and 2003, and any unobligated funds available to any element of the intelligence community for such activities for a prior fiscal year, shall be available to support a unified campaign against narcotics trafficking and against activities by organizations designated as terrorist organizations (such as the Revolutionary Armed Forces of Colombia (FARC), the National Liberation Army (ELN), and the United Self-Defense Forces of Colombia (AUC)), and to take actions to protect human health and welfare in emergency circumstances, including undertaking rescue operations.

(b) **REQUIREMENT FOR CERTIFICATION.**—(1) The authorities provided in subsection (a) shall not be exercised until the Secretary of Defense certifies to the Congress that the provisions of paragraph (2) have been complied with.

(2) In order to ensure the effectiveness of United States support for such a unified campaign, prior to the exercise of the authority contained in subsection (a), the Secretary of State shall report to the appropriate committees of Congress that the newly elected President of Colombia has—

(A) committed, in writing, to establish comprehensive policies to combat illicit drug cultivation, manufacturing, and trafficking (particularly with respect to providing economic opportunities that offer viable alternatives to illicit crops) and to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations;

(B) committed, in writing, to implement significant budgetary and personnel reforms of the Colombian Armed Forces; and

(C) committed, in writing, to support substantial additional Colombian financial and other resources to implement such policies and reforms, particularly to meet the country's previous commitments under "Plan Colombia".

In this paragraph, the term "appropriate committees of Congress" means the Permanent Select Committee on Intelligence and the Committees on Appropriations and Armed Services of the House of Representatives and the Select Committee on Intelligence and the Committees on Appropriations and Armed Services of the Senate.

(c) **TERMINATION OF AUTHORITY.**—The authority provided in subsection (a) shall cease to be effective if the Secretary of Defense has credible evidence that the Colombian Armed Forces are not conducting vigorous operations to restore government authority and respect for human rights in areas under the effective control of paramilitary and guerrilla organizations.

(d) APPLICATION OF CERTAIN PROVISIONS OF LAW.—Sections 556, 567, and 568 of Public Law 107-115, section 8093 of the Department of Defense Appropriations Act, 2002, and the numerical limitations on the number of United States military personnel and United States individual civilian contractors in section 3204(b)(1) of Public Law 106-246 shall be applicable to funds made available pursuant to the authority contained in subsection (a).

(e) LIMITATION ON PARTICIPATION OF UNITED STATES PERSONNEL.—No United States Armed Forces personnel or United States civilian contractor employed by the United States will participate in any combat operation in connection with assistance made available under this section, except for the purpose of acting in self defense or rescuing any United States citizen to include United States Armed Forces personnel, United States civilian employees, and civilian contractors employed by the United States.

SEC. 502. PROTECTION OF OPERATIONAL FILES OF THE NATIONAL RECONNAISSANCE OFFICE.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 105C (50 U.S.C. 403-5c) the following new section:

“PROTECTION OF OPERATIONAL FILES OF THE NATIONAL
RECONNAISSANCE OFFICE

“SEC. 105D. (a) EXEMPTION OF CERTAIN OPERATIONAL FILES FROM SEARCH, REVIEW, PUBLICATION, OR DISCLOSURE.—(1) The Director of the National Reconnaissance Office, with the coordination of the Director of Central Intelligence, may exempt operational files of the National Reconnaissance Office from the provisions of section 552 of title 5, United States Code, which require publication, disclosure, search, or review in connection therewith. 50 USC 403-5e.

“(2)(A) Subject to subparagraph (B), for the purposes of this section, the term ‘operational files’ means files of the National Reconnaissance Office (hereafter in this section referred to as ‘NRO’) that document the means by which foreign intelligence or counterintelligence is collected through scientific and technical systems.

“(B) Files which are the sole repository of disseminated intelligence are not operational files.

“(3) Notwithstanding paragraph (1), exempted operational files shall continue to be subject to search and review for information concerning—

“(A) United States citizens or aliens lawfully admitted for permanent residence who have requested information on themselves pursuant to the provisions of section 552 or 552a of title 5, United States Code;

“(B) any special activity the existence of which is not exempt from disclosure under the provisions of section 552 of title 5, United States Code; or

“(C) the specific subject matter of an investigation by any of the following for any impropriety, or violation of law, Executive order, or Presidential directive, in the conduct of an intelligence activity:

“(i) The Permanent Select Committee on Intelligence of the House of Representatives.

“(ii) The Select Committee on Intelligence of the Senate.

“(iii) The Intelligence Oversight Board.

“(iv) The Department of Justice.

“(v) The Office of General Counsel of NRO.

“(vi) The Office of the Director of NRO.

“(4)(A) Files that are not exempted under paragraph (1) which contain information derived or disseminated from exempted operational files shall be subject to search and review.

“(B) The inclusion of information from exempted operational files in files that are not exempted under paragraph (1) shall not affect the exemption under paragraph (1) of the originating operational files from search, review, publication, or disclosure.

“(C) The declassification of some of the information contained in exempted operational files shall not affect the status of the operational file as being exempt from search, review, publication, or disclosure.

“(D) Records from exempted operational files which have been disseminated to and referenced in files that are not exempted under paragraph (1) and which have been returned to exempted operational files for sole retention shall be subject to search and review.

“(5) The provisions of paragraph (1) may not be superseded except by a provision of law which is enacted after the date of the enactment of this section, and which specifically cites and repeals or modifies its provisions.

“(6)(A) Except as provided in subparagraph (B), whenever any person who has requested agency records under section 552 of title 5, United States Code, alleges that NRO has withheld records improperly because of failure to comply with any provision of this section, judicial review shall be available under the terms set forth in section 552(a)(4)(B) of title 5, United States Code.

“(B) Judicial review shall not be available in the manner provided for under subparagraph (A) as follows:

“(i) In any case in which information specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign relations is filed with, or produced for, the court by NRO, such information shall be examined *ex parte*, *in camera* by the court.

“(ii) The court shall, to the fullest extent practicable, determine the issues of fact based on sworn written submissions of the parties.

“(iii) When a complainant alleges that requested records are improperly withheld because of improper placement solely in exempted operational files, the complainant shall support such allegation with a sworn written submission based upon personal knowledge or otherwise admissible evidence.

“(iv)(I) When a complainant alleges that requested records were improperly withheld because of improper exemption of operational files, NRO shall meet its burden under section 552(a)(4)(B) of title 5, United States Code, by demonstrating to the court by sworn written submission that exempted operational files likely to contain responsible records currently perform the functions set forth in paragraph (2).

“(II) The court may not order NRO to review the content of any exempted operational file or files in order to make the demonstration required under subclause (I), unless the complainant disputes NRO’s showing with a sworn written submission based on personal knowledge or otherwise admissible evidence.

“(v) In proceedings under clauses (iii) and (iv), the parties may not obtain discovery pursuant to rules 26 through 36 of the Federal Rules of Civil Procedure, except that requests for admissions may be made pursuant to rules 26 and 36.

“(vi) If the court finds under this paragraph that NRO has improperly withheld requested records because of failure to comply with any provision of this subsection, the court shall order NRO to search and review the appropriate exempted operational file or files for the requested records and make such records, or portions thereof, available in accordance with the provisions of section 552 of title 5, United States Code, and such order shall be the exclusive remedy for failure to comply with this subsection.

“(vii) If at any time following the filing of a complaint pursuant to this paragraph NRO agrees to search the appropriate exempted operational file or files for the requested records, the court shall dismiss the claim based upon such complaint.

“(viii) Any information filed with, or produced for the court pursuant to clauses (i) and (iv) shall be coordinated with the Director of Central Intelligence prior to submission to the court.

“(b) DECENNIAL REVIEW OF EXEMPTED OPERATIONAL FILES.—

(1) Not less than once every 10 years, the Director of the National Reconnaissance Office and the Director of Central Intelligence shall review the exemptions in force under subsection (a)(1) to determine whether such exemptions may be removed from the category of exempted files or any portion thereof. The Director of Central Intelligence must approve any determination to remove such exemptions.

“(2) The review required by paragraph (1) shall include consideration of the historical value or other public interest in the subject matter of the particular category of files or portions thereof and the potential for declassifying a significant part of the information contained therein.

“(3) A complainant that alleges that NRO has improperly withheld records because of failure to comply with this subsection may seek judicial review in the district court of the United States of the district in which any of the parties reside, or in the District of Columbia. In such a proceeding, the court’s review shall be limited to determining the following:

“(A) Whether NRO has conducted the review required by paragraph (1) before the expiration of the 10-year period beginning on the date of the enactment of this section or before the expiration of the 10-year period beginning on the date of the most recent review.

“(B) Whether NRO, in fact, considered the criteria set forth in paragraph (2) in conducting the required review.”.

(b) CLERICAL AMENDMENT.—The table of sections for that Act is amended by inserting after the item relating to section 105C the following new item:

“Sec. 105D. Protection of operational files of the National Reconnaissance Office.”.

SEC. 503. ELIGIBILITY OF EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS FOR PRESIDENTIAL RANK AWARDS.

Section 1607 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c) AWARD OF RANK TO EMPLOYEES IN INTELLIGENCE SENIOR LEVEL POSITIONS.—The President, based on the recommendations of the Secretary of Defense, may award a rank referred to in section 4507a of title 5 to employees in Intelligence Senior Level positions designated under subsection (a). The award of such rank shall be made in a manner consistent with the provisions of that section.”.

TITLE VI—NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES

6 USC 101 note. **SEC. 601. ESTABLISHMENT OF COMMISSION.**

There is established in the legislative branch the National Commission on Terrorist Attacks Upon the United States (in this title referred to as the “Commission”).

6 USC 101 note. **SEC. 602. PURPOSES.**

The purposes of the Commission are to—

(1) examine and report upon the facts and causes relating to the terrorist attacks of September 11, 2001, occurring at the World Trade Center in New York, New York, in Somerset County, Pennsylvania, and at the Pentagon in Virginia;

(2) ascertain, evaluate, and report on the evidence developed by all relevant governmental agencies regarding the facts and circumstances surrounding the attacks;

(3) build upon the investigations of other entities, and avoid unnecessary duplication, by reviewing the findings, conclusions, and recommendations of—

(A) the Joint Inquiry of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives regarding the terrorist attacks of September 11, 2001, (hereinafter in this title referred to as the “Joint Inquiry”); and

(B) other executive branch, congressional, or independent commission investigations into the terrorist attacks of September 11, 2001, other terrorist attacks, and terrorism generally;

(4) make a full and complete accounting of the circumstances surrounding the attacks, and the extent of the United States’ preparedness for, and immediate response to, the attacks; and

(5) investigate and report to the President and Congress on its findings, conclusions, and recommendations for corrective measures that can be taken to prevent acts of terrorism.

6 USC 101 note. **SEC. 603. COMPOSITION OF COMMISSION.**

(a) MEMBERS.—The Commission shall be composed of 10 members, of whom—

(1) 1 member shall be appointed by the President, who shall serve as chairman of the Commission;

(2) 1 member shall be appointed by the leader of the Senate (majority or minority leader, as the case may be) of the Democratic Party, in consultation with the leader of the House of Representatives (majority or minority leader, as the

case may be) of the Democratic Party, who shall serve as vice chairman of the Commission;

(3) 2 members shall be appointed by the senior member of the Senate leadership of the Democratic Party;

(4) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Republican Party;

(5) 2 members shall be appointed by the senior member of the Senate leadership of the Republican Party; and

(6) 2 members shall be appointed by the senior member of the leadership of the House of Representatives of the Democratic Party.

(b) **QUALIFICATIONS; INITIAL MEETING.**—

(1) **POLITICAL PARTY AFFILIATION.**—Not more than 5 members of the Commission shall be from the same political party.

(2) **NONGOVERNMENTAL APPOINTEES.**—An individual appointed to the Commission may not be an officer or employee of the Federal Government or any State or local government.

(3) **OTHER QUALIFICATIONS.**—It is the sense of Congress that individuals appointed to the Commission should be prominent United States citizens, with national recognition and significant depth of experience in such professions as governmental service, law enforcement, the armed services, law, public administration, intelligence gathering, commerce (including aviation matters), and foreign affairs.

(4) **DEADLINE FOR APPOINTMENT.**—All members of the Commission shall be appointed on or before December 15, 2002.

(5) **INITIAL MEETING.**—The Commission shall meet and begin the operations of the Commission as soon as practicable.

(c) **QUORUM; VACANCIES.**—After its initial meeting, the Commission shall meet upon the call of the chairman or a majority of its members. Six members of the Commission shall constitute a quorum. Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

SEC. 604. FUNCTIONS OF COMMISSION.

6 USC 101 note.

(a) **IN GENERAL.**—The functions of the Commission are to—

(1) conduct an investigation that—

(A) investigates relevant facts and circumstances relating to the terrorist attacks of September 11, 2001, including any relevant legislation, Executive order, regulation, plan, policy, practice, or procedure; and

(B) may include relevant facts and circumstances relating to—

(i) intelligence agencies;

(ii) law enforcement agencies;

(iii) diplomacy;

(iv) immigration, nonimmigrant visas, and border control;

(v) the flow of assets to terrorist organizations;

(vi) commercial aviation;

(vii) the role of congressional oversight and resource allocation; and

(viii) other areas of the public and private sectors determined relevant by the Commission for its inquiry;

(2) identify, review, and evaluate the lessons learned from the terrorist attacks of September 11, 2001, regarding the structure, coordination, management policies, and procedures of the Federal Government, and, if appropriate, State and local governments and nongovernmental entities, relative to detecting, preventing, and responding to such terrorist attacks; and

(3) submit to the President and Congress such reports as are required by this title containing such findings, conclusions, and recommendations as the Commission shall determine, including proposing organization, coordination, planning, management arrangements, procedures, rules, and regulations.

(b) **RELATIONSHIP TO INTELLIGENCE COMMITTEES' INQUIRY.**—When investigating facts and circumstances relating to the intelligence community, the Commission shall—

(1) first review the information compiled by, and the findings, conclusions, and recommendations of, the Joint Inquiry; and

(2) after that review pursue any appropriate area of inquiry if the Commission determines that—

(A) the Joint Inquiry had not investigated that area;

(B) the Joint Inquiry's investigation of that area had not been complete; or

(C) new information not reviewed by the Joint Inquiry had become available with respect to that area.

6 USC 101 note.

SEC. 605. POWERS OF COMMISSION.

(a) **IN GENERAL.**—

(1) **HEARINGS AND EVIDENCE.**—The Commission or, on the authority of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

(B) subject to paragraph (2)(A), require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member may determine advisable.

(2) **SUBPOENAS.**—

(A) **ISSUANCE.**—

(i) **IN GENERAL.**—A subpoena may be issued under this subsection only—

(I) by the agreement of the chairman and the vice chairman; or

(II) by the affirmative vote of 6 members of the Commission.

(ii) **SIGNATURE.**—Subject to clause (i), subpoenas issued under this subsection may be issued under the signature of the chairman or any member designated by a majority of the Commission, and may be served by any person designated by the chairman or by a member designated by a majority of the Commission.

(B) **ENFORCEMENT.**—

(i) **IN GENERAL.**—In the case of contumacy or failure to obey a subpoena issued under subsection

(a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found, or where the subpoena is returnable, may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(ii) ADDITIONAL ENFORCEMENT.—In the case of any failure of any witness to comply with any subpoena or to testify when summoned under authority of this section, the Commission may, by majority vote, certify a statement of fact constituting such failure to the appropriate United States attorney, who may bring the matter before the grand jury for its action, under the same statutory authority and procedures as if the United States attorney had received a certification under sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192 through 194).

(b) CONTRACTING.—The Commission may, to such extent and in such amounts as are provided in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) INFORMATION FROM FEDERAL AGENCIES.—

(1) IN GENERAL.—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality of the Government, information, suggestions, estimates, and statistics for the purposes of this title. Each department, bureau, agency, board, commission, office, independent establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the chairman, the chairman of any subcommittee created by a majority of the Commission, or any member designated by a majority of the Commission.

(2) RECEIPT, HANDLING, STORAGE, AND DISSEMINATION.—Information shall only be received, handled, stored, and disseminated by members of the Commission and its staff consistent with all applicable statutes, regulations, and Executive orders.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—

(1) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Commission on a reimbursable basis administrative support and other services for the performance of the Commission's functions.

(2) OTHER DEPARTMENTS AND AGENCIES.—In addition to the assistance prescribed in paragraph (1), departments and agencies of the United States may provide to the Commission such services, funds, facilities, staff, and other support services as they may determine advisable and as may be authorized by law.

(e) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

6 USC 101 note. **SEC. 606. NONAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**

(a) IN GENERAL.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(b) PUBLIC MEETINGS AND RELEASE OF PUBLIC VERSIONS OF REPORTS.—The Commission shall—

(1) hold public hearings and meetings to the extent appropriate; and

(2) release public versions of the reports required under section 610(a) and (b).

(c) PUBLIC HEARINGS.—Any public hearings of the Commission shall be conducted in a manner consistent with the protection of information provided to or developed for or by the Commission as required by any applicable statute, regulation, or Executive order.

6 USC 101 note. **SEC. 607. STAFF OF COMMISSION.**

(a) IN GENERAL.—

(1) APPOINTMENT AND COMPENSATION.—The chairman, in consultation with vice chairman, in accordance with rules agreed upon by the Commission, may appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) PERSONNEL AS FEDERAL EMPLOYEES.—

(A) IN GENERAL.—The executive director and any personnel of the Commission who are employees shall be employees under section 2105 of title 5, United States Code, for purposes of chapters 63, 81, 83, 84, 85, 87, 89, and 90 of that title.

(B) MEMBERS OF COMMISSION.—Subparagraph (A) shall not be construed to apply to members of the Commission.

(b) DETAILEES.—Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(c) CONSULTANT SERVICES.—The Commission is authorized to procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

6 USC 101 note. **SEC. 608. COMPENSATION AND TRAVEL EXPENSES.**

(a) COMPENSATION.—Each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission.

(b) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

SEC. 609. SECURITY CLEARANCES FOR COMMISSION MEMBERS AND STAFF.

6 USC 101 note.

The appropriate Federal agencies or departments shall cooperate with the Commission in expeditiously providing to the Commission members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements, except that no person shall be provided with access to classified information under this title without the appropriate security clearances.

SEC. 610. REPORTS OF COMMISSION; TERMINATION.

6 USC 101 note.

(a) **INTERIM REPORTS.**—The Commission may submit to the President and Congress interim reports containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

(b) **FINAL REPORT.**—Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to the President and Congress a final report containing such findings, conclusions, and recommendations for corrective measures as have been agreed to by a majority of Commission members.

Deadline.

(c) **TERMINATION.**—

(1) **IN GENERAL.**—The Commission, and all the authorities of this title, shall terminate 60 days after the date on which the final report is submitted under subsection (b).

(2) **ADMINISTRATIVE ACTIVITIES BEFORE TERMINATION.**—The Commission may use the 60-day period referred to in paragraph (1) for the purpose of concluding its activities, including providing testimony to committees of Congress concerning its reports and disseminating the final report.

SEC. 611. FUNDING.

6 USC 101 note.

(a) **TRANSFER FROM THE NATIONAL FOREIGN INTELLIGENCE PROGRAM.**—Of the amounts authorized to be appropriated by this Act and made available in public law 107–248 (Department of Defense Appropriations Act, 2003) for the National Foreign Intelligence Program, not to exceed \$3,000,000 shall be available for transfer to the Commission for purposes of the activities of the Commission under this title.

(b) **DURATION OF AVAILABILITY.**—Amounts made available to the Commission under subsection (a) shall remain available until the termination of the Commission.

TITLE VII—INFORMATION SHARING

Homeland
Security
Information
Sharing Act.

SEC. 701. SHORT TITLE.

This title may be cited as the “Homeland Security Information Sharing Act”.

SEC. 702. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—The Congress finds the following:

(1) The Federal Government is required by the Constitution to provide for the common defense, which includes defense against terrorist attacks.

(2) The Federal Government relies on State and local personnel to protect against terrorist attacks.

(3) The Federal Government collects, creates, manages, and protects classified and sensitive but unclassified information to enhance homeland security.

(4) Some homeland security information is needed by the State and local personnel to prevent and prepare for terrorist attacks.

(5) The needs of State and local personnel to have access to relevant homeland security information to combat terrorism must be reconciled with the need to preserve the protected status of such information and to protect the sources and methods used to acquire such information.

(6) Granting security clearances to certain State and local personnel is one way to facilitate the sharing of information regarding specific terrorist threats among Federal, State, and local levels of government.

(7) Methods exist to declassify, redact, or otherwise adapt classified information so it may be shared with State and local personnel without the need for granting additional security clearances.

(8) State and local personnel have capabilities and opportunities to gather information on suspicious activities and terrorist threats not possessed by Federal agencies.

(9) The Federal Government and State and local governments and agencies in other jurisdictions may benefit from such information.

(10) Federal, State, and local governments and intelligence, law enforcement, and other emergency preparation and response agencies must act in partnership to maximize the benefits of information gathering and analysis to prevent and respond to terrorist attacks.

(11) Information systems, including the National Law Enforcement Telecommunications System and the Terrorist Threat Warning System, have been established for rapid sharing of classified and sensitive but unclassified information among Federal, State, and local entities.

(12) Increased efforts to share homeland security information should avoid duplicating existing information systems.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Federal, State, and local entities should share homeland security information to the maximum extent practicable, with special emphasis on hard-to-reach urban and rural communities.

SEC. 703. FACILITATING HOMELAND SECURITY INFORMATION SHARING PROCEDURES.

(a) PROCEDURES FOR DETERMINING EXTENT OF SHARING OF HOMELAND SECURITY INFORMATION.—(1) The President shall prescribe and implement procedures under which relevant Federal agencies determine—

President.

(A) whether, how, and to what extent homeland security information may be shared with appropriate State and local personnel, and with which such personnel it may be shared;

(B) how to identify and safeguard homeland security information that is sensitive but unclassified; and

(C) to the extent such information is in classified form, whether, how, and to what extent to remove classified information, as appropriate, and with which such personnel it may be shared after such information is removed.

(2) The President shall ensure that such procedures apply to all agencies of the Federal Government.

(3) Such procedures shall not change the substantive requirements for the classification and safeguarding of classified information.

(4) Such procedures shall not change the requirements and authorities to protect sources and methods.

(b) PROCEDURES FOR SHARING OF HOMELAND SECURITY INFORMATION.—(1) Under procedures prescribed by the President, all appropriate agencies, including the intelligence community, shall, through information sharing systems, share homeland security information with appropriate State and local personnel to the extent such information may be shared, as determined in accordance with subsection (a), together with assessments of the credibility of such information.

(2) Each information sharing system through which information is shared under paragraph (1) shall—

(A) have the capability to transmit unclassified or classified information, though the procedures and recipients for each capability may differ;

(B) have the capability to restrict delivery of information to specified subgroups by geographic location, type of organization, position of a recipient within an organization, or a recipient's need to know such information;

(C) be configured to allow the efficient and effective sharing of information; and

(D) be accessible to appropriate State and local personnel.

(3) The procedures prescribed under paragraph (1) shall establish conditions on the use of information shared under paragraph (1)—

(A) to limit the redissemination of such information to ensure that such information is not used for an unauthorized purpose;

(B) to ensure the security and confidentiality of such information;

(C) to protect the constitutional and statutory rights of any individuals who are subjects of such information; and

(D) to provide data integrity through the timely removal and destruction of obsolete or erroneous names and information.

(4) The procedures prescribed under paragraph (1) shall ensure, to the greatest extent practicable, that the information sharing system through which information is shared under such paragraph include existing information sharing systems, including, but not limited to, the National Law Enforcement Telecommunications System, the Regional Information Sharing System, and the Terrorist Threat Warning System of the Federal Bureau of Investigation.

(5) Each appropriate Federal agency, as determined by the President, shall have access to each information sharing system

through which information is shared under paragraph (1), and shall therefore have access to all information, as appropriate, shared under such paragraph.

(6) The procedures prescribed under paragraph (1) shall ensure that appropriate State and local personnel are authorized to use such information sharing systems—

(A) to access information shared with such personnel; and

(B) to share, with others who have access to such information sharing systems, the homeland security information of their own jurisdictions, which shall be marked appropriately as pertaining to potential terrorist activity.

(7) Under procedures prescribed jointly by the Director of Central Intelligence and the Attorney General, each appropriate Federal agency, as determined by the President, shall review and assess the information shared under paragraph (6) and integrate such information with existing intelligence.

(c) SHARING OF CLASSIFIED INFORMATION AND SENSITIVE BUT UNCLASSIFIED INFORMATION WITH STATE AND LOCAL PERSONNEL.—

President.

(1) The President shall prescribe procedures under which Federal agencies may, to the extent the President considers necessary, share with appropriate State and local personnel homeland security information that remains classified or otherwise protected after the determinations prescribed under the procedures set forth in subsection (a).

(2) It is the sense of Congress that such procedures may include one or more of the following means:

(A) Carrying out security clearance investigations with respect to appropriate State and local personnel.

(B) With respect to information that is sensitive but unclassified, entering into nondisclosure agreements with appropriate State and local personnel.

(C) Increased use of information-sharing partnerships that include appropriate State and local personnel, such as the Joint Terrorism Task Forces of the Federal Bureau of Investigation, the Anti-Terrorism Task Forces of the Department of Justice, and regional Terrorism Early Warning Groups.

(d) RESPONSIBLE OFFICIALS.—For each affected Federal agency, the head of such agency shall designate an official to administer this title with respect to such agency.

(e) FEDERAL CONTROL OF INFORMATION.—Under procedures prescribed under this section, information obtained by a State or local government from a Federal agency under this section shall remain under the control of the Federal agency, and a State or local law authorizing or requiring such a government to disclose information shall not apply to such information.

(f) DEFINITIONS.—As used in this section:

(1) The term “homeland security information” means any information (other than information that includes individually identifiable information collected solely for statistical purposes) possessed by a Federal, State, or local agency that—

(A) relates to the threat of terrorist activity;

(B) relates to the ability to prevent, interdict, or disrupt terrorist activity;

(C) would improve the identification or investigation of a suspected terrorist or terrorist organization; or

(D) would improve the response to a terrorist act.

(2) The term “intelligence community” has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(3) The term “State and local personnel” means any of the following persons involved in prevention, preparation, or response for terrorist attacks:

(A) State Governors, mayors, and other locally elected officials.

(B) State and local law enforcement personnel and firefighters.

(C) Public health and medical professionals.

(D) Regional, State, and local emergency management agency personnel, including State adjutant generals.

(E) Other appropriate emergency response agency personnel.

(F) Employees of private sector entities that affect critical infrastructure, cyber, economic, or public health security, as designated by the Federal Government in procedures developed pursuant to this section.

(4) The term “State” includes the District of Columbia and any commonwealth, territory, or possession of the United States.

SEC. 704. REPORT.

(a) REPORT REQUIRED.—Not later than 12 months after the date of the enactment of this Act, the President shall submit to the congressional committees specified in subsection (b) a report on the implementation of section 703. The report shall include any recommendations for additional measures or appropriation requests, beyond the requirements of section 703, to increase the effectiveness of sharing of information between and among Federal, State, and local entities.

Deadline.
President.

(b) SPECIFIED CONGRESSIONAL COMMITTEES.—The congressional committees referred to in subsection (a) are the following committees:

(1) The Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.

(2) The Select Committee on Intelligence and the Committee on the Judiciary of the Senate.

SEC. 705. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out section 703.

SEC. 706. COORDINATION PROVISION.

(a) PRIOR ENACTMENT.—If this Act is enacted before the Homeland Security Act of 2002, then upon the date of the enactment of the Homeland Security Act of 2002, this title shall be deemed for all purposes not to have taken effect and shall cease to be in effect.

(b) SUBSEQUENT ENACTMENT.—If the Homeland Security Act of 2002 is enacted before this Act, then this title shall not take effect.

TITLE VIII—REPORTING REQUIREMENTS

Subtitle A—Overdue Reports

50 USC 415b
note.

SEC. 801. DEADLINE FOR SUBMITTAL OF VARIOUS OVERDUE REPORTS.

(a) DEADLINE.—The reports described in subsection (c) shall be submitted to Congress not later than 180 days after the date of the enactment of this Act.

(b) NONCOMPLIANCE.—(1) If all the reports described in subsection (c) are not submitted to Congress by the date specified in subsection (a), amounts available to be obligated or expended after that date to carry out the functions or duties of the Office of the Director of Central Intelligence shall be reduced by $\frac{1}{3}$.

(2) The reduction applicable under paragraph (1) shall not apply if the Director of Central Intelligence certifies to Congress by the date referred to in subsection (a) that all reports referred to in subsection (c) have been submitted to Congress.

(c) REPORTS DESCRIBED.—The reports referred to in subsection (a) are reports mandated by law for which the Director of Central Intelligence has sole or primary responsibility to prepare, coordinate, and submit to Congress which, as of the date of the enactment of this Act, have not been submitted to Congress.

Subtitle B—Submittal of Reports to Intelligence Committees

SEC. 811. DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMI-ANNUAL REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES.

(a) IN GENERAL.—(1) Title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), as amended by section 311 of this Act, is further amended by adding at the end the following new section:

“DATES FOR SUBMITTAL OF VARIOUS ANNUAL AND SEMIANNUAL
REPORTS TO THE CONGRESSIONAL INTELLIGENCE COMMITTEES

50 USC 415b.

“SEC. 507. (a) ANNUAL REPORTS.—(1) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(A):

“(A) The annual evaluation of the performance and responsiveness of certain elements of the intelligence community required by section 105(d).

“(B) The annual report on intelligence required by section 109.

“(C) The annual report on intelligence community cooperation with Federal law enforcement agencies required by section 114(a)(2).

“(D) The annual report on the protection of the identities of covert agents required by section 603.

“(E) The annual report of the Inspectors General of the intelligence community on proposed resources and activities

of their offices required by section 8H(g) of the Inspector General Act of 1978.

“(F) The annual report on commercial activities as security for intelligence collection required by section 437(c) of title 10, United States Code.

“(G) The annual report on expenditures for postemployment assistance for terminated intelligence employees required by section 1611(e)(2) of title 10, United States Code.

“(H) The annual update on foreign industrial espionage required by section 809(b) of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103-359; 50 U.S.C. App. 2170b(b)).

“(I) The annual report on coordination of counterintelligence matters with the Federal Bureau of Investigation required by section 811(c)(6) of the Counterintelligence and Security Enhancements Act of 1994 (50 U.S.C. 402a(c)(6)).

“(J) The annual report on foreign companies involved in the proliferation of weapons of mass destruction that raise funds in the United States capital markets required by section 827 of the Intelligence Authorization Act for Fiscal Year 2003.

“(K) The annual report on certifications for immunity in interdiction of aircraft engaged in illicit drug trafficking required by section 1012(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291-4(c)(2)).

“(L) The annual report on exceptions to consumer disclosure requirements for national security investigations under section 604(b)(4)(E) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)(E)).

“(M) The annual report on activities under the David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102-183; 50 U.S.C. 1901 et seq.) required by section 806(a) of that Act (50 U.S.C. 1906(a)).

“(N) The annual report on hiring and retention of minority employees in the intelligence community required by section 114(c).

“(2) The date for the submittal to the congressional intelligence committees of the following annual reports shall be the date each year provided in subsection (c)(1)(B):

“(A) The annual report on the safety and security of Russian nuclear facilities and nuclear military forces required by section 114(b).

“(B) The annual report on the threat of attack on the United States from weapons of mass destruction required by section 114(d).

“(C) The annual report on covert leases required by section 114(e).

“(D) The annual report on improvements of the financial statements of the intelligence community for auditing purposes required by section 114A.

“(E) The annual report on activities of personnel of the Federal Bureau of Investigation outside the United States required by section 540C(c)(2) of title 28, United States Code.

“(F) The annual report on intelligence activities of the People's Republic of China required by section 308(c) of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105-107; 50 U.S.C. 402a note).

“(G) The annual report on counterdrug intelligence matters required by section 826 of the Intelligence Authorization Act for Fiscal Year 2003.

“(b) SEMIANNUAL REPORTS.—The dates for the submittal to the congressional intelligence committees of the following semi-annual reports shall be the dates each year provided in subsection (c)(2):

“(1) The periodic reports on intelligence provided to the United Nations required by section 112(b).

“(2) The semiannual reports on the Office of the Inspector General of the Central Intelligence Agency required by section 17(d)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(1)).

“(3) The semiannual reports on decisions not to prosecute certain violations of law under the Classified Information Procedures Act (18 U.S.C. App.) as required by section 13 of that Act.

“(4) The semiannual reports on the acquisition of technology relating to weapons of mass destruction and advanced conventional munitions required by section 721(b) of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104-293; 50 U.S.C. 2366(b)).

“(5) The semiannual reports on the activities of the Diplomatic Telecommunications Service Program Office (DTS-PO) required by section 322(a)(6)(D)(ii) of the Intelligence Authorization Act for Fiscal Year 2001 (22 U.S.C. 7302(a)(6)(D)(ii)).

“(6) The semiannual reports on the disclosure of information and consumer reports to the Federal Bureau of Investigation for counterintelligence purposes required by section 624(h)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(2)).

“(7) The semiannual provision of information on requests for financial information for foreign counterintelligence purposes required by section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)).

“(8) The semiannual report on financial intelligence on terrorist assets required by section 118.

“(c) SUBMITTAL DATES FOR REPORTS.—(1)(A) Except as provided in subsection (d), each annual report listed in subsection (a)(1) shall be submitted not later than February 1.

“(B) Except as provided in subsection (d), each annual report listed in subsection (a)(2) shall be submitted not later than December 1.

“(2) Except as provided in subsection (d), each semiannual report listed in subsection (b) shall be submitted not later than February 1 and August 1.

“(d) POSTPONEMENT OF SUBMITTAL.—(1) Subject to paragraph (3), the date for the submittal of—

“(A) an annual report listed in subsection (a)(1) may be postponed until March 1;

“(B) an annual report listed in subsection (a)(2) may be postponed until January 1; and

“(C) a semiannual report listed in subsection (b) may be postponed until March 1 or September 1, as the case may be,

if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

“(2)(A) Notwithstanding any other provision of law and subject to paragraph (3), the date for the submittal to the congressional intelligence committees of any report described in subparagraph (B) may be postponed by not more than 30 days from the date otherwise specified in the provision of law for the submittal of such report if the official required to submit such report submits to the congressional intelligence committees a written notification of such postponement.

“(B) A report described in this subparagraph is any report on intelligence or intelligence-related activities of the United States Government that is submitted under a provision of law requiring the submittal of only a single report.

“(3)(A) The date for the submittal of a report whose submittal is postponed under paragraph (1) or (2) may be postponed beyond the time provided for the submittal of such report under such paragraph if the official required to submit such report submits to the congressional intelligence committees a written certification that preparation and submittal of such report at such time will impede the work of officers or employees of the intelligence community in a manner that will be detrimental to the national security of the United States.

“(B) A certification with respect to a report under subparagraph (A) shall include a proposed submittal date for such report, and such report shall be submitted not later than that date.”.

(2) The table of sections for the National Security Act of 1947, as amended by section 311 of this Act, is further amended by inserting after the item relating to section 506 the following new item:

“Sec. 507. Dates for submittal of various annual and semiannual reports to the congressional intelligence committees.”.

(b) CONFORMING AMENDMENTS TO EXISTING REPORTING REQUIREMENTS.—

(1) NATIONAL SECURITY ACT OF 1947.—(A) Subsection (d) of section 105 of the National Security Act of 1947 (50 U.S.C. 403-5) is amended to read as follows:

“(d) ANNUAL EVALUATION OF PERFORMANCE AND RESPONSIVENESS OF CERTAIN ELEMENTS OF INTELLIGENCE COMMUNITY.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees the evaluation described in paragraph (3).

Deadline.

“(2) The Director shall submit each year to the Committee on Foreign Intelligence of the National Security Council, and to the Committees on Armed Services and Appropriations of the Senate and House of Representatives, the evaluation described in paragraph (3).

“(3) An evaluation described in this paragraph is an evaluation of the performance and responsiveness of the National Security Agency, the National Reconnaissance Office, and the National Imagery and Mapping Agency in meeting their respective national missions.

“(4) The Director shall submit each evaluation under this subsection in consultation with the Secretary of Defense and the Chairman of the Joint Chiefs of Staff.”.

- (B) Section 109 of that Act (50 U.S.C. 404d) is amended—
- (i) in subsection (a), by striking paragraph (1) and inserting the following new paragraph (1):
- Deadline. President. “(1)(A) Not later each year than the date provided in section 507, the President shall submit to the congressional intelligence committees a report on the requirements of the United States for intelligence and the activities of the intelligence community.
- Deadline. President. “(B) Not later than January 31 each year, and included with the budget of the President for the next fiscal year under section 1105(a) of title 31, United States Code, the President shall submit to the appropriate congressional committees the report described in subparagraph (A).”;
- (ii) in subsection (c), as amended by section 803(a) of the Intelligence Renewal and Reform Act of 1996 (title VIII of Public Law 104-293; 110 Stat. 3475)—
- (I) in paragraph (1), by striking “The Select Committee on Intelligence, the Committee on Appropriations,” and inserting “The Committee on Appropriations”; and
- (II) in paragraph (2), by striking “The Permanent Select Committee on Intelligence, the Committee on Appropriations,” and inserting “The Committee on Appropriations”; and
- (iii) by striking subsection (c), as added by section 304(a) of the Intelligence Authorization Act for Fiscal Year 1994 (Public Law 103-178; 107 Stat. 2034).
- (C) Section 112(b) of that Act (50 U.S.C. 404g(b)) is amended by adding at the end the following new paragraph:
- “ (3) In the case of periodic reports required to be submitted under the first sentence of paragraph (1) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507.”.
- (D) Section 114 of that Act (50 U.S.C. 404i) is amended—
- (i) in subsection (a)—
- (I) in paragraph (1), by striking “the congressional intelligence committees and”;
- (II) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and
- (III) by inserting after paragraph (1) the following new paragraph (2):
- Deadline. “(2) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees the report required to be submitted under paragraph (1) during the preceding year.”; and
- (ii) in subsection (b)(1), by striking “, on an annual basis” and all that follows through “leadership” and inserting “submit to the congressional leadership on an annual basis, and to the congressional intelligence committees on the date each year provided in section 507,”.
- (E) Section 603 of that Act (50 U.S.C. 423) is amended—
- (i) in subsection (a), by adding at the end the following new sentence: “The date for the submittal of the report shall be the date provided in section 507.”; and
- (ii) in subsection (b), by striking the second sentence.
- (2) CENTRAL INTELLIGENCE AGENCY ACT OF 1949.—Section 17(d)(1) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q(d)(1)) is amended in the second sentence by striking

“Within thirty days of receipt of such reports,” and inserting “Not later than the dates each year provided for the transmittal of such reports in section 507 of the National Security Act of 1947,”.

(3) CLASSIFIED INFORMATION PROCEDURES ACT.—Section 13 of the Classified Information Procedures Act (18 U.S.C. App.) is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by inserting after subsection (a) the following new subsection (b):

“(b) In the case of the semiannual reports (whether oral or written) required to be submitted under subsection (a) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.”.

(4) TITLE 10, UNITED STATES CODE.—(A) Section 437 of title 10, United States Code, is amended—

(i) in subsection (c), by striking “Not later than” and all that follows through “of Congress” and inserting “Not later each year than the date provided in section 507 of the National Security Act of 1947, the Secretary shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))”; and

(ii) by striking subsection (d).

(B) Section 1611(e) of that title is amended—

(i) in paragraph (1), by striking “paragraph (2)” and inserting “paragraph (3)”; and

(ii) by redesignating paragraph (2) as paragraph (3); and

(iii) by inserting after paragraph (1) the following new paragraph (2):

“(2) In the case of a report required to be submitted under paragraph (1) to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives, the date for the submittal of such report shall be as provided in section 507 of the National Security Act of 1947.”.

(5) INTELLIGENCE AUTHORIZATION ACTS.—(A) Section 809 of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103-359; 108 Stat. 3454; 50 U.S.C. App. 2170b) is amended by striking subsection (b) and inserting the following new subsection (b):

“(b) ANNUAL UPDATE.—

“(1) SUBMITTAL TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—Not later each year than the date provided in section 507 of the National Security Act of 1947, the President shall submit to the congressional intelligence committees a report updating the information referred to in subsection (a)(1)(D).

Deadline.
President.

“(2) SUBMITTAL TO CONGRESSIONAL LEADERSHIP.—Not later than April 14 each year, the President shall submit to the congressional leadership a report updating the information referred to in subsection (a)(1)(D).

Deadline.
President.

“(3) DEFINITIONS.—In this subsection:

“(A) CONGRESSIONAL INTELLIGENCE COMMITTEES.—The term ‘congressional intelligence committees’ has the

meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

“(B) CONGRESSIONAL LEADERSHIP.—The term ‘congressional leadership’ means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.”.

(B) Paragraph (6) of section 811(c) of that Act (50 U.S.C. 402a(c)) is amended to read as follows:

Deadline.
Reports.

“(6)(A) Not later each year than the date provided in section 507 of the National Security Act of 1947, the Director of the Federal Bureau of Investigation shall submit to the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a)) a report with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

Deadline.
Reports.

“(B) Not later than February 1 each year, the Director shall, in accordance with applicable security procedures, submit to the Committees on the Judiciary of the Senate and House of Representatives a report with respect to compliance with paragraphs (1) and (2) during the previous calendar year.

“(C) The Director of the Federal Bureau of Investigation shall submit each report under this paragraph in consultation with the Director of Central Intelligence and the Secretary of Defense.”.

(C) Section 721 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104-293; 110 Stat. 3474; 50 U.S.C. 2366) is amended—

(i) in subsection (a), by striking “Not later than” and all that follows through “the Director” and inserting “The Director”;

(ii) by redesignating subsection (b) as subsection (c);

(iii) by inserting after subsection (a) the following new subsection (b):

“(b) SUBMITTAL DATES.—(1) The report required by subsection (a) shall be submitted each year to the congressional intelligence committees and the congressional leadership on a semiannual basis on the dates provided in section 507 of the National Security Act of 1947.

“(2) In this subsection:

“(A) The term ‘congressional intelligence committees’ has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).

“(B) The term ‘congressional leadership’ means the Speaker and the minority leader of the House of Representatives and the majority leader and the minority leader of the Senate.”; and

(iv) in subsection (c), as so redesignated, by striking “The reports” and inserting “Each report”.

(D) Section 308 of the Intelligence Authorization Act for Fiscal Year 1998 (Public Law 105-107; 111 Stat. 2253; 50 U.S.C. 402a note) is amended—

(i) in subsection (a)—

(I) by striking “Not later than” and all that follows through “the Director of Central Intelligence” and inserting “The Director of Central Intelligence”; and

(II) by inserting “on an annual basis” after “to Congress”; and

(ii) by adding at the end the following new subsection (c):

“(c) SUBMITTAL DATE OF REPORT TO LEADERSHIP OF CONGRESSIONAL INTELLIGENCE COMMITTEES.—The date each year for the submittal to the Chairman and Ranking Member of the Permanent Select Committee on Intelligence of the House of Representatives and the Chairman and Vice Chairman of the Select Committee on Intelligence of the Senate of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947.”.

(E) Section 322(a)(6)(D) of the Intelligence Authorization Act for Fiscal Year 2001 (Public Law 106-567; 114 Stat. 2844; 22 U.S.C. 7302(a)(6)(D)) is amended—

- (i) in clause (i), by striking “Beginning on” and inserting “Except as provided in clause (ii), beginning on”;
- (ii) by redesignating clause (ii) as clause (iii);
- (iii) by inserting after clause (i) the following new clause (ii):

“(ii) SUBMITTAL DATE OF REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of reports required to be submitted under clause (i) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal dates for such reports shall be as provided in section 507 of that Act.”; and

(iv) in clause (iii), as so redesignated, by striking “report” and inserting “reports”.

(6) PUBLIC LAW 103-337.—Section 1012(c) of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2291-4(c)) is amended—

(A) in paragraph (1), by striking “Not later than” and inserting “Except as provided in paragraph (2), not later than”;

(B) by redesignating paragraph (2) as paragraph (3); and

(C) by inserting after paragraph (1) the following new paragraph (2):

“(2) In the case of a report required to be submitted under paragraph (1) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal date for such report shall be as provided in section 507 of that Act.”.

(7) DAVID L. BOREN NATIONAL SECURITY EDUCATION ACT OF 1991.—The David L. Boren National Security Education Act of 1991 (title VIII of Public Law 102-183; 50 U.S.C. 1901 et seq.) is amended—

(A) in section 806(a) (50 U.S.C. 1906(a))—

(i) by inserting “(1)” before “The Secretary”;

(ii) in paragraph (1), as so designated, by striking “the Congress” and inserting “the congressional intelligence committees”;

(iii) by designating the second sentence as paragraph (2) and by aligning such paragraph with the paragraph added by clause (v);

(iv) in paragraph (2), as so designated, by inserting “submitted to the President” after “The report”; and

(v) by adding at the end the following new paragraph (3):

“(3) The report submitted to the congressional intelligence committees shall be submitted on the date provided in section 507 of the National Security Act of 1947.”; and

(B) in section 808 (50 U.S.C. 1908), by adding at the end the following new paragraph (5):

“(5) The term ‘congressional intelligence committees’ means—

“(A) the Select Committee on Intelligence of the Senate; and

“(B) the Permanent Select Committee on Intelligence of the House of Representatives.”.

(8) FAIR CREDIT REPORTING ACT.—(A) Section 604(b)(4) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(4)) is amended—

(i) in subparagraph (D), by striking “Not later than” and inserting “Except as provided in subparagraph (E), not later than”;

(ii) by redesignating subparagraph (E) as subparagraph (F); and

(iii) by inserting after subparagraph (D) the following new subparagraph (E):

“(E) REPORTS TO CONGRESSIONAL INTELLIGENCE COMMITTEES.—In the case of a report to be submitted under subparagraph (D) to the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)), the submittal date for such report shall be as provided in section 507 of that Act.”.

(B) Section 625(h) of that Act (15 U.S.C. 1681u(h)) is amended—

(i) by inserting “(1)” before “On a semiannual basis,”; and

(ii) by adding at the end the following new paragraph:

“(2) In the case of the semiannual reports required to be submitted under paragraph (1) to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.”.

(9) RIGHT TO FINANCIAL PRIVACY ACT OF 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended by striking “On a semiannual” and all that follows through “the Senate” and inserting “On the dates provided in section 507 of the National Security Act of 1947, the Attorney General shall fully inform the congressional intelligence committees (as defined in section 3 of that Act (50 U.S.C. 401a))”.

Subtitle C—Recurring Annual Reports

SEC. 821. ANNUAL REPORT ON THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION.

Section 114 of the National Security Act of 1947, as amended by section 353(b)(6) of this Act, is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection (d):

“(d) ANNUAL REPORT ON THREAT OF ATTACK ON THE UNITED STATES USING WEAPONS OF MASS DESTRUCTION.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional committees specified in paragraph (3) a report assessing the following: Deadline.

“(A) The current threat of attack on the United States using ballistic missiles or cruise missiles.

“(B) The current threat of attack on the United States using a chemical, biological, or nuclear weapon delivered by a system other than a ballistic missile or cruise missile.

“(2) Each report under paragraph (1) shall be a national intelligence estimate, or have the formality of a national intelligence estimate.

“(3) The congressional committees referred to in paragraph (1) are the following:

“(A) The congressional intelligence committees.

“(B) The Committees on Foreign Relations and Armed Services of the Senate.

“(C) The Committees on International Relations and Armed Services of the House of Representatives.”.

SEC. 822. ANNUAL REPORT ON COVERT LEASES.

Section 114 of the National Security Act of 1947, as amended by section 821 of this Act, is further amended—

50 USC 404i.

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection (e):

“(e) ANNUAL REPORT ON COVERT LEASES.—(1) Not later each year than the date provided in section 507, the Director shall submit to the congressional intelligence committees a report on each covert lease of an element of the intelligence community that is in force as of the end of the preceding year. Deadline.

“(2) Each report under paragraph (1) shall include the following:

“(A) A list of each lease described by that paragraph.

“(B) For each lease—

“(i) the cost of such lease;

“(ii) the duration of such lease;

“(iii) the purpose of such lease; and

“(iv) the directorate or office that controls such lease.”.

SEC. 823. ANNUAL REPORT ON IMPROVEMENT OF FINANCIAL STATEMENTS OF CERTAIN ELEMENTS OF THE INTELLIGENCE COMMUNITY FOR AUDITING PURPOSES.

(a) IN GENERAL.—Title I of the National Security Act of 1947 (50 U.S.C. 402 et seq.) is amended by inserting after section 114 the following new section:

“ANNUAL REPORT ON IMPROVEMENT OF FINANCIAL STATEMENTS FOR AUDITING PURPOSES

“SEC. 114A. Not later each year than the date provided in section 507, the Director of Central Intelligence, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and the Director of the National Imagery and Mapping Agency shall each submit to the congressional intelligence committees a report describing the activities being undertaken by such official to ensure that the financial statements of such agency Deadline.
50 USC 404i-1.

can be audited in accordance with applicable law and requirements of the Office of Management and Budget.”.

(b) CLERICAL AMENDMENT.—The table of sections for the National Security Act of 1947 is amended by inserting after the item relating to section 114 the following new item:

“Sec. 114A. Annual report on improvement of financial statements for auditing purposes.”.

SEC. 824. ANNUAL REPORT ON ACTIVITIES OF FEDERAL BUREAU OF INVESTIGATION PERSONNEL OUTSIDE THE UNITED STATES.

(a) ANNUAL REPORT.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following new section:

“§ 540C. Annual report on activities of Federal Bureau of Investigation personnel outside the United States

“(a) The Director of the Federal Bureau of Investigation shall submit to the appropriate committees of Congress each year a report on the activities of personnel of the Federal Bureau of Investigation outside the United States.

“(b) The report under subsection (a) shall include the following:

“(1) For the year preceding the year in which the report is required to be submitted—

“(A) the number of personnel of the Bureau posted or detailed outside the United States during the year;

“(B) a description of the coordination of the investigations, asset handling, liaison, and operational activities of the Bureau during the year with other elements of the intelligence community; and

“(C) a description of the extent to which information derived from activities described in subparagraph (B) was shared with other elements of the intelligence community.

“(2) For the year in which the report is required to be submitted—

“(A) a description of the plans, if any, of the Director—

“(i) to modify the number of personnel of the Bureau posted or detailed outside the United States; or

“(ii) to modify the scope of the activities of personnel of the Bureau posted or detailed outside the United States; and

“(B) a description of the manner and extent to which information derived from activities of the Bureau described in paragraph (1)(B) during the year will be shared with other elements of the intelligence community.

“(c) The date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947.

“(d) In this section, the term ‘appropriate committees of Congress’ means—

“(1) the Committees on the Judiciary of the Senate and House of Representatives; and

“(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of that title is amended by inserting after the item relating to section 540B the following new item:

“540C. Annual report on activities of Federal Bureau of Investigation personnel outside the United States.”.

SEC. 825. ANNUAL REPORTS OF INSPECTORS GENERAL OF THE INTELLIGENCE COMMUNITY ON PROPOSED RESOURCES AND ACTIVITIES OF THEIR OFFICES.

Section 8H of the Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) in subsection (f), by striking “this section” and inserting “subsections (a) through (e)”;

(2) by redesignating subsection (g) as subsection (h); and

(3) by inserting after subsection (f) the following new subsection (g):

“(g)(1) The Inspector General of the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Reconnaissance Office, and the National Security Agency shall each submit to the congressional intelligence committees each year a report that sets forth the following:

“(A) The personnel and funds requested by such Inspector General for the fiscal year beginning in such year for the activities of the office of such Inspector General in such fiscal year.

“(B) The plan of such Inspector General for such activities, including the programs and activities scheduled for review by the office of such Inspector General during such fiscal year.

“(C) An assessment of the current ability of such Inspector General to hire and retain qualified personnel for the office of such Inspector General.

“(D) Any matters that such Inspector General considers appropriate regarding the independence and effectiveness of the office of such Inspector General.

“(2) The submittal date for a report under paragraph (1) each year shall be the date provided in section 507 of the National Security Act of 1947.

“(3) In this subsection, the term ‘congressional intelligence committees’ shall have the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).”.

SEC. 826. ANNUAL REPORT ON COUNTERDRUG INTELLIGENCE MATTERS.

21 USC 873 note.

(a) ANNUAL REPORT.—The Counterdrug Intelligence Coordinating Group shall submit to the appropriate committees of Congress each year a report on current counterdrug intelligence matters. The report shall include the recommendations of the Counterdrug Intelligence Coordinating Group on the appropriate number of permanent staff, and of detailed personnel, for the staff of the Counterdrug Intelligence Executive Secretariat.

(b) SUBMITTAL DATE.—The date of the submittal each year of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947, as added by section 811 of this Act.

(c) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term “appropriate committees of Congress” means—

(1) the Committees on Appropriations of the Senate and House of Representatives; and

(2) the congressional intelligence committees (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)).

50 USC 404n-3.

SEC. 827. ANNUAL REPORT ON FOREIGN COMPANIES INVOLVED IN THE PROLIFERATION OF WEAPONS OF MASS DESTRUCTION THAT RAISE FUNDS IN THE UNITED STATES CAPITAL MARKETS.

(a) **ANNUAL REPORT REQUIRED.**—The Director of Central Intelligence shall submit to the appropriate committees of Congress on an annual basis a report setting forth each foreign company described in subsection (b) that raised or attempted to raise funds in the United States capital markets during the preceding year.

(b) **COVERED FOREIGN COMPANIES.**—A foreign company described in this subsection is any foreign company determined by the Director to be engaged or involved in the proliferation of weapons of mass destruction (including nuclear, biological, or chemical weapons) or the means to deliver such weapons.

(c) **SUBMITTAL DATE.**—The date each year for the submittal of the report required by subsection (a) shall be the date provided in section 507 of the National Security Act of 1947, as added by section 811 of this Act.

(d) **FORM OF REPORTS.**—Each report under subsection (a) shall be submitted in unclassified form, but may include a classified annex.

(e) **APPROPRIATE COMMITTEES OF CONGRESS DEFINED.**—In this section, the term “appropriate committees of Congress” means—

(1) the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives;

(2) the Committees on Armed Services, Banking, Housing, and Urban Affairs, Governmental Affairs, and Foreign Relations of the Senate; and

(3) the Committees on Armed Services, Financial Services, Government Reform, and International Relations of the House of Representatives.

Subtitle D—Other Reports

SEC. 831. REPORT ON EFFECT OF COUNTRY-RELEASE RESTRICTIONS ON ALLIED INTELLIGENCE-SHARING RELATIONSHIPS.

Deadline.

(a) **REPORT.**—Not later than 90 days after the date of the enactment of this Act, the Director of Central Intelligence shall, in consultation with the Secretary of Defense, submit to the congressional intelligence committees a report containing an assessment of the effect of the use of “NOFORN” classifications, and of other country-release policies, procedures, and classification restrictions, on intelligence-sharing relationships and coordinated intelligence operations and military operations between the United States and its allies. The report shall include an assessment of the effect of the use of such classifications, and of such policies, procedures, and restrictions, on counterterrorism operations in Afghanistan and elsewhere.

(b) **CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.**—In this section, the term “congressional intelligence committee” means—

- (1) the Select Committee on Intelligence of the Senate;
and
(2) the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 832. EVALUATION OF POLICIES AND PROCEDURES OF DEPARTMENT OF STATE ON PROTECTION OF CLASSIFIED INFORMATION AT DEPARTMENT HEADQUARTERS.

22 USC 4861
note.

(a) **EVALUATION REQUIRED.**—Not later than December 31 of 2002, 2003, and 2004, the Inspector General of the Department of State shall conduct an evaluation of the policies and procedures of the Department on the protection of classified information at the Headquarters of the Department, including compliance with the directives of the Director of Central Intelligence (DCIDs) regarding the storage and handling of Sensitive Compartmented Information (SCI) material.

(b) **ANNUAL REPORT.**—Except as provided in subsection (c), not later than February 1 of 2003, 2004, and 2005, the Inspector General shall submit to the following committees a report on the evaluation conducted under subsection (a) during the preceding year:

Deadline.

(1) The congressional intelligence committees.

(2) The Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives.

(c) **EXCEPTION.**—The date each year for the submittal of a report under subsection (b) may be postponed in accordance with section 507(d) of the National Security Act of 1947, as added by section 811 of this Act.

(d) **CONGRESSIONAL INTELLIGENCE COMMITTEES DEFINED.**—In this section, the term “congressional intelligence committees” means—

(1) the Select Committee on Intelligence of the Senate;
and

(2) the Permanent Select Committee on Intelligence of the House of Representatives.

Subtitle E—Repeal of Certain Report Requirements

SEC. 841. REPEAL OF CERTAIN REPORT REQUIREMENTS.

(a) **ANNUAL REPORT ON THE DETAIL OF INTELLIGENCE COMMUNITY PERSONNEL.**—Section 113 of the National Security Act of 1947 (50 U.S.C. 404h) is amended by striking subsection (c).

(b) **ANNUAL REPORT ON EXERCISE OF NATIONAL SECURITY AGENCY VOLUNTARY SEPARATION PAY AUTHORITY.**—Section 301(j) of the National Security Act of 1947 (50 U.S.C. 409a(j)), as amended by section 353(b)(2)(A) of this Act, is further amended—

(1) by striking “REPORTING REQUIREMENTS.” and all that follows through “The Director may” and inserting “NOTIFICATION OF EXERCISE OF AUTHORITY.—The Director may”; and

(2) by striking paragraph (2).

(c) **ANNUAL REPORT ON TRANSFERS OF AMOUNTS FOR ACQUISITION OF LAND BY THE CENTRAL INTELLIGENCE AGENCY.**—Section 5(c)(2) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f(c)(2)) is amended by striking “an annual report on the transfers

of sums described in paragraph (1).” and inserting “a report on the transfer of sums described in paragraph (1) each time that authority is exercised.”.

(d) ANNUAL REPORT ON USE OF CIA PERSONNEL AS SPECIAL POLICEMEN.—Section 15(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403o(a)) is amended by striking paragraph (5).

(e) ANNUAL AUDIT OF THE CENTRAL SERVICES PROGRAM OF THE CENTRAL INTELLIGENCE AGENCY.—Section 21 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403u) is amended—

(1) by striking subsection (g); and

(2) by redesignating subsection (h) as subsection (g).

(f) ANNUAL REPORT ON SPECIAL POLICE AUTHORITY FOR THE NATIONAL SECURITY AGENCY.—Section 11(a)(5) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended by inserting “through 2004” after “Not later than July 1 each year”.

Counter-
intelligence
Enhancement
Act of 2002.

TITLE IX—COUNTERINTELLIGENCE ACTIVITIES

SEC. 901. SHORT TITLE; PURPOSE.

50 USC 401 note.

(a) SHORT TITLE.—This title may be cited as the “Counterintelligence Enhancement Act of 2002”.

50 USC 402b
note.

(b) PURPOSE.—The purpose of this title is to facilitate the enhancement of the counterintelligence activities of the United States Government by—

(1) enabling the counterintelligence community of the United States Government to fulfill better its mission of identifying, assessing, prioritizing, and countering the intelligence threats to the United States;

(2) ensuring that the counterintelligence community of the United States Government acts in an efficient and effective manner; and

(3) providing for the integration of all the counterintelligence activities of the United States Government.

50 USC 402b.

SEC. 902. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) ESTABLISHMENT.—(1) There shall be a National Counterintelligence Executive, who shall be appointed by the President.

(2) It is the sense of Congress that the President should seek the views of the Attorney General, Secretary of Defense, and Director of Central Intelligence in selecting an individual for appointment as the Executive.

(b) MISSION.—The mission of the National Counterintelligence Executive shall be to serve as the head of national counterintelligence for the United States Government.

(c) DUTIES.—Subject to the direction and control of the President, the duties of the National Counterintelligence Executive are as follows:

(1) To carry out the mission referred to in subsection (b).

(2) To act as chairperson of the National Counterintelligence Policy Board under section 811 of the Counterintelligence and Security Enhancements Act of 1994 (title VIII of Public Law 103-359; 50 U.S.C. 402a), as amended by section 903 of this Act.

(3) To act as head of the Office of the National Counterintelligence Executive under section 904.

(4) To participate as an observer on such boards, committees, and entities of the executive branch as the President considers appropriate for the discharge of the mission and functions of the Executive and the Office of the National Counterintelligence Executive under section 904.

SEC. 903. NATIONAL COUNTERINTELLIGENCE POLICY BOARD.

(a) CHAIRPERSON.—Section 811 of the Counterintelligence and Security Enhancements Act of 1994 (title VII of Public Law 103-359; 50 U.S.C. 402a), as amended by section 811(b)(5)(B) of this Act, is further amended—

(1) by striking subsection (b);

(2) by redesignating subsection (c) as subsection (e); and

(3) by inserting after subsection (a) the following new subsection (b):

“(b) CHAIRPERSON.—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 shall serve as the chairperson of the Board.”.

(b) MEMBERSHIP.—That section is further amended by inserting after subsection (b), as amended by subsection (a)(3) of this section, the following new subsection (c):

“(c) MEMBERSHIP.—The membership of the National Counterintelligence Policy Board shall consist of the following:

“(1) The National Counterintelligence Executive.

“(2) Senior personnel of departments and elements of the United States Government, appointed by the head of the department or element concerned, as follows:

“(A) The Department of Justice, including the Federal Bureau of Investigation.

“(B) The Department of Defense, including the Joint Chiefs of Staff.

“(C) The Department of State.

“(D) The Department of Energy.

“(E) The Central Intelligence Agency.

“(F) Any other department, agency, or element of the United States Government specified by the President.”.

(c) FUNCTIONS AND DISCHARGE OF FUNCTIONS.—That section is further amended by inserting after subsection (c), as amended by subsection (b) of this section, the following new subsection:

“(d) FUNCTIONS AND DISCHARGE OF FUNCTIONS.—(1) The Board shall—

“(A) serve as the principal mechanism for—

“(i) developing policies and procedures for the approval of the President to govern the conduct of counterintelligence activities; and

“(ii) upon the direction of the President, resolving conflicts that arise between elements of the Government conducting such activities; and

“(B) act as an interagency working group to—

“(i) ensure the discussion and review of matters relating to the implementation of the Counterintelligence Enhancement Act of 2002; and

“(ii) provide advice to the National Counterintelligence Executive on priorities in the implementation of the National Counterintelligence Strategy produced by the

Office of the National Counterintelligence Executive under section 904(e)(2) of that Act.

“(2) The Board may, for purposes of carrying out its functions under this section, establish such interagency boards and working groups as the Board considers appropriate.”.

50 USC 402c.

SEC. 904. OFFICE OF THE NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) ESTABLISHMENT.—There shall be an Office of the National Counterintelligence Executive.

(b) HEAD OF OFFICE.—The National Counterintelligence Executive shall be the head of the Office of the National Counterintelligence Executive.

(c) LOCATION OF OFFICE.—The Office of the National Counterintelligence Executive shall be located in the Office of the Director of Central Intelligence.

(d) GENERAL COUNSEL.—(1) There shall be in the Office of the National Counterintelligence Executive a general counsel who shall serve as principal legal advisor to the National Counterintelligence Executive.

(2) The general counsel shall—

(A) provide legal advice and counsel to the Executive on matters relating to functions of the Office;

(B) ensure that the Office complies with all applicable laws, regulations, Executive orders, and guidelines; and

(C) carry out such other duties as the Executive may specify.

(e) FUNCTIONS.—Subject to the direction and control of the National Counterintelligence Executive, the functions of the Office of the National Counterintelligence Executive shall be as follows:

(1) NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT.—Subject to subsection (f), in consultation with appropriate department and agencies of the United States Government, and private sector entities, to produce on an annual basis a strategic planning assessment of the counterintelligence requirements of the United States to be known as the National Threat Identification and Prioritization Assessment.

(2) NATIONAL COUNTERINTELLIGENCE STRATEGY.—Subject to subsection (f), in consultation with appropriate department and agencies of the United States Government, and private sector entities, and based on the most current National Threat Identification and Prioritization Assessment under paragraph (1), to produce on an annual basis a strategy for the counterintelligence programs and activities of the United States Government to be known as the National Counterintelligence Strategy.

(3) IMPLEMENTATION OF NATIONAL COUNTERINTELLIGENCE STRATEGY.—To evaluate on an ongoing basis the implementation of the National Counterintelligence Strategy and to submit to the President periodic reports on such evaluation, including a discussion of any shortfalls in the implementation of the Strategy and recommendations for remedies for such shortfalls.

(4) NATIONAL COUNTERINTELLIGENCE STRATEGIC ANALYSES.—As directed by the Director of Central Intelligence and in consultation with appropriate elements of the departments and agencies of the United States Government, to oversee and

coordinate the production of strategic analyses of counterintelligence matters, including the production of counterintelligence damage assessments and assessments of lessons learned from counterintelligence activities.

(5) NATIONAL COUNTERINTELLIGENCE PROGRAM BUDGET.—
In consultation with the Director of Central Intelligence—

(A) to coordinate the development of budgets and resource allocation plans for the counterintelligence programs and activities of the Department of Defense, the Federal Bureau of Investigation, the Central Intelligence Agency, and other appropriate elements of the United States Government;

(B) to ensure that the budgets and resource allocation plans developed under subparagraph (A) address the objectives and priorities for counterintelligence under the National Counterintelligence Strategy; and

(C) to submit to the National Security Council periodic reports on the activities undertaken by the Office under subparagraphs (A) and (B).

(6) NATIONAL COUNTERINTELLIGENCE COLLECTION AND TARGETING COORDINATION.—To develop priorities for counterintelligence investigations and operations, and for collection of counterintelligence, for purposes of the National Counterintelligence Strategy, except that the Office may not—

(A) carry out any counterintelligence investigations or operations; or

(B) establish its own contacts, or carry out its own activities, with foreign intelligence services.

(7) NATIONAL COUNTERINTELLIGENCE OUTREACH, WATCH, AND WARNING.—

(A) COUNTERINTELLIGENCE VULNERABILITY SURVEYS.—
To carry out and coordinate surveys of the vulnerability of the United States Government, and the private sector, to intelligence threats in order to identify the areas, programs, and activities that require protection from such threats.

(B) OUTREACH.—To carry out and coordinate outreach programs and activities on counterintelligence to other elements of the United States Government, and the private sector, and to coordinate the dissemination to the public of warnings on intelligence threats to the United States.

(C) RESEARCH AND DEVELOPMENT.—To ensure that research and development programs and activities of the United States Government, and the private sector, direct attention to the needs of the counterintelligence community for technologies, products, and services.

(D) TRAINING AND PROFESSIONAL DEVELOPMENT.—To develop policies and standards for training and professional development of individuals engaged in counterintelligence activities and to manage the conduct of joint training exercises for such personnel.

(f) ADDITIONAL REQUIREMENTS REGARDING NATIONAL THREAT IDENTIFICATION AND PRIORITIZATION ASSESSMENT AND NATIONAL COUNTERINTELLIGENCE STRATEGY.—(1) A National Threat Identification and Prioritization Assessment under subsection (e)(1), and any modification of such assessment, shall not go into effect until approved by the President.

(2) A National Counterintelligence Strategy under subsection (e)(2), and any modification of such strategy, shall not go into effect until approved by the President.

(3) The National Counterintelligence Executive shall submit to the congressional intelligence committees each National Threat Identification and Prioritization Assessment, or modification thereof, and each National Counterintelligence Strategy, or modification thereof, approved under this section.

(4) In this subsection, the term “congressional intelligence committees” means—

(A) the Select Committee on Intelligence of the Senate; and

(B) the Permanent Select Committee on Intelligence of the House of Representatives.

(g) PERSONNEL.—(1) Personnel of the Office of the National Counterintelligence Executive may consist of personnel employed by the Office or personnel on detail from any other department, agency, or element of the Federal Government. Any such detail may be on a reimbursable or nonreimbursable basis, at the election of the head of the agency detailing such personnel.

(2) Notwithstanding section 104(d) or any other provision of law limiting the period of the detail of personnel on a nonreimbursable basis, the detail of an officer or employee of United States or a member of the Armed Forces under paragraph (1) on a nonreimbursable basis may be for any period in excess of one year that the National Counterintelligence Executive and the head of the department, agency, or element concerned consider appropriate.

(3) The employment of personnel by the Office, including the appointment, compensation and benefits, management, and separation of such personnel, shall be governed by the provisions of law on such matters with respect to the personnel of the Central Intelligence Agency, except that, for purposes of the applicability of such provisions of law to personnel of the Office, the National Counterintelligence Executive shall be treated as the head of the Office.

(4) Positions in the Office shall be excepted service positions for purposes of title 5, United States Code.

(h) SUPPORT.—(1) The Attorney General, Secretary of Defense, and Director of Central Intelligence may each provide the Office of the National Counterintelligence Executive such support as may be necessary to permit the Office to carry out its functions under this section.

(2) Subject to any terms and conditions specified by the Director of Central Intelligence, the Director may provide administrative and contract support to the Office as if the Office were an element of the Central Intelligence Agency.

(3) Support provided under this subsection may be provided on a reimbursable or nonreimbursable basis, at the election of the official providing such support.

(i) AVAILABILITY OF FUNDS FOR REIMBURSEMENT.—The National Counterintelligence Executive may, from amounts available for the Office, transfer to a department or agency detailing personnel under subsection (g), or providing support under subsection (h), on a reimbursable basis amounts appropriate to reimburse such department or agency for the detail of such personnel or the provision of such support, as the case may be.

(j) **CONTRACTS.**—(1) Subject to paragraph (2), the National Counterintelligence Executive may enter into any contract, lease, cooperative agreement, or other transaction that the Executive considers appropriate to carry out the functions of the Office of the National Counterintelligence Executive under this section.

(2) The authority under paragraph (1) to enter into contracts, leases, cooperative agreements, and other transactions shall be subject to any terms, conditions, and limitations applicable to the Central Intelligence Agency under law with respect to similar contracts, leases, cooperative agreements, and other transactions.

(k) **TREATMENT OF ACTIVITIES UNDER CERTAIN ADMINISTRATIVE LAWS.**—The files of the Office shall be treated as operational files of the Central Intelligence Agency for purposes of section 701 of the National Security Act of 1947 (50 U.S.C. 431) to the extent such files meet criteria under subsection (b) of that section for treatment of files as operational files of an element of the Agency.

(l) **OVERSIGHT BY CONGRESS.**—The location of the Office of the National Counterintelligence Executive within the Office of the Director of Central Intelligence shall not be construed as affecting access by Congress, or any committee of Congress, to—

(1) any information, document, record, or paper in the possession of the Office; or

(2) any personnel of the Office.

(m) **CONSTRUCTION.**—Nothing in this section shall be construed as affecting the authority of the Director of Central Intelligence, the Secretary of Defense, the Secretary of State, the Attorney General, or the Director of the Federal Bureau of Investigation as provided or specified under the National Security Act of 1947 or under other provisions of law.

TITLE X—NATIONAL COMMISSION FOR REVIEW OF RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY

SEC. 1001. FINDINGS.

50 USC 401 note.

Congress makes the following findings:

(1) Research and development efforts under the purview of the intelligence community are vitally important to the national security of the United States.

(2) The intelligence community must operate in a dynamic, highly-challenging environment, characterized by rapid technological growth, against a growing number of hostile, technically-sophisticated threats. Research and development programs under the purview of the intelligence community are critical to ensuring that intelligence agencies, and their personnel, are provided with important technological capabilities to detect, characterize, assess, and ultimately counter the full range of threats to the national security of the United States.

(3) There is a need to review the full range of current research and development programs under the purview of the intelligence community, evaluate such programs against the scientific and technological fields judged to be of most importance, and articulate program and resource priorities for future

research and development activities to ensure a unified and coherent research and development program across the entire intelligence community.

50 USC 401 note. **SEC. 1002. NATIONAL COMMISSION FOR THE REVIEW OF THE RESEARCH AND DEVELOPMENT PROGRAMS OF THE UNITED STATES INTELLIGENCE COMMUNITY.**

(a) **ESTABLISHMENT.**—There is established a commission to be known as the “National Commission for the Review of the Research and Development Programs of the United States Intelligence Community” (in this title referred to as the “Commission”).

(b) **COMPOSITION.**—The Commission shall be composed of 12 members, as follows:

(1) The Deputy Director of Central Intelligence for Community Management.

(2) A senior intelligence official of the Office of the Secretary of Defense, as designated by the Secretary of Defense.

(3) Three members appointed by the majority leader of the Senate, in consultation with the Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and two from private life.

(4) Two members appointed by the minority leader of the Senate, in consultation with the Vice Chairman of the Select Committee on Intelligence of the Senate, one from Members of the Senate and one from private life.

(5) Three members appointed by the Speaker of the House of Representatives, in consultation with the Chairman of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and two from private life.

(6) Two members appointed by the minority leader of the House of Representatives, in consultation with the ranking member of the Permanent Select Committee on Intelligence of the House of Representatives, one from Members of the House of Representatives and one from private life.

(c) **MEMBERSHIP.**—(1) The individuals appointed from private life as members of the Commission shall be individuals who are nationally recognized for expertise, knowledge, or experience in—

(A) research and development programs;

(B) technology discovery and insertion;

(C) use of intelligence information by national policymakers and military leaders; or

(D) the implementation, funding, or oversight of the national security policies of the United States.

(2) An official who appoints members of the Commission may not appoint an individual as a member of the Commission if, in the judgment of the official, such individual possesses any personal or financial interest in the discharge of any of the duties of the Commission.

(3) All members of the Commission appointed from private life shall possess an appropriate security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(d) **CO-CHAIRS.**—(1) The Commission shall have two co-chairs, selected from among the members of the Commission.

(2) One co-chair of the Commission shall be a member of the Democratic Party, and one co-chair shall be a member of the Republican Party.

(3) The individuals who serve as the co-chairs of the Commission shall be jointly agreed upon by the President, the majority leader of the Senate, the minority leader of the Senate, the Speaker of the House of Representatives, and the minority leader of the House of Representatives.

(e) APPOINTMENT; INITIAL MEETING.—(1) Members of the Commission shall be appointed not later than 45 days after the date of the enactment of this Act.

(2) The Commission shall hold its initial meeting on the date that is 60 days after the date of the enactment of this Act.

(f) MEETINGS; QUORUM; VACANCIES.—(1) After its initial meeting, the Commission shall meet upon the call of the co-chairs of the Commission.

(2) Six members of the Commission shall constitute a quorum for purposes of conducting business, except that two members of the Commission shall constitute a quorum for purposes of receiving testimony.

(3) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(4) If vacancies in the Commission occur on any day after 45 days after the date of the enactment of this Act, a quorum shall consist of a majority of the members of the Commission as of such day.

(g) ACTIONS OF COMMISSION.—(1) The Commission shall act by resolution agreed to by a majority of the members of the Commission voting and present.

(2) The Commission may establish panels composed of less than the full membership of the Commission for purposes of carrying out the duties of the Commission under this title. The actions of any such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(3) Any member, agent, or staff of the Commission may, if authorized by the co-chairs of the Commission, take any action which the Commission is authorized to take pursuant to this title.

(h) DUTIES.—The duties of the Commission shall be—

(1) to conduct, until not later than the date on which the Commission submits the report under section 1007(a), the review described in subsection (i); and

(2) to submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report on the results of the review.

(i) REVIEW.—The Commission shall review the status of research and development programs and activities within the intelligence community, including—

(1) an assessment of the advisability of modifying the scope of research and development for purposes of such programs and activities;

(2) a review of the particular individual research and development activities under such programs;

(3) an evaluation of the current allocation of resources for research and development, including whether the allocation of such resources for that purpose should be modified;

(4) an identification of the scientific and technological fields judged to be of most importance to the intelligence community;

(5) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of other departments and agencies of the Federal Government; and

(6) an evaluation of the relationship between the research and development programs and activities of the intelligence community and the research and development programs and activities of the private sector.

50 USC 401 note. **SEC. 1003. POWERS OF COMMISSION.**

(a) **IN GENERAL.**—(1) The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this title—

(A) hold such hearings and sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths; and

(B) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents, as the Commission or such designated subcommittee or designated member considers necessary.

(2) Subpoenas may be issued under subparagraph (1)(B) under the signature of the co-chairs of the Commission, and may be served by any person designated by such co-chairs.

(3) The provisions of sections 102 through 104 of the Revised Statutes of the United States (2 U.S.C. 192–194) shall apply in the case of any failure of a witness to comply with any subpoena or to testify when summoned under authority of this section.

(b) **CONTRACTING.**—The Commission may, to such extent and in such amounts as are provided in advance in appropriation Acts, enter into contracts to enable the Commission to discharge its duties under this title.

(c) **INFORMATION FROM FEDERAL AGENCIES.**—The Commission may secure directly from any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality of the Government information, suggestions, estimates, and statistics for the purposes of this title. Each such department, agency, bureau, board, commission, office, establishment, or instrumentality shall, to the extent authorized by law, furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request of the co-chairs of the Commission. The Commission shall handle and protect all classified information provided to it under this section in accordance with applicable statutes and regulations.

(d) **ASSISTANCE FROM FEDERAL AGENCIES.**—(1) The Director of Central Intelligence shall provide to the Commission, on a non-reimbursable basis, such administrative services, funds, staff, facilities, and other support services as are necessary for the performance of the Commission's duties under this title.

(2) The Secretary of Defense may provide the Commission, on a nonreimbursable basis, with such administrative services, staff, and other support services as the Commission may request.

(3) In addition to the assistance set forth in paragraphs (1) and (2), other departments and agencies of the United States may provide the Commission such services, funds, facilities, staff, and other support as such departments and agencies consider advisable and as may be authorized by law.

(4) The Commission shall receive the full and timely cooperation of any official, department, or agency of the United States Government whose assistance is necessary for the fulfillment of the duties of the Commission under this title, including the provision of full and current briefings and analyses.

(e) PROHIBITION ON WITHHOLDING INFORMATION.—No department or agency of the Government may withhold information from the Commission on the grounds that providing the information to the Commission would constitute the unauthorized disclosure of classified information or information relating to intelligence sources or methods.

(f) POSTAL SERVICES.—The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the United States.

(g) GIFTS.—The Commission may accept, use, and dispose of gifts or donations of services or property in carrying out its duties under this title.

SEC. 1004. STAFF OF COMMISSION.

50 USC 401 note.

(a) IN GENERAL.—(1) The co-chairs of the Commission, in accordance with rules agreed upon by the Commission, shall appoint and fix the compensation of a staff director and such other personnel as may be necessary to enable the Commission to carry out its duties, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable to a person occupying a position at level V of the Executive Schedule under section 5316 of such title.

(2) Any Federal Government employee may be detailed to the Commission without reimbursement from the Commission, and such detailee shall retain the rights, status, and privileges of his or her regular employment without interruption.

(3) All staff of the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

(b) CONSULTANT SERVICES.—(1) The Commission may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, but at rates not to exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(2) All experts and consultants employed by the Commission shall possess a security clearance in accordance with applicable laws and regulations concerning the handling of classified information.

50 USC 401 note. **SEC. 1005. COMPENSATION AND TRAVEL EXPENSES.**

(a) **COMPENSATION.**—(1) Except as provided in paragraph (2), each member of the Commission may be compensated at not to exceed the daily equivalent of the annual rate of basic pay in effect for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Commission under this title.

(2) Members of the Commission who are officers or employees of the United States or Members of Congress shall receive no additional pay by reason of their service on the Commission.

(b) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

50 USC 401 note. **SEC. 1006. TREATMENT OF INFORMATION RELATING TO NATIONAL SECURITY.**

(a) **IN GENERAL.**—(1) The Director of Central Intelligence shall assume responsibility for the handling and disposition of any information related to the national security of the United States that is received, considered, or used by the Commission under this title.

(2) Any information related to the national security of the United States that is provided to the Commission by a congressional intelligence committee may not be further provided or released without the approval of the chairman of such committee.

(b) **ACCESS AFTER TERMINATION OF COMMISSION.**—Notwithstanding any other provision of law, after the termination of the Commission under section 1007, only the Members and designated staff of the congressional intelligence committees, the Director of Central Intelligence (and the designees of the Director), and such other officials of the executive branch as the President may designate shall have access to information related to the national security of the United States that is received, considered, or used by the Commission.

50 USC 401 note. **SEC. 1007. FINAL REPORT; TERMINATION.**

Deadline.

(a) **FINAL REPORT.**—Not later than September 1, 2003, the Commission shall submit to the congressional intelligence committees, the Director of Central Intelligence, and the Secretary of Defense a final report as required by section 1002(h)(2).

(b) **TERMINATION.**—(1) The Commission, and all the authorities of this title, shall terminate at the end of the 120-day period beginning on the date on which the final report under subsection (a) is transmitted to the congressional intelligence committees.

(2) The Commission may use the 120-day period referred to in paragraph (1) for the purposes of concluding its activities, including providing testimony to Congress concerning the final report referred to in that paragraph and disseminating the report.

50 USC 401 note. **SEC. 1008. ASSESSMENTS OF FINAL REPORT.**

Deadline.

Not later than 60 days after receipt of the final report under section 1007(a), the Director of Central Intelligence and the Secretary of Defense shall each submit to the congressional intelligence committees an assessment by the Director or the Secretary, as

the case may be, of the final report. Each assessment shall include such comments on the findings and recommendations contained in the final report as the Director or Secretary, as the case may be, considers appropriate.

SEC. 1009. INAPPLICABILITY OF CERTAIN ADMINISTRATIVE PROVISIONS. 50 USC 401 note.

(a) **FEDERAL ADVISORY COMMITTEE ACT.**—The provisions of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the activities of the Commission under this title.

(b) **FREEDOM OF INFORMATION ACT.**—The provisions of section 552 of title 5, United States Code (commonly referred to as the Freedom of Information Act), shall not apply to the activities, records, and proceedings of the Commission under this title.

SEC. 1010. FUNDING. 50 USC 401 note.

(a) **TRANSFER FROM THE COMMUNITY MANAGEMENT ACCOUNT.**—Of the amounts authorized to be appropriated by this Act for the Intelligence Technology Innovation Center of the Community Management Account, the Deputy Director of Central Intelligence for Community Management shall transfer to the Director of Central Intelligence \$2,000,000 for purposes of the activities of the Commission under this title.

(b) **AVAILABILITY IN GENERAL.**—The Director of Central Intelligence shall make available to the Commission, from the amount transferred to the Director under subsection (a), such amounts as the Commission may require for purposes of the activities of the Commission under this title.

(c) **DURATION OF AVAILABILITY.**—Amounts made available to the Commission under subsection (b) shall remain available until expended.

SEC. 1011. DEFINITIONS. 50 USC 401 note.

In this title:

(1) **CONGRESSIONAL INTELLIGENCE COMMITTEES.**—The term “congressional intelligence committees” means—

- (A) the Select Committee on Intelligence of the Senate;
- and
- (B) the Permanent Select Committee on Intelligence of the House of Representatives.

(2) INTELLIGENCE COMMUNITY.—The term “intelligence community” has the meaning given that term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

Approved November 27, 2002.

LEGISLATIVE HISTORY—H.R. 4628 (S. 2506):

HOUSE REPORTS: Nos. 107–592 (Permanent Select Comm. on Intelligence) and 107–789 (Comm. of Conference).

SENATE REPORTS: Nos. 107–149 (Select Comm. on Intelligence) and 107–208 (Comm. on Armed Services) both accompanying S. 2506.

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 24, considered and passed House.

Sept. 25, considered and passed Senate, amended, in lieu of S. 2506.

Nov. 14, House agreed to conference report.

Nov. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Nov. 27, Presidential remarks and statement.



Public Law 107–307
107th Congress

An Act

To amend title 18, United States Code, with respect to consumer product protection.

Dec. 2, 2002

[H.R. 2621]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Product Packaging Protection Act of 2002”.

Product
Packaging
Protection Act of
2002.
18 USC 1365
note.

SEC. 2. TAMPERING WITH CONSUMER PRODUCTS.

Section 1365 of title 18, United States Code, is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by inserting after subsection (e) the following:

“(f)(1) Whoever, without the consent of the manufacturer, retailer, or distributor, intentionally tampers with a consumer product that is sold in interstate or foreign commerce by knowingly placing or inserting any writing in the consumer product, or in the container for the consumer product, before the sale of the consumer product to any consumer shall be fined under this title, imprisoned not more than 1 year, or both.

Penalties.

“(2) Notwithstanding the provisions of paragraph (1), if any person commits a violation of this subsection after a prior conviction under this section becomes final, such person shall be fined under this title, imprisoned for not more than 3 years, or both.

“(3) In this subsection, the term ‘writing’ means any form of representation or communication, including hand-bills, notices, or advertising, that contain letters, words, or pictorial representations.”.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.R. 2621 (S. 1233):

HOUSE REPORTS: No. 107–485 (Comm. on the Judiciary).

SENATE REPORTS: No. 107–106 accompanying S. 1233 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 11, considered and passed House.

Oct. 16, considered and passed Senate, amended.

Nov. 14, House concurred in Senate amendment.



Public Law 107–308
107th Congress

An Act

Dec. 2, 2002
[H.R. 3908]

To reauthorize the North American Wetlands Conservation Act, and for other purposes.

North American
Wetlands
Conservation
Reauthorization
Act.
16 USC 4401
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “North American Wetlands Conservation Reauthorization Act”.

SEC. 2. AMENDMENT OF NORTH AMERICAN WETLANDS CONSERVATION ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the North American Wetlands Conservation Act (16 U.S.C. 4401 et seq.).

SEC. 3. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDING.—Section 2(a)(1) (16 U.S.C. 4401(a)(1)) is amended by striking “and other habitats” and inserting “and associated habitats”.

(b) PURPOSES.—Section 2(b) (16 U.S.C. 4401(b)) is amended—
(1) in paragraph (1) by striking “and other habitats for migratory birds” and inserting “and habitats associated with wetland ecosystems”;

(2) in paragraph (2) by inserting “wetland associated” before “migratory bird”; and

(3) in paragraph (3)—

(A) by inserting “wetland associated” before “migratory birds”; and

(B) by inserting “, the United States Shorebird Conservation Plan, the North American Waterbird Conservation Plan, the Partners In Flight Conservation Plans,” after “North American Waterfowl Management Plan”.

SEC. 4. DEFINITION OF WETLANDS CONSERVATION PROJECT.

Section 3(9) (16 U.S.C. 4402(9)) is amended—

(1) in subparagraph (A) by inserting “of a wetland ecosystem and associated habitat” after “including water rights,”; and

(2) in subparagraph (B) by striking “and other habitat” and inserting “and associated habitat”.

SEC. 5. REAUTHORIZATION.

Section 7(c) (16 U.S.C. 4406(c)) is amended by striking “not to exceed” and all that follows and inserting “not to exceed—

- “(1) \$55,000,000 for fiscal year 2003;
- “(2) \$60,000,000 for fiscal year 2004;
- “(3) \$65,000,000 for fiscal year 2005;
- “(4) \$70,000,000 for fiscal year 2006; and
- “(5) \$75,000,000 for fiscal year 2007.”.

SEC. 6. ALLOCATION.

Section 8(a) (16 U.S.C. 4407(a)) is amended—

(1) in paragraph (1)—

(A) by striking “(but at least 50 per centum and not more than 70 per centum thereof)” and inserting “(but at least 30 percent and not more than 60 percent)”; and

(B) by striking “4 per centum” and inserting “4 percent”; and

(2) in paragraph (2) by striking “(but at least 30 per centum and not more than 50 per centum thereof)” and inserting “(but at least 40 percent and not more than 70 percent)”.

SEC. 7. CLARIFICATION OF NON-FEDERAL SHARE OF THE COST OF APPROVED WETLANDS CONSERVATION PROJECTS.

Section 8(b) (16 U.S.C. 4407(b)) is amended by striking so much as precedes the second sentence and inserting the following:

“(b) COST SHARING.—(1) Except as provided in paragraph (2), as a condition of providing assistance under this Act for any approved wetlands conservation project, the Secretary shall require that the portion of the costs of the project paid with amounts provided by non-Federal United States sources is equal to at least the amount allocated under subsection (a) that is used for the project.

“(2) Federal moneys allocated under subsection (a) may be used to pay 100 percent of the costs of such projects located on Federal lands and waters, including the acquisition of inholdings within such lands and waters.

“(3)”.

SEC. 8. TECHNICAL CORRECTIONS.

(a) The North American Wetlands Conservation Act is amended as follows:

(1) In section 2(a)(10) (16 U.S.C. 4401(a)(10)), by inserting “of 1973” after “Species Act”.

(2) In section 2(a)(12) (16 U.S.C. 4401(a)(12)), by inserting “and in 1994 by the Secretary of Sedesol for Mexico” after “United States”.

(3) In section 3(2) (16 U.S.C. 4402(2)), by striking “Committee on Merchant Marine and Fisheries of the United States House of Representatives” and inserting “Committee on Resources of the House of Representatives”.

(4) In section 3(5) (16 U.S.C. 4402(5)), by inserting “of 1973” after “Species Act”.

(5) In section 3(6) (16 U.S.C. 4402(6)), by inserting after “1986” the following: “, and by the Secretary of Sedesol for Mexico in 1994, and subsequent dates”.

(6) In section 4(a)(1)(B) (16 U.S.C. 4403(a)(1)(B)), by striking “section 3(2)(B)” and inserting “section 3(g)(2)(B)”.

(7) In section 4(c) (16 U.S.C. 4403(c)), in the matter preceding paragraph (1), by striking “Commission” and inserting “Council”.

(8) In section 5(a)(5) (16 U.S.C. 4404(a)(5)), by inserting “of 1973” after “Species Act”.

(9) In section 5(b) (16 U.S.C. 4404(b)), by striking “by January 1 of each year,” and inserting “each year”.

(10) In section 5(d) (16 U.S.C. 4404(d)), by striking “one Council member” and inserting “2 Council members”.

(11) In section 5(f) (16 U.S.C. 4404(f)), by striking “subsection (d)” and inserting “subsection (e)”.

(12) In section 10(1)(C) (16 U.S.C. 4409(1)(C)), by striking “western hemisphere pursuant to section 17 of this Act” and inserting “Western Hemisphere pursuant to section 16”.

(13) In section 10(1)(D) (16 U.S.C. 4409(1)(D)), by striking the period and inserting “; and”.

(14) In section 16(a) (16 U.S.C. 4413), by striking “western hemisphere” and inserting “Western Hemisphere”.

16 USC 4403.

Effective date.
16 USC 4403
note.

(b)(1) Section 112(1) of Public Law 101-593 (104 Stat. 2962) is amended by striking “and before the period”.

(2) Paragraph (1) of this subsection shall be effective on and after the effective date of section 112(1) of Public Law 101-593 (104 Stat. 2962).

SEC. 9. CHESAPEAKE BAY INITIATIVE.

Section 502(c) of the Chesapeake Bay Initiative Act of 1998 (16 U.S.C. 461 note; Public Law 105-312) is amended by striking “2003” and inserting “2008”.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.R. 3908:

HOUSE REPORTS: No. 107-421 (Comm. on Resources).

SENATE REPORTS: No. 107-304 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 7, considered and passed House.

Nov. 14, considered and passed Senate, amended. House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Dec. 2, Presidential remarks.



Public Law 107–309
107th Congress

An Act

To amend title 36, United States Code, to clarify the requirements for eligibility
in the American Legion.

Dec. 2, 2002
[H.R. 3988]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. CLARIFICATION OF REQUIREMENTS FOR ELIGIBILITY IN
THE AMERICAN LEGION.**

Section 21703(2) of title 36, United States Code, is amended
by inserting “during or” after “continues to serve honorably”.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.R. 3988:

HOUSE REPORTS: No. 107–571 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 15, considered and passed House.

Nov. 14, considered and passed Senate.



Public Law 107–310
107th Congress

An Act

Dec. 2, 2002

[H.R. 4727]

Dam Safety and
Security Act of
2002.

33 USC 467 note.

To reauthorize the national dam safety program, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; AMENDMENT OF NATIONAL DAM SAFETY
PROGRAM ACT.**

(a) **SHORT TITLE.**—This Act may be cited as the “Dam Safety and Security Act of 2002”.

(b) **AMENDMENT OF NATIONAL DAM SAFETY PROGRAM ACT.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Dam Safety Program Act (33 U.S.C. 467 et seq.).

SEC. 2. INTERAGENCY COMMITTEE ON DAM SAFETY.

Section 7(b) (33 U.S.C. 467e(b)) is amended—

(1) by striking “Federal and State programs” and inserting “Federal programs”; and

(2) by striking “through—” and all that follows through the period at the end and inserting “through coordination and information exchange among Federal agencies concerning implementation of the Federal Guidelines for Dam Safety.”.

SEC. 3. NATIONAL DAM SAFETY PROGRAM.

(a) **IN GENERAL.**—Section 8(a)(3) (33 U.S.C. 467f(a)(3)) is amended—

(1) in subparagraph (B) by striking “implementation plan described in subsection (e)” and inserting “strategic plan described in subsection (b)”; and

(2) in subparagraph (C) by striking “subsection (f)” and inserting “subsection (e)”.

(b) **DUTIES.**—Section 8(b) (33 U.S.C. 467f(b)) is amended to read as follows:

“(b) **DUTIES.**—The Director shall prepare a strategic plan—

“(1) to establish goals, priorities, and target dates to improve the safety of dams in the United States; and

“(2) to the extent feasible, to establish cooperation and coordination with, and assistance to, interested governmental entities in all States.”.

(c) **OBJECTIVES.**—Section 8(c) (33 U.S.C. 467f(c)) is amended—

(1) in paragraph (5) by striking “and” at the end;

(2) in paragraph (6) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(7) develop technical assistance materials, seminars, and guidelines to improve security for dams in the United States.”.

(d) FUNCTIONAL ACTIVITIES.—Section 8(d)(3)(A) (33 U.S.C. 467f(d)(3)(A)) is amended by striking “and shall be” and all that follows through the period at the end and inserting “and shall be exercised by chairing the Board to coordinate national efforts to improve the safety of the dams in the United States.”.

(e) IMPLEMENTATION PLAN; DAM SAFETY TRAINING.—

(1) IN GENERAL.—Section 8 (33 U.S.C. 467f) is amended by striking subsections (e) and (g) and redesignating subsections (f) and (h) as subsections (e) and (f), respectively.

(2) CONFORMING AMENDMENTS.—Section 2 (33 U.S.C. 467) is amended—

(A) in paragraph (1) by striking “section 8(h)” and inserting “section 8(f)”; and

(B) in paragraph (12) by striking “section 8(f)” and inserting “section 8(e)”.

(f) ASSISTANCE FOR STATE DAM SAFETY PROGRAMS.—Section 8(e) (as redesignated by subsection (e) of this section) is amended—

(1) in paragraph (1) by striking “the Director shall provide assistance” and all that follows through the period at the end and inserting “the Director shall provide assistance with amounts made available under section 13 to assist States in establishing, maintaining, and improving dam safety programs in accordance with the criteria specified in paragraph (2).”;

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by striking “primary”; and

(ii) by striking “, and for a State to be eligible” and all that follows before the colon;

(B) in subparagraph (A)—

(i) in the matter preceding clause (i) by striking “For a State to be eligible for assistance under this subsection, a State” and inserting “A State”; and

(ii) in clause (vi) by inserting “improve security,” before “revise operating procedures,”; and

(3) in paragraph (3) by striking “contract” each place it appears and inserting “agreement”.

(g) BOARD.—

(1) ESTABLISHMENT.—Section 8(f)(1) (as redesignated by subsection (e) of this section) is amended—

(A) by striking “The Director may establish” and inserting “The Director shall establish”; and

(B) by striking “to monitor” and all that follows through the period at the end and inserting “to monitor the safety of dams in the United States, to monitor State implementation of this section, and to advise the Director on national dam safety policy.”.

(2) VOTING MEMBERSHIP.—Section 8(f)(3) (as redesignated by subsection (e) of this section) is amended—

(A) in the paragraph heading by striking “MEMBERSHIP” and inserting “VOTING MEMBERSHIP”;

(B) in the matter preceding subparagraph (A) by striking “11 members” and inserting “11 voting members”; and

(C) by striking subparagraphs (F) and (G) and inserting the following:

“(F) 5 members shall be selected by the Director from among State dam safety officials; and

“(G) 1 member shall be selected by the Director to represent the private sector.”

(3) NONVOTING MEMBERSHIP; DUTIES; WORK GROUPS.—Section 8(f) (as redesignated by subsection (e) of this section) is amended—

(A) by redesignating paragraphs (4), (5), and (6) as paragraphs (7), (8), and (9), respectively; and

(B) by inserting after paragraph (3) the following:

“(4) NONVOTING MEMBERSHIP.—The Director, in consultation with the Board, may invite a representative of the National Laboratories of the Department of Energy and may invite representatives from Federal or State agencies or dam safety experts, as needed, to participate in meetings of the Board.

“(5) DUTIES.—

“(A) IN GENERAL.—The Board shall encourage the establishment and maintenance of effective programs, policies, and guidelines to enhance dam safety for the protection of human life and property throughout the United States.

“(B) COORDINATION AND INFORMATION EXCHANGE AMONG AGENCIES.—In carrying out subparagraph (A), the Board shall encourage coordination and information exchange among Federal and State dam safety agencies that share common problems and responsibilities for dam safety, including planning, design, construction, operation, emergency action planning, inspections, maintenance, regulation or licensing, technical or financial assistance, research, and data management.

“(6) WORK GROUPS.—The Director may establish work groups under the Board to assist the Board in accomplishing its goals. The work groups shall consist of members of the Board and other individuals selected by the Director.”

(4) TRAVEL EXPENSES.—Section 8(f) (as redesignated by subsection (e) of this section) is amended by striking paragraph (8) (as redesignated by paragraph (3)(A) of this subsection) and inserting the following:

“(8) TRAVEL EXPENSES.—

“(A) REPRESENTATIVES OF FEDERAL AGENCIES.—To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a Federal agency shall be reimbursed of appropriations for travel expenses by his or her agency, including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of services for the Board.

“(B) OTHER INDIVIDUALS.—To the extent amounts are made available in advance in appropriations Acts, each member of the Board who represents a State agency, the member of the Board who represents the private sector, and each member of a work group created under paragraph (1) shall be reimbursed for travel expenses by FEMA,

including per diem in lieu of subsistence, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from home or regular place of business of the member in performance of services for the Board.”.

SEC. 4. RESEARCH.

Section 9(a) (33 U.S.C. 467g) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking “in cooperation with ICODS” and inserting “in cooperation with the Board”; and

(B) by inserting “and support” after “develop”;

(2) in paragraph (1) by striking “and” at the end;

(3) in paragraph (2) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

“(3) development and maintenance of information resources systems needed to support managing the safety of dams; and

“(4) initiatives to guide the formulation of effective public policy and advance improvements in dam safety engineering, security, and management.”.

SEC. 5. DAM SAFETY TRAINING.

The Act (33 U.S.C. 467 et seq.) is amended—

(1) by redesignating sections 10, 11, and 12 as sections 11, 12, and 13, respectively; and

(2) by inserting after section 9 the following:

“SEC. 10. DAM SAFETY TRAINING.

33 USC 467g-1.

“At the request of any State that has or intends to develop a State dam safety program, the Director shall provide training for State dam safety staff and inspectors.”.

SEC. 6. REPORTS.

Section 11 (as redesignated by section 5 of this Act) is amended by striking subsection (a) and all that follows through “(b) BIENNIAL REPORTS.—”.

33 USC 467h.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) ANNUAL AMOUNTS.—Section 13(a)(1) (as redesignated by section 5 of this Act) is amended—

33 USC 467j.

(1) by striking “sections 7, 8, and 10” and inserting “sections 7, 8, and 11”; and

(2) by striking “\$1,000,000 for fiscal year 1998,” and all that follows through the period at the end and inserting “\$6,000,000 for each of fiscal years 2003 through 2006, to remain available until expended.”.

(b) ALLOCATION.—Section 13(a)(2) (as redesignated by section 5 of this Act) is amended—

(1) in subparagraph (A) by striking “section 8(f)” each place it appears and inserting “section 8(e)”; and

(2) in subparagraph (C) by striking “needing primary assistance and States needing advanced assistance under section 8(f)”.

(c) RESEARCH; DAM SAFETY TRAINING; STAFF.—Section 13 (as redesignated by section 5 of this Act) is amended by striking subsections (c) through (e) and inserting the following:

“(c) RESEARCH.—There is authorized to be appropriated to carry out section 9 \$1,500,000 for each of fiscal years 2003 through 2006, to remain until expended.

“(d) DAM SAFETY TRAINING.—There is authorized to be appropriated to carry out section 10 \$500,000 for each of fiscal years 2003 through 2006.

“(e) STAFF.—There is authorized to be appropriated to FEMA for the employment of such additional staff personnel as are necessary to carry out sections 8 through 10 \$600,000 for each of fiscal years 2003 through 2006.”.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.R. 4727:

HOUSE REPORTS: No. 107-626 (Comm. on Transportation and Infrastructure).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 5, considered and passed House.

Nov. 14, considered and passed Senate.



Public Law 107–311
107th Congress

An Act

To amend title 10, United States Code, to provide for the enforcement and effectiveness of civilian orders of protection on military installations.

Dec. 2, 2002
[H.R. 5590]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Armed Forces Domestic Security Act”.

Armed Forces
Domestic
Security Act.
10 USC 1561
note.

SEC. 2. FORCE AND EFFECT OF PROTECTIVE ORDERS ON MILITARY INSTALLATIONS.

(a) IN GENERAL.—Chapter 80 of title 10, United States Code, is amended by inserting after section 1561 the following new section:

“§ 1561a. Civilian orders of protection: force and effect on military installations

“(a) FORCE AND EFFECT.—A civilian order of protection shall have the same force and effect on a military installation as such order has within the jurisdiction of the court that issued such order.

“(b) CIVILIAN ORDER OF PROTECTION DEFINED.—In this section, the term ‘civilian order of protection’ has the meaning given the term ‘protection order’ in section 2266(5) of title 18.

“(c) REGULATIONS.—The Secretary of Defense shall prescribe regulations to carry out this section. The regulations shall be designed to further good order and discipline by members of the armed forces and civilians present on military installations.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1561 the following new item:

“1561a. Civilian orders of protection: force and effect on military installations.”.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.R. 5590:

CONGRESSIONAL RECORD, Vol. 148 (2002):
Oct. 15, considered and passed House.
Nov. 14, considered and passed Senate.

Public Law 107–312
107th Congress

An Act

Dec. 2, 2002

[H.R. 5708]

To reduce preexisting PAYGO balances, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

2 USC 902 note.

SECTION 1. REDUCTION OF PREEXISTING PAYGO BALANCES.

Upon the enactment of this Act, the Director of the Office of Management and Budget shall reduce any balances of direct spending and receipts legislation for all fiscal years under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 to zero.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.R. 5708:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 15, considered and passed Senate.



Public Law 107–313
107th Congress

An Act

To amend the Employee Retirement Income Security Act of 1974 and the Public Health Service Act to extend the mental health benefits parity provisions for an additional year.

Dec. 2, 2002
[H.R. 5716]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mental Health Parity Reauthorization Act of 2002”.

Mental Health
Parity
Reauthorization
Act of 2002.
42 USC 201 note.

SEC. 2. EXTENSION OF MENTAL HEALTH PROVISIONS.

(a) ERISA.—Section 712(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1185a(f)) is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) PHSA.—Section 2705(f) of the Public Health Service Act (42 U.S.C. 300gg–5(f)) is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.R. 5716:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 15, considered and passed Senate.



Public Law 107–314
107th Congress

An Act

Dec. 2, 2002
[H.R. 4546]

To authorize appropriations for fiscal year 2003 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Bob Stump
National Defense
Authorization
Act for Fiscal
Year 2003.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) **SHORT TITLE.**—This Act may be cited as the “Bob Stump National Defense Authorization Act for Fiscal Year 2003”.

(b) **FINDINGS.**—Congress makes the following findings:

(1) Representative Bob Stump of Arizona was elected to the House of Representatives in 1976 for service in the 95th Congress, after serving in the Arizona legislature for 18 years and serving as President of the Arizona State Senate from 1975 to 1976, and he has been reelected to each subsequent Congress.

(2) A World War II combat veteran, Representative Stump entered service in the United States Navy in 1943, just after his 16th birthday, and served aboard the USS LUNGA POINT and the USS TULAGI, which participated in the invasions of Luzon, Iwo Jima, and Okinawa.

(3) Representative Stump was elected to the Committee on Armed Services in 1978 and has served on nearly all of its subcommittees and panels during 25 years of distinguished service on the committee. He has served as chairman of the committee during the 107th Congress and has championed United States national security as the paramount function of the Federal Government.

(4) Also serving on the Committee on Veterans’ Affairs of the House of Representatives, chairing that committee from 1995 to 2000, and serving on the Permanent Select Committee on Intelligence of the House of Representatives, including service as the ranking minority member in 1985 and 1986, Representative Stump has dedicated his entire congressional career to steadfastly supporting America’s courageous men and women in uniform both on and off the battlefield.

(5) Representative Stump’s tireless efforts on behalf of those in the military and veterans have been recognized with numerous awards for outstanding service from active duty and reserve military, veterans’ service, military retiree, and industry organizations.

(6) During his tenure as chairman of the Committee on Armed Services of the House of Representatives, Representative Stump has—

(A) overseen the largest sustained increase to defense spending since the Reagan administration;

(B) led efforts to improve the quality of military life, including passage of the largest military pay raise since 1982;

(C) supported military retirees, including efforts to reverse concurrent receipt law and to save the Armed Forces Retirement Homes;

(D) championed military readiness by defending military access to critical training facilities such as Vieques, Puerto Rico, expanding the National Training Center at Ft. Irwin, California, and working to restore balance between environmental concerns and military readiness requirements;

(E) reinvigorated efforts to defend America against ballistic missiles by supporting an increase in fiscal year 2002 of nearly 50 percent above the fiscal year 2001 level for missile defense programs; and

(F) honored America's war heroes by expanding Arlington National Cemetery, establishing a site for the Air Force Memorial, and assuring construction of the World War II Memorial.

(7) In recognition of his long record of accomplishments in enhancing the national security of the United States and his legislative victories on behalf of active duty service members, reservists, guardsmen, and veterans, it is altogether fitting and proper that this Act be named in honor of Representative Bob Stump of Arizona, as provided in subsection (a).

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.

(a) DIVISIONS.—This Act is organized into three divisions as follows:

(1) Division A—Department of Defense Authorizations.

(2) Division B—Military Construction Authorizations.

(3) Division C—Department of Energy National Security Authorizations and Other Authorizations.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; findings.

Sec. 2. Organization of Act into divisions; table of contents.

Sec. 3. Congressional defense committees defined.

DIVISION A—DEPARTMENT OF DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

Subtitle A—Authorization of Appropriations

Sec. 101. Army.

Sec. 102. Navy and Marine Corps.

Sec. 103. Air Force.

Sec. 104. Defense-wide activities.

Sec. 105. Defense Inspector General.

Sec. 106. Chemical Agents and Munitions Destruction, Defense.

Sec. 107. Defense health programs.

Subtitle B—Army Programs

- Sec. 111. Pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.
- Sec. 112. Report on impact of Army aviation modernization plan on the Army National Guard.
- Sec. 113. Family of Medium Tactical Vehicles.

Subtitle C—Navy Programs

- Sec. 121. Extension of multiyear procurement authority for DDG-51 class destroyers.
- Sec. 122. Sense of Congress on scope of conversion program for Ticonderoga-class cruisers.
- Sec. 123. Continuation of contract for operation of Champion-class T-5 fuel tanker vessels.

Subtitle D—Air Force Programs

- Sec. 131. Multiyear procurement authority for C-130J aircraft program.
- Sec. 132. Pathfinder programs.
- Sec. 133. Leases for tanker aircraft under multiyear aircraft-lease pilot program.

Subtitle E—Other Programs

- Sec. 141. Destruction of existing stockpile of lethal chemical agents and munitions.
- Sec. 142. Report on unmanned aerial vehicle systems.
- Sec. 143. Global Information Grid system.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION**Subtitle A—Authorization of Appropriations**

- Sec. 201. Authorization of appropriations.
- Sec. 202. Amount for defense science and technology.
- Sec. 203. Defense health programs.

Subtitle B—Program Requirements, Restrictions, and Limitations

- Sec. 211. RAH-66 Comanche aircraft program.
- Sec. 212. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
- Sec. 213. Revised requirements for plan for Manufacturing Technology Program.
- Sec. 214. Advanced SEAL Delivery System.
- Sec. 215. Army experimentation program regarding design of the objective force.
- Sec. 216. Program to provide Army with self-propelled Future Combat Systems non-line-of-sight cannon indirect fire capability for the objective force.
- Sec. 217. Prohibition on transfer of Medical Free Electron Laser program.
- Sec. 218. Littoral combat ship program.

Subtitle C—Ballistic Missile Defense

- Sec. 221. Report requirements relating to ballistic missile defense programs.
- Sec. 222. Responsibility of Missile Defense Agency for research, development, test, and evaluation related to system improvements of programs transferred to military departments.
- Sec. 223. Limitation on obligation of funds for Theater High Altitude Area Defense Program pending submission of required life-cycle cost information.
- Sec. 224. Provision of information on flight testing of Ground-based Midcourse National Missile Defense system.
- Sec. 225. References to new name for Ballistic Missile Defense Organization.
- Sec. 226. One-year limitation on use of funds for nuclear armed interceptors.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

- Sec. 231. Department of Defense Test Resource Management Center.
- Sec. 232. Objective for institutional funding of test and evaluation facilities.
- Sec. 233. Uniform financial management system for Department of Defense test and evaluation facilities.
- Sec. 234. Test and evaluation workforce improvements.
- Sec. 235. Compliance with testing requirements.

Subtitle E—Other Matters

- Sec. 241. Pilot programs for revitalizing Department of Defense laboratories.
- Sec. 242. Technology Transition Initiative.

- Sec. 243. Defense Acquisition Challenge Program.
- Sec. 244. Encouragement of small businesses and nontraditional defense contractors to submit proposals potentially beneficial for combating terrorism.
- Sec. 245. Vehicle fuel cell program.
- Sec. 246. Defense nanotechnology research and development program.
- Sec. 247. Activities of the Defense Experimental Program to Stimulate Competitive Research.
- Sec. 248. Four-year extension of authority of DARPA to award prizes for advanced technology achievements and additional authority of military departments and Defense Agencies to award prizes for achievements in promoting education.
- Sec. 249. Plan for five-year program for enhancement of measurement and signatures intelligence capabilities of the United States through incorporation of results of basic research on sensors.

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Armed Forces Retirement Home.
- Sec. 304. Grant to National Guard Youth Foundation.

Subtitle B—Environmental Provisions

- Sec. 311. Enhancement of authority on cooperative agreements for environmental purposes.
- Sec. 312. Single point of contact for policy and budgeting issues regarding unexploded ordnance, discarded military munitions, and munitions constituents.
- Sec. 313. Authority to carry out construction projects for environmental responses.
- Sec. 314. Procurement of environmentally preferable procurement items.
- Sec. 315. Incidental taking of migratory birds during military readiness activities.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

- Sec. 321. Authority for each military department to provide base operating support to Fisher Houses.
- Sec. 322. Use of commissary stores and MWR retail facilities by members of National Guard serving in national emergency.
- Sec. 323. Uniform funding and management of morale, welfare, and recreation programs.
- Sec. 324. Rebate agreements under the special supplemental food program.

Subtitle D—Workplace and Depot Issues

- Sec. 331. Notification requirements in connection with required studies for conversion of commercial or industrial type functions to contractor performance.
- Sec. 332. Temporary authority for contractor performance of security-guard functions to meet increased requirements since September 11, 2001.
- Sec. 333. Repeal of obsolete provision regarding depot-level maintenance and repair workloads that were performed at closed or realigned military installations.
- Sec. 334. Exclusion of certain expenditures from limitation on private sector performance of depot-level maintenance.

Subtitle E—Defense Dependents Education

- Sec. 341. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 342. Housing benefits for unaccompanied teachers required to live at Guantanamo Bay Naval Station, Cuba.
- Sec. 343. Options for funding dependent summer school programs.
- Sec. 344. Impact aid eligibility for local educational agencies affected by privatization of military housing.
- Sec. 345. Comptroller General study of adequacy of compensation provided for teachers in the Department of Defense Overseas Dependents' Schools.

Subtitle F—Information Technology

- Sec. 351. Annual submission of information regarding information technology capital assets.
- Sec. 352. Policy regarding acquisition of information assurance and information assurance-enabled information technology products.

- Sec. 353. Installation and connection policy and procedures regarding Defense Switch Network.

Subtitle G—Other Matters

- Sec. 361. Distribution of monthly reports on allocation of funds within operation and maintenance budget subactivities.
Sec. 362. Continuation of arsenal support program initiative.
Sec. 363. Extension of work safety demonstration program.
Sec. 364. Condition on authority of Defense Security Service to impose fees on fee-for-service basis.
Sec. 365. Logistics support and services for weapon systems contractors.
Sec. 366. Training range sustainment plan, Global Status of Resources and Training System, and training range inventory.
Sec. 367. Engineering study and environmental analysis of road modifications in vicinity of Fort Belvoir, Virginia.
Sec. 368. Reauthorization of warranty claims recovery pilot program.
Sec. 369. Expanded eligibility for loan, gift, or exchange of documents, historical artifacts, and condemned or obsolete combat materiel.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

- Sec. 401. End strengths for active forces.
Sec. 402. Revision in permanent end strength minimum levels.
Sec. 403. Expanded authority for administrative increases in statutory active-duty end strengths.
Sec. 404. General and flag officer management.
Sec. 405. Extension of certain authorities relating to management of numbers of general and flag officers in certain grades.
Sec. 406. Increase in authorized strengths for Marine Corps officers on active duty in the grade of colonel.

Subtitle B—Reserve Forces

- Sec. 411. End strengths for Selected Reserve.
Sec. 412. End strengths for Reserves on active duty in support of the reserves.
Sec. 413. End strengths for military technicians (dual status).
Sec. 414. Fiscal year 2003 limitation on non-dual status technicians.

Subtitle C—Authorization of Appropriations

- Sec. 421. Authorization of appropriations for military personnel.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

- Sec. 501. Extension of good-of-the-service waiver authority for officers appointed to a Reserve Chief or Guard Director position.
Sec. 502. Exclusion of certain officers from limitation on authority to grant a waiver of required completion or sequencing for joint professional military education.
Sec. 503. Extension and codification of authority for recall of retired aviators to active duty.
Sec. 504. Grades for certain positions.
Sec. 505. Reinstatement of authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above major and lieutenant commander.
Sec. 506. Authority to require that an officer take leave pending review of a recommendation for removal by a board of inquiry.

Subtitle B—Reserve Component Management

- Sec. 511. Reviews of National Guard strength accounting and management and other issues.
Sec. 512. Courts-martial for the National Guard when not in Federal service.
Sec. 513. Fiscal year 2003 funding for military personnel costs of reserve component Special Operations Forces personnel engaged in humanitarian assistance activities relating to clearing of landmines.
Sec. 514. Use of Reserves to perform duties relating to defense against terrorism.
Sec. 515. Repeal of prohibition on use of Air Force Reserve AGR personnel for Air Force base security functions.

Subtitle C—Reserve Component Officer Personnel Policy

- Sec. 521. Eligibility for consideration for promotion to grade of major general for certain reserve component brigadier generals who do not otherwise qualify for consideration for promotion under the one-year rule.

- Sec. 522. Authority for limited extension of medical deferment of mandatory retirement or separation of reserve component officers.

Subtitle D—Enlistment, Education, and Training Programs

- Sec. 531. Enlistment incentives for pursuit of skills to facilitate national service.
Sec. 532. Authority for phased increase to 4,400 in authorized strengths for the service academies.
Sec. 533. Enhancement of reserve component delayed training program.
Sec. 534. Review of Armed Forces programs for preparation for, participation in, and conduct of athletic competitions.
Sec. 535. Repeal of bar to eligibility of Army College First program participants for benefits under student loan repayment program.

Subtitle E—Decorations, Awards, and Commendations

- Sec. 541. Waiver of time limitations for award of Army Distinguished-Service Cross to certain persons.
Sec. 542. Option to convert award of Armed Forces Expeditionary Medal awarded for Operation Frequent Wind to Vietnam Service Medal.
Sec. 543. Korea Defense Service Medal.
Sec. 544. Commendation of military chaplains.

Subtitle F—Administrative Matters

- Sec. 551. Staffing and funding for Defense Prisoner of War/Missing Personnel Office.
Sec. 552. Three-year freeze on reductions of personnel of agencies responsible for review and correction of military records.
Sec. 553. Authority for acceptance of voluntary services of individuals as proctors for administration of Armed Services Vocational Aptitude Battery test.
Sec. 554. Extension of temporary early retirement authority.

Subtitle G—Matters Relating to Minorities and Women in the Armed Forces

- Sec. 561. Surveys of racial and ethnic issues and of gender issues in the Armed Forces.
Sec. 562. Annual report on status of female members of the Armed Forces.
Sec. 563. Wear of abayas by female members of the Armed Forces in Saudi Arabia.

Subtitle H—Benefits

- Sec. 571. Department of Defense support for persons participating in military funeral honors details.
Sec. 572. Emergency leave of absence program.
Sec. 573. Enhanced flexibility in medical loan repayment program.
Sec. 574. Destinations authorized for Government paid transportation of enlisted personnel for rest and recuperation absence upon extending duty at designated locations overseas.
Sec. 575. Vehicle storage in lieu of transportation when member is ordered to a nonforeign duty station outside continental United States.

Subtitle I—Reports

- Sec. 581. Quadrennial quality of life review.
Sec. 582. Report on desirability and feasibility of consolidating separate courses of basic instruction for judge advocates.
Sec. 583. Reports on efforts to resolve status of Captain Michael Scott Speicher, United States Navy.
Sec. 584. Report on volunteer services of members of the reserve components in emergency response to the terrorist attacks of September 11, 2001.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

- Sec. 601. Increase in basic pay for fiscal year 2003.
Sec. 602. Basic allowance for housing in cases of low-cost or no-cost moves.
Sec. 603. Rate of basic allowance for subsistence for enlisted personnel occupying single Government quarters without adequate availability of meals.

Subtitle B—Bonuses and Special and Incentive Pays

- Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.
Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.
Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.

- Sec. 614. One-year extension of other bonus and special pay authorities.
- Sec. 615. Increase in maximum rates for certain special pays, bonuses, and financial assistance for health care professionals.
- Sec. 616. Assignment incentive pay.
- Sec. 617. Increase in maximum rates for prior service enlistment bonus.
- Sec. 618. Retention incentives for health care professionals qualified in a critical military skill.

Subtitle C—Travel and Transportation Allowances

- Sec. 621. Extension of leave travel deferral period for members performing consecutive overseas tours of duty.
- Sec. 622. Transportation of motor vehicles for members reported missing.

Subtitle D—Retired Pay and Survivor Benefits

- Sec. 631. Permanent reduction from eight to six in number of years of reserve service required for eligibility for retired pay for non-regular service.
- Sec. 632. Increased retired pay for enlisted Reserves credited with extraordinary heroism.
- Sec. 633. Elimination of possible inversion in retired pay cost-of-living adjustment for initial COLA computation.
- Sec. 634. Technical revisions to so-called “forgotten widows” annuity program.
- Sec. 635. Expansion of authority of Secretary of Defense to waive time limitations on claims against the Government for military personnel benefits.
- Sec. 636. Special compensation for certain combat-related disabled uniformed services retirees.

Subtitle E—Montgomery GI Bill

- Sec. 641. Time limitation for use of Montgomery GI Bill entitlement by members of the Selected Reserve.
- Sec. 642. Repayment requirements under Reserve Component Montgomery GI Bill arising from failure to participate satisfactorily in military service to be considered debts owed to the United States.
- Sec. 643. Technical adjustments to authority for certain members to transfer educational assistance under Montgomery GI Bill to dependents.

Subtitle F—Other Matters

- Sec. 651. Payment of interest on student loans.
- Sec. 652. Additional authority to provide assistance for families of members of the Armed Forces.
- Sec. 653. Repeal of authority for acceptance of honoraria by personnel at certain Department of Defense schools.
- Sec. 654. Addition of definition of continental United States in title 37.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Program Improvements

- Sec. 701. Elimination of requirement for TRICARE preauthorization of inpatient mental health care for medicare-eligible beneficiaries.
- Sec. 702. Continued TRICARE eligibility of dependents residing at remote locations after departure of sponsors for unaccompanied assignments and eligibility of dependents of reserve component members ordered to active duty.
- Sec. 703. Eligibility of surviving dependents for TRICARE dental program benefits after discontinuance of former enrollment.
- Sec. 704. Department of Defense Medicare-Eligible Retiree Health Care Fund.
- Sec. 705. Approval of medicare providers as TRICARE providers.
- Sec. 706. Technical corrections relating to transitional health care for members separated from active duty.
- Sec. 707. Extension of temporary authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities.
- Sec. 708. Access to health care services for beneficiaries eligible for TRICARE and Department of Veterans Affairs health care.
- Sec. 709. Disclosure of information on Project 112 to Department of Veterans Affairs.

Subtitle B—Reports

- Sec. 711. Claims information.
- Sec. 712. Comptroller General report on provision of care under the TRICARE program.

Sec. 713. Repeal of report requirement.

**Subtitle C—Department of Defense-Department of Veterans Affairs Health
Resources Sharing**

- Sec. 721. Revised coordination and sharing guidelines.
Sec. 722. Health care resources sharing and coordination project.
Sec. 723. Report on improved coordination and sharing of health care and health care resources following domestic acts of terrorism or domestic use of weapons of mass destruction.
Sec. 724. Interoperability of Department of Veterans Affairs and Department of Defense pharmacy data systems.
Sec. 725. Joint pilot program for providing graduate medical education and training for physicians.
Sec. 726. Repeal of certain limits on Department of Veterans Affairs resources.

**TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND
RELATED MATTERS**

Subtitle A—Acquisition Policy and Management

- Sec. 801. Buy-to-budget acquisition of end items.
Sec. 802. Report to Congress on evolutionary acquisition of major defense acquisition programs.
Sec. 803. Spiral development under major defense acquisition programs.
Sec. 804. Improvement of software acquisition processes.
Sec. 805. Performance goals for procuring services pursuant to multiple award contracts.
Sec. 806. Rapid acquisition and deployment procedures.
Sec. 807. Quick-reaction special projects acquisition team.

**Subtitle B—Amendments to General Contracting Authorities, Procedures,
and Limitations**

- Sec. 811. Limitation period for task and delivery order contracts.
Sec. 812. One-year extension of program applying simplified procedures to certain commercial items; report.
Sec. 813. Extension and improvement of personnel demonstration policies and procedures applicable to the civilian acquisition workforce.
Sec. 814. Past performance given significant weight in renewal of procurement technical assistance cooperative agreements.
Sec. 815. Increased maximum amount of assistance for tribal organizations or economic enterprises carrying out procurement technical assistance programs in two or more service areas.
Sec. 816. Extension of contract goal for small disadvantaged businesses and certain institutions of higher education.
Sec. 817. Grants of exceptions to cost or pricing data certification requirements and waivers of cost accounting standards.
Sec. 818. Timing of certification in connection with waiver of survivability and lethality testing requirements.
Sec. 819. Contracting with Federal Prison Industries.
Sec. 820. Revisions to multiyear contracting authority.

Subtitle C—Acquisition-Related Reports and Other Matters

- Sec. 821. Evaluation of training, knowledge, and resources regarding negotiation of intellectual property arrangements.
Sec. 822. Independent technology readiness assessments.
Sec. 823. Extension and amendment of requirement for annual report on defense commercial pricing management improvement.
Sec. 824. Assessment of purchases of products and services through contracts with other Federal departments and agencies.
Sec. 825. Repeal of certain requirements and Comptroller General reviews of the requirements.
Sec. 826. Multiyear procurement authority for purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.
Sec. 827. Multiyear procurement authority for environmental services for military installations.
Sec. 828. Report on effects of Army Contracting Agency.
Sec. 829. Authorization to take actions to correct the industrial resource shortfall for radiation-hardened electronics.

**TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND
MANAGEMENT**

Subtitle A—Duties and Functions of Department of Defense Officers

- Sec. 901. Under Secretary of Defense for Intelligence.

- Sec. 902. Reorganization of Office of Secretary of Defense for administration of duties relating to homeland defense and combating terrorism.

Subtitle B—Space Activities

- Sec. 911. Oversight of acquisition for defense space programs.
Sec. 912. Report regarding assured access to space for the United States.

Subtitle C—Reports

- Sec. 921. Report on establishment of United States Northern Command.
Sec. 922. Time for submittal of report on Quadrennial Defense Review.
Sec. 923. National defense mission of Coast Guard to be included in future Quadrennial Defense Reviews.
Sec. 924. Report on establishment of a Joint National Training Complex and joint opposing forces.

Subtitle D—Other Matters

- Sec. 931. Authority to accept gifts for National Defense University.
Sec. 932. Western Hemisphere Institute for Security Cooperation.
Sec. 933. Conforming amendment to reflect disestablishment of Department of Defense Consequence Management Program Integration Office.
Sec. 934. Increase in number of Deputy Commandants of the Marine Corps.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

- Sec. 1001. Transfer authority.
Sec. 1002. Authorization of supplemental appropriations for fiscal year 2002.
Sec. 1003. United States contribution to NATO common-funded budgets in fiscal year 2003.
Sec. 1004. Development and implementation of financial management enterprise architecture.
Sec. 1005. Accountable officials in the Department of Defense.
Sec. 1006. Uniform standards throughout Department of Defense for exposure of personnel to pecuniary liability for loss of Government property.
Sec. 1007. Improvements in purchase card management.
Sec. 1008. Improvements in travel card management.
Sec. 1009. Clearance of certain transactions recorded in Treasury suspense accounts and resolution of certain check issuance discrepancies.
Sec. 1010. Authorization of funds for ballistic missile defense programs or combating terrorism programs of the Department of Defense.
Sec. 1011. Reduction in overall authorization due to inflation savings.

Subtitle B—Naval Vessels and Shipyards

- Sec. 1021. Number of Navy combatant surface vessels in active and reserve service.
Sec. 1022. Annual long-range plan for the construction of naval vessels.
Sec. 1023. Assessment of the feasibility of the expedited equipping of a Navy ship with a version of the 155-millimeter Advanced Gun System.
Sec. 1024. Report on initiatives to increase operational days of Navy ships.
Sec. 1025. Ship combat system industrial base.
Sec. 1026. Sense of Congress concerning aircraft carrier force structure.
Sec. 1027. Conveyance, Navy drydock, Portland, Oregon.

Subtitle C—Strategic Matters

- Sec. 1031. Strategic force structure plan for nuclear weapons and delivery systems.
Sec. 1032. Annual report on weapons to defeat hardened and deeply buried targets.
Sec. 1033. Report on effects of nuclear earth-penetrator weapon and other weapons.

Subtitle D—Reports

- Sec. 1041. Repeal and modification of various reporting requirements applicable to the Department of Defense.
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- Sec. 1205. Comprehensive annual report to Congress on coordination and integration of all United States nonproliferation activities.
- Sec. 1206. Report requirement regarding Russian proliferation to Iran and other countries of proliferation concern.
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- Sec. 1208. Extension of certain counterproliferation activities and programs.
- Sec. 1209. Semiannual report by Director of Central Intelligence on contributions by foreign persons to efforts by countries of proliferation concern to obtain weapons of mass destruction and their delivery systems.
- Sec. 1210. Report on feasibility and advisability of senior officer exchanges between the Armed Forces of the United States and the military forces of Taiwan.
- Sec. 1211. Report on United States force structure in the Pacific.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

- Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.
- Sec. 1302. Funding allocations.
- Sec. 1303. Prohibition against use of funds until submission of reports.
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TITLE XIV—HOMELAND SECURITY

- Sec. 1401. Transfer of technology items and equipment in support of homeland security.

- Sec. 1402. Comprehensive plan for improving the preparedness of military installations for terrorist incidents.
- Sec. 1403. Additional Weapons of Mass Destruction Civil Support Teams.
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TITLE XV—AUTHORIZATION OF APPROPRIATIONS FOR THE WAR ON TERRORISM

- Sec. 1501. Authorization of appropriations for continued operations for the war on terrorism.
- Sec. 1502. Mobilization and personnel.
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DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

- Sec. 2001. Short title.

TITLE XXI—ARMY

- Sec. 2101. Authorized Army construction and land acquisition projects.
- Sec. 2102. Family housing.
- Sec. 2103. Improvements to military family housing units.
- Sec. 2104. Authorization of appropriations, Army.
- Sec. 2105. Modification of authority to carry out certain fiscal year 2002 projects.
- Sec. 2106. Modification of authority to carry out certain fiscal year 2001 project.

TITLE XXII—NAVY

- Sec. 2201. Authorized Navy construction and land acquisition projects.
- Sec. 2202. Family housing.
- Sec. 2203. Improvements to military family housing units.
- Sec. 2204. Authorization of appropriations, Navy.
- Sec. 2205. Modification of authority to carry out certain fiscal year 2002 projects.

TITLE XXIII—AIR FORCE

- Sec. 2301. Authorized Air Force construction and land acquisition projects.
- Sec. 2302. Family housing.
- Sec. 2303. Improvements to military family housing units.
- Sec. 2304. Authorization of appropriations, Air Force.
- Sec. 2305. Authority for use of military construction funds for construction of public road near Aviano Air Base, Italy, to replace road closed for force protection purposes.

TITLE XXIV—DEFENSE AGENCIES

- Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.
- Sec. 2402. Improvements to military family housing units.
- Sec. 2403. Energy conservation projects.
- Sec. 2404. Authorization of appropriations, Defense Agencies.
- Sec. 2405. Modification of authority to carry out certain fiscal year 2000 project.
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TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

- Sec. 2501. Authorized NATO construction and land acquisition projects.
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TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

- Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

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- Sec. 2801. Lease of military family housing in Korea.
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- Sec. 2811. Agreements to limit encroachments and other constraints on military training, testing, and operations.
- Sec. 2812. Conveyance of surplus real property for natural resource conservation purposes.
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- Sec. 2823. Land conveyance, Sunflower Army Ammunition Plant, Kansas.
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- Sec. 2827. Land conveyance, Fort Monmouth, New Jersey.
- Sec. 2828. Land conveyance, Fort Bliss, Texas.
- Sec. 2829. Land conveyance, Fort Hood, Texas.
- Sec. 2830. Land conveyances, Engineer Proving Ground, Fort Belvoir, Virginia.

PART II—NAVY CONVEYANCES

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- Sec. 2833. Land conveyance, Westover Air Reserve Base, Massachusetts.
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- Sec. 2841. Modification of land conveyance, Los Angeles Air Force Base, California.
- Sec. 2842. Land exchange, Buckley Air Force Base, Colorado.
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- Sec. 2851. Master plan for use of Navy Annex, Arlington, Virginia.
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DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS**TITLE XXXI—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS****Subtitle A—National Security Programs Authorizations**

- Sec. 3101. National Nuclear Security Administration.
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- Sec. 3141. Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile.
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- Sec. 3151. Transfer to National Nuclear Security Administration of Department of Defense's Cooperative Threat Reduction program relating to elimination of weapons grade plutonium production in Russia.
- Sec. 3152. Repeal of requirement for reports on obligation of funds for programs on fissile materials in Russia.
- Sec. 3153. Expansion of annual reports on status of nuclear materials protection, control, and accounting programs.
- Sec. 3154. Testing of preparedness for emergencies involving nuclear, radiological, chemical, or biological weapons.
- Sec. 3155. Cooperative program on research, development, and demonstration of technology regarding nuclear or radiological terrorism.
- Sec. 3156. Matters relating to the International Materials Protection, Control, and Accounting program of the Department of Energy.
- Sec. 3157. Accelerated disposition of highly enriched uranium.
- Sec. 3158. Strengthened international security for nuclear materials and security of nuclear operations.
- Sec. 3159. Export control programs.
- Sec. 3160. Plan for accelerated return of weapons-usable nuclear materials.
- Sec. 3161. Sense of Congress on amendment of Convention on Physical Protection of Nuclear Materials.
- Sec. 3162. Sense of Congress on program to secure stockpiles of highly enriched uranium and plutonium.

Subtitle D—Other Matters

- Sec. 3171. Indemnification of Department of Energy contractors.
- Sec. 3172. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.
- Sec. 3173. Worker health and safety rules for Department of Energy nuclear facilities.
- Sec. 3174. Extension of authority to appoint certain scientific, engineering, and technical personnel.
- Sec. 3175. One-year extension of panel to assess the reliability, safety, and security of the United States nuclear stockpile.
- Sec. 3176. Report on status of environmental management initiatives to accelerate the reduction of environmental risks and challenges posed by the legacy of the Cold War.

Subtitle E—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

- Sec. 3181. Findings.
- Sec. 3182. Disposition of weapons-usable plutonium at Savannah River Site.
- Sec. 3183. Study of facilities for storage of plutonium and plutonium materials at Savannah River Site.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2003.

Sec. 3502. Authority to convey vessel USS SPHINX (ARL-24).

Sec. 3503. Independent analysis of title XI insurance guarantee applications.

Sec. 3504. Preparation as artificial reefs and scrapping of obsolete vessels.

TITLE XXXVI—ATOMIC ENERGY DEFENSE PROVISIONS

Sec. 3601. Short title.

Subtitle A—[Reserved]**Subtitle B—Department of Energy National Security Authorizations
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Sec. 3620. Definitions.

Sec. 3621. Reprogramming.

Sec. 3622. Minor construction projects.

Sec. 3623. Limits on construction projects.

Sec. 3624. Fund transfer authority.

Sec. 3625. Conceptual and construction design.

Sec. 3626. Authority for emergency planning, design, and construction activities.

Sec. 3627. Scope of authority to carry out plant projects.

Sec. 3628. Availability of funds.

Sec. 3629. Transfer of defense environmental management funds.

Sec. 3630. Transfer of weapons activities funds.

Sec. 3631. Funds available for all national security programs of the Department of Energy.

SEC. 3. CONGRESSIONAL DEFENSE COMMITTEES DEFINED.

For purposes of this Act, the term “congressional defense committees” means—

(1) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

**DIVISION A—DEPARTMENT OF
DEFENSE AUTHORIZATIONS****TITLE I—PROCUREMENT****Subtitle A—Authorization of Appropriations**

Sec. 101. Army.

Sec. 102. Navy and Marine Corps.

Sec. 103. Air Force.

Sec. 104. Defense-wide activities.

Sec. 105. Defense Inspector General.

Sec. 106. Chemical Agents and Munitions Destruction, Defense.

Sec. 107. Defense health programs.

Subtitle B—Army Programs

Sec. 111. Pilot program on sales of manufactured articles and services of certain Army industrial facilities without regard to availability from domestic sources.

Sec. 112. Report on impact of Army aviation modernization plan on the Army National Guard.

Sec. 113. Family of Medium Tactical Vehicles.

Subtitle C—Navy Programs

Sec. 121. Extension of multiyear procurement authority for DDG–51 class destroyers.

Sec. 122. Sense of Congress on scope of conversion program for Ticonderoga-class cruisers.

Sec. 123. Continuation of contract for operation of Champion-class T–5 fuel tanker vessels.

Subtitle D—Air Force Programs

Sec. 131. Multiyear procurement authority for C–130J aircraft program.

Sec. 132. Pathfinder programs.

Sec. 133. Leases for tanker aircraft under multiyear aircraft-lease pilot program.

Subtitle E—Other Programs

Sec. 141. Destruction of existing stockpile of lethal chemical agents and munitions.

Sec. 142. Report on unmanned aerial vehicle systems.

Sec. 143. Global Information Grid system.

Subtitle A—Authorization of Appropriations

SEC. 101. ARMY.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Army as follows:

- (1) For aircraft, \$2,186,296,000.
- (2) For missiles, \$1,152,299,000.
- (3) For weapons and tracked combat vehicles, \$2,276,751,000.
- (4) For ammunition, \$1,229,533,000.
- (5) For other procurement, \$5,857,814,000.

SEC. 102. NAVY AND MARINE CORPS.

(a) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Navy as follows:

- (1) For aircraft, \$8,979,275,000.
- (2) For weapons, including missiles and torpedoes, \$2,375,349,000.
- (3) For shipbuilding and conversion, \$9,111,023,000.
- (4) For other procurement, \$4,494,754,000.

(b) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Marine Corps in the amount of \$1,355,491,000.

(c) NAVY AND MARINE CORPS AMMUNITION.—Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement of ammunition for the Navy and the Marine Corps in the amount of \$1,170,750,000.

SEC. 103. AIR FORCE.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Air Force as follows:

- (1) For aircraft, \$12,676,505,000.
- (2) For missiles, \$3,504,139,000.
- (3) For ammunition, \$1,290,764,000.
- (4) For other procurement, \$10,846,048,000.

SEC. 104. DEFENSE-WIDE ACTIVITIES.

Funds are hereby authorized to be appropriated for fiscal year 2003 for Defense-wide procurement in the amount of \$3,691,604,000.

SEC. 105. DEFENSE INSPECTOR GENERAL.

Funds are hereby authorized to be appropriated for fiscal year 2003 for procurement for the Inspector General of the Department of Defense in the amount of \$2,000,000.

SEC. 106. CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE.

There is hereby authorized to be appropriated for fiscal year 2003 the amount of \$1,490,199,000 for—

(1) the destruction of lethal chemical agents and munitions in accordance with section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521); and

(2) the destruction of chemical warfare materiel of the United States that is not covered by section 1412 of such Act.

SEC. 107. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the Department of Defense for procurement for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of \$278,742,000.

Subtitle B—Army Programs

SEC. 111. PILOT PROGRAM ON SALES OF MANUFACTURED ARTICLES AND SERVICES OF CERTAIN ARMY INDUSTRIAL FACILITIES WITHOUT REGARD TO AVAILABILITY FROM DOMESTIC SOURCES.

(a) EXTENSION OF PROGRAM.—Subsection (a) of section 141 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 10 U.S.C. 4543 note) is amended by striking “through 2002” in the first sentence and inserting “through 2004”.

(b) USE OF OVERHEAD FUNDS MADE SURPLUS BY SALES.—Such section is further amended—

(1) by striking subsection (d);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

“(c) TRANSFER OF CERTAIN SUMS.—For each Army industrial facility participating in the pilot program that sells manufactured articles and services in a total amount in excess of \$20,000,000 in any fiscal year, the amount equal to one-half of one percent of such total amount shall be transferred from the sums in the Army Working Capital Fund for unutilized plant capacity to appropriations available for the following fiscal year for the demilitarization of conventional ammunition by the Army.”.

(c) UPDATE OF INSPECTOR GENERAL’S REVIEW.—The Inspector General of the Department of Defense shall review the experience under the pilot program carried out under such section 141 and, not later than July 1, 2003, submit to Congress a report on the results of the review. The report shall contain the views, information, and recommendations called for under subsection (d) of such

Deadline.
Reports.
10 USC 4543
note.

section (as redesignated by subsection (b)(2)). In carrying out the review and preparing the report, the Inspector General shall take into consideration the report submitted to Congress under such subsection (as so redesignated).

SEC. 112. REPORT ON IMPACT OF ARMY AVIATION MODERNIZATION PLAN ON THE ARMY NATIONAL GUARD.

(a) **REPORT BY CHIEF OF THE NATIONAL GUARD BUREAU.**—The Chief of the National Guard Bureau shall submit to the Chief of Staff of the Army a report on the requirements for Army National Guard aviation. The report shall include the following:

(1) An analysis of the impact of the Army Aviation Modernization Plan on the ability of the Army National Guard to conduct its aviation missions.

(2) The plan under that aviation modernization plan for the transfer of aircraft from the active component of the Army to the Army reserve components, including a timeline for those transfers.

(3) The progress, as of January 1, 2003, in carrying out the transfers under the plan referred to in paragraph (2).

(4) An evaluation of the suitability and cost effectiveness of existing Commercial Off The Shelf light utility helicopters for performance of Army National Guard utility aviation missions.

Deadline.

(b) **COMMENTS AND RECOMMENDATIONS BY CHIEF OF STAFF OF THE ARMY.**—Not later than February 1, 2003, the Chief of Staff of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives the report received under subsection (a), together with any comments and recommendations that the Chief of Staff considers appropriate on the matters covered in the report.

SEC. 113. FAMILY OF MEDIUM TACTICAL VEHICLES.

(a) **MULTIYEAR PROCUREMENT AUTHORITY.**—Beginning with the fiscal year 2003 program year, the Secretary of the Army may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for the procurement of vehicles under the Family of Medium Tactical Vehicles program, subject to subsection (b).

(b) **LIMITATION.**—The Secretary of the Army may not enter into a multiyear contract for the procurement of vehicles in the Family of Medium Tactical Vehicles authorized by subsection (a) until the Secretary submits to the congressional defense committees a written certification that—

(1) all key performance parameters required in the initial operational test and evaluation for that program have been met; and

(2) the total cost through the use of such multiyear contract of the procurement of the number of vehicles to be procured under such contract is at least 10 percent less than the total cost of the procurement of the same number of such vehicles through the use of successive one-year contracts.

(c) **WAIVER AUTHORITY.**—The Secretary of Defense may waive subsection (b)(2) if the Secretary—

(1) determines that using a multiyear contract for the procurement of vehicles under the Family of Medium Tactical Vehicles program is in the national security interests of the United States;

(2) certifies that the Army cannot achieve the savings specified in subsection (b)(2); and

(3) submits to the congressional defense committees, in writing, a notification of the waiver together with a report describing the reasons why the use of a multiyear contract for such procurement is in the national security interests of the United States and why the Army cannot achieve a 10 percent savings of the total anticipated costs of carrying out the program through a multiyear contract.

Subtitle C—Navy Programs

SEC. 121. EXTENSION OF MULTIYEAR PROCUREMENT AUTHORITY FOR DDG-51 CLASS DESTROYERS.

Section 122(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 110 Stat. 2446), as amended by section 122 of Public Law 106–65 (113 Stat. 534) and section 122(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–24), is further amended by striking “October 1, 2005” in the first sentence and inserting “October 1, 2007”.

SEC. 122. SENSE OF CONGRESS ON SCOPE OF CONVERSION PROGRAM FOR TICONDEROGA-CLASS CRUISERS.

It is the sense of Congress that the Secretary of the Navy should maintain the scope of the conversion program for the Ticonderoga class of cruisers so that the program—

- (1) covers all 27 ships in that class of cruisers; and
- (2) provides for modernizing each of those ships to include an appropriate mix of upgrades to ships’ capabilities for theater missile defense, naval fire support, and air dominance.

SEC. 123. CONTINUATION OF CONTRACT FOR OPERATION OF CHAMPION-CLASS T-5 FUEL TANKER VESSELS.

The Department of the Navy contract in effect on the date of the enactment of this Act for the operation of five Champion-class T-5 fuel tanker vessels shall continue in effect with respect to the operation of each such vessel until the completion of the term of the contract or, if sooner for any such vessel, until the vessel is no longer used for purposes of the Military Sealift Command or any other Navy purpose.

Subtitle D—Air Force Programs

SEC. 131. MULTIYEAR PROCUREMENT AUTHORITY FOR C-130J AIRCRAFT PROGRAM.

(a) **MULTIYEAR AUTHORITY.**—Beginning with the fiscal year 2003 program year, the Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract for procurement of up to 40 C-130J aircraft in the CC-130J configuration and up to 24 C-130J aircraft in the KC-130J configuration. Notwithstanding subsection (k) of such section, such a contract may be for a period of six program years.

(b) **LIMITATION.**—The Secretary of the Air Force may not enter into a contract authorized by subsection (a) until—

(1) testing of the CC-130J aircraft for qualification for use in assault operations has been completed by the Air Force Flight Test Center; and

(2) Block 5.3 software upgrades have been installed on all C-130J and CC-130J aircraft in the inventory of the Air Force.

SEC. 132. PATHFINDER PROGRAMS.

Deadline.
Records.

(a) **PATHFINDER PROGRAMS.**—Not later than February 1, 2003, the Secretary of the Air Force shall submit to the congressional defense committees a list of Air Force programs that the Secretary has designated as acquisition reform pathfinder programs (hereinafter in this section referred to as “pathfinder programs”).

(b) **OVERSIGHT OF PATHFINDER PROGRAMS.**—The Secretary of Defense shall ensure that the Under Secretary of Defense for Acquisition, Technology and Logistics, the Director of Operational Test and Evaluation, and the Joint Requirements Oversight Council maintain oversight over each pathfinder program that qualifies as a major defense acquisition program under section 2430 of title 10, United States Code.

Deadline.

(c) **REPORT ON PATHFINDER PROGRAMS.**—(1) Not later than March 15, 2003, the Secretary of the Air Force shall submit to the congressional defense committees a report on pathfinder programs. For each such program, the report shall include a description of the following:

(A) The management approach for that program and how that approach will result in a disciplined, affordable and well-managed acquisition program.

(B) The acquisition strategy for that program and how that acquisition strategy responds to approved operational requirements.

(C) The test and evaluation plan for that program and how that plan will provide adequate assessment of each pathfinder program.

(D) The manner in which the acquisition plan for that program considers cost, schedule, and technical risk.

(E) The manner in which any innovative business practices developed as a result of participation in the program could be applied to other acquisition programs, and any impediments to application of such practices to other programs.

(2) For each such program, the report shall also set forth the following:

(A) The manner in which the Under Secretary of Defense for Acquisition, Technology, and Logistics will be involved in the development, oversight, and approval of the program’s management approach, acquisition strategy, and acquisition approach.

(B) The manner in which the Director of Operational Test and Evaluation will be involved in the development, oversight, and approval of the program’s test and evaluation plan.

(C) The manner in which an independent cost estimate for the program will be developed by the Office of the Secretary of Defense.

(d) **APPLICABILITY OF SPIRAL DEVELOPMENT SECTION.**—Nothing in this section shall be construed to exempt any pathfinder program from the application of any provision of section 803(c).

SEC. 133. LEASES FOR TANKER AIRCRAFT UNDER MULTIYEAR AIRCRAFT-LEASE PILOT PROGRAM.10 USC 2401a
note.

The Secretary of the Air Force may not enter into a lease for the acquisition of tanker aircraft for the Air Force under section 8159 of the Department of Defense Appropriations Act, 2002 (division A of Public Law 107–117; 115 Stat. 2284; 10 U.S.C. 2401a note) until—

- (1) the Secretary submits the report specified in subsection (c)(6) of such section; and

- (2) either—

- (A) authorization and appropriation of funds necessary to enter into such lease are provided by law; or

- (B) a new start reprogramming notification for the funds necessary to enter into such lease has been submitted in accordance with established procedures.

Subtitle E—Other Programs

SEC. 141. DESTRUCTION OF EXISTING STOCKPILE OF LETHAL CHEMICAL AGENTS AND MUNITIONS.

50 USC 1521a.

(a) PROGRAM MANAGEMENT.—The Secretary of Defense shall ensure that the program for destruction of the United States stockpile of lethal chemical agents and munitions is managed as a major defense acquisition program (as defined in section 2430 of title 10, United States Code) in accordance with the essential elements of such programs as may be determined by the Secretary.

(b) REQUIREMENT FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER) ANNUAL CERTIFICATION.—Beginning with respect to the budget request for fiscal year 2004, the Under Secretary of Defense (Comptroller) shall submit to the congressional defense committees on an annual basis a certification that the budget request for the chemical agents and munitions destruction program has been submitted in accordance with the requirements of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521).

SEC. 142. REPORT ON UNMANNED AERIAL VEHICLE SYSTEMS.

(a) REPORT.—Not later than January 1, 2003, the Secretary of Defense shall submit to Congress a report on unmanned aerial vehicle systems of the Department of Defense.

Deadline.

(b) MATTERS TO BE INCLUDED CONCERNING UNMANNED AERIAL VEHICLE SYSTEMS.—The Secretary shall include in the report under subsection (a) the following, shown for each system referred to in that subsection:

- (1) A description of the infrastructure that the Department of Defense has (or is planning) for the system.

- (2) A description of the operational requirements document (ORD) for the system.

- (3) A description of the physical infrastructure of the Department for training and basing.

- (4) A description of the manner in which the Department is interfacing with the industrial base.

- (5) A description of the acquisition plan for the system.

- (6) A description of the process by which the Department will ensure that any unmanned aerial vehicle program proceeding past the science and technology stage does so only

as part of an integrated, overall Office of the Secretary of Defense strategy for acquisition of unmanned aerial vehicles, such as that provided in the approved Office of the Secretary of Defense unmanned aerial vehicle roadmap.

(c) SUGGESTIONS FOR CHANGES IN LAW.—The Secretary shall also include in the report under subsection (a) such suggestions as the Secretary considers appropriate for changes in law that would facilitate the way the Department acquires unmanned aerial vehicle systems.

SEC. 143. GLOBAL INFORMATION GRID SYSTEM.

None of the funds authorized to be appropriated by this Act for the Department of Defense system known as the Global Information Grid may be obligated until the Secretary of Defense submits to the congressional defense committees a plan to provide that, as part of the bandwidth expansion efforts for the system, the system will be designed and configured so as to ensure that information transmitted within the system is secure and protected from unauthorized access.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

Subtitle A—Authorization of Appropriations

- Sec. 201. Authorization of appropriations.
- Sec. 202. Amount for defense science and technology.
- Sec. 203. Defense health programs.

Subtitle B—Program Requirements, Restrictions, and Limitations

- Sec. 211. RAH-66 Comanche aircraft program.
- Sec. 212. Extension of requirements relating to management responsibility for naval mine countermeasures programs.
- Sec. 213. Revised requirements for plan for Manufacturing Technology Program.
- Sec. 214. Advanced SEAL Delivery System.
- Sec. 215. Army experimentation program regarding design of the objective force.
- Sec. 216. Program to provide Army with self-propelled Future Combat Systems non-line-of-sight cannon indirect fire capability for the objective force.
- Sec. 217. Prohibition on transfer of Medical Free Electron Laser program.
- Sec. 218. Littoral combat ship program.

Subtitle C—Ballistic Missile Defense

- Sec. 221. Report requirements relating to ballistic missile defense programs.
- Sec. 222. Responsibility of Missile Defense Agency for research, development, test, and evaluation related to system improvements of programs transferred to military departments.
- Sec. 223. Limitation on obligation of funds for Theater High Altitude Area Defense Program pending submission of required life-cycle cost information.
- Sec. 224. Provision of information on flight testing of Ground-based Midcourse National Missile Defense system.
- Sec. 225. References to new name for Ballistic Missile Defense Organization.
- Sec. 226. One-year limitation on use of funds for nuclear armed interceptors.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

- Sec. 231. Department of Defense Test Resource Management Center.
- Sec. 232. Objective for institutional funding of test and evaluation facilities.
- Sec. 233. Uniform financial management system for Department of Defense test and evaluation facilities.
- Sec. 234. Test and evaluation workforce improvements.
- Sec. 235. Compliance with testing requirements.

Subtitle E—Other Matters

- Sec. 241. Pilot programs for revitalizing Department of Defense laboratories.

- Sec. 242. Technology Transition Initiative.
- Sec. 243. Defense Acquisition Challenge Program.
- Sec. 244. Encouragement of small businesses and nontraditional defense contractors to submit proposals potentially beneficial for combating terrorism.
- Sec. 245. Vehicle fuel cell program.
- Sec. 246. Defense nanotechnology research and development program.
- Sec. 247. Activities of the Defense Experimental Program to Stimulate Competitive Research.
- Sec. 248. Four-year extension of authority of DARPA to award prizes for advanced technology achievements and additional authority of military departments and Defense Agencies to award prizes for achievements in promoting education.
- Sec. 249. Plan for five-year program for enhancement of measurement and signatures intelligence capabilities of the United States through incorporation of results of basic research on sensors.

Subtitle A—Authorization of Appropriations

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Department of Defense for research, development, test, and evaluation as follows:

- (1) For the Army, \$7,158,256,000.
- (2) For the Navy, \$13,244,164,000.
- (3) For the Air Force, \$18,337,078,000.
- (4) For Defense-wide activities, \$17,970,653,000, of which \$311,554,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. AMOUNT FOR DEFENSE SCIENCE AND TECHNOLOGY.

(a) FISCAL YEAR 2003.—Of the amounts authorized to be appropriated by section 201, \$10,384,658,000 shall be available for the Defense Science and Technology Program, including basic research, applied research, and advanced technology development projects.

(b) BASIC RESEARCH, APPLIED RESEARCH, AND ADVANCED TECHNOLOGY DEVELOPMENT DEFINED.—For purposes of this section, the term “basic research, applied research, and advanced technology development” means work funded in program elements for defense research and development under Department of Defense category 6.1, 6.2, or 6.3.

SEC. 203. DEFENSE HEALTH PROGRAMS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the Department of Defense for research, development, test, and evaluation for carrying out health care programs, projects, and activities of the Department of Defense in the total amount of \$67,214,000.

Subtitle B—Program Requirements, Restrictions, and Limitations

SEC. 211. RAH-66 COMANCHE AIRCRAFT PROGRAM.

(a) REPORTS REQUIRED.—Not later than the end of each fiscal quarter of fiscal year 2003, the Secretary of the Army shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report

Deadline.
Reports.

on the progress of the restructured engineering and manufacturing development phase of the RAH-66 Comanche aircraft program.

(b) **CONTENT.**—The report shall include, at a minimum, the information relating to the program that the program manager provides to the Assistant Secretary of the Army for Acquisition, Logistics, and Technology with respect to—

- (1) cost, including funding and contracts;
- (2) schedule;
- (3) performance;
- (4) which goals are being met and which are not being met;
- (5) milestones events accomplished; and
- (6) significant events accomplished.

SEC. 212. EXTENSION OF REQUIREMENTS RELATING TO MANAGEMENT RESPONSIBILITY FOR NAVAL MINE COUNTERMEASURES PROGRAMS.

(a) **IN GENERAL.**—Section 216 of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1317), as most recently amended by section 211 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1946), is amended—

(1) in subsection (a), by striking “through 2003” and inserting “through 2008”;

(2) in subsection (b)—

(A) by striking “and” at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (4);

and

(C) by inserting after paragraph (2) the following new paragraph:

“(3) the responsibilities of the Joint Requirements Oversight Council under subsections (b) and (d) of section 181 of title 10, United States Code, have been carried out with respect to the updated mine countermeasures master plan, the budget resources for mine countermeasures for that fiscal year, and the future years defense program for mine countermeasures; and”;

(3) by adding at the end the following new subsection:

“(c) **NOTIFICATION OF PROPOSED CHANGES.**—Upon certifying under subsection (b) with respect to a fiscal year, the Secretary may not carry out any change to the naval mine countermeasures master plan or the budget resources for mine countermeasures with respect to that fiscal year until after the Under Secretary of Defense for Acquisition, Technology, and Logistics submits to the congressional defense committees a notification of the proposed change. Such notification shall describe the nature of the proposed change, the effect of the proposed change on the naval mine countermeasures program or related programs with respect to that fiscal year, and the effect of the proposed change on the validity of the decision to certify under subsection (b) with respect to that fiscal year.”.

(b) **TECHNICAL AMENDMENTS.**—Such section is further amended—

- (1) in subsection (a), by striking “Under Secretary of Defense for Acquisition and Technology” and inserting “Under

Secretary of Defense for Acquisition, Technology, and Logistics”;
and

(2) in subsection (b)(2)—

(A) by striking “multiyear” and inserting “future years”; and

(B) by striking “section 114a” and inserting “section 221”.

SEC. 213. REVISED REQUIREMENTS FOR PLAN FOR MANUFACTURING TECHNOLOGY PROGRAM.

(a) STREAMLINED CONTENTS OF PLAN.—Subsection (e) of section 2521 of title 10, United States Code, is amended by striking “prepare a five-year plan” in paragraph (1) and all that follows through the end of subparagraph (B) of paragraph (2) and inserting the following: “prepare and maintain a five-year plan for the program.

“(2) The plan shall establish the following:

“(A) The overall manufacturing technology objectives, milestones, priorities, and investment strategy for the program.

“(B) The specific objectives of, and funding for the program by, each military department and each Defense Agency participating in the program.”.

(b) BIENNIAL REPORT.—Such subsection is further amended in paragraph (3)—

(1) by striking “annually” and inserting “biennially”; and

(2) by striking “for a fiscal year” and inserting “for each even-numbered fiscal year”.

SEC. 214. ADVANCED SEAL DELIVERY SYSTEM.

(a) TRANSFER OF FUNDS.—To the extent provided in appropriations Acts, the amount described in subsection (b) shall be transferred to amounts available for fiscal year 2003 for research, development, test, and evaluation, Defense-Wide, and shall be available only for research, development, test, and evaluation relating to the Advanced SEAL Delivery System.

(b) AMOUNT TO BE TRANSFERRED.—The amount referred to in subsection (a) is the amount of \$13,700,000 that was authorized and appropriated for fiscal year 2002 for procurement of the Advanced SEAL Delivery System within amounts for Procurement, Defense-Wide.

(c) TRANSFER AUTHORITY IN ADDITION TO OTHER AUTHORITY.—The transfer authority provided by this section is in addition to any other transfer authority provided by law.

SEC. 215. ARMY EXPERIMENTATION PROGRAM REGARDING DESIGN OF THE OBJECTIVE FORCE.

(a) REQUIREMENT FOR REPORT.—Not later than March 31, 2003, the Secretary of the Army shall submit to Congress a report on the experimentation program regarding design of the objective force that is required by subsection (g) of section 113 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as added by section 113 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1029). Deadline.

(b) BUDGET DISPLAY.—Amounts provided for the experimentation program in the budget for fiscal year 2004 that is submitted to Congress under section 1105(a) of title 31, United States Code, shall be displayed as a distinct program element in that budget and in the supporting documentation submitted to Congress by the Secretary of Defense.

**SEC. 216. PROGRAM TO PROVIDE ARMY WITH SELF-PROPELLED
FUTURE COMBAT SYSTEMS NON-LINE-OF-SIGHT CANNON
INDIRECT FIRE CAPABILITY FOR THE OBJECTIVE FORCE.**

Deadline.

(a) **PROGRAM REQUIRED.**—The Secretary of Defense shall carry out a program to provide the Army, not later than fiscal year 2008, with a self-propelled Future Combat Systems non-line-of-sight cannon indirect fire capability to equip the objective force.

(b) **REPORT.**—(1) The Secretary shall submit to the congressional defense committees, at the same time that the President submits the budget for a fiscal year referred to in paragraph (2) to Congress under section 1105(a) of title 31, United States Code, a report on the investments proposed to be made with respect to non-line-of-sight indirect fire programs for the Army. The report shall—

(A) identify the amount proposed for expenditures for the Crusader artillery system program for that fiscal year in the future-years defense program that was submitted to Congress in 2002 under section 221 of title 10, United States Code; and

(B) specify—

(i) the manner in which the amount provided in that budget would be expended for improved non-line-of-sight indirect fire capabilities for the Army; and

(ii) the extent to which expending such amount in such manner would improve such capabilities for the Army.

Applicability.

(2) The requirement to submit a report under paragraph (1) shall apply with respect to budgets for fiscal years 2004, 2005, 2006, 2007, and 2008.

(c) **OBJECTIVE FORCE DEFINED.**—In this section, the term “objective force” has the meaning given such term in section 113(f)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-24).

(d) **FUNDING.**—Of the amount authorized to be appropriated by section 201(1) for the Army for research, development, test, and evaluation, \$368,500,000 shall be used only to develop and field a self-propelled Future Combat Systems non-line-of-sight cannon indirect fire artillery system and a resupply vehicle with respect to such system.

**SEC. 217. PROHIBITION ON TRANSFER OF MEDICAL FREE ELECTRON
LASER PROGRAM.**

The Medical Free Electron Laser Program (PE 0602227D8Z) may not be transferred from the Department of Defense to the National Institutes of Health, or to any other department or agency of the Federal Government.

SEC. 218. LITTORAL COMBAT SHIP PROGRAM.

(a) **AMOUNT FOR PROGRAM.**—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation, Navy, \$4,000,000 may be available in program element 0603563N, relating to Ship Concept Advanced Design, for requirements development for the littoral combat ship.

(b) **LIMITATION ON OBLIGATION OF FUNDS.**—The Secretary of the Navy may not obligate any funds for the construction of a littoral combat ship until after the Secretary submits the report required by subsection (c).

(c) REPORT ON MILESTONE A PLAN AND SCHEDULE.—(1) The Secretary of the Navy shall submit to the congressional defense committees, at the same time that the President submits the budget for fiscal year 2004 to Congress under section 1105(a) of title 31, United States Code, a report on development of the littoral combat ship.

(2) The report shall address the plan and schedule for fulfilling the requirements of Department of Defense Instruction 5000-series for a major defense acquisition Milestone A decision for initiation of concept and technology development for the littoral combat ship, including the following such requirements:

- (A) Consideration of technology issues.
- (B) Market research.
- (C) Validated mission need statement.
- (D) Analysis of multiple concepts.
- (E) Test and evaluation master plan (evaluation strategy only).
- (F) Exit criteria.
- (G) Acquisition decision memorandum.

(3) The report shall include a discussion of the Secretary's acquisition strategy for development of the littoral combat ship.

(d) REQUIREMENTS FOR ACQUISITION STRATEGY.—The Secretary shall ensure that the acquisition strategy for development of the littoral combat ship includes the following:

(1) A concept and technology demonstration phase that is robust and, in a manner and on a schedule that will inform the Navy's decisions on the concepts, technologies, and capabilities to be incorporated into the initial design of the littoral combat ship and into follow-on designs, capitalizes upon ongoing and planned experiments, demonstrations, and evaluations of—

(A) existing, prototype, and experimental hull forms and platforms, including the hull forms and platforms relating to—

- (i) the Coastal Waters Interdiction Platform;
- (ii) the Hybrid Deep Vee Demonstrator;
- (iii) the Littoral Support Craft (Experimental);
- (iv) the High Speed Vessel;
- (v) surface effects ships;
- (vi) Research Vessel Triton;
- (vii) the SLICE ship;
- (viii) other existing, prototype, and experimental craft that the Secretary considers to be appropriate; and

(ix) other existing ships capable of carrying the desired payload packages;

- (B) ship and combat systems components;
- (C) command, control, and communications systems;
- (D) intelligence, surveillance, and reconnaissance systems;

(E) weapons systems; and

(F) support systems.

(2) A description of the experiments, demonstrations, and evaluations that are needed for support of design and development decisionmaking for mission modules to be employed on the littoral combat ship, including the mission modules for—

- (A) anti-submarine warfare;
- (B) mine countermeasures;

(C) anti-ship defense; and

(D) any other missions that may be envisioned for the ship.

(3) An identification of the experiments, demonstrations, and evaluations that would need to be accomplished during the concept and technology demonstration phase and those that would need to be accomplished during the system development and demonstration phase (after a major defense acquisition Milestone B decision to enter that phase).

(4) A description of the potential trade-offs between program requirements and capabilities, and the methodology (including life cycle cost as an independent variable, speed as an independent variable, and other applicable program attributes), needed to arrive at a design for a littoral combat ship that can be approved (pursuant to a major defense acquisition Milestone B decision) for entry into the system development and demonstration phase.

(5) An analysis of the adequacy of existing and planned platforms to test the littoral ship concept prior to construction of a littoral combat ship.

Subtitle C—Ballistic Missile Defense

10 USC 2431
note.

SEC. 221. REPORT REQUIREMENTS RELATING TO BALLISTIC MISSILE DEFENSE PROGRAMS.

(a) ANNUAL SUBMISSION OF CURRENT PERFORMANCE GOALS AND DEVELOPMENT BASELINES.—(1) The Secretary of Defense shall submit to the congressional defense committees each year the performance goals and development baselines—

(A) for those ballistic missile defense systems under development by the Missile Defense Agency that could be fielded; and

(B) for any other ballistic missile defense program or project that has been designated by Congress as a special interest item.

(2) Such performance goals and development baselines shall be provided for each block of each such system.

(3) The performance goals and development baselines under paragraph (1) shall be included annually with the defense budget justification materials submitted in support of the President's budget submitted to Congress under section 1105 of title 31, United States Code.

(b) RDT&E BUDGET JUSTIFICATION MATERIALS.—The budget justification materials submitted to Congress for any fiscal year in support of a request for the authorization and appropriation of funds for research, development, test, and evaluation for ballistic missile defense systems shall include a funding profile for each block of each such system that could be fielded that reflects the development baseline submitted pursuant to subsection (a) for that fiscal year.

(c) REVIEW OF MDA CRITERIA IN RELATION TO MILITARY REQUIREMENTS.—(1) The Joint Requirements Oversight Council established under section 181 of title 10, United States Code, shall review cost, schedule, and performance criteria for missile defense programs of the Missile Defense Agency in order to assess the validity of those criteria in relation to military requirements.

(2) The Secretary shall include the results of such review with the first annual statement of program goals submitted to the congressional defense committees under section 232(c) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 10 U.S.C. 2431 note) after the date of the enactment of this Act.

SEC. 222. RESPONSIBILITY OF MISSILE DEFENSE AGENCY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION RELATED TO SYSTEM IMPROVEMENTS OF PROGRAMS TRANSFERRED TO MILITARY DEPARTMENTS.

Section 224(e) of title 10, United States Code, is amended—

- (1) by striking “before a” and inserting “for each”;
- (2) by striking “is”; and
- (3) by striking “roles and responsibilities” and all that follows through the period at the end and inserting “responsibility for research, development, test, and evaluation related to system improvements for that program remains with the Director.”.

SEC. 223. LIMITATION ON OBLIGATION OF FUNDS FOR THEATER HIGH ALTITUDE AREA DEFENSE PROGRAM PENDING SUBMISSION OF REQUIRED LIFE-CYCLE COST INFORMATION.

(a) **LIMITATION PENDING SUBMISSION OF CERTIFICATION.**—Not more than 85 percent of the amount specified in subsection (b) may be obligated until the Secretary of Defense submits to the congressional defense committees the estimated total life-cycle cost of the Theater High Altitude Area Defense (THAAD) program as required for programs in engineering and manufacturing development by section 232(d) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 10 U.S.C. 2431 note).

(b) **FUNDS SUBJECT TO LIMITATION.**—Subsection (a) applies to the amount authorized to be appropriated for fiscal year 2003 for the Missile Defense Agency for the Theater High Altitude Area Defense (THAAD) program.

Applicability.

SEC. 224. PROVISION OF INFORMATION ON FLIGHT TESTING OF GROUND-BASED MIDCOURSE NATIONAL MISSILE DEFENSE SYSTEM.

10 USC 2431
note.

(a) **INFORMATION TO BE FURNISHED TO CONGRESSIONAL COMMITTEES.**—The Director of the Missile Defense Agency shall provide to the congressional defense committees information on the results of each flight test of the Ground-based Midcourse national missile defense system.

(b) **CONTENT.**—Information provided under subsection (a) on the results of a flight test shall include the following matters:

- (1) A thorough discussion of the content and objectives of the test.
- (2) For each such test objective, a statement regarding whether or not the objective was achieved.
- (3) For any such test objective not achieved—
 - (A) a thorough discussion describing the reasons that the objective was not achieved; and
 - (B) a discussion of any plans for future tests to achieve that objective.

SEC. 225. REFERENCES TO NEW NAME FOR BALLISTIC MISSILE DEFENSE ORGANIZATION.

10 USC 223 note.

(a) IN GENERAL.—Any reference to the Ballistic Missile Defense Organization in any provision of law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Missile Defense Agency.

(b) CONFORMING AMENDMENTS.—(1) Title 10, United States Code, is amended as follows:

(A) Sections 203, 223, and 224 are each amended by striking “Ballistic Missile Defense Organization” each place it appears and inserting “Missile Defense Agency”.

(B)(i) The heading for section 203 is amended to read as follows:

“§ 203. Director of Missile Defense Agency”.

(ii) The item relating to section 203 in the table of sections at the beginning of subchapter II of chapter 8 is amended to read as follows:

“203. Director of Missile Defense Agency.”.

(2) The National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) is amended as follows:

(A) Sections 232 (115 Stat. 1037; 10 U.S.C. 2431 note), 233 (115 Stat. 1039), and 235 (115 Stat. 1041) are each amended by striking “Ballistic Missile Defense Organization” each place it appears and inserting “Missile Defense Agency”.

(B) The heading for section 232 is amended to read as follows:

“SEC. 232. PROGRAM ELEMENTS FOR MISSILE DEFENSE AGENCY.”.

(3) Section 3132 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-455; 10 U.S.C. 2431 note) is amended—

(A) by striking “Ballistic Missile Defense Organization” each place it appears and inserting “Missile Defense Agency”;

(B) in subsection (c), by striking “BMDO” and inserting “MDA”; and

(C) by amending the heading to read as follows:

“SEC. 3132. ENHANCED COOPERATION BETWEEN NATIONAL NUCLEAR SECURITY ADMINISTRATION AND MISSILE DEFENSE AGENCY.”.

(4) The following provisions are each amended by striking “Ballistic Missile Defense Organization” each place it appears and inserting “Missile Defense Agency”:

(A) Section 233 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 10 U.S.C. 223 note).

(B) Section 243 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160; 10 U.S.C. 2431 note).

SEC. 226. ONE-YEAR LIMITATION ON USE OF FUNDS FOR NUCLEAR ARMED INTERCEPTORS.

(a) LIMITATION.—None of the funds described in subsection (b) may be obligated for research, development, test, or evaluation, or for procurement, of a nuclear armed interceptor as a component of a missile defense system.

(b) COVERED FUNDS.—Subsection (a) applies to funds made available to the Department of Defense pursuant to an authorization of appropriations in this title or title I or to the Department of Energy pursuant to an authorization of appropriations in title XXXI. Applicability.

Subtitle D—Improved Management of Department of Defense Test and Evaluation Facilities

SEC. 231. DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.

(a) ESTABLISHMENT.—(1) Subchapter I of chapter 8 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 196. Department of Defense Test Resource Management Center

“(a) ESTABLISHMENT AS DEPARTMENT OF DEFENSE FIELD ACTIVITY.—The Secretary of Defense shall establish within the Department of Defense under section 191 of this title a Department of Defense Test Resource Management Center (hereinafter in this section referred to as the ‘Center’). The Secretary shall designate the Center as a Department of Defense Field Activity.

“(b) DIRECTOR AND DEPUTY DIRECTOR.—(1) At the head of the Center shall be a Director, selected by the Secretary from among commissioned officers of the armed forces on active duty. The Director, while so serving, holds the grade of lieutenant general or, in the case of an officer of the Navy, vice admiral.

“(2) There shall be a Deputy Director of the Center, selected by the Secretary from among senior civilian officers and employees of the Department of Defense who have substantial experience in the field of test and evaluation. The Deputy Director shall act for, and exercise the powers of, the Director when the Director is disabled or the position of Director is vacant.

“(c) DUTIES OF DIRECTOR.—The Director shall have the following duties:

“(1) To review and provide oversight of proposed Department of Defense budgets and expenditures for—

“(A) the test and evaluation facilities and resources of the Major Range and Test Facility Base of the Department of Defense; and

“(B) all other test and evaluation facilities and resources within and outside of the Department of Defense.

“(2) To complete and maintain the strategic plan required by subsection (d).

“(3) To review proposed budgets under subsection (e) and submit reports and certifications required by such subsection.

“(4) To administer the Central Test and Evaluation Investment Program and the program of the Department of Defense for test and evaluation science and technology.

“(d) STRATEGIC PLAN FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION RESOURCES.—(1) Not less often than once every two fiscal years, the Director, in coordination with the Director of Operational Test and Evaluation, the Secretaries of the military departments, and the heads of Defense Agencies with test and evaluation

responsibilities, shall complete a strategic plan reflecting the needs of the Department of Defense with respect to test and evaluation facilities and resources. Each such strategic plan shall cover the period of ten fiscal years beginning with the fiscal year in which the plan is submitted under paragraph (3). The strategic plan shall be based on a comprehensive review of the test and evaluation requirements of the Department and the adequacy of the test and evaluation facilities and resources of the Department to meet those requirements.

“(2) The strategic plan shall include the following:

“(A) An assessment of the test and evaluation requirements of the Department for the period covered by the plan.

“(B) An identification of performance measures associated with the successful achievement of test and evaluation objectives for the period covered by the plan.

“(C) An assessment of the test and evaluation facilities and resources that will be needed to meet such requirements and satisfy such performance measures.

“(D) An assessment of the current state of the test and evaluation facilities and resources of the Department.

“(E) An itemization of acquisitions, upgrades, and improvements necessary to ensure that the test and evaluation facilities and resources of the Department are adequate to meet such requirements and satisfy such performance measures.

“(F) An assessment of the budgetary resources necessary to implement such acquisitions, upgrades, and improvements.

Reports.

“(3) Upon completing a strategic plan under paragraph (1), the Director shall submit to the Secretary of Defense a report on that plan. The report shall include the plan and a description of the review on which the plan is based.

Deadline.
Reports.

“(4) Not later than 60 days after the date on which the report is submitted under paragraph (3), the Secretary of Defense shall transmit to the Committee on Armed Services and Committee on Appropriations of the Senate and the Committee on Armed Services and Committee on Appropriations of the House of Representatives the report, together with any comments with respect to the report that the Secretary considers appropriate.

“(e) CERTIFICATION OF BUDGETS.—(1) The Secretary of Defense, acting through the Under Secretary of Defense (Comptroller), shall require that the Secretary of each military department, the Director of Operational Test and Evaluation, and the head of each Defense Agency with test and evaluation responsibilities transmit such Secretary's, Director's, or head's proposed budget for test and evaluation activities for a fiscal year to the Director of the Center for review under paragraph (2) before submitting such proposed budget to the Under Secretary of Defense (Comptroller).

Deadline.
Reports.

“(2)(A) The Director of the Center shall review each proposed budget transmitted under paragraph (1) and shall, not later than January 31 of the year preceding the fiscal year for which such budgets are proposed, submit to the Secretary of Defense a report containing the comments of the Director with respect to all such proposed budgets, together with the certification of the Director as to whether such proposed budgets are adequate.

“(B) The Director shall also submit, together with such report and such certification, an additional certification as to whether such proposed budgets provide balanced support for such strategic plan.

“(3) The Secretary of Defense shall, not later than March 31 of the year preceding the fiscal year for which such budgets are proposed, submit to Congress a report on those proposed budgets which the Director has not certified under paragraph (2)(A) to be adequate. The report shall include the following matters:

Deadline.
Reports.

“(A) A discussion of the actions that the Secretary proposes to take, together with any recommended legislation that the Secretary considers appropriate, to address the inadequacy of the proposed budgets.

“(B) Any additional comments that the Secretary considers appropriate regarding the inadequacy of the proposed budgets.

“(f) SUPERVISION OF DIRECTOR BY UNDER SECRETARY.—The Director of the Center shall be subject to the supervision of the Under Secretary of Defense for Acquisition, Technology, and Logistics. The Director shall report directly to the Under Secretary, without the interposition of any other supervising official.

“(g) ADMINISTRATIVE SUPPORT OF CENTER.—The Secretary of Defense shall provide the Director with administrative support adequate for carrying out the Director’s responsibilities under this section. The Secretary shall provide the support out of the headquarters activities of the Department or any other activities that the Secretary considers appropriate.

“(h) DEFINITION.—In this section, the term ‘Major Range and Test Facility Base’ means the test and evaluation facilities and resources that are designated by the Director of Operational Test and Evaluation as facilities and resources comprising the Major Range and Test Facility Base.”.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“196. Department of Defense Test Resource Management Center.”.

(b) FIRST STRATEGIC PLAN.—The first strategic plan required to be completed under subsection (d)(1) of section 196 of title 10, United States Code (as added by subsection (a)), shall be completed not later than six months after the date of the enactment of this Act.

Deadline.
10 USC 196 note.

(c) ADMINISTRATION OF CTEIP AND DOD T&E S&T PROGRAMS.—The duty of the Director of the Department of Defense Test Resource Management Center to administer the programs specified in subsection (c)(4) of section 196 of title 10, United States Code (as added by subsection (a)), shall take effect, and such programs shall be placed under control of such Director, upon the beginning of the first fiscal year that begins after the report on the first strategic plan referred to subsection (b) is transmitted to the congressional committees required by subsection (d)(4) of such section 196.

SEC. 232. OBJECTIVE FOR INSTITUTIONAL FUNDING OF TEST AND EVALUATION FACILITIES.

(a) FUNDING OBJECTIVE.—The Secretary of Defense shall establish the objective of ensuring that, by fiscal year 2006—

(1) the institutional and overhead costs of a facility or resource of a military department or Defense Agency that is within the Major Range and Test Facility Base are fully funded through the major test and evaluation investment accounts of the military department or Defense Agency, the account of the Central Test and Evaluation Investment Program of

the Department of Defense, and other appropriate accounts of the military department or Defense Agency; and

(2) the charge to an element of the Department of Defense for a use by that element of such a facility or resource for testing under a particular program is not more than the amount equal to the direct costs of such use by that element.

(b) DEFINITIONS.—In this section:

(1) The term “Major Range and Test Facility Base” means the test and evaluation facilities and resources that are designated by the Director of Operational Test and Evaluation as facilities and resources comprising the Major Range and Test Facility Base.

(2) The term “institutional and overhead costs”, with respect to a facility or resource within the Major Range Test and Facility Base—

(A) means the costs of maintaining, operating, upgrading, and modernizing the facility or resource; and

(B) does not include any incremental cost of operating the facility or resource that is attributable to the use of the facility or resource for testing under a particular program.

(3) The term “direct costs”, with respect to a facility or resource within the Major Range and Test Facility Base, means those costs that are directly attributable to the use of the facility or resource for testing under a particular program, over and above the institutional and overhead costs with respect to the facility or resource.

10 USC 113 note. **SEC. 233. UNIFORM FINANCIAL MANAGEMENT SYSTEM FOR DEPARTMENT OF DEFENSE TEST AND EVALUATION FACILITIES.**

Deadline.

(a) REQUIREMENT FOR SYSTEM.—The Secretary of Defense shall implement a single financial management and accounting system for all test and evaluation facilities of the Department of Defense. The Secretary shall implement such system as soon as practicable, and shall establish the objective that such system be implemented not later than September 30, 2006.

(b) SYSTEM FEATURES.—The system required by subsection (a) shall be designed to achieve, at a minimum, the following functional objectives:

(1) Enable managers within the Department of Defense to compare the costs of carrying out test and evaluation activities in the various facilities of the military departments.

(2) Enable the Secretary of Defense—

(A) to make prudent investment decisions; and

(B) to reduce the extent to which unnecessary costs of owning and operating test and evaluation facilities of the Department of Defense are incurred.

(3) Enable the Department of Defense to track the total cost of test and evaluation activities.

(4) Comply with the financial management architecture established by the Secretary.

SEC. 234. TEST AND EVALUATION WORKFORCE IMPROVEMENTS.

Deadline.

(a) REPORT ON CAPABILITIES.—Not later than March 15, 2003, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to Congress a report on the capabilities of the test and evaluation workforce of the Department of Defense. The Under Secretary shall consult with the Under Secretary of

Defense for Personnel and Readiness and the Director of Operational Test and Evaluation in preparing the report.

(b) **REQUIREMENT FOR PLAN.**—(1) The report shall contain a plan for taking the actions necessary to ensure that the test and evaluation workforce of the Department of Defense is of sufficient size and has the expertise necessary to timely and accurately identify issues of military suitability and effectiveness of Department of Defense systems through testing of the systems.

(2) The plan shall set forth objectives for the size, composition, and qualifications of the workforce, and shall specify the actions (including recruitment, retention, and training) and milestones for achieving the objectives.

(c) **ADDITIONAL MATTERS.**—The report shall also include the following matters:

(1) An assessment of the changing size and demographics of the test and evaluation workforce, including the impact of anticipated retirements among the most experienced personnel over the period of five fiscal years beginning with fiscal year 2003, together with a discussion of the management actions necessary to address the changes.

(2) An assessment of the anticipated workloads and responsibilities of the test and evaluation workforce over the period of ten fiscal years beginning with fiscal year 2003, together with the number and qualifications of military and civilian personnel necessary to carry out such workloads and responsibilities.

(3) The Under Secretary's specific plans for using the demonstration authority provided in section 4308 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 10 U.S.C. 1701 note) and other special personnel management authorities of the Under Secretary to attract and retain qualified personnel in the test and evaluation workforce.

(4) Any recommended legislation or additional special authority that the Under Secretary considers appropriate for facilitating the recruitment and retention of qualified personnel for the test and evaluation workforce.

(5) Any other matters that are relevant to the capabilities of the test and evaluation workforce.

SEC. 235. COMPLIANCE WITH TESTING REQUIREMENTS.

(a) **ANNUAL OT&E REPORT.**—Subsection (g) of section 139 of title 10, United States Code, is amended by inserting after the fourth sentence the following: "The report for a fiscal year shall also include an assessment of the waivers of and deviations from requirements in test and evaluation master plans and other testing requirements that occurred during the fiscal year, any concerns raised by the waivers or deviations, and the actions that have been taken or are planned to be taken to address the concerns."

(b) **REORGANIZATION OF PROVISION.**—Subsection (g) of such section, as amended by subsection (a), is further amended—

- (1) by inserting "(1)" after "(g)";
- (2) by designating the second sentence as paragraph (2);
- (3) by designating the third sentence as paragraph (3);
- (4) by designating the matter consisting of the fourth and fifth sentences as paragraph (4); and
- (5) by designating the sixth sentence as paragraph (5).

Subtitle E—Other Matters

10 USC 2358
note.

SEC. 241. PILOT PROGRAMS FOR REVITALIZING DEPARTMENT OF DEFENSE LABORATORIES.

(a) **ADDITIONAL PILOT PROGRAM.**—(1) The Secretary of Defense may carry out a pilot program to demonstrate improved efficiency in the performance of research, development, test, and evaluation functions of the Department of Defense.

(2) Under the pilot program, the Secretary of Defense shall provide the director of one science and technology laboratory, and the director of one test and evaluation laboratory, of each military department with authority for the following:

(A) To use innovative methods of personnel management appropriate for ensuring that the selected laboratories can—

(i) employ and retain a workforce appropriately balanced between permanent and temporary personnel and among workers with appropriate levels of skills and experience; and

(ii) effectively shape workforces to ensure that the workforces have the necessary sets of skills and experience to fulfill their organizational missions.

(B) To develop or expand innovative methods of entering into and expanding cooperative relationships and arrangements with private sector organizations, educational institutions (including primary and secondary schools), and State and local governments to facilitate the training of a future scientific and technical workforce that will contribute significantly to the accomplishment of organizational missions.

(C) To develop or expand innovative methods of establishing cooperative relationships and arrangements with private sector organizations and educational institutions to promote the establishment of the technological industrial base in areas critical for Department of Defense technological requirements.

(D) To waive any restrictions not required by law that apply to the demonstration and implementation of methods for achieving the objectives set forth in subparagraphs (A), (B), and (C).

Deadline.

(3) The Secretary may carry out the pilot program under this subsection at each selected laboratory for a period of three years beginning not later than March 1, 2003.

(b) **RELATIONSHIP TO FISCAL YEARS 1999 AND 2000 REVITALIZATION PILOT PROGRAMS.**—The pilot program under this section is in addition to, but may be carried out in conjunction with, the fiscal years 1999 and 2000 revitalization pilot programs.

Deadlines.

(c) **REPORTS.**—(1) Not later than January 1, 2003, the Secretary shall submit to Congress a report on the experience under the fiscal years 1999 and 2000 revitalization pilot programs in exercising the authorities provided for the administration of those programs. The report shall include a description of—

(A) barriers to the exercise of the authorities that have been encountered;

(B) the proposed solutions for overcoming the barriers; and

(C) the progress made in overcoming the barriers.

(2) Not later than September 1, 2003, the Secretary of Defense shall submit to Congress a report on the implementation of the

pilot program under subsection (a) and the fiscal years 1999 and 2000 revitalization pilot programs. The report shall include, for each such pilot program, the following:

(A) Each laboratory selected for the pilot program.

(B) To the extent practicable, a description of the innovative methods that are to be tested at each laboratory.

(C) The criteria to be used for measuring the success of each method to be tested.

(3) Not later than 90 days after the expiration of the period for the participation of a laboratory in a pilot program referred to in paragraph (2), the Secretary of Defense shall submit to Congress a final report on the participation of that laboratory in the pilot program. The report shall include the following:

(A) A description of the methods tested.

(B) The results of the testing.

(C) The lessons learned.

(D) Any proposal for legislation that the Secretary recommends on the basis of the experience at that laboratory under the pilot program.

(d) EXTENSION OF AUTHORITY FOR OTHER REVITALIZATION PILOT PROGRAMS.—(1) Section 246(a)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1956; 10 U.S.C. 2358 note) is amended by striking “a period of three years” and inserting “up to six years”.

(2) Section 245(a)(4) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 553; 10 U.S.C. 2358 note) is amended by striking “a period of three years” and inserting “up to five years”.

(e) PARTNERSHIPS UNDER PILOT PROGRAM.—(1) The Secretary of Defense may authorize one or more laboratories and test centers participating in the pilot program under subsection (a) or in one of the fiscal years 1999 and 2000 revitalization pilot programs to enter into a cooperative arrangement (in this subsection referred to as a “public-private partnership”) with entities in the private sector and institutions of higher education for the performance of work.

(2) A competitive process shall be used for the selection of entities outside the Government to participate in a public-private partnership.

(3)(A) Not more than one public-private partnership may be established as a limited liability company.

(B) An entity participating in a limited liability company as a party to a public-private partnership under the pilot program may contribute funds to the company, accept contributions of funds for the company, and provide materials, services, and use of facilities for research, technology, and infrastructure of the company, if it is determined under regulations prescribed by the Secretary of Defense that doing so will improve the efficiency of the performance of research, test, and evaluation functions of the Department of Defense.

(f) FISCAL YEARS 1999 AND 2000 REVITALIZATION PILOT PROGRAMS DEFINED.—In this section, the term “fiscal years 1999 and 2000 revitalization pilot programs” means—

(1) the pilot programs authorized by section 246 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 1955; 10 U.S.C. 2358 note); and

(2) the pilot programs authorized by section 245 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 552; 10 U.S.C. 2358 note).

SEC. 242. TECHNOLOGY TRANSITION INITIATIVE.

(a) ESTABLISHMENT AND CONDUCT.—(1) Chapter 139 of title 10, United States Code, is amended by inserting after section 2359 the following new section:

“§ 2359a. Technology Transition Initiative

“(a) INITIATIVE REQUIRED.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall carry out an initiative, to be known as the Technology Transition Initiative (hereinafter in this section referred to as the ‘Initiative’), to facilitate the rapid transition of new technologies from science and technology programs of the Department of Defense into acquisition programs of the Department for the production of such technologies.

“(b) OBJECTIVES.—The objectives of the Initiative are as follows:

“(1) To accelerate the introduction of new technologies into operational capabilities for the armed forces.

“(2) To successfully demonstrate new technologies in relevant environments.

“(c) MANAGEMENT OF INITIATIVE.—(1) The Under Secretary shall designate a senior official of the Department of Defense (hereinafter in this section referred to as the ‘Manager’) to manage the Initiative.

“(2) In managing the Initiative, the Manager shall—

“(A) report directly to the Under Secretary; and

“(B) obtain advice and other assistance from the Technology Transition Council established under subsection (g).

“(3) The Manager shall—

“(A) in consultation with the Technology Transition Council established under subsection (g), identify promising technology transition projects that can contribute to meeting Department of Defense technology goals and requirements;

“(B) identify potential sponsors in the Department of Defense to manage such projects; and

“(C) provide funds under subsection (f) for those projects that are selected under subsection (d)(2).

“(d) SELECTION OF PROJECTS.—(1) The science and technology and acquisition executives of each military department and each appropriate Defense Agency and the commanders of the unified and specified combatant commands may nominate technology transition projects for implementation under subsection (e) and shall submit a list of the projects so nominated to the Manager.

“(2) The Manager, in consultation with the Technology Transition Council established under subsection (g), shall select projects for implementation under subsection (e) from among the projects on the lists submitted under paragraph (1).

“(e) IMPLEMENTATION OF PROJECTS.—For each project selected under subsection (d)(2), the Manager shall designate a military department or Defense Agency to implement the project.

“(f) FUNDING OF PROJECTS.—(1) From funds made available to the Manager for the Initiative, the Manager shall, subject to paragraphs (2) and (3), provide funds for each project selected

under subsection (d)(2) in an amount determined by mutual agreement between the Manager and the acquisition executive of the military department or Defense Agency concerned.

“(2) The amount of funds provided to a project under paragraph (1) shall be not less than the amount equal to 50 percent of the total cost of the project.

“(3) A project shall not be provided funds under this subsection for more than four fiscal years.

“(g) TECHNOLOGY TRANSITION COUNCIL.—(1) There is a Technology Transition Council in the Department of Defense. The Council is composed of the following members:

Establishment.

“(A) The science and technology executive of each military department and each Defense Agency.

“(B) The acquisition executive of each military department.

“(C) The members of the Joint Requirements Oversight Council.

“(2) The duty of the Council shall be to provide advice and assistance to the Manager under this section.

“(3) The Council shall meet not less often than semiannually to carry out its duty under paragraph (2).

“(h) REPORT.—Not later than March 31 of each year, the Under Secretary shall submit to the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives a report on the activities carried out by the Initiative during the preceding fiscal year.

Deadline.

“(i) DEFINITION.—In this section, the term ‘acquisition executive’, with respect to a military department or Defense Agency, means the official designated as the senior procurement executive for that military department or Defense Agency for the purposes of section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)).”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2359 the following new item:

“2359a. Technology Transition Initiative.”.

(b) AUTHORIZATION OF APPROPRIATIONS.—Of the amount authorized to be appropriated under section 201(4), \$25,430,000 may be available in program element 0603826D8Z for technology transition activities of the Department of Defense, including the Technology Transition Initiative required by section 2359a of title 10, United States Code (as added by subsection (a)), the Defense Acquisition Challenge Program required by section 2359b of title 10, United States Code (as added by section 243), and Quick Reaction Special Projects.

SEC. 243. DEFENSE ACQUISITION CHALLENGE PROGRAM.

(a) IN GENERAL.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2359a (as added by section 242) the following new section:

“§ 2359b. Defense Acquisition Challenge Program

“(a) PROGRAM REQUIRED.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall carry out a program to provide opportunities

for the increased introduction of innovative and cost-saving technology in acquisition programs of the Department of Defense.

“(2) The program, to be known as the Defense Acquisition Challenge Program (hereinafter in this section referred to as the ‘Challenge Program’), shall provide any person or activity within or outside the Department of Defense with the opportunity to propose alternatives, to be known as challenge proposals, at the component, subsystem, or system level of an existing Department of Defense acquisition program that would result in improvements in performance, affordability, manufacturability, or operational capability of that acquisition program.

Establishment.

“(b) PANELS.—The Under Secretary shall establish one or more panels of highly qualified scientists and engineers (hereinafter in this section referred to as ‘Panels’) to provide preliminary evaluations of challenge proposals under subsection (c).

Procedures.

“(c) PRELIMINARY EVALUATION BY PANELS.—(1) Under procedures prescribed by the Under Secretary, a person or activity within or outside the Department of Defense may submit challenge proposals to a Panel, through the unsolicited proposal process or in response to a broad agency announcement.

“(2) The Under Secretary shall establish procedures pursuant to which appropriate officials of the Department of Defense may identify proposals submitted through the unsolicited proposal process as challenge proposals. The procedures shall provide for the expeditious referral of such proposals to a Panel for preliminary evaluation under this subsection.

“(3) The Under Secretary shall issue on an annual basis not less than one such broad agency announcement inviting interested parties to submit challenge proposals. Such announcements may also identify particular technology areas and acquisition programs that will be given priority in the evaluation of challenge proposals.

“(4) Under procedures established by the Under Secretary, a Panel shall carry out a preliminary evaluation of each challenge proposal submitted in response to a broad agency announcement, or submitted through the unsolicited proposal process and identified as a challenge proposal in accordance with paragraph (2), to determine each of the following:

“(A) Whether the challenge proposal has merit.

“(B) Whether the challenge proposal is likely to result in improvements in performance, affordability, manufacturability, or operational capability at the component, subsystem, or system level of an acquisition program.

“(C) Whether the challenge proposal could be implemented in the acquisition program rapidly, at an acceptable cost, and without unacceptable disruption to the acquisition program.

“(5) The Under Secretary may establish procedures to ensure that the Challenge Program does not become an avenue for the repetitive submission of proposals that have been previously reviewed and found not to have merit.

“(6) If a Panel determines that a challenge proposal satisfies each of the criteria specified in paragraph (4), the person or activity submitting that challenge proposal shall be provided an opportunity to submit such challenge proposal for a full review and evaluation under subsection (d).

Procedures.

“(d) FULL REVIEW AND EVALUATION.—(1) Under procedures prescribed by the Under Secretary, for each challenge proposal submitted for a full review and evaluation as provided in subsection

(c)(6), the office carrying out the acquisition program to which the proposal relates shall, in consultation with the prime system contractor carrying out such program, conduct a full review and evaluation of the proposal.

“(2) The full review and evaluation shall, independent of the determination of a Panel under subsection (c)(4), determine each of the matters specified in subparagraphs (A), (B), and (C) of such subsection. The full review and evaluation shall also include—

“(A) an assessment of the cost of adopting the challenge proposal and implementing it in the acquisition program; and

“(B) consideration of any intellectual property issues associated with the challenge proposal.

“(e) ACTION UPON FAVORABLE FULL REVIEW AND EVALUATION.—

Procedures.

(1) Under procedures prescribed by the Under Secretary, each challenge proposal determined under a full review and evaluation to satisfy each of the criteria specified in subsection (c)(4) with respect to an acquisition program shall be considered by the office carrying out the applicable acquisition program and the prime system contractor for incorporation into the acquisition program as a new technology insertion at the component, subsystem, or system level.

“(2) The Under Secretary shall encourage the adoption of each challenge proposal referred to in paragraph (1) by providing suitable incentives to the office carrying out the acquisition program and the prime system contractor carrying out such program.

“(f) ACCESS TO TECHNICAL RESOURCES.—(1) Under procedures established by the Under Secretary, the technical resources of the laboratories, research, development, and engineering centers, test and evaluation activities, and other elements of the Department may be called upon to support the activities of the Challenge Program.

Procedures.

“(2) Funds available to carry out this program may be used to compensate such laboratories, centers, activities, and elements for technical assistance provided to a Panel pursuant to paragraph (1).

“(g) ELIMINATION OF CONFLICTS OF INTEREST.—In carrying out each preliminary evaluation under subsection (c) and full review under subsection (d), the Under Secretary shall ensure the elimination of conflicts of interest.

“(h) LIMITATION ON USE OF FUNDS.—Funds made available for the Challenge Program may be used only for activities authorized by this section, and not for implementation of challenge proposals.

“(i) ANNUAL REPORT.—The Under Secretary shall submit an annual report on the Challenge Program to Congress. The report shall be submitted at the same time as the President submits the budget for a fiscal year to Congress under section 1105(a) of title 31, and shall cover the conduct of the Challenge Program for the preceding fiscal year. The report shall include the number and scope of challenge proposals submitted, preliminarily evaluated, subjected to full review and evaluation, and adopted. No report is required for a fiscal year in which the Challenge Program is not carried out.

“(j) TERMINATION OF AUTHORITY.—The Secretary may not carry out the Challenge Program under this section after September 30, 2007.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2359a (as added by section 242) the following new item:

“2359b. Defense Acquisition Challenge Program.”.

10 USC 2302
note.

SEC. 244. ENCOURAGEMENT OF SMALL BUSINESSES AND NONTRADITIONAL DEFENSE CONTRACTORS TO SUBMIT PROPOSALS POTENTIALLY BENEFICIAL FOR COMBATING TERRORISM.

(a) ESTABLISHMENT OF OUTREACH PROGRAM.—During fiscal years 2003, 2004, and 2005, the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall carry out a program of outreach to small businesses and nontraditional defense contractors for the purpose set forth in subsection (b).

(b) PURPOSE.—The purpose of the outreach program is to provide a process for reviewing and evaluating research activities of, and new technologies being developed by, small businesses and nontraditional defense contractors that have the potential for meeting a defense requirement or technology development goal of the Department of Defense that relates to the mission of the Department of Defense to combat terrorism.

(c) GOALS.—The goals of the outreach program are as follows:

(1) To increase efforts within the Department of Defense to survey and identify research activities and new technologies described in subsection (b).

(2) To provide the Under Secretary of Defense for Acquisition, Technology, and Logistics with a source of expert advice on new technologies for combating terrorism.

(3) To increase efforts to educate nontraditional defense contractors on Department of Defense acquisition processes, including regulations, procedures, funding opportunities, military needs and requirements, and technology transfer so as to encourage such contractors to submit proposals regarding research activities and new technologies described in subsection (b).

(4) To increase efforts to provide timely response by the Department of Defense to acquisition proposals (including unsolicited proposals) submitted to the Department by small businesses and by nontraditional defense contractors regarding research activities and new technologies described in subsection (b), including through the use of electronic transactions to facilitate the processing of such proposals.

Appointment.

(d) REVIEW PANEL.—(1) The Secretary shall appoint, under the outreach program, a panel for the review and evaluation of acquisition proposals described in subsection (c)(4).

(2) The panel shall be composed of qualified personnel from the military departments, relevant Defense Agencies, industry, academia, and other private sector organizations.

Procedures.

(3) Under procedures prescribed by the Under Secretary of Defense for Acquisition, Technology, and Logistics, a small business or nontraditional defense contractor may submit acquisition proposals for consideration under the program through the unsolicited proposal process or in response to a broad agency announcement. The Under Secretary shall issue on an annual basis not less than one such broad agency announcement inviting parties to submit proposals.

(4) Under procedures prescribed by the Under Secretary, the panel shall review and evaluate acquisition proposals selected by the panel. An acquisition proposal shall be selected for review and evaluation if the panel determines that the acquisition proposal may present a unique and valuable approach for meeting a defense requirement or technology development goal of the Department of Defense that relates to the mission of the Department of Defense to combat terrorism. In carrying out its duties under this paragraph, the panel may act through representatives designated by the panel.

Procedures.

(5) The panel shall—

Deadlines.

(A) not later than 60 days after the date on which the panel receives an acquisition proposal described in subsection (c)(4), transmit to the small business or nontraditional defense contractor that submitted the proposal a notification regarding whether the acquisition proposal has been selected under paragraph (4) for review and evaluation;

(B) to the maximum extent practicable, complete the review and evaluation of each selected acquisition proposal not later than 120 days after the date on which such proposal is selected under paragraph (4); and

(C) after completing the review and evaluation of an acquisition proposal, transmit the results of that review and evaluation to the small business or nontraditional defense contractor that submitted the proposal.

(6) The Secretary shall ensure that the panel, in reviewing and evaluating acquisition proposals under this subsection, has the authority to obtain assistance, to a reasonable extent, from the appropriate technical resources of the laboratories, research, development, and engineering centers, test and evaluation activities, and other elements of the Department of Defense.

(7) If, after completing review and evaluation of an acquisition proposal, the panel determines that such proposal represents a unique and valuable approach for meeting a defense requirement or technology development goal of the Department of Defense that relates to the mission of the Department of Defense to combat terrorism, the panel shall submit that determination to the Under Secretary of Defense for Acquisition, Technology, and Logistics, together with any recommendations that the panel considers appropriate regarding such proposal.

(8) The Under Secretary of Defense for Acquisition, Technology, and Logistics may provide funding for acquisition proposals with respect to which the panel has submitted a determination under paragraph (7) through appropriate accounts of the military departments, Defense Agencies, the Small Business Innovative Research program, or any other acquisition program.

(9) The Secretary of Defense shall ensure that a member of the panel has no conflict of interest with respect to the review and evaluation of an acquisition proposal by the panel.

(e) NONTRADITIONAL DEFENSE CONTRACTOR DEFINED.—In this section, the term “nontraditional defense contractor” means an entity that has not, for at least one year prior to the date of the enactment of this Act, entered into, or performed with respect to, any contract described in paragraph (1) or (2) of section 845(e) of the National Defense Authorization Act for Fiscal Year 1994 (10 U.S.C. 2371 note).

10 USC 2358
note.

SEC. 245. VEHICLE FUEL CELL PROGRAM.

(a) **PROGRAM REQUIRED.**—The Secretary of Defense shall carry out a program for the development of vehicle fuel cell technology.

(b) **GOALS AND OBJECTIVES.**—The goals and objectives of the program shall be as follows:

(1) To identify and support technological advances that are necessary for the development of fuel cell technology for use in vehicles of types to be used by the Department of Defense.

(2) To ensure that critical technology advances are shared among the various fuel cell technology programs within the Federal Government.

(3) To maximize the leverage of Federal funds that are used for the development of fuel cell technology.

(c) **CONTENT OF PROGRAM.**—The program shall include—

(1) development of vehicle propulsion technologies and fuel cell auxiliary power units, together with pilot projects for the demonstration of such technologies, as appropriate; and

(2) development of technologies necessary to address critical issues with respect to vehicle fuel cells, such as issues relating to hydrogen storage and hydrogen fuel infrastructure.

(d) **COOPERATION WITH INDUSTRY.**—(1) The Secretary shall carry out the program in cooperation with companies selected by the Secretary. The Secretary shall select such companies from among—

(A) companies in the automobile and truck manufacturing industry;

(B) companies in the business of supplying systems and components to that industry; and

(C) companies in any other industries that the Secretary considers appropriate.

(2) The Secretary may enter into a cooperative agreement with one or more companies selected under paragraph (1) to establish an entity for carrying out activities required by subsection (c).

(3) The Secretary shall ensure that companies referred to in paragraph (1) collectively contribute, in cash or in kind, not less than one-half of the total cost of carrying out the program under this section.

(e) **COORDINATION WITH OTHER FEDERAL AGENCIES.**—The Secretary shall carry out the program using a coordinating mechanism for sharing information and resources with the Department of Energy and other Federal agencies.

(f) **INITIAL FUNDING.**—Of the funds authorized to be appropriated by section 201(4), \$10,000,000 shall be available for the program required by this section.

10 USC 2358
note.

SEC. 246. DEFENSE NANOTECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary of Defense shall carry out a defense nanotechnology research and development program.

(b) **PURPOSES.**—The purposes of the program are as follows:

(1) To ensure United States global superiority in nanotechnology necessary for meeting national security requirements.

(2) To coordinate all nanoscale research and development within the Department of Defense, and to provide for inter-agency cooperation and collaboration on nanoscale research

and development between the Department of Defense and other departments and agencies of the United States that are involved in nanoscale research and development.

(3) To develop and manage a portfolio of fundamental and applied nanoscience and engineering research initiatives that is stable, consistent, and balanced across scientific disciplines.

(4) To accelerate the transition and deployment of technologies and concepts derived from nanoscale research and development into the Armed Forces, and to establish policies, procedures, and standards for measuring the success of such efforts.

(5) To collect, synthesize, and disseminate critical information on nanoscale research and development.

(c) ADMINISTRATION.—In carrying out the program, the Secretary shall act through the Director of Defense Research and Engineering, who shall supervise the planning, management, and coordination of the program. The Director, in consultation with the Secretaries of the military departments and the heads of participating Defense Agencies and other departments and agencies of the United States, shall—

(1) prescribe a set of long-term challenges and a set of specific technical goals for the program;

(2) develop a coordinated and integrated research and investment plan for meeting the long-term challenges and achieving the specific technical goals that builds upon the Department's increased investment in nanotechnology research and development and the National Nanotechnology Initiative; and

(3) develop memoranda of agreement, joint funding agreements, and other cooperative arrangements necessary for meeting the long-term challenges and achieving the specific technical goals.

(d) ANNUAL REPORT.—Not later than March 1 of each of 2004, 2005, 2006, and 2007, the Director of Defense Research and Engineering shall submit to the congressional defense committees a report on the program. The report shall contain the following matters: Deadline.

(1) A review of—

(A) the long-term challenges and specific technical goals of the program; and

(B) the progress made toward meeting those challenges and achieving those goals.

(2) An assessment of current and proposed funding levels, including the adequacy of such funding levels to support program activities.

(3) A review of the coordination of activities within the Department of Defense, with other departments and agencies, and with the National Nanotechnology Initiative.

(4) An assessment of the extent to which effective technology transition paths have been established as a result of activities under the program.

(5) Recommendations for additional program activities to meet emerging national security requirements.

SEC. 247. ACTIVITIES OF THE DEFENSE EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.

Subsection (c) of section 257 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 10 U.S.C. 2358 note) is amended—

(1) in paragraph (1), by striking “research grants” and inserting “grants for research and instrumentation to support such research”; and

(2) by adding at the end the following new paragraph:

“(3) Any other activities that are determined necessary to further the achievement of the objectives of the program.”.

SEC. 248. FOUR-YEAR EXTENSION OF AUTHORITY OF DARPA TO AWARD PRIZES FOR ADVANCED TECHNOLOGY ACHIEVEMENTS AND ADDITIONAL AUTHORITY OF MILITARY DEPARTMENTS AND DEFENSE AGENCIES TO AWARD PRIZES FOR ACHIEVEMENTS IN PROMOTING EDUCATION.

(a) EXTENSION.—Section 2374a(f) of title 10, United States Code, is amended by striking “September 30, 2003” and inserting “September 30, 2007”.

Deadline.

(b) REPORT ON ADMINISTRATION OF PROGRAM.—(1) Not later than December 31, 2002, the Director of the Defense Advanced Research Projects Agency shall submit to the congressional defense committees a report on the proposal of the Director for the administration of the program to award prizes for advanced technology achievements under section 2374a of title 10, United States Code.

(2) The report shall include the following:

(A) The results of consultations by the Director with officials of the military departments regarding the technology areas for which competitive prizes would be established.

(B) A description of the proposed goals of the competitions that would be established under the program, including the technology areas to be promoted by the competitions and the relationship of such areas to military missions of the Department of Defense.

(C) The proposed rules for the competitions that would be established under the program and a description of the proposed management of the competitions.

(D) A description of the manner in which the amounts of the cash prizes awarded and claimed under the program would be allocated among the accounts of the Defense Advanced Research Projects Agency for recording as obligations and expenditures.

(E) For each competition that would be established under the program, a statement of the reasons why the competition is a preferable means of promoting basic, advanced, and applied research, advanced technology development, or prototype projects, rather than other means of promoting such activities, including contracts, grants, cooperative agreements, and other transactions.

(c) ADDITIONAL AUTHORITY TO AWARD CASH PRIZES FOR PROMOTING EDUCATION IN SUPPORT OF DoD MISSIONS.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2374b. Prizes for achievements in promoting science, mathematics, engineering, or technology education

“(a) **AUTHORITY.**—The Secretaries of the military departments and the heads of defense agencies may each carry out a program to award cash prizes in recognition of outstanding achievements that are designed to promote science, mathematics, engineering, or technology education in support of the missions of the Department of Defense.

“(b) **COMPETITION REQUIREMENTS.**—Each program under subsection (a) shall use a competitive process for the selection of recipients of cash prizes.

“(c) **LIMITATION.**—For any single program under subsection (a), the total amount made available for award of cash prizes in a fiscal year may not exceed \$1,000,000.

“(d) **RELATIONSHIP TO OTHER AUTHORITY.**—The program under subsection (a) may be carried out in conjunction with or in addition to the exercise of any other authority to acquire, support, or stimulate basic and applied research, advanced technology development, or prototype development projects.

“(e) **ANNUAL REPORT.**—Promptly after the end of each fiscal year, each Secretary of a military department and each head of a defense agency carrying out a program under subsection (a) shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of that program for that fiscal year.

“(f) **PERIOD OF AUTHORITY.**—The authority to award prizes under subsection (a) shall terminate at the end of September 30, 2006.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2374b. Prizes for achievements in promoting science, mathematics, engineering, or technology education.”.

SEC. 249. PLAN FOR FIVE-YEAR PROGRAM FOR ENHANCEMENT OF MEASUREMENT AND SIGNATURES INTELLIGENCE CAPABILITIES OF THE UNITED STATES THROUGH INCORPORATION OF RESULTS OF BASIC RESEARCH ON SENSORS.

(a) **CONGRESSIONAL FINDING.**—Congress finds that the national interest will be served by the rapid exploitation of basic research on sensors for purposes of enhancing the measurement and signatures intelligence (MASINT) capabilities of the United States.

(b) **PLAN FOR RESEARCH PROGRAM.**—(1) Not later than March 31, 2003, the Secretary of Defense shall submit to Congress a plan for a five-year program of research intended to provide for the incorporation of the results of basic research on sensors into the measurement and signatures intelligence systems of the United States, to the extent the results of such research is applicable to such systems. Such program shall include the review and assessment of basic research on sensors for purpose of such incorporation, including both basic research on sensors conducted by the Government and basic research on sensors conducted by non-governmental entities.

Deadline.

(2) The plan submitted under paragraph (1) shall provide that the activities to be carried out under the program provided for

in the plan shall be carried out by a consortium consisting of such governmental and non-governmental entities as the Secretary considers appropriate for purposes of incorporating the broadest practicable range of sensor capabilities into the systems referred to in paragraph (1). The consortium may include national laboratories, universities, and private sector entities.

(3) The plan shall include a proposal for the funding of activities under the five-year program provided for in the plan, including cost-sharing by non-governmental participants in the consortium under paragraph (2).

TITLE III—OPERATION AND MAINTENANCE

Subtitle A—Authorization of Appropriations

- Sec. 301. Operation and maintenance funding.
- Sec. 302. Working capital funds.
- Sec. 303. Armed Forces Retirement Home.
- Sec. 304. Grant to National Guard Youth Foundation.

Subtitle B—Environmental Provisions

- Sec. 311. Enhancement of authority on cooperative agreements for environmental purposes.
- Sec. 312. Single point of contact for policy and budgeting issues regarding unexploded ordnance, discarded military munitions, and munitions constituents.
- Sec. 313. Authority to carry out construction projects for environmental responses.
- Sec. 314. Procurement of environmentally preferable procurement items.
- Sec. 315. Incidental taking of migratory birds during military readiness activities.

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

- Sec. 321. Authority for each military department to provide base operating support to Fisher Houses.
- Sec. 322. Use of commissary stores and MWR retail facilities by members of National Guard serving in national emergency.
- Sec. 323. Uniform funding and management of morale, welfare, and recreation programs.
- Sec. 324. Rebate agreements under the special supplemental food program.

Subtitle D—Workplace and Depot Issues

- Sec. 331. Notification requirements in connection with required studies for conversion of commercial or industrial type functions to contractor performance.
- Sec. 332. Temporary authority for contractor performance of security-guard functions to meet increased requirements since September 11, 2001.
- Sec. 333. Repeal of obsolete provision regarding depot-level maintenance and repair workloads that were performed at closed or realigned military installations.
- Sec. 334. Exclusion of certain expenditures from limitation on private sector performance of depot-level maintenance.

Subtitle E—Defense Dependents Education

- Sec. 341. Assistance to local educational agencies that benefit dependents of members of the Armed Forces and Department of Defense civilian employees.
- Sec. 342. Housing benefits for unaccompanied teachers required to live at Guantanamo Bay Naval Station, Cuba.
- Sec. 343. Options for funding dependent summer school programs.
- Sec. 344. Impact aid eligibility for local educational agencies affected by privatization of military housing.
- Sec. 345. Comptroller General study of adequacy of compensation provided for teachers in the Department of Defense Overseas Dependents' Schools.

Subtitle F—Information Technology

- Sec. 351. Annual submission of information regarding information technology capital assets.

- Sec. 352. Policy regarding acquisition of information assurance and information assurance-enabled information technology products.
- Sec. 353. Installation and connection policy and procedures regarding Defense Switch Network.

Subtitle G—Other Matters

- Sec. 361. Distribution of monthly reports on allocation of funds within operation and maintenance budget subactivities.
- Sec. 362. Continuation of arsenal support program initiative.
- Sec. 363. Extension of work safety demonstration program.
- Sec. 364. Condition on authority of Defense Security Service to impose fees on fee-for-service basis.
- Sec. 365. Logistics support and services for weapon systems contractors.
- Sec. 366. Training range sustainment plan, Global Status of Resources and Training System, and training range inventory.
- Sec. 367. Engineering study and environmental analysis of road modifications in vicinity of Fort Belvoir, Virginia.
- Sec. 368. Reauthorization of warranty claims recovery pilot program.
- Sec. 369. Expanded eligibility for loan, gift, or exchange of documents, historical artifacts, and condemned or obsolete combat materiel.

Subtitle A—Authorization of Appropriations

SEC. 301. OPERATION AND MAINTENANCE FUNDING.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance, in amounts as follows:

- (1) For the Army, \$23,922,251,000.
- (2) For the Navy, \$29,264,939,000.
- (3) For the Marine Corps, \$3,559,636,000.
- (4) For the Air Force, \$27,419,488,000.
- (5) For Defense-wide activities, \$14,145,310,000.
- (6) For the Army Reserve, \$1,985,110,000.
- (7) For the Naval Reserve, \$1,233,759,000.
- (8) For the Marine Corps Reserve, \$189,532,000.
- (9) For the Air Force Reserve, \$2,160,604,000.
- (10) For the Army National Guard, \$4,155,067,000.
- (11) For the Air National Guard, \$4,104,810,000.
- (12) For the Defense Inspector General, \$155,165,000.
- (13) For the United States Court of Appeals for the Armed Forces, \$9,614,000.
- (14) For Environmental Restoration, Army, \$395,900,000.
- (15) For Environmental Restoration, Navy, \$256,948,000.
- (16) For Environmental Restoration, Air Force, \$389,773,000.
- (17) For Environmental Restoration, Defense-wide, \$23,498,000.
- (18) For Environmental Restoration, Formerly Used Defense Sites, \$252,102,000.
- (19) For Overseas Humanitarian, Disaster, and Civic Aid programs, \$58,400,000.
- (20) For Drug Interdiction and Counter-drug Activities, Defense-wide, \$859,907,000.
- (21) For the Kaho’olawe Island Conveyance, Remediation, and Environmental Restoration Trust Fund, \$25,000,000.
- (22) For Defense Health Program, \$14,123,038,000.
- (23) For Cooperative Threat Reduction programs, \$416,700,000.

(24) For Support for International Sporting Competitions, Defense, \$19,000,000.

(25) For overseas contingency operations transfer fund, \$17,844,000.

SEC. 302. WORKING CAPITAL FUNDS.

Funds are hereby authorized to be appropriated for fiscal year 2003 for the use of the Armed Forces and other activities and agencies of the Department of Defense for providing capital for working capital and revolving funds in amounts as follows:

(1) For the Defense Working Capital Funds, \$387,156,000

(2) For the National Defense Sealift Fund, \$934,129,000.

(3) For the Defense Commissary Agency Working Capital Fund, \$969,200,000.

(4) For the Pentagon Reservation Maintenance Revolving Fund, \$328,000,000.

SEC. 303. ARMED FORCES RETIREMENT HOME.

There is hereby authorized to be appropriated for fiscal year 2003 from the Armed Forces Retirement Home Trust Fund the sum of \$69,921,000 for the operation of the Armed Forces Retirement Home.

SEC. 304. GRANT TO NATIONAL GUARD YOUTH FOUNDATION.

Of the amount authorized to be appropriated by section 301(5) for administrative and service-wide activities for civil-military programs, the Secretary of Defense may use up to \$2,500,000 to make a grant to the National Guard Youth Foundation to support the efforts of the Foundation to mobilize individuals, groups, and organizations to build and strengthen the character and competence of youth in the United States.

Subtitle B—Environmental Provisions

SEC. 311. ENHANCEMENT OF AUTHORITY ON COOPERATIVE AGREEMENTS FOR ENVIRONMENTAL PURPOSES.

Section 2701(d) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraph (3)”;

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following new paragraph (2):

“(2) CROSS-FISCAL YEAR AGREEMENTS.—An agreement with an agency under paragraph (1) may be for a period that begins in one fiscal year and ends in another fiscal year so long as the period of the agreement does not exceed two years.”.

SEC. 312. SINGLE POINT OF CONTACT FOR POLICY AND BUDGETING ISSUES REGARDING UNEXPLODED ORDNANCE, DISCARDED MILITARY MUNITIONS, AND MUNITIONS CONSTITUENTS.

Section 2701 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(k) UXO PROGRAM MANAGER.—(1) The Secretary of Defense shall establish a program manager who shall serve as the single

Establishment.

point of contact in the Department of Defense for policy and budgeting issues involving the characterization, remediation, and management of explosive and related risks with respect to unexploded ordnance, discarded military munitions, and munitions constituents at defense sites (as such terms are defined in section 2710 of this title) that pose a threat to human health or safety.

“(2) The authority to establish the program manager may be delegated to the Secretary of a military department, who may delegate the authority to the Under Secretary of that military department. The authority may not be further delegated.

“(3) The program manager may establish an independent advisory and review panel that may include representatives of the National Academy of Sciences, nongovernmental organizations with expertise regarding unexploded ordnance, discarded military munitions, or munitions constituents, the Environmental Protection Agency, States (as defined in section 2710 of this title), and tribal governments. If established, the panel shall report annually to Congress on progress made by the Department of Defense to address unexploded ordnance, discarded military munitions, or munitions constituents at defense sites and make such recommendations as the panel considers appropriate.”.

SEC. 313. AUTHORITY TO CARRY OUT CONSTRUCTION PROJECTS FOR ENVIRONMENTAL RESPONSES.

(a) RESTATEMENT AND MODIFICATION OF AUTHORITY.—Chapter 160 of title 10, United States Code, is amended—

(1) by redesignating section 2707 as section 2700 and transferring such section to appear immediately after the table of sections at the beginning of such chapter; and

(2) by inserting after section 2706 the following new section 2707:

“§ 2707. Environmental restoration projects for environmental responses

“(a) ENVIRONMENTAL RESTORATION PROJECTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may carry out an environmental restoration project if that Secretary determines that the project is necessary to carry out a response under this chapter or CERCLA.

“(b) TREATMENT OF PROJECT.—Any construction, development, conversion, or extension of a structure, and any installation of equipment, that is included in an environmental restoration project under this section may not be considered military construction (as that term is defined in section 2801(a) of this title).

“(c) SOURCE OF FUNDS.—Funds authorized for deposit in an account established by section 2703(a) of this title shall be the only source of funds to conduct an environmental restoration project under this section.

“(d) ENVIRONMENTAL RESTORATION PROJECT DEFINED.—In this section, the term ‘environmental restoration project’ includes any construction, development, conversion, or extension of a structure, or installation of equipment, in direct support of a response.”.

(b) REPEAL OF SUPERSEDED PROVISION.—Section 2810 of such title is repealed.

(c) CONFORMING AMENDMENTS.—Chapter 160 of such title is further amended—

(1) in section 2700 (as redesignated by subsection (a))—

(A) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively; and

(B) by inserting after “In this chapter:” the following new paragraph:

“(1) The term ‘CERCLA’ means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).”; and

(2) in section 2701(a)(2), by striking “the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (hereinafter in this chapter referred to as ‘CERCLA’) (42 U.S.C. 9601 et seq.)” and inserting “CERCLA”.

(d) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 160 of such title is amended—

(A) by inserting before the item relating to section 2701 the following new item:

“2700. Definitions.”;

and

(B) by striking the item relating to section 2707 and inserting the following new item:

“2707. Environmental restoration projects for environmental responses.”.

(2) The table of sections at the beginning of chapter 169 of such title is amended by striking the item relating to section 2810.

10 USC 2302
note.

SEC. 314. PROCUREMENT OF ENVIRONMENTALLY PREFERABLE PROCUREMENT ITEMS.

(a) TRACKING SYSTEM.—The Secretary of Defense shall develop and implement an effective and efficient tracking system to identify the extent to which the Defense Logistics Agency procures environmentally preferable procurement items or procurement items made with recovered material. The system shall provide for the separate tracking, to the maximum extent practicable, of the procurement of each category of procurement items that, as of the date of the enactment of this Act, has been determined to be environmentally preferable or made with recovered material.

(b) ASSESSMENT OF TRAINING AND EDUCATION.—The Secretary of Defense shall assess the need to establish a program, or enhance existing programs, for training and educating Department of Defense procurement officials to ensure that they are aware of any Department requirements, preferences, or goals for the procurement of environmentally preferable procurement items or procurement items made with recovered material.

Deadlines.

(c) REPORTING REQUIREMENT.—Not later than March 1, 2004, and each March 1 thereafter through 2007, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report detailing the results obtained from the tracking system developed under subsection (a).

(d) RELATION TO OTHER LAWS.—Nothing in this section shall be construed to alter the requirements of the Solid Waste Disposal Act (40 U.S.C. 6901 et seq.).

(e) DEFINITIONS.—In this section:

(1) The term “environmentally preferable”, in the case of a procurement item, means that the item has a lesser or reduced effect on human health and the environment when compared with competing products that serve the same purpose.

The comparison may consider raw materials acquisition, production, manufacturing, packaging, distribution, reuse, operation, maintenance, or disposal of the product.

(2) The terms “procurement item” and “recovered material” have the meanings given such terms in section 1004 of the Solid Waste Disposal Act (40 U.S.C. 6903).

SEC. 315. INCIDENTAL TAKING OF MIGRATORY BIRDS DURING MILITARY READINESS ACTIVITIES.

16 USC 703 note.

(a) **INTERIM AUTHORITY FOR INCIDENTAL TAKINGS.**—During the period described in subsection (c), section 2 of the Migratory Bird Treaty Act (16 U.S.C. 703) shall not apply to the incidental taking of a migratory bird by a member of the Armed Forces during a military readiness activity authorized by the Secretary of Defense or the Secretary of the military department concerned.

(b) **IDENTIFICATION OF MEASURES TO MINIMIZE IMPACT OF ACTIVITIES.**—During the periods described in subsections (c) and (d), the Secretary of Defense shall, in consultation with the Secretary of the Interior, identify measures—

(1) to minimize and mitigate, to the extent practicable, any adverse impacts of authorized military readiness activities on affected species of migratory birds; and

(2) to monitor the impacts of such military readiness activities on affected species of migratory birds.

(c) **PERIOD OF APPLICATION FOR INTERIM AUTHORITY.**—The period described in this subsection is the period beginning on the date of the enactment of this Act and ending on the date on which the Secretary of the Interior publishes in the Federal Register a notice that—

Federal Register, publication.

(1) regulations authorizing the incidental taking of migratory birds by members of the Armed Forces have been prescribed in accordance with the requirements of subsection (d);

(2) all legal challenges to the regulations and to the manner of their promulgation (if any) have been exhausted as provided in subsection (e); and

(3) the regulations have taken effect.

(d) **INCIDENTAL TAKINGS AFTER INTERIM PERIOD.**—(1) Not later than the expiration of the one-year period beginning on the date of the enactment of this Act, the Secretary of the Interior shall exercise the authority of that Secretary under section 3(a) of the Migratory Bird Treaty Act (16 U.S.C. 704(a)) to prescribe regulations to exempt the Armed Forces for the incidental taking of migratory birds during military readiness activities authorized by the Secretary of Defense or the Secretary of the military department concerned.

Deadline.
Regulations.

(2) The Secretary of the Interior shall exercise authority under paragraph (1) with the concurrence of the Secretary of Defense.

(e) **LIMITATION ON JUDICIAL REVIEW.**—An action seeking judicial review of regulations prescribed pursuant to this section or of the manner of their promulgation must be filed in the appropriate Federal court by not later than the expiration of the 120-day period beginning on the date on which such regulations are published in the Federal Register. Upon the expiration of such period and the exhaustion of any legal challenges to the regulations pursuant to any action filed in such period, there shall be no further judicial review of such regulations or of the manner of their promulgation.

Deadline.

(f) **MILITARY READINESS ACTIVITY.**—(1) In this section the term “military readiness activity” includes—

(A) all training and operations of the Armed Forces that relate to combat; and

(B) the adequate and realistic testing of military equipment, vehicles, weapons, and sensors for proper operation and suitability for combat use.

(2) The term does not include—

(A) the routine operation of installation operating support functions, such as administrative offices, military exchanges, commissaries, water treatment facilities, storage facilities, schools, housing, motor pools, laundries, morale, welfare, and recreation activities, shops, and mess halls;

(B) the operation of industrial activities; or

(C) the construction or demolition of facilities used for a purpose described in subparagraph (A) or (B).

Subtitle C—Commissaries and Nonappropriated Fund Instrumentalities

SEC. 321. AUTHORITY FOR EACH MILITARY DEPARTMENT TO PROVIDE BASE OPERATING SUPPORT TO FISHER HOUSES.

Section 2493(f) of title 10, United States Code, is amended to read as follows:

“(f) **BASE OPERATING SUPPORT.**—The Secretary of a military department may provide base operating support for Fisher Houses associated with health care facilities of that military department.”.

SEC. 322. USE OF COMMISSARY STORES AND MWR RETAIL FACILITIES BY MEMBERS OF NATIONAL GUARD SERVING IN NATIONAL EMERGENCY.

(a) **ADDITIONAL BASIS FOR AUTHORIZED USE.**—Section 1063a of title 10, United States Code, is amended—

(1) in subsection (a), by inserting “or national emergency” after “federally declared disaster”; and

(2) in subsection (c), by adding at the end the following new paragraph:

“(3) **NATIONAL EMERGENCY.**—The term ‘national emergency’ means a national emergency declared by the President or Congress.”.

(b) **CLERICAL AMENDMENTS.**—(1) The heading of such section is amended to read as follows:

**“§ 1063a. Use of commissary stores and MWR retail facilities:
members of National Guard serving in federally
declared disaster or national emergency”.**

(2) The table of sections at the beginning of chapter 54 of such title is amended by striking the item relating to section 1063a and inserting the following new item:

“1063a. Use of commissary stores and MWR retail facilities: members of National Guard serving in federally declared disaster or national emergency.”.

SEC. 323. UNIFORM FUNDING AND MANAGEMENT OF MORALE, WEL- FARE, AND RECREATION PROGRAMS.

(a) **IN GENERAL.**—Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2494. Uniform funding and management of morale, welfare, and recreation programs

“(a) **AUTHORITY FOR UNIFORM FUNDING AND MANAGEMENT.**— Regulations. Under regulations prescribed by the Secretary of Defense, funds appropriated to the Department of Defense and available for morale, welfare, and recreation programs may be treated as nonappropriated funds and expended in accordance with laws applicable to the expenditures of nonappropriated funds. When made available for morale, welfare, and recreation programs under such regulations, appropriated funds shall be considered to be nonappropriated funds for all purposes and shall remain available until expended.

“(b) **CONDITIONS ON AVAILABILITY.**—Funds appropriated to the Department of Defense may be made available to support a morale, welfare, or recreation program only if the program is authorized to receive appropriated fund support and only in the amounts the program is authorized to receive.

“(c) **CONVERSION OF EMPLOYMENT POSITIONS.**—(1) The Secretary of Defense may identify positions of employees in morale, welfare, and recreation programs within the Department of Defense who are paid with appropriated funds whose status may be converted from the status of an employee paid with appropriated funds to the status of an employee of a nonappropriated fund instrumentality.

“(2) The status of an employee in a position identified by the Secretary under paragraph (1) may, with the consent of the employee, be converted to the status of an employee of a nonappropriated fund instrumentality. An employee who does not consent to the conversion may not be removed from the position because of the failure to provide such consent.

“(3) The conversion of an employee from the status of an employee paid by appropriated funds to the status of an employee of a nonappropriated fund instrumentality shall be without a break in service for the concerned employee. The conversion shall not entitle an employee to severance pay, back pay or separation pay under subchapter IX of chapter 55 of title 5, or be considered an involuntary separation or other adverse personnel action entitling an employee to any right or benefit under such title or any other provision of law or regulation.

“(4) In this subsection, the term ‘an employee of a nonappropriated fund instrumentality’ means an employee described in section 2105(c) of title 5.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2494. Uniform funding and management of morale, welfare, and recreation programs.”.

SEC. 324. REBATE AGREEMENTS UNDER THE SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) **APPLICABILITY TO NAVY EXCHANGE MARKETS.**—Paragraph (1)(A) of section 1060a(e) of title 10, United States Code, is amended by inserting “or Navy Exchange Markets” after “commissary stores”.

(b) **INCREASED MAXIMUM PERIOD OF AGREEMENT.**—Paragraph (3) of such section is amended by striking “subsection may not exceed one year” in the first sentence and inserting “subsection, including any period of extension of the contract by modification

of the contract, exercise of an option, or other cause, may not exceed three years”.

Subtitle D—Workplace and Depot Issues

SEC. 331. NOTIFICATION REQUIREMENTS IN CONNECTION WITH REQUIRED STUDIES FOR CONVERSION OF COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS TO CONTRACTOR PERFORMANCE.

Subsection (c) of section 2461 of title 10, United States Code, is amended to read as follows:

Reports.

“(c) SUBMISSION OF ANALYSIS RESULTS.—(1) Upon the completion of an analysis of a commercial or industrial type function described in subsection (a) for possible change to performance by the private sector, the Secretary of Defense shall submit to Congress a report containing the results of the analysis, including the results of the examinations required by subsection (b)(3).

“(2) The report shall also contain the following:

“(A) The date when the analysis of the function was commenced.

“(B) The Secretary’s certification that the Government calculation of the cost of performance of the function by Department of Defense civilian employees is based on an estimate of the most cost effective manner for performance of the function by Department of Defense civilian employees.

“(C) The number of Department of Defense civilian employees who were performing the function when the analysis was commenced and the number of such employees whose employment was or will be terminated or otherwise affected by changing to performance of the function by the private sector or by implementation of the most efficient organization of the function.

“(D) The Secretary’s certification that the factors considered in the examinations performed under subsection (b)(3), and in the making of the decision regarding changing to performance of the function by the private sector or retaining performance in the most efficient organization of the function, did not include any predetermined personnel constraint or limitation in terms of man years, end strength, full-time equivalent positions, or maximum number of employees.

“(E) A statement of the potential economic effect of implementing the decision regarding changing to performance of the function by the private sector or retaining performance in the most efficient organization of the function on each affected local community, as determined in the examination under subsection (b)(3)(B)(ii).

“(F) A schedule for completing the change to performance of the function by the private sector or implementing the most efficient organization of the function.

“(G) In the case of a commercial or industrial type function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, a description of the effect that the manner of performance of the function, and administration of the resulting contract if any, will have on the overhead costs of the center or ammunition plant, as the case may be.

“(H) The Secretary’s certification that the entire analysis is available for examination.

“(3)(A) If a decision is made to change the commercial or industrial type function that was the subject of the analysis to performance by the private sector, the change of the function to contractor performance may not begin until after the submission of the report required by paragraph (1).

“(B) Notwithstanding subparagraph (A), in the case of a commercial or industrial type function performed at a Center of Industrial and Technical Excellence designated under section 2474(a) of this title or an Army ammunition plant, the change of the function to contractor performance may not begin until at least 60 days after the submission of the report.”.

SEC. 332. TEMPORARY AUTHORITY FOR CONTRACTOR PERFORMANCE OF SECURITY-GUARD FUNCTIONS TO MEET INCREASED REQUIREMENTS SINCE SEPTEMBER 11, 2001.

(a) **CONTRACT AUTHORITY.**—The Secretary of Defense or the Secretary of a military department may enter into a contract for any increased performance of security-guard functions at a military installation or facility under the jurisdiction of the Secretary undertaken in response to the terrorist attacks on the United States on September 11, 2001, and may waive the prohibition under section 2465(a) of title 10, United States Code, with respect to such contract, if—

(1) without the contract, members of the Armed Forces are or would be used to perform the increased security-guard functions; and

(2) the Secretary concerned determines that—

(A) the recruiting and training standards for the personnel who are to perform the security-guard functions at the installation or facility under the contract are comparable to the recruiting and training standards for the personnel of the Department of Defense who perform security-guard functions at military installations and facilities under the jurisdiction of the Secretary;

(B) the contractor personnel performing such functions under the contract will be effectively supervised, reviewed, and evaluated; and

(C) the performance of such functions by the contractor personnel will not result in a reduction in the security of the installation or facility.

(b) **INCREASED PERFORMANCE DEFINED.**—In this section, the term “increased performance”, with respect to security-guard functions at a military installation or facility, means—

(1) in the case of an installation or facility where no security-guard functions were performed as of September 10, 2001, the entire scope or extent of the performance of security-guard functions at the installation or facility after such date; and

(2) in the case of an installation or facility where security-guard functions were performed within a lesser scope of requirements or to a lesser extent as of September 10, 2001, than after such date, the increment of the performance of security-guard functions at the installation or facility that exceeds such lesser scope of requirements or extent of performance.

(c) **EXPIRATION OF AUTHORITY.**—The authority for contractor performance of security-guard functions under this section shall

terminate at the end of the three-year period beginning on the date of the enactment of this Act. The term of any contract entered into using the authority provided by this section may not extend beyond the end of such period.

Deadline.

(d) **NEEDS ASSESSMENT AND PLAN.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall—

(1) identify any requirements for the performance of security-guard functions at military installations and facilities under the jurisdiction of the Secretary or the Secretary of a military department that are expected to continue for more than three years after the date of the enactment of this Act and, in the absence of further action by the Secretary or Congress, would otherwise be performed by members of the Armed Forces; and

(2) submit to the congressional defense committees a plan for meeting those requirements on a long-term basis.

SEC. 333. REPEAL OF OBSOLETE PROVISION REGARDING DEPOT-LEVEL MAINTENANCE AND REPAIR WORKLOADS THAT WERE PERFORMED AT CLOSED OR REALIGNED MILITARY INSTALLATIONS.

(a) **REPEAL.**—Section 2469a of title 10, United States Code, is repealed.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 146 of such title is amended by striking the item relating to section 2469a.

SEC. 334. EXCLUSION OF CERTAIN EXPENDITURES FROM LIMITATION ON PRIVATE SECTOR PERFORMANCE OF DEPOT-LEVEL MAINTENANCE.

Section 2474(f) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “Amounts expended out of funds described in paragraph (2) for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence” and inserting “Amounts expended for the performance of a depot-level maintenance and repair workload by non-Federal Government personnel at a Center of Industrial and Technical Excellence under any contract entered into during fiscal years 2003 through 2006”;

(2) by striking paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

Subtitle E—Defense Dependents Education

SEC. 341. ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES THAT BENEFIT DEPENDENTS OF MEMBERS OF THE ARMED FORCES AND DEPARTMENT OF DEFENSE CIVILIAN EMPLOYEES.

(a) **CONTINUATION OF DEPARTMENT OF DEFENSE PROGRAM FOR FISCAL YEAR 2003.**—Of the amount authorized to be appropriated pursuant to section 301(5) for operation and maintenance for Defense-wide activities, \$30,000,000 shall be available only for the purpose of providing educational agencies assistance to local educational agencies.

(b) NOTIFICATION.—Not later than June 30, 2003, the Secretary of Defense shall notify each local educational agency that is eligible for educational agencies assistance for fiscal year 2003 of—

Deadline.

(1) that agency's eligibility for the assistance; and

(2) the amount of the assistance for which that agency is eligible.

(c) DISBURSEMENT OF FUNDS.—The Secretary of Defense shall disburse funds made available under subsection (a) not later than 30 days after the date on which notification to the eligible local educational agencies is provided pursuant to subsection (b).

Deadline.

(d) DEFINITIONS.—In this section:

(1) The term “educational agencies assistance” means assistance authorized under section 386(b) of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484; 20 U.S.C. 7703 note).

(2) The term “local educational agency” has the meaning given that term in section 8013(9) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713(9)).

SEC. 342. HOUSING BENEFITS FOR UNACCOMPANIED TEACHERS REQUIRED TO LIVE AT GUANTANAMO BAY NAVAL STATION, CUBA.

Section 7 of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 905) is amended by adding at the end the following new subsection:

“(f)(1) A teacher assigned to teach at Guantanamo Bay Naval Station, Cuba, who is not accompanied at such station by any dependent shall be offered for lease any available military family housing at such station that is suitable for occupancy by the teacher and is not needed to house members of the armed forces and dependents accompanying them or other civilian personnel and any dependents accompanying them.

“(2) For any period for which military family housing is leased under paragraph (1) to a teacher described in such paragraph, the teacher shall receive a quarters allowance in the amount determined under subsection (b). The teacher is entitled to such quarters allowance without regard to whether other Government furnished quarters are available for occupancy by the teacher without charge to the teacher.”.

SEC. 343. OPTIONS FOR FUNDING DEPENDENT SUMMER SCHOOL PROGRAMS.

Section 1402(d)(2) of the Defense Dependents' Education Act of 1978 (20 U.S.C. 921(d)(2)) is amended to read as follows:

“(2) The Secretary shall provide any summer school program under this subsection on the same financial basis as programs offered during the regular school year, except that the Secretary may charge reasonable fees for all or portions of such summer school programs to the extent that the Secretary determines appropriate.”.

SEC. 344. IMPACT AID ELIGIBILITY FOR LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVATIZATION OF MILITARY HOUSING.

Section 8003(b)(2) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7703(b)(2)) is amended by adding at the end the following:

“(H) ELIGIBILITY FOR HEAVILY IMPACTED LOCAL EDUCATIONAL AGENCIES AFFECTED BY PRIVATIZATION OF MILITARY HOUSING.—

“(i) ELIGIBILITY.—For any fiscal year beginning with fiscal year 2003, a heavily impacted local educational agency that received a basic support payment under subparagraph (A) for the prior fiscal year, but is ineligible for such payment for the current fiscal year under subparagraph (B) or (C), as the case may be, by reason of the conversion of military housing units to private housing described in clause (iii), shall be deemed to meet the eligibility requirements under subparagraph (B) or (C), as the case may be, for the period during which the housing units are undergoing such conversion.

“(ii) AMOUNT OF PAYMENT.—The amount of a payment to a heavily impacted local educational agency for a fiscal year by reason of the application of clause (i), and calculated in accordance with subparagraph (D) or (E) (as the case may be), shall be based on the number of children in average daily attendance in the schools of such agency for the fiscal year.

“(iii) CONVERSION OF MILITARY HOUSING UNITS TO PRIVATE HOUSING DESCRIBED.—For purposes of clause (i), ‘conversion of military housing units to private housing’ means the conversion of military housing units to private housing units pursuant to subchapter IV of chapter 169 of title 10, United States Code, or pursuant to any other related provision of law.”.

SEC. 345. COMPTROLLER GENERAL STUDY OF ADEQUACY OF COMPENSATION PROVIDED FOR TEACHERS IN THE DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS’ SCHOOLS.

(a) ADDITIONAL CONSIDERATION FOR STUDY.—Subsection (b) of section 354 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1064) is amended by inserting after paragraph (2) the following new paragraph:

“(3) Whether the process for setting teacher compensation is efficient and cost effective.”.

(b) EXTENSION OF TIME FOR REPORTING.—Subsection (c) of such section is amended by striking “May 1, 2002” and inserting “December 12, 2002”.

Subtitle F—Information Technology

10 USC 221 note. **SEC. 351. ANNUAL SUBMISSION OF INFORMATION REGARDING INFORMATION TECHNOLOGY CAPITAL ASSETS.**

Deadline.

(a) REQUIREMENT TO SUBMIT INFORMATION.—Not later than 30 days after the date on which the President submits the budget for a fiscal year to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Defense shall submit to Congress information on the following information technology capital assets, including information technology capital assets that are a national security system, of the Department of Defense:

(1) Information technology capital assets not covered by paragraph (2) that have an estimated total cost for the fiscal year for which the budget is submitted in excess of \$10,000,000.

(2) Information technology capital assets that have an estimated total cost for the fiscal year for which the budget is submitted in excess of \$30,000,000 and an estimated total life cycle cost (as computed in fiscal year 2003 constant dollars) in excess of \$120,000,000.

(b) REQUIRED INFORMATION FOR LOW-THRESHOLD ASSETS.—With respect to each information technology capital asset described in subsection (a)(1), the Secretary of Defense shall include the following information:

(1) The name of the information technology capital asset.

(2) The function of the asset.

(3) The total cost of the asset for the fiscal year for which the budget is submitted, the current fiscal year, and the preceding fiscal year.

(c) REQUIRED INFORMATION FOR HIGH-THRESHOLD ASSETS.—With respect to each information technology capital asset described in subsection (a)(2), the Secretary of Defense shall include the following information:

(1) The name and identifying acronym of the information technology capital asset.

(2) The date of initiation of the asset.

(3) A summary of performance measurements and metrics.

(4) The total amount of funds, by appropriation account, appropriated and obligated for prior fiscal years, with a specific breakout of such information for the two preceding fiscal years.

(5) The funds, by appropriation account, requested for the next fiscal year.

(6) The name of each prime contractor and the work to be performed.

(7) Program management and management oversight information.

(8) The original baseline cost and most current baseline information.

(9) Information regarding compliance with the provisions of law enacted or amended by the Government Performance Results Act of 1993 (Public Law 103–62; 107 Stat. 285) and the Clinger–Cohen Act of 1996 (divisions D and E of Public Law 104–106; 110 Stat. 642).

(d) TOTAL COST DETERMINATIONS.—In estimating the total cost for a fiscal year or total life cycle cost of an information technology capital asset, the Secretary of Defense shall consider research and development costs, procurement costs, and operation and maintenance costs related to the information technology capital asset.

(e) DEFINITIONS.—In this section:

(1) The term “information technology” has the meaning given that term in section 11101 of title 40, United States Code.

(2) The term “capital asset” has the meaning given that term in Office of Management and Budget Circular A–11.

(3) The term “national security system” has the meaning given that term in section 11103 of title 40, United States Code.

10 USC 2302
note.

SEC. 352. POLICY REGARDING ACQUISITION OF INFORMATION ASSURANCE AND INFORMATION ASSURANCE-ENABLED INFORMATION TECHNOLOGY PRODUCTS.

(a) **ESTABLISHMENT OF POLICY.**—The Secretary of Defense shall establish a policy to limit the acquisition of information assurance and information assurance-enabled information technology products to those products that have been evaluated and validated in accordance with appropriate criteria, schemes, or programs.

(b) **WAIVER.**—As part of the policy, the Secretary of Defense shall authorize specified officials of the Department of Defense to waive the limitations of the policy upon a determination in writing that application of the limitations to the acquisition of a particular information assurance or information assurance-enabled information technology product would not be in the national security interest of the United States.

(c) **IMPLEMENTATION.**—The Secretary of Defense shall ensure that the policy is uniformly implemented throughout the Department of Defense.

SEC. 353. INSTALLATION AND CONNECTION POLICY AND PROCEDURES REGARDING DEFENSE SWITCH NETWORK.

Deadline.

(a) **ESTABLISHMENT OF POLICY AND PROCEDURES.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall establish clear and uniform policy and procedures, applicable to the military departments and Defense Agencies, regarding the installation and connection of telecom switches to the Defense Switch Network.

(b) **ELEMENTS OF POLICY AND PROCEDURES.**—The policy and procedures shall address at a minimum the following:

(1) Clear interoperability and compatibility requirements for procuring, certifying, installing, and connecting telecom switches to the Defense Switch Network.

(2) Current, complete, and enforceable testing, validation, and certification procedures needed to ensure the interoperability and compatibility requirements are satisfied.

(c) **EXCEPTIONS.**—(1) The Secretary of Defense may specify certain circumstances in which—

(A) the requirements for testing, validation, and certification of telecom switches may be waived; or

(B) interim authority for the installation and connection of telecom switches to the Defense Switch Network may be granted.

(2) Only the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence may approve a waiver or grant of interim authority under paragraph (1). The authority to approve such a waiver or grant of interim authority may not be delegated.

(3) The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence shall consult with the Chairman of the Joint Chiefs of Staff before approving a waiver or grant of interim authority under paragraph (1).

(d) **INVENTORY OF DEFENSE SWITCH NETWORK.**—The Secretary of Defense shall prepare and maintain an inventory of all telecom switches that, as of the date on which the Secretary issues the policy and procedures—

(1) are installed or connected to the Defense Switch Network; but

(2) have not been tested, validated, and certified by the Defense Information Systems Agency (Joint Interoperability Test Center).

(e) INTEROPERABILITY RISKS.—On an ongoing basis, the Secretary of Defense shall—

(1) identify and assess the interoperability risks that are associated with the installation or connection of uncertified switches to the Defense Switch Network and the maintenance of such switches on the Defense Switch Network; and

(2) develop and implement a plan to eliminate or mitigate such risks as identified.

(f) TELECOM SWITCH DEFINED.—In this section, the term “telecom switch” means hardware or software designed to send and receive voice, data, or video signals across a network that provides customer voice, data, or video equipment access to the Defense Switch Network or public switched telecommunications networks.

Subtitle G—Other Matters

SEC. 361. DISTRIBUTION OF MONTHLY REPORTS ON ALLOCATION OF FUNDS WITHIN OPERATION AND MAINTENANCE BUDGET SUBACTIVITIES.

(a) DESIGNATION OF RECIPIENTS.—Subsection (a) of section 228 of title 10, United States Code, is amended by striking “to Congress” and inserting “to the congressional defense committees”.

(b) CONGRESSIONAL DEFENSE COMMITTEES DEFINED.—Subsection (e) of such section is amended—

(1) by striking “(e) O&M BUDGET ACTIVITY DEFINED.—For purposes of this section, the” and inserting the following: “(e) DEFINITIONS.—In this section:

“(1) The”; and

(2) by adding at the end the following new paragraph:

“(2) The term ‘congressional defense committees’ means the Committee on Armed Services and the Committee on Appropriations of the Senate and the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.”.

SEC. 362. CONTINUATION OF ARSENAL SUPPORT PROGRAM INITIATIVE.

(a) EXTENSION THROUGH FISCAL YEAR 2004.—Subsection (a) of section 343 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–65) is amended by striking “and 2002” and inserting “through 2004”.

10 USC 4551
note.

(b) REPORTING REQUIREMENTS.—Subsection (g) of such section is amended—

(1) in paragraph (1), by striking “2002” and inserting “2004”; and

(2) in paragraph (2), by striking the first sentence and inserting the following new sentence: “Not later than July 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report on the results of the demonstration program since its implementation, including the Secretary’s views regarding the benefits of the program for Army

Deadline.
Reports.

manufacturing arsenals and the Department of the Army and the success of the program in achieving the purposes specified in subsection (b).”.

SEC. 363. EXTENSION OF WORK SAFETY DEMONSTRATION PROGRAM.

(a) **EXTENSION.**—Section 1112 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-313) is amended—

(1) in subsection (d), by striking “September 30, 2002” and inserting “September 30, 2003”; and

(2) in subsection (e)(2), by striking “December 1, 2002” and inserting “December 1, 2003”.

(b) **REVISION OF REPORTING REQUIREMENTS.**—Subsection (e)(2) of such section is further amended by striking “fiscal year 2002” both places it appears and inserting “fiscal years 2002 and 2003”.

SEC. 364. CONDITION ON AUTHORITY OF DEFENSE SECURITY SERVICE TO IMPOSE FEES ON FEE-FOR-SERVICE BASIS.

The Secretary of Defense may not authorize the Defense Security Service to impose fees on a fee-for-service basis for the investigative services provided by the Defense Security Service unless the Secretary certifies in advance to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate that the Defense Security Service has the financial systems in place to determine accurately the cost of such services.

10 USC 2302
note.

SEC. 365. LOGISTICS SUPPORT AND SERVICES FOR WEAPON SYSTEMS CONTRACTORS.

(a) **AUTHORITY.**—The Secretary of Defense may make available logistics support and logistics services to a contractor in support of the performance by the contractor of a contract for the construction, modification, or maintenance of a weapon system that is entered into by an official of the Department of Defense.

Applicability.

(b) **SUPPORT CONTRACTS.**—Any logistics support and logistics services to be provided under this section to a contractor in support of the performance of a contract described in subsection (a) shall be provided under a separate contract that is entered into by the Director of the Defense Logistics Agency with that contractor. The requirements of section 2208(h) of title 10, United States Code, and the regulations prescribed pursuant to such section shall apply to the contract between the Director of the Defense Logistics Agency and the contractor.

(c) **SCOPE OF SUPPORT AND SERVICES.**—The logistics support and logistics services that may be provided under this section in support of the performance of a contract described in subsection (a) are the distribution, disposal, and cataloging of materiel and repair parts necessary for the performance of that contract.

(d) **LIMITATIONS.**—(1) The number of contracts described in subsection (a) for which the Secretary of Defense makes logistics support and logistics services available under the authority of this section may not exceed five contracts. The total amount of the estimated costs of all such contracts for which logistics support and logistics services are made available under this section may not exceed \$100,000,000.

(2) No contract entered into by the Director of the Defense Logistics Agency under subsection (b) may be for a period in excess

of five years, including periods for which the contract is extended under options to extend the contract.

(e) REGULATIONS.—Before exercising the authority under this section, the Secretary of Defense shall prescribe in regulations such requirements, conditions, and restrictions as the Secretary determines appropriate to ensure that logistics support and logistics services are provided under this section only when it is in the best interests of the United States to do so. The regulations shall include, at a minimum, the following:

(1) A requirement for the authority under this section to be used only for providing logistics support and logistics services in support of the performance of a contract that is entered into using competitive procedures (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)).

(2) A requirement for the solicitation of offers for a contract described in subsection (a), for which logistics support and logistics services are to be made available under this section, to include—

(A) a statement that the logistics support and logistics services are to be made available under the authority of this section to any contractor awarded the contract, but only on a basis that does not require acceptance of the support and services; and

(B) a description of the range of the logistics support and logistics services that are to be made available to the contractor.

(3) A requirement for the rates charged a contractor for logistics support and logistics services provided to a contractor under this section to reflect the full cost to the United States of the resources used in providing the support and services, including the costs of resources used, but not paid for, by the Department of Defense.

(4) With respect to a contract described in subsection (a) that is being performed for a department or agency outside the Department of Defense, a prohibition, in accordance with applicable contracting procedures, on the imposition of any charge on that department or agency for any effort of Department of Defense personnel or the contractor to correct deficiencies in the performance of such contract.

(5) A prohibition on the imposition of any charge on a contractor for any effort of the contractor to correct a deficiency in the performance of logistics support and logistics services provided to the contractor under this section.

(f) RELATIONSHIP TO TREATY OBLIGATIONS.—The Secretary shall ensure that the exercise of authority under this section does not conflict with any obligation of the United States under any treaty or other international agreement.

(g) TERMINATION OF AUTHORITY.—(1) The authority provided in this section shall expire on September 30, 2007.

(2) The expiration of the authority under this section does not terminate—

(A) any contract that was entered into by the Director of the Defense Logistics Agency under subsection (b) before the date specified in paragraph (1) or any obligation to provide logistics support and logistics services under that contract; or

(B) any authority to enter into a contract described in subsection (a) for which a solicitation of offers was issued in accordance with the regulations prescribed pursuant to subsection (e)(2) before the date specified in paragraph (1) or to provide logistics support and logistics services to the contractor with respect to that contract in accordance with this section.

10 USC 113 note. **SEC. 366. TRAINING RANGE SUSTAINMENT PLAN, GLOBAL STATUS OF RESOURCES AND TRAINING SYSTEM, AND TRAINING RANGE INVENTORY.**

(a) **PLAN REQUIRED.**—(1) The Secretary of Defense shall develop a comprehensive plan for using existing authorities available to the Secretary of Defense and the Secretaries of the military departments to address training constraints caused by limitations on the use of military lands, marine areas, and airspace that are available in the United States and overseas for training of the Armed Forces.

(2) As part of the preparation of the plan, the Secretary of Defense shall conduct the following:

(A) An assessment of current and future training range requirements of the Armed Forces.

(B) An evaluation of the adequacy of current Department of Defense resources (including virtual and constructive training assets as well as military lands, marine areas, and airspace available in the United States and overseas) to meet those current and future training range requirements.

(3) The plan shall include the following:

(A) Proposals to enhance training range capabilities and address any shortfalls in current Department of Defense resources identified pursuant to the assessment and evaluation conducted under paragraph (2).

(B) Goals and milestones for tracking planned actions and measuring progress.

(C) Projected funding requirements for implementing planned actions.

(D) Designation of an office in the Office of the Secretary of Defense and in each of the military departments that will have lead responsibility for overseeing implementation of the plan.

Reports. (4) At the same time as the President submits to Congress the budget for fiscal year 2004, the Secretary of Defense shall submit to Congress a report describing the progress made in implementing this subsection, including—

(A) the plan developed under paragraph (1);

(B) the results of the assessment and evaluation conducted under paragraph (2); and

(C) any recommendations that the Secretary may have for legislative or regulatory changes to address training constraints identified pursuant to this section.

Reports. (5) At the same time as the President submits to Congress the budget for each of fiscal years 2005 through 2008, the Secretary shall submit to Congress a report describing the progress made in implementing the plan and any additional actions taken, or to be taken, to address training constraints caused by limitations on the use of military lands, marine areas, and airspace.

(b) **READINESS REPORTING IMPROVEMENT.**—Not later than June 30, 2003, the Secretary of Defense, using existing measures within the authority of the Secretary, shall submit to Congress a report on the plans of the Department of Defense to improve the Global Status of Resources and Training System to reflect the readiness impact that training constraints caused by limitations on the use of military lands, marine areas, and airspace have on specific units of the Armed Forces. Deadline.

(c) **TRAINING RANGE INVENTORY.**—(1) The Secretary of Defense shall develop and maintain a training range inventory for each of the Armed Forces—

(A) to identify all available operational training ranges;

(B) to identify all training capacities and capabilities available at each training range; and

(C) to identify training constraints caused by limitations on the use of military lands, marine areas, and airspace at each training range.

(2) The Secretary of Defense shall submit an initial inventory to Congress at the same time as the President submits the budget for fiscal year 2004 and shall submit an updated inventory to Congress at the same time as the President submits the budget for fiscal years 2005 through 2008.

(d) **GAO EVALUATION.**—The Secretary of Defense shall transmit copies of each report required by subsections (a) and (b) to the Comptroller General. Within 60 days after receiving a report, the Comptroller General shall submit to Congress an evaluation of the report. Deadline.

(e) **ARMED FORCES DEFINED.**—In this section, the term “Armed Forces” means the Army, Navy, Air Force, and Marine Corps.

SEC. 367. ENGINEERING STUDY AND ENVIRONMENTAL ANALYSIS OF ROAD MODIFICATIONS IN VICINITY OF FORT BELVOIR, VIRGINIA.

(a) **STUDY AND ANALYSIS.**—(1) The Secretary of the Army shall conduct a preliminary engineering study and environmental analysis to evaluate the feasibility of establishing a connector road between Richmond Highway (United States Route 1) and Telegraph Road in order to provide an alternative to Beulah Road (State Route 613) and Woodlawn Road (State Route 618) at Fort Belvoir, Virginia, which were closed as a force protection measure.

(2) It is the sense of Congress that the study and analysis should consider as one alternative the extension of Old Mill Road between Richmond Highway and Telegraph Road.

(b) **CONSULTATION.**—The study required by subsection (a) shall be conducted in consultation with the Department of Transportation of the Commonwealth of Virginia and Fairfax County, Virginia.

(c) **REPORT.**—The Secretary shall submit to Congress a summary report on the study and analysis required by subsection (a). The summary report shall be submitted together with the budget justification materials in support of the budget of the President for fiscal year 2006 that is submitted to Congress under section 1105(a) of title 31, United States Code.

(d) **FUNDING.**—Of the amount authorized to be appropriated by section 301(a)(1) for the Army for operation and maintenance, \$5,000,000 may be made available for the study and analysis required by subsection (a).

SEC. 368. REAUTHORIZATION OF WARRANTY CLAIMS RECOVERY PILOT PROGRAM.

Section 391 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 10 U.S.C. 2304 note), as amended by section 364 of Public Law 107–107 (115 Stat. 1068), is further amended—

- (1) in subsection (f), by striking “September 30, 2003” and inserting “September 30, 2004”; and
- (2) by striking subsection (g).

SEC. 369. EXPANDED ELIGIBILITY FOR LOAN, GIFT, OR EXCHANGE OF DOCUMENTS, HISTORICAL ARTIFACTS, AND CONDEMNED OR OBSOLETE COMBAT MATERIEL.

Section 2572(a)(3) of title 10, United States Code, is amended by inserting before the period the following: “or a nonprofit military aviation heritage foundation or association incorporated in a State”.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

Subtitle A—Active Forces

- Sec. 401. End strengths for active forces.
- Sec. 402. Revision in permanent end strength minimum levels.
- Sec. 403. Expanded authority for administrative increases in statutory active-duty end strengths.
- Sec. 404. General and flag officer management.
- Sec. 405. Extension of certain authorities relating to management of numbers of general and flag officers in certain grades.
- Sec. 406. Increase in authorized strengths for Marine Corps officers on active duty in the grade of colonel.

Subtitle B—Reserve Forces

- Sec. 411. End strengths for Selected Reserve.
- Sec. 412. End strengths for Reserves on active duty in support of the reserves.
- Sec. 413. End strengths for military technicians (dual status).
- Sec. 414. Fiscal year 2003 limitation on non-dual status technicians.

Subtitle C—Authorization of Appropriations

- Sec. 421. Authorization of appropriations for military personnel.

Subtitle A—Active Forces

10 USC 115 note. **SEC. 401. END STRENGTHS FOR ACTIVE FORCES.**

The Armed Forces are authorized strengths for active duty personnel as of September 30, 2003, as follows:

- (1) The Army, 480,000.
- (2) The Navy, 375,700.
- (3) The Marine Corps, 175,000.
- (4) The Air Force, 359,000.

SEC. 402. REVISION IN PERMANENT END STRENGTH MINIMUM LEVELS.

(a) REVISED END STRENGTH FLOORS.—Subsection (b) of section 691 of title 10, United States Code, is amended—

- (1) in paragraph (2), by striking “376,000” and inserting “375,700”;
- (2) in paragraph (3), by striking “172,600” and inserting “175,000”; and
- (3) in paragraph (4), by striking “358,800” and inserting “359,000”.

(b) REPEAL OF SECRETARY OF DEFENSE FLEXIBILITY AUTHORITY.—Subsection (e) of such section is repealed.

SEC. 403. EXPANDED AUTHORITY FOR ADMINISTRATIVE INCREASES IN STATUTORY ACTIVE-DUTY END STRENGTHS.

(a) SECRETARY OF DEFENSE AUTHORITY.—Subsection (c)(1) of section 115 of title 10, United States Code, is amended by striking “2 percent” and inserting “3 percent”.

(b) SERVICE SECRETARY AUTHORITY.—Such section is further amended by inserting after subsection (e) the following new subsection:

“(f) Upon determination by the Secretary of a military department that such action would enhance manning and readiness in essential units or in critical specialties or ratings, the Secretary may increase the end strength authorized pursuant to subsection (a)(1)(A) for a fiscal year for the armed force under the jurisdiction of that Secretary or, in the case of the Secretary of the Navy, for any of the armed forces under the jurisdiction of that Secretary. Any such increase for a fiscal year—

“(1) shall be by a number equal to not more than 2 percent of such authorized end strength; and

“(2) shall be counted as part of the increase for that armed force for that fiscal year authorized under subsection (c)(1).”.

SEC. 404. GENERAL AND FLAG OFFICER MANAGEMENT.

(a) EXCLUSION OF SENIOR MILITARY ASSISTANT TO THE SECRETARY OF DEFENSE FROM LIMITATION ON ACTIVE DUTY OFFICERS IN GRADES ABOVE MAJOR GENERAL AND REAR ADMIRAL.—Effective on the date specified in subsection (d), section 525(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

Effective date.

“(8) An officer while serving in a position designated by the Secretary of Defense as Senior Military Assistant to the Secretary of Defense, if serving in the grade of lieutenant general or vice admiral, is in addition to the number that otherwise would be permitted for that officer’s armed force for that grade under paragraph (1) or (2). Only one officer may be designated as Senior Military Assistant to the Secretary of Defense for purposes of this paragraph.”.

(b) INCREASE IN NUMBER OF LIEUTENANT GENERALS AUTHORIZED FOR THE MARINE CORPS.—Paragraph (2)(B) of such section is amended by striking “16.2 percent” and inserting “17.5 percent”.

(c) REVIEW OF ACTIVE DUTY AND RESERVE GENERAL AND FLAG OFFICER AUTHORIZATIONS.—(1) The Secretary of Defense shall submit to Congress a report containing any recommendations of the Secretary (together with the rationale of the Secretary for the recommendations) concerning the following:

10 USC 525 note.
Reports.

(A) Revision of the limitations on general and flag officer grade authorizations and distribution in grade prescribed by sections 525, 526, and 12004 of title 10, United States Code.

(B) Statutory designation of the positions and grades of any additional general and flag officers in the commands specified in chapter 1006 of title 10, United States Code, and the reserve component offices specified in sections 3038, 5143, 5144, and 8038 of such title.

(2) The provisions of subsection (b) through (e) of section 1213 of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2694) shall apply to the report

Applicability.

under paragraph (1) in the same manner as they applied to the report required by subsection (a) of that section.

10 USC 525 note.

(d) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall take effect on the date of the receipt by Congress of the report required by subsection (c).

SEC. 405. EXTENSION OF CERTAIN AUTHORITIES RELATING TO MANAGEMENT OF NUMBERS OF GENERAL AND FLAG OFFICERS IN CERTAIN GRADES.

(a) **SENIOR JOINT OFFICER POSITIONS.**—Section 604(c) of title 10, United States Code, is amended by striking “September 30, 2003” and inserting “December 31, 2004”.

(b) **DISTRIBUTION OF OFFICERS ON ACTIVE DUTY IN GENERAL AND FLAG OFFICER GRADES.**—Section 525(b)(5)(C) of such title is amended by striking “September 30, 2003” and inserting “December 31, 2004”.

(c) **AUTHORIZED STRENGTH FOR GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.**—Section 526(b)(3) of such title is amended by striking “October 1, 2002” and inserting “December 31, 2004”.

SEC. 406. INCREASE IN AUTHORIZED STRENGTHS FOR MARINE CORPS OFFICERS ON ACTIVE DUTY IN THE GRADE OF COLONEL.

The table in section 523(a)(1) of title 10, United States Code, is amended by striking the figures under the heading “Colonel” in the portion of the table relating to the Marine Corps and inserting the following:

“571
632
653
673
694
715
735”.

Subtitle B—Reserve Forces

10 USC 12001
note.

SEC. 411. END STRENGTHS FOR SELECTED RESERVE.

(a) **IN GENERAL.**—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 2003, as follows:

- (1) The Army National Guard of the United States, 350,000.
- (2) The Army Reserve, 205,000.
- (3) The Naval Reserve, 87,800.
- (4) The Marine Corps Reserve, 39,558.
- (5) The Air National Guard of the United States, 106,600.
- (6) The Air Force Reserve, 75,600.
- (7) The Coast Guard Reserve, 9,000.

(b) **ADJUSTMENTS.**—The end strengths prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by—

- (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at the end of the fiscal year; and
- (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training)

or for unsatisfactory participation in training) without their consent at the end of the fiscal year.

Whenever such units or such individual members are released from active duty during any fiscal year, the end strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized strengths of such units and by the total number of such individual members.

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES.

10 USC 12001
note.

Within the end strengths prescribed in section 411(a), the reserve components of the Armed Forces are authorized, as of September 30, 2003, the following number of Reserves to be serving on full-time active duty or full-time duty, in the case of members of the National Guard, for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

- (1) The Army National Guard of the United States, 24,562.
- (2) The Army Reserve, 14,070.
- (3) The Naval Reserve, 14,572.
- (4) The Marine Corps Reserve, 2,261.
- (5) The Air National Guard of the United States, 11,727.
- (6) The Air Force Reserve, 1,498.

SEC. 413. END STRENGTHS FOR MILITARY TECHNICIANS (DUAL STATUS).

10 USC 115 note.

The minimum number of military technicians (dual status) as of the last day of fiscal year 2003 for the reserve components of the Army and the Air Force (notwithstanding section 129 of title 10, United States Code) shall be the following:

- (1) For the Army National Guard of the United States, 24,102.
- (2) For the Army Reserve, 6,599.
- (3) For the Air National Guard of the United States, 22,495.
- (4) For the Air Force Reserve, 9,911.

SEC. 414. FISCAL YEAR 2003 LIMITATION ON NON-DUAL STATUS TECHNICIANS.

(a) **ARMY.**—The number of non-dual status technicians employed by the reserve components of the Army as of September 30, 2003, may not exceed the following:

- (1) For the Army Reserve, 995.
- (2) For the Army National Guard of the United States, 1,600, to be counted within the limitation specified in section 10217(c)(2) of title 10, United States Code.

(b) **AIR FORCE.**—The number of non-dual status technicians employed by the reserve components of the Army and the Air Force as of September 30, 2003, may not exceed the following:

- (1) For the Air Force Reserve, 90.
- (2) For the Air National Guard of the United States, 350, to be counted within the limitation specified in section 10217(c)(2) of title 10, United States Code.

(c) **NON-DUAL STATUS TECHNICIANS DEFINED.**—In this section, the term “non-dual status technician” has the meaning given that term in section 10217(a) of title 10, United States Code.

(d) **TECHNICAL AMENDMENTS.**—Section 10217(c)(2) of title 10, United States Code, is amended—

(1) in the first sentence, by striking “Effective October 1, 2002, the” and inserting “The”; and

(2) in the second sentence, by striking “after the preceding sentence takes effect”.

Subtitle C—Authorization of Appropriations

SEC. 421. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL.

There is hereby authorized to be appropriated to the Department of Defense for military personnel for fiscal year 2003 a total of \$93,829,525,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 2003.

TITLE V—MILITARY PERSONNEL POLICY

Subtitle A—Officer Personnel Policy

- Sec. 501. Extension of good-of-the-service waiver authority for officers appointed to a Reserve Chief or Guard Director position.
- Sec. 502. Exclusion of certain officers from limitation on authority to grant a waiver of required completion or sequencing for joint professional military education.
- Sec. 503. Extension and codification of authority for recall of retired aviators to active duty.
- Sec. 504. Grades for certain positions.
- Sec. 505. Reinstatement of authority to reduce three-year time-in-grade requirement for retirement in grade for officers in grades above major and lieutenant commander.
- Sec. 506. Authority to require that an officer take leave pending review of a recommendation for removal by a board of inquiry.

Subtitle B—Reserve Component Management

- Sec. 511. Reviews of National Guard strength accounting and management and other issues.
- Sec. 512. Courts-martial for the National Guard when not in Federal service.
- Sec. 513. Fiscal year 2003 funding for military personnel costs of reserve component Special Operations Forces personnel engaged in humanitarian assistance activities relating to clearing of landmines.
- Sec. 514. Use of Reserves to perform duties relating to defense against terrorism.
- Sec. 515. Repeal of prohibition on use of Air Force Reserve AGR personnel for Air Force base security functions.

Subtitle C—Reserve Component Officer Personnel Policy

- Sec. 521. Eligibility for consideration for promotion to grade of major general for certain reserve component brigadier generals who do not otherwise qualify for consideration for promotion under the one-year rule.
- Sec. 522. Authority for limited extension of medical deferment of mandatory retirement or separation of reserve component officers.

Subtitle D—Enlistment, Education, and Training Programs

- Sec. 531. Enlistment incentives for pursuit of skills to facilitate national service.
- Sec. 532. Authority for phased increase to 4,400 in authorized strengths for the service academies.
- Sec. 533. Enhancement of reserve component delayed training program.
- Sec. 534. Review of Armed Forces programs for preparation for, participation in, and conduct of athletic competitions.
- Sec. 535. Repeal of bar to eligibility of Army College First program participants for benefits under student loan repayment program.

Subtitle E—Decorations, Awards, and Commendations

- Sec. 541. Waiver of time limitations for award of Army Distinguished-Service Cross to certain persons.
- Sec. 542. Option to convert award of Armed Forces Expeditionary Medal awarded for Operation Frequent Wind to Vietnam Service Medal.
- Sec. 543 . Korea Defense Service Medal.
- Sec. 544 . Commendation of military chaplains.

Subtitle F—Administrative Matters

- Sec. 551. Staffing and funding for Defense Prisoner of War/Missing Personnel Office.
- Sec. 552. Three-year freeze on reductions of personnel of agencies responsible for review and correction of military records.
- Sec. 553. Authority for acceptance of voluntary services of individuals as proctors for administration of Armed Services Vocational Aptitude Battery test.
- Sec. 554. Extension of temporary early retirement authority.

Subtitle G—Matters Relating to Minorities and Women in the Armed Forces

- Sec. 561. Surveys of racial and ethnic issues and of gender issues in the Armed Forces.
- Sec. 562. Annual report on status of female members of the Armed Forces.
- Sec. 563. Wear of abayas by female members of the Armed Forces in Saudi Arabia.

Subtitle H—Benefits

- Sec. 571. Department of Defense support for persons participating in military funeral honors details.
- Sec. 572. Emergency leave of absence program.
- Sec. 573. Enhanced flexibility in medical loan repayment program.
- Sec. 574. Destinations authorized for Government paid transportation of enlisted personnel for rest and recuperation absence upon extending duty at designated locations overseas.
- Sec. 575. Vehicle storage in lieu of transportation when member is ordered to a nonforeign duty station outside continental United States.

Subtitle I—Reports

- Sec. 581. Quadrennial quality of life review.
- Sec. 582. Report on desirability and feasibility of consolidating separate courses of basic instruction for judge advocates.
- Sec. 583. Reports on efforts to resolve status of Captain Michael Scott Speicher, United States Navy.
- Sec. 584. Report on volunteer services of members of the reserve components in emergency response to the terrorist attacks of September 11, 2001.

Subtitle A—Officer Personnel Policy**SEC. 501. EXTENSION OF GOOD-OF-THE-SERVICE WAIVER AUTHORITY FOR OFFICERS APPOINTED TO A RESERVE CHIEF OR GUARD DIRECTOR POSITION.**

(a) **WAIVER OF REQUIREMENT FOR SIGNIFICANT JOINT DUTY EXPERIENCE.**—Sections 3038(b)(4), 5143(b)(4), 5144(b)(4), 8038(b)(4), and 10506(a)(3)(D) of title 10, United States Code, are each amended by striking “October 1, 2003” and inserting “December 31, 2004”.

(b) **REPORT ON FUTURE IMPLEMENTATION OF REQUIREMENT.**—Not later than May 1, 2003, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report—

Deadline.

(1) setting forth the steps that have been taken by the Secretary, the Secretaries of the military departments, and the Chairman of the Joint Chiefs of Staff to ensure that Reserve and National Guard officers receive significant joint duty experience; and

(2) specifying the date by which no further extension of the waiver authority under the sections amended by subsection (a) will be required.

SEC. 502. EXCLUSION OF CERTAIN OFFICERS FROM LIMITATION ON AUTHORITY TO GRANT A WAIVER OF REQUIRED COMPLETION OR SEQUENCING FOR JOINT PROFESSIONAL MILITARY EDUCATION.

10 USC 661 note.

(a) **EXCLUSION FROM LIMITATION.**—There shall be excluded from counting for purposes of the 10-percent limitation set forth in the last sentence of section 661(c)(3)(D) of title 10, United States Code (limiting the authority to grant waivers related to sequencing or completion of program of joint professional military education), any officer selected for the joint specialty who—

(1) on December 28, 2001, met the requirements of section 661(c) of such title for nomination for the joint specialty, but who had not been nominated for that specialty before that date by the Secretary of the military department concerned; and

(2) before the date of the enactment of this Act was automatically nominated for the joint specialty as a result of section 661(b)(2) of such title.

(b) **TERMINATION.**—The provisions of subsection (a) shall terminate on October 1, 2006.

(c) **CROSS-REFERENCE CORRECTION.**—Section 661(c)(3)(E) of title 10, United States Code, is amended by striking “subparagraph” and inserting “paragraph”.

SEC. 503. EXTENSION AND CODIFICATION OF AUTHORITY FOR RECALL OF RETIRED AVIATORS TO ACTIVE DUTY.

(a) **IN GENERAL.**—(1) Chapter 39 of title 10, United States Code, is amended by inserting after section 688 the following new section:

“§ 688a. Retired aviators: temporary authority to order to active duty

“(a) **AUTHORITY.**—The Secretary of a military department may order to active duty a retired officer having expertise as an aviator to fill staff positions normally filled by aviators on active duty. Any such order may be made only with the consent of the officer ordered to active duty and in accordance with an agreement between the Secretary and the officer.

“(b) **DURATION.**—The period of active duty of an officer under an order to active duty under subsection (a) shall be specified in the agreement entered into under that subsection.

“(c) **LIMITATION.**—No more than a total of 500 officers may be on active duty at any time under subsection (a).

“(d) **RELATIONSHIP TO OTHER AUTHORITY.**—The authority to order a retired officer to active duty under this section is in addition to the authority under section 688 of this title or any other provision of law authorizing the Secretary concerned to order a retired member to active duty.

“(e) **INAPPLICABILITY OF CERTAIN PROVISIONS.**—Officers ordered to active duty under subsection (a) shall not be counted for purposes of section 688 or 690 of this title.

“(f) **EXPIRATION OF AUTHORITY.**—An officer may not be ordered to active duty under this section after September 30, 2008.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 688 the following new item:

“688a. Retired aviators: temporary authority to order to active duty.”.

(b) GRADE IN WHICH ORDERED TO ACTIVE DUTY AND UPON RELEASE FROM ACTIVE DUTY.—(1) Section 689 of such title is amended by inserting “or 688a” after “section 688” each place it appears.

(2) The provisions of section 689(d) of title 10, United States Code, shall apply with respect to an officer ordered to active duty under section 501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 589) before the date of the enactment of this Act in the same manner as such provisions apply to an officer ordered to active duty under section 688 of such title.

Applicability.
10 USC 689 note.

(c) TRANSITION PROVISION.—Any officer ordered to active duty under section 501 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 589) who continues on active duty under such order to active duty after the date of the enactment of this Act shall be counted for purposes of the limitation under subsection (c) of section 688a of title 10, United States Code, as added by subsection (a).

10 USC 688a
note.

SEC. 504. GRADES FOR CERTAIN POSITIONS.

(a) HEADS OF NURSE CORPS.—(1) Section 3069(b) of title 10, United States Code, is amended by striking “brigadier general” in the second sentence and inserting “major general”.

(2) The first sentence of section 5150(c) of such title is amended—

(A) by inserting “rear admiral, in the case of an officer in the Nurse Corps, or” after “for promotion to the grade of”; and

(B) by inserting “, in the case of an officer in the Medical Service Corps” after “rear admiral (lower half)”.

(3) Section 8069(b) of such title is amended by striking “brigadier general” in the second sentence and inserting “major general”.

(b) CHIEF OF VETERINARY CORPS OF THE ARMY.—(1) Chapter 307 of such title is amended by adding at the end the following new section:

“§ 3084. Chief of Veterinary Corps; grade

“The Chief of the Veterinary Corps of the Army serves in the grade of brigadier general. An officer appointed to that position who holds a lower grade shall be appointed in the grade of brigadier general.”

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3084. Chief of Veterinary Corps: grade.”.

(c) CHIEF OF LEGISLATIVE LIAISON OF THE ARMY.—(1)(A) Chapter 303 of such title is amended by adding at the end the following new section:

“§ 3023. Chief of Legislative Liaison

“(a) There is a Chief of Legislative Liaison in the Department of the Army. An officer assigned to that position shall be an officer in the grade of major general.

“(b) The Chief of Legislative Liaison shall perform legislative affairs functions as specified for the Office of the Secretary of the Army by section 3014(c)(1)(F) of this title.”.

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3023. Chief of Legislative Liaison.”.

(2) Section 3014(b) of such title is amended—

(A) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(B) by inserting after paragraph (5) the following new paragraph (6):

“(6) The Chief of Legislative Liaison.”.

(d) LEGISLATIVE AFFAIRS POSITIONS OF THE NAVY AND MARINE CORPS.—(1)(A) Chapter 503 of such title is amended by adding at the end the following new section:

“§ 5027. Chief of Legislative Affairs

“(a) There is a Chief of Legislative Affairs in the Department of the Navy. An officer assigned to that position shall be an officer in the grade of rear admiral.

“(b) The Chief of Legislative Affairs shall perform legislative affairs functions as specified for the Office of the Secretary of the Navy by section 5014(c)(1)(F) of this title.”.

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“5027. Chief of Legislative Affairs.”.

(2) Section 5014(b) of such title is amended—

(A) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(B) by inserting after paragraph (5) the following new paragraph (6):

“(6) The Chief of Legislative Affairs.”.

(3)(A) Chapter 506 of such title is amended by adding at the end the following new section:

“§ 5047. Legislative Assistant to the Commandant

“There is in the Marine Corps a Legislative Assistant to the Commandant. An officer assigned to that position shall be in a grade above colonel.”.

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“5047. Legislative Assistant to the Commandant.”.

(e) CHIEF OF LEGISLATIVE LIAISON OF THE AIR FORCE.—(1)(A) Chapter 803 of such title is amended by adding at the end the following new section:

“§ 8023. Chief of Legislative Liaison

“(a) There is a Chief of Legislative Liaison in the Department of the Air Force. An officer assigned to that position shall be an officer in the grade of major general.

“(b) The Chief of Legislative Liaison shall perform legislative affairs functions as specified for the Office of the Secretary of the Air Force by section 8014(c)(1)(F) of this title.”.

(B) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“8023. Chief of Legislative Liaison.”.

(2) Section 8014(b) of such title is amended—

(A) by redesignating paragraphs (5) and (6) as paragraphs (6) and (7), respectively; and

(B) by inserting after paragraph (4) the following new paragraph (5):

“(5) The Chief of Legislative Liaison.”.

(f) TECHNICAL AMENDMENT TO PROVIDE CORRECT STATUTORY TITLE OF GRADE.—Section 5022(a)(2) of such title is amended by striking “(upper half)”.

SEC. 505. REINSTATEMENT OF AUTHORITY TO REDUCE THREE-YEAR TIME-IN-GRADE REQUIREMENT FOR RETIREMENT IN GRADE FOR OFFICERS IN GRADES ABOVE MAJOR AND LIEUTENANT COMMANDER.

(a) OFFICERS ON ACTIVE DUTY.—Subsection (a)(2) of section 1370 of title 10, United States Code, is amended—

(1) in subparagraph (A), by striking “during the period beginning on October 1, 1990, and ending on December 31, 2001” and inserting “during the period beginning on October 1, 2002, and ending on December 31, 2003”;

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (D) and (E), respectively; and

(3) by inserting after subparagraph (A) the following new subparagraphs (B) and (C):

“(B) In the case of an officer to be retired in a general or flag officer grade, authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be exercised with respect to that officer only if approved by the Secretary of Defense or another civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

“(C) Authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be delegated within that military department only to a civilian official of that military department appointed by the President, by and with the advice and consent of the Senate.”.

(b) RESERVE OFFICERS.—Subsection (d) of such section is amended—

(1) by designating the second sentence of paragraph (5) as paragraph (6) and in that paragraph by striking “this paragraph” and inserting “paragraph (5)”; and

(2) in paragraph (5)—

(A) by inserting “(A)” after “(5)”; and

(B) by striking “in the case of retirements effective during the period beginning on October 17, 1998, and ending on December 31, 2001” and inserting “in the case of transfers to the Retired Reserve and discharges of retirement-qualified officers effective during the period beginning on October 1, 2002, and ending on December 31, 2003”; and

(C) by adding at the end (before paragraph (6) as designated by paragraph (1) of this subsection) the following new subparagraphs:

“(B) In the case of a person who, upon transfer to the Retired Reserve or discharge, is to be credited with satisfactory service in a general or flag officer grade under paragraph (1), authority provided by the Secretary of Defense to the Secretary of a military

department under subparagraph (A) may be exercised with respect to that person only if approved by the Secretary of Defense or another civilian official in the Office of the Secretary of Defense appointed by the President, by and with the advice and consent of the Senate.

“(C) Authority provided by the Secretary of Defense to the Secretary of a military department under subparagraph (A) may be delegated within that military department only to a civilian official of that military department appointed by the President, by and with the advice and consent of the Senate.”.

(c) **ADVANCE NOTICE TO CONGRESS.**—Such section is further amended by adding at the end the following new subsection:

“(e) **ADVANCE NOTICE TO CONGRESSIONAL COMMITTEES.**—(1) In the case of an officer to be retired in a grade that is a general or flag officer grade who is eligible to retire in that grade only by reason of an exercise of authority under paragraph (2) of subsection (a) to reduce the three-year service-in-grade requirement otherwise applicable under that paragraph, the Secretary of Defense, before the officer is retired in that grade, shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the exercise of authority under that paragraph with respect to that officer.

“(2) In the case of a person to be credited under subsection (d) with satisfactory service in a grade that is a general or flag officer grade who is eligible to be credited with such service in that grade only by reason of an exercise of authority under paragraph (5) of that subsection to reduce the three-year service-in-grade requirement otherwise applicable under paragraph (3)(A) of that subsection, the Secretary of Defense, before the person is credited with such satisfactory service in that grade, shall notify the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives of the exercise of authority under paragraph (5) of that subsection with respect to that officer.

“(3) In the case of an officer to whom subsection (c) applies, the requirement for notification under paragraph (1) is satisfied if the notification is included in the certification submitted with respect to that officer under paragraph (1) of such subsection.”.

SEC. 506. AUTHORITY TO REQUIRE THAT AN OFFICER TAKE LEAVE PENDING REVIEW OF A RECOMMENDATION FOR REMOVAL BY A BOARD OF INQUIRY.

(a) **REQUIREMENT.**—Section 1182(c) of title 10, United States Code, is amended—

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following new paragraph:

Regulations.

“(2) Under regulations prescribed by the Secretary concerned, an officer as to whom a board of inquiry makes a recommendation under paragraph (1) that the officer not be retained on active duty may be required to take leave pending the completion of the officer’s case under this chapter. The officer may be required to begin such leave at any time following the officer’s receipt of the report of the board of inquiry, including the board’s recommendation for removal from active duty, and the expiration of any period allowed for submission by the officer of a rebuttal to that report. The leave may be continued until the date on

which action by the Secretary concerned on the officer's case is completed or may be terminated at any earlier time."

(b) PAYMENT FOR MANDATORY EXCESS LEAVE UPON DISAPPROVAL OF CERTAIN INVOLUNTARY SEPARATION RECOMMENDATIONS.—Chapter 40 of such title is amended by inserting after section 707 the following new section:

"§ 707a. Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken

"(a) An officer—

"(1) who is required to take leave under section 1182(c)(2) of this title, any period of which is charged as excess leave under section 706(a) of this title, and

"(2) whose recommendation for removal from active duty in a report of a board of inquiry is not approved by the Secretary concerned under section 1184 of this title,

shall be paid, as provided in subsection (b), for the period of leave charged as excess leave.

"(b)(1) An officer entitled to be paid under this section shall be deemed, for purposes of this section, to have accrued pay and allowances for each day of leave required to be taken under section 1182(c)(2) of this title that is charged as excess leave (except any day of accrued leave for which the officer has been paid under section 706(b)(1) of this title and which has been charged as excess leave).

"(2) The officer shall be paid the amount of pay and allowances that is deemed to have accrued to the officer under paragraph (1), reduced by the total amount of his income from wages, salaries, tips, other personal service income, unemployment compensation, and public assistance benefits from any Government agency during the period the officer is deemed to have accrued pay and allowances. Except as provided in paragraph (3), such payment shall be made within 60 days after the date on which the Secretary concerned decides not to remove the officer from active duty.

Deadline.

"(3) If an officer is entitled to be paid under this section, but fails to provide sufficient information in a timely manner regarding the officer's income when such information is requested under regulations prescribed under subsection (c), the period of time prescribed in paragraph (2) shall be extended until 30 days after the date on which the member provides the information requested.

"(c) This section shall be administered under uniform regulations prescribed by the Secretaries concerned. The regulations may provide for the method of determining an officer's income during any period the officer is deemed to have accrued pay and allowances, including a requirement that the officer provide income tax returns and other documentation to verify the amount of the officer's income."

Regulations.

(c) CONFORMING AMENDMENTS.—(1) Section 706 of such title is amended—

(A) by inserting "or 1182(c)(2)" after "section 876a" in subsections (a), (b)(1), (b)(2), and (c); and

(B) by striking "section 707" in subsection (b)(2) and inserting "sections 707 and 707a".

(2) The heading for such section is amended to read as follows:

“§ 706. Administration of leave required to be taken”.

(d) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 40 of such title is amended—

(1) by striking the item relating to section 706 and inserting the following:

“706. Administration of leave required to be taken.”;

and

(2) by inserting after the item relating to section 707 the following new item:

“707a. Payment upon disapproval of certain board of inquiry recommendations for excess leave required to be taken.”.

Subtitle B—Reserve Component Management

SEC. 511. REVIEWS OF NATIONAL GUARD STRENGTH ACCOUNTING AND MANAGEMENT AND OTHER ISSUES.

Deadline.
Reports.
32 USC 104 note.

(a) COMPTROLLER GENERAL ASSESSMENTS.—Not later than one year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on management of the National Guard. The report shall include the following:

(1) The Comptroller General’s assessment of the effectiveness of the implementation of Department of Defense plans for improving management and accounting for personnel strengths in the National Guard, including an assessment of the process that the Department of Defense, the National Guard Bureau, the Army National Guard and State-level National Guard leadership, and leadership in the other reserve components have for identifying and addressing in a timely manner specific units in which nonparticipation rates are significantly in excess of the established norms.

(2) The Comptroller General’s assessment of the effectiveness of the process for Federal recognition of senior National Guard officers and recommendations for improvement to that process.

(3) The Comptroller General’s assessment of the process for, and the nature and extent of, the administrative or judicial corrective action taken by the Secretary of Defense, the Secretary of the Army, and the Secretary of the Air Force as a result of Inspector General investigations or other investigations in which allegations against senior National Guard officers are substantiated in whole or in part.

(4) The Comptroller General’s determination of the effectiveness of the Federal protections provided for members or employees of the National Guard who report allegations of waste, fraud, abuse, or mismanagement and the nature and extent to which corrective action is taken against those in the National Guard who retaliate against such members or employees.

Deadline.

(b) SECRETARY OF DEFENSE REPORT ON DIFFERENT ARMY AND AIR FORCE PROCEDURES.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the differing Army and Air Force policies for taking adverse administrative actions against National Guard

officers in a State status. The report shall include the Secretary's determination as to whether changes should be made in those policies.

SEC. 512. COURTS-MARTIAL FOR THE NATIONAL GUARD WHEN NOT IN FEDERAL SERVICE.

(a) **MANNER OF PRESCRIBING PUNISHMENTS.**—Section 326 of title 32, United States Code, is amended by adding at the end the following new sentence: “Punishments shall be as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.”.

(b) **CONVENING AUTHORITY.**—Section 327 of such title is amended to read as follows:

“§ 327. Courts-martial of National Guard not in Federal service: convening authority

“(a) In the National Guard not in Federal service, general, special, and summary courts-martial may be convened as provided by the laws of the respective States and Territories, Puerto Rico, and the District of Columbia.

“(b) In the National Guard not in Federal service—

“(1) general courts-martial may be convened by the President;

“(2) special courts-martial may be convened—

“(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

“(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, separate squadron, or other detached command; and

“(3) summary courts-martial may be convened—

“(A) by the commanding officer of a garrison, fort, post, camp, air base, auxiliary air base, or other place where members of the National Guard are on duty; or

“(B) by the commanding officer of a division, brigade, regiment, wing, group, detached battalion, detached squadron, detached company, or other detachment.

“(c) The convening authorities provided under subsection (b) are in addition to the convening authorities provided under subsection (a).”.

(c) **REPEAL OF SUPERSEDED AND OBSOLETE PROVISIONS.**—(1) Sections 328, 329, 330, 331, 332, and 333 of title 32, United States Code, are repealed.

(2) The provisions of law repealed by paragraph (1) shall continue to apply with respect to courts-martial convened in the National Guard not in Federal service before the date of the enactment of this Act.

Applicability.
32 USC 328 note.

(d) **CLERICAL AMENDMENTS.**—The table of sections at the beginning of chapter 3 of such title is amended by striking the items relating to sections 327, 328, 329, 330, 331, 332, and 333 and inserting the following:

“327. Courts-martial of National Guard not in Federal service: convening authority.”.

(e) **MODELS FOR STATE CODE OF MILITARY JUSTICE AND STATE MANUAL FOR COURTS-MARTIAL.**—(1) The Secretary of Defense shall prepare a model State code of military justice and a model State

32 USC 327 note.

manual for courts-martial to recommend to the States for use with respect to the National Guard not in Federal service. Both such models shall be consistent with the recommendations contained in the report that was issued in 1998 by the Department of Defense Panel to Study Military Justice in the National Guard not in Federal Service.

(2) The Secretary shall ensure that adequate support for the preparation of the model State code of military justice and the model State manual for courts-martial (including the detailing of attorneys and other personnel) is provided by the General Counsel of the Department of Defense, the Secretary of the Army, the Secretary of the Air Force, and the Chief of the National Guard Bureau.

(3) If the funds available to the Chief of the National Guard Bureau are insufficient for paying the cost of the National Guard Bureau support required under paragraph (2) (including increased costs of pay of members of the National Guard for additional active duty necessitated by such requirement and increased cost of detailed attorneys and other staff, allowances, and travel expenses related to such support), the Secretary shall, upon request made by the Chief of the Bureau, provide such additional funding as the Secretary determines necessary to satisfy the requirement for such support.

Deadline.
Reports.

(4) Not later than one year after the date of the enactment of this Act, the Secretary shall submit a report on the actions taken to carry out this subsection to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include proposals in final form of both the model State code of military justice and the model State manual for courts-martial required by paragraph (1), together with a discussion of the efforts being made to present those proposals to the States for their consideration for enactment or adoption, respectively.

(5) In this subsection, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, and Guam.

SEC. 513. FISCAL YEAR 2003 FUNDING FOR MILITARY PERSONNEL COSTS OF RESERVE COMPONENT SPECIAL OPERATIONS FORCES PERSONNEL ENGAGED IN HUMANITARIAN ASSISTANCE ACTIVITIES RELATING TO CLEARING OF LANDMINES.

(a) **USE OF RESERVE COMPONENT MILITARY PERSONNEL FUNDS.**—Fiscal year 2003 reserve component military personnel funds may be used for military personnel expenses of reserve component Special Operations forces that are incurred during fiscal year 2003 in connection with landmine clearance assistance, notwithstanding section 401(c)(1) of title 10, United States Code.

(b) **REIMBURSEMENT REQUIREMENT.**—Fiscal year 2003 reserve component military personnel funds shall be reimbursed from fiscal year 2003 landmine clearance assistance funds for all military personnel expenses of reserve component Special Operations forces that are incurred during fiscal year 2003 in connection with landmine clearance assistance. Such reimbursement shall be made in each instance to the reserve component military personnel account that incurred the expense.

(c) **LIMITATION.**—The amount of reserve component military personnel expenses incurred during fiscal year 2003 for landmine clearance assistance may not exceed 10 percent of the amount of fiscal year 2003 landmine clearance assistance funds.

(d) **DEFINITIONS.**—For purposes of this section:

(1) **LANDMINE CLEARANCE ASSISTANCE.**—The term “landmine clearance assistance” means humanitarian and civic assistance provided under section 401 of title 10, United States Code, that is described in subsection (e)(5) of that section.

(2) **FISCAL YEAR 2003 LANDMINE CLEARANCE ASSISTANCE FUNDS.**—The term “fiscal year 2003 landmine clearance assistance funds” means the total amount appropriated for fiscal year 2003 in operations and maintenance accounts of the Department of Defense that is provided for landmine clearance assistance.

(3) **FISCAL YEAR 2003 RESERVE COMPONENT MILITARY PERSONNEL FUNDS.**—The term “fiscal year 2003 reserve component military personnel funds” means amounts appropriated for fiscal year 2003 for military personnel expenses of a reserve component of the Department of Defense.

(4) **MILITARY PERSONNEL EXPENSES.**—The term “military personnel expenses” means expenses properly chargeable to a military personnel account of the Department of Defense.

(e) **LEGISLATIVE PROPOSAL.**—The Secretary of Defense shall submit to Congress, as part of the budget request of the Department of Defense for fiscal year 2004, a legislative proposal that would ensure that military personnel expenses for both active and reserve component military personnel providing landmine clearance assistance are specified in detail and are budgeted to be authorized and appropriated from the appropriate military personnel accounts.

SEC. 514. USE OF RESERVES TO PERFORM DUTIES RELATING TO DEFENSE AGAINST TERRORISM.

(a) **USE OF RESERVES TO PERFORM DUTIES RELATING TO DEFENSE AGAINST TERRORISM.**—Section 12304(b) of title 10, United States Code, is amended by striking “involving” and all that follows and inserting “involving—

“(1) a use or threatened use of a weapon of mass destruction; or

“(2) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.”.

(b) **CONFORMING AMENDMENT RELATING TO FULL-TIME SUPPORT OF GUARD AND RESERVE PERSONNEL.**—Section 12310(c)(1) of such title is amended by striking “involving” and all that follows and inserting “involving—

“(A) the use of a weapon of mass destruction (as defined in section 12304(i)(2) of this title); or

“(B) a terrorist attack or threatened terrorist attack in the United States that results, or could result, in catastrophic loss of life or property.”.

SEC. 515. REPEAL OF PROHIBITION ON USE OF AIR FORCE RESERVE AGR PERSONNEL FOR AIR FORCE BASE SECURITY FUNCTIONS.

(a) **REPEAL.**—Section 12551 of title 10, United States Code, is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1215 of such title is amended by striking the item relating to section 12551.

Subtitle C—Reserve Component Officer Personnel Policy

SEC. 521. ELIGIBILITY FOR CONSIDERATION FOR PROMOTION TO GRADE OF MAJOR GENERAL FOR CERTAIN RESERVE COMPONENT BRIGADIER GENERALS WHO DO NOT OTHERWISE QUALIFY FOR CONSIDERATION FOR PRO- MOTION UNDER THE ONE-YEAR RULE.

Section 14301(g) of title 10, United States Code, is amended to read as follows:

“(g) BRIGADIER GENERALS.—(1) An officer who is a reserve component brigadier general of the Army or the Air Force who is not eligible for consideration for promotion under subsection (a) because the officer is not on the reserve active status list (as required by paragraph (1) of that subsection for such eligibility) is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

“(A) as of the date of the convening of the promotion board, the officer has been in an inactive status for less than one year; and

“(B) immediately before the date of the officer’s most recent transfer to an inactive status, the officer had continuously served on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list) for at least one year.

“(2) An officer who is a reserve component brigadier general of the Army or the Air Force who is on the reserve active status list but who is not eligible for consideration for promotion under subsection (a) because the officer’s service does not meet the one-year-of-continuous-service requirement under paragraph (2) of that subsection is nevertheless eligible for consideration for promotion to the grade of major general by a promotion board convened under section 14101(a) of this title if—

“(A) the officer was transferred from an inactive status to the reserve active status list during the one-year period preceding the date of the convening of the promotion board;

“(B) immediately before the date of the officer’s most recent transfer to an active status, the officer had been in an inactive status for less than one year; and

“(C) immediately before the date of the officer’s most recent transfer to an inactive status, the officer had continuously served for at least one year on the reserve active status list or the active-duty list (or a combination of the reserve active status list and the active-duty list).”.

SEC. 522. AUTHORITY FOR LIMITED EXTENSION OF MEDICAL DEFERMENT OF MANDATORY RETIREMENT OR SEPARA- TION OF RESERVE COMPONENT OFFICERS.

(a) AUTHORITY.—Chapter 1407 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 14519. Deferment of retirement or separation for medical reasons

“(a) **AUTHORITY.**—If, in the case of an officer required to be retired or separated under this chapter or chapter 1409 of this title, the Secretary concerned determines that the evaluation of the physical condition of the officer and determination of the officer’s entitlement to retirement or separation for physical disability require hospitalization or medical observation and that such hospitalization or medical observation cannot be completed with confidence in a manner consistent with the officer’s well being before the date on which the officer would otherwise be required to retire or be separated, the Secretary may defer the retirement or separation of the officer.

“(b) **PERIOD OF DEFERMENT.**—A deferral of retirement or separation under subsection (a) may not extend for more than 30 days after the completion of the evaluation requiring hospitalization or medical observation.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“14519. Deferment of retirement or separation for medical reasons.”.

Subtitle D—Enlistment, Education, and Training Programs

SEC. 531. ENLISTMENT INCENTIVES FOR PURSUIT OF SKILLS TO FACILITATE NATIONAL SERVICE.

(a) **AUTHORITY.**—(1) Chapter 31 of title 10, United States Code, is amended by inserting after section 509 the following new section:

“§ 510. Enlistment incentives for pursuit of skills to facilitate national service

“(a) **ENLISTMENT INCENTIVE PROGRAM.**—The Secretary of Defense shall carry out an enlistment incentive program in accordance with this section under which a person who is a National Call to Service participant shall be entitled to one of the incentives specified in subsection (e). The program shall be carried out during the period ending on December 31, 2007, and may be carried out after that date.

“(b) **NATIONAL CALL TO SERVICE PARTICIPANT.**—In this section, the term ‘National Call to Service participant’ means a person who has not previously served in the armed forces who enters into an original enlistment pursuant to a written agreement with the Secretary of a military department (in such form and manner as may be prescribed by that Secretary) under which the person agrees to perform a period of national service as specified in subsection (c).

“(c) **NATIONAL SERVICE.**—The total period of national service to which a National Call to Service participant is obligated under the agreement under this section shall be specified in the agreement. Under the agreement, the participant shall—

“(1) upon completion of initial entry training (as prescribed by the Secretary of Defense), serve on active duty in a military occupational specialty designated by the Secretary of Defense under subsection (d) for a period of 15 months;

“(2) upon completion of the period of active duty specified in paragraph (1) and without a break in service, serve either (A) an additional period of active duty as determined by the Secretary of Defense, or (B) a period of 24 months in an active status in the Selected Reserve; and

“(3) upon completion of the period of service specified in paragraph (2), and without a break in service, serve the remaining period of obligated service specified in the agreement—

“(A) on active duty in the armed forces;

“(B) in the Selected Reserve;

“(C) in the Individual Ready Reserve;

“(D) in the Peace Corps, Americorps, or another national service program jointly designated by the Secretary of Defense and the head of such program for purposes of this section; or

“(E) in any combination of service referred to in subparagraphs (A) through (D) that is approved by the Secretary of the military department concerned pursuant to regulations prescribed by the Secretary of Defense and specified in the agreement.

“(d) DESIGNATED MILITARY OCCUPATIONAL SPECIALTIES.—The Secretary of Defense shall designate military occupational specialties for purposes of subsection (c)(1). Such military occupational specialties shall be military occupational specialties that, as determined by the Secretary, will facilitate pursuit of national service by National Call to Service participants.

“(e) INCENTIVES.—The incentives specified in this subsection are as follows:

“(1) Payment of a bonus in the amount of \$5,000.

“(2) Payment in an amount not to exceed \$18,000 of outstanding principal and interest on qualifying student loans of the National Call to Service participant.

“(3) Entitlement to an allowance for educational assistance at the monthly rate equal to the monthly rate payable for basic educational assistance allowances under section 3015(a)(1) of title 38 for a total of 12 months.

“(4) Entitlement to an allowance for educational assistance at the monthly rate equal to 50 percent of the monthly rate payable for basic educational assistance allowances under section 3015(b)(1) of title 38 for a total of 36 months.

“(f) ELECTION OF INCENTIVE.—A National Call to Service participant shall elect in the agreement under subsection (b) which incentive under subsection (e) to receive. An election under this subsection is irrevocable.

“(g) PAYMENT OF BONUS AMOUNTS.—(1) Payment to a National Call to Service participant of the bonus elected by the National Call to Service participant under subsection (e)(1) shall be made in such time and manner as the Secretary of Defense shall prescribe.

“(2)(A) Payment of outstanding principal and interest on the qualifying student loans of a National Call to Service participant, as elected under subsection (e)(2), shall be made in such time and manner as the Secretary of Defense shall prescribe.

“(B) Payment under this paragraph of the outstanding principal and interest on the qualifying student loans of a National Call to Service participant shall be made to the holder of such student loans, as identified by the National Call to Service participant

to the Secretary of the military department concerned for purposes of such payment.

“(3) Payment of a bonus or incentive in accordance with this subsection shall be made by the Secretary of the military department concerned.

“(h) COORDINATION WITH MONTGOMERY GI BILL BENEFITS.—(1)(A) Subject to subparagraph (B), a National Call to Service participant who elects an incentive under paragraph (3) or (4) of subsection (e) is not entitled to additional educational assistance under chapter 1606 of this title or to basic educational assistance under subchapter II of chapter 30 of title 38.

“(B) If a National Call to Service participant meets all eligibility requirements specified in chapter 1606 of this title or chapter 30 of title 38 for entitlement to allowances for educational assistance under either such chapter, the participant may become eligible for allowances for educational assistance benefits under either such chapter up to the maximum allowance provided less the total amount of allowance paid under paragraph (3) or (4) of subsection (e).

“(2)(A) The Secretary of Defense shall, to the maximum extent practicable, administer the receipt by National Call to Service participants of incentives under paragraph (3) or (4) of subsection (e) as if such National Call to Service participants were, in receiving such incentives, receiving educational assistance for members of the Selected Reserve under chapter 1606 of this title.

“(B) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, prescribe regulations for purposes of subparagraph (A). Such regulations shall, to the maximum extent practicable, take into account the administrative provisions of chapters 30 and 36 of title 38 that are specified in section 16136 of this title.

Regulations.

“(3)(A) Except as provided in paragraph (1), nothing in this section shall prohibit a National Call to Service participant who satisfies through service under subsection (c) the eligibility requirements for educational assistance under chapter 1606 of this title or basic educational assistance under chapter 30 of title 38 from an entitlement to such educational assistance under chapter 1606 of this title or basic educational assistance under chapter 30 of title 38, as the case may be.

“(B)(i) A participant who made an election not to receive educational assistance under either such chapter at the applicable time specified under law or who was denied the opportunity to make an election may revoke that election or make an initial election, as the case may be, at such time and in such manner as the Secretary concerned may specify. A revocation or initial election under the preceding sentence is irrevocable.

“(ii) The participant making a revocation or initial election under clause (i) shall be eligible for educational assistance under either such chapter at such time as the participant satisfies through service the applicable eligibility requirements under either such chapter.

“(i) REPAYMENT.—(1) If a National Call to Service participant who has entered into an agreement under subsection (b) and received or benefited from an incentive under subsection (e)(1) or (e)(2) fails to complete the total period of service specified in such agreement, the National Call to Service participant shall refund to the United States the amount that bears the same ratio

to the amount of the incentive as the uncompleted part of such service bears to the total period of such service.

“(2) Subject to paragraph (3), an obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

“(3) The Secretary concerned may waive, in whole or in part, a reimbursement required under paragraph (1) if the Secretary concerned determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

“(4) A discharge in bankruptcy under title 11 that is entered into less than five years after the termination of an agreement entered into under subsection (b) does not discharge the person signing the agreement from a debt arising under the agreement or under paragraph (1).

“(j) FUNDING.—Amounts for payment of incentives under subsection (e), including payment of allowances for educational assistance under that subsection, shall be derived from amounts available to the Secretary of the military department concerned for payment of pay, allowances, and other expenses of the members of the armed force concerned.

“(k) REGULATIONS.—The Secretary of Defense and the Secretaries of the military departments shall prescribe regulations for purposes of the program under this section.

“(l) DEFINITIONS.—In this section:

“(1) The term ‘Americorps’ means the Americorps program carried out under subtitle C of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.).

“(2) The term ‘qualifying student loan’ means a loan, the proceeds of which were used to pay any part or all of the cost of attendance (as defined in section 472 of the Higher Education Act of 1965 (20 U.S.C. 1087l)) at an institution of higher education (as defined in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001)).

“(3) The term ‘Secretary of a military department’ includes, with respect to matters concerning the Coast Guard when it is not operating as a service in the Navy, the Secretary of the Department in which the Coast Guard is operating.”.

(2) The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 509 the following new item:

“510. Enlistment incentives for pursuit of skills to facilitate national service.”.

10 USC 510 note.

(b) COMMENCEMENT OF PROGRAM.—The Secretary of Defense shall prescribe the date on which the program provided for section 510 of title 10, United States Code, as added by subsection (a), shall commence. Such date shall be not later than October 1, 2003.

Deadline.

(c) CONFORMING REPEAL.—Section 3264 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 333 of that title is amended by striking the item relating to section 3264.

Deadline.

10 USC 510 note.

(d) IMPLEMENTATION REPORT.—Not later than March 31, 2003, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the Secretary’s plans for implementation of section 510 of title 10, United States Code, as added by subsection (a).

(e) **EFFECTIVENESS REPORTS.**—Not later than March 31, 2005, and March 31, 2007, the Secretary of Defense shall submit to the committees specified in subsection (d) reports on the effectiveness of the program under section 510 of title 10, United States Code, as added by subsection (a), in attracting new recruits to national service.

Deadlines.
10 USC 510 note.

SEC. 532. AUTHORITY FOR PHASED INCREASE TO 4,400 IN AUTHORIZED STRENGTHS FOR THE SERVICE ACADEMIES.

(a) **MILITARY ACADEMY.**—Section 4342 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: “or such higher number as may be prescribed by the Secretary of the Army under subsection (j)”; and

(2) by adding at the end the following new subsection:

“(j)(1) Beginning with the 2003–2004 academic year, the Secretary of the Army may prescribe annual increases in the cadet strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 cadets or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the cadet strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

“(2) Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the cadet strength limit and the new cadet strength limit, as so increased, and the amount of the increase in Senior Army Reserve Officers’ Training Corps enrollment under each of sections 2104 and 2107 of this title.

“(3) The amount of an increase under paragraph (1) in the cadet strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of cadets enrolled in the Army Senior Reserve Officers’ Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

“(4) In this subsection, the term ‘cadet strength limit’ means the authorized maximum strength of the Corps of Cadets of the Academy.”

(b) **NAVAL ACADEMY.**—Section 6954 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: “or such higher number as may be prescribed by the Secretary of the Navy under subsection (h)”; and

(2) by adding at the end the following new subsection:

“(h)(1) Beginning with the 2003–2004 academic year, the Secretary of the Navy may prescribe annual increases in the midshipmen strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 midshipmen or such lesser number as applies under paragraph

(3) for that year. Such annual increases may be prescribed until the midshipmen strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

Deadline.

“(2) Any increase in the midshipmen strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under section 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the midshipmen strength limit and the new midshipmen strength limit, as so increased, and the amount of the increase in Senior Navy Reserve Officers’ Training Corps enrollment under each of sections 2104 and 2107 of this title.

Notice.

“(3) The amount of an increase under paragraph (1) in the midshipmen strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of midshipmen enrolled in the Navy Senior Reserve Officers’ Training Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

“(4) In this subsection, the term ‘midshipmen strength limit’ means the authorized maximum strength of the Brigade of Midshipmen.”

(c) AIR FORCE ACADEMY.—Section 9342 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end of the first sentence the following: “or such higher number as may be prescribed by the Secretary of the Air Force under subsection (j)”; and

(2) by adding at the end the following new subsection:

“(j)(1) Beginning with the 2003–2004 academic year, the Secretary of the Air Force may prescribe annual increases in the cadet strength limit in effect under subsection (a). For any academic year, any such increase shall be by no more than 100 cadets or such lesser number as applies under paragraph (3) for that year. Such annual increases may be prescribed until the cadet strength limit is 4,400. However, no increase may be prescribed for any academic year after the 2007–2008 academic year.

Deadline.

“(2) Any increase in the cadet strength limit under paragraph (1) with respect to an academic year shall be prescribed not later than the date on which the budget of the President is submitted to Congress under sections 1105 of title 31 for the fiscal year beginning in the same year as the year in which that academic year begins. Whenever the Secretary prescribes such an increase, the Secretary shall submit to Congress a notice in writing of the increase. The notice shall state the amount of the increase in the cadet strength limit and the new cadet strength limit, as so increased, and the amount of the increase in Senior Air Force Reserve Officers’ Training Corps enrollment under each of sections 2104 and 2107 of this title.

Notice.

“(3) The amount of an increase under paragraph (1) in the cadet strength limit for an academic year may not exceed the increase (if any) for the preceding academic year in the total number of cadets enrolled in the Air Force Senior Reserve Officers’ Training

Corps program under chapter 103 of this title who have entered into an agreement under section 2104 or 2107 of this title.

“(4) In this subsection, the term ‘cadet strength limit’ means the authorized maximum strength of Air Force Cadets of the Academy.”.

(d) **TARGET FOR INCREASES IN NUMBER OF ROTC SCHOLARSHIP PARTICIPANTS.**—Section 2107 of such title is amended by adding at the end the following new subsection:

“(i) The Secretary of each military department shall seek to achieve an increase in the number of agreements entered into under this section so as to achieve an increase, by the 2006–2007 academic year, of not less than 400 in the number of cadets or midshipmen, as the case may be, enrolled under this section, compared to such number enrolled for the 2002–2003 academic year. In the case of the Secretary of the Navy, the Secretary shall seek to ensure that not less than one-third of such increase in agreements under this section are with students enrolled (or seeking to enroll) in programs of study leading to a baccalaureate degree in nuclear engineering or another appropriate technical, scientific, or engineering field of study.”.

(e) **REPEAL OF LIMIT ON NUMBER OF ROTC SCHOLARSHIPS.**—Section 2107 of such title is further amended by striking the first sentence of subsection (h)(1).

(f) **REPEAL OF OBSOLETE LANGUAGE.**—Section 4342(i) of such title is amended by striking “(beginning with the 2001–2002 academic year)”.

SEC. 533. ENHANCEMENT OF RESERVE COMPONENT DELAYED TRAINING PROGRAM.

(a) **INCREASE IN TIME FOLLOWING ENLISTMENT FOR COMMENCEMENT OF INITIAL PERIOD OF ACTIVE DUTY FOR TRAINING.**—Section 12103(d) of title 10, United States Code, is amended by striking “270 days” in the last sentence and inserting “one year”.

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to enlistments under section 12103(d) of title 10, United States Code, after the end of the 90-day period beginning on the date of the enactment of this Act.

10 USC 12103
note.

(c) **TRANSITION.**—In the case of a person who enlisted under section 12103(d) of title 10, United States Code, before the date of the enactment of this Act and who as of such date has not commenced the required initial period of active duty for training under that section, the amendment made by subsection (a) may be applied to that person, but only with the agreement of that person and the Secretary concerned.

10 USC 12103
note.

SEC. 534. REVIEW OF ARMED FORCES PROGRAMS FOR PREPARATION FOR, PARTICIPATION IN, AND CONDUCT OF ATHLETIC COMPETITIONS.

(a) **REQUIREMENT FOR REVIEW.**—The Secretary of Defense shall conduct a comprehensive review of the programs of the active and reserve components of the Armed Forces for preparation for, participation in, and conduct of athletic competitions.

(b) **CONSIDERATION OF FUNDING.**—The matters reviewed under subsection (a) shall include the funding sources that are currently available for the programs referred to in such subsection and any relevant limitations on the use of such funding sources.

(c) **REPORT.**—Not later than March 3, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and

Deadline.

the House of Representatives a report on the Secretary's findings and conclusions resulting from the review. The report shall include the following matters:

(1) The Secretary's views on the adequacy of the existing funding sources for the programs referred to in subsection (a).

(2) Any recommendations that the Secretary may have regarding limitations on the use of such funding sources or any inadequacies in the funding for such programs.

(3) An assessment of the issues related to, and recommendations of the Secretary for, achieving consistent funding and policy treatment with regard to participation by active and reserve component personnel in athletic competitions.

(4) Any recommended legislation that the Secretary considers appropriate regarding such programs.

SEC. 535. REPEAL OF BAR TO ELIGIBILITY OF ARMY COLLEGE FIRST PROGRAM PARTICIPANTS FOR BENEFITS UNDER STUDENT LOAN REPAYMENT PROGRAM.

Subsection (e) of section 573 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 10 U.S.C. 513 note) is repealed.

Subtitle E—Decorations and Awards

SEC. 541. WAIVER OF TIME LIMITATIONS FOR AWARD OF ARMY DISTINGUISHED-SERVICE CROSS TO CERTAIN PERSONS.

(a) **WAIVER.**—Any limitation established by law or policy for the time within which a recommendation for the award of a military decoration or award must be submitted shall not apply to awards of decorations described in subsection (b), the award of each such decoration having been determined by the Secretary of the Army to be warranted in accordance with section 1130 of title 10, United States Code.

Applicability.

(b) **DISTINGUISHED-SERVICE CROSS OF THE ARMY.**—Subsection (a) applies to the award of the Distinguished-Service Cross of the Army as follows:

(1) To Henry Johnson of Albany, New York, for extraordinary heroism in France during the period of May 13 to 15, 1918, while serving as a member of the Army.

(2) To Hilliard Carter of Jackson, Mississippi, for extraordinary heroism in actions near Troung Loung, Republic of Vietnam, on September 28, 1966, while serving as a member of the Army.

(3) To Albert C. Welch of Florissant, Colorado, for extraordinary heroism in actions in Ong Thanh, Binh Long Province, Republic of Vietnam, on October 17, 1967, while serving as a member of the Army.

SEC. 542. OPTION TO CONVERT AWARD OF ARMED FORCES EXPEDITIONARY MEDAL AWARDED FOR OPERATION FREQUENT WIND TO VIETNAM SERVICE MEDAL.

(a) **IN GENERAL.**—The Secretary of the military department concerned shall, upon the application of an individual who is an eligible Vietnam evacuation veteran, award that individual the Vietnam Service Medal, notwithstanding any otherwise applicable requirements for the award of that medal. Any such award shall

be made in lieu of the Armed Forces Expeditionary Medal awarded the individual for participation in Operation Frequent Wind.

(b) ELIGIBLE VIETNAM EVACUATION VETERAN.—For purposes of this section, the term “eligible Vietnam evacuation veteran” means a member or former member of the Armed Forces who was awarded the Armed Forces Expeditionary Medal for participation in military operations designated as Operation Frequent Wind arising from the evacuation of Vietnam on April 29 and 30, 1975.

SEC. 543. KOREA DEFENSE SERVICE MEDAL.

(a) FINDINGS.—Congress makes the following findings:

10 USC 3755
note.

(1) More than 40,000 members of the United States Armed Forces have served in the Republic of Korea or the waters adjacent thereto each year since the signing of the cease-fire agreement in July 1953 ending the Korean War.

(2) An estimated 1,200 members of the United States Armed Forces have died as a direct result of their service in Korea since the cease-fire agreement in July 1953.

(b) ARMY.—(1) Chapter 357 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 3755. Korea Defense Service Medal

“(a) The Secretary of the Army shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Army served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

“(b) In this section, the term ‘KDSM eligibility period’ means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

“(c) The Secretary of the Army shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“3755. Korea Defense Service Medal.”.

(c) NAVY AND MARINE CORPS.—(1) Chapter 567 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 6257. Korea Defense Service Medal

“(a) The Secretary of the Navy shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Navy or Marine Corps served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

“(b) In this section, the term ‘KDSM eligibility period’ means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined

by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

“(c) The Secretary of the Navy shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“6257. Korea Defense Service Medal.”.

(d) AIR FORCE.—(1) Chapter 857 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 8755. Korea Defense Service Medal

“(a) The Secretary of the Air Force shall issue a campaign medal, to be known as the Korea Defense Service Medal, to each person who while a member of the Air Force served in the Republic of Korea or the waters adjacent thereto during the KDSM eligibility period and met the service requirements for the award of that medal prescribed under subsection (c).

“(b) In this section, the term ‘KDSM eligibility period’ means the period beginning on July 28, 1954, and ending on such date after the date of the enactment of this section as may be determined by the Secretary of Defense to be appropriate for terminating eligibility for the Korea Defense Service Medal.

“(c) The Secretary of the Air Force shall prescribe service requirements for eligibility for the Korea Defense Service Medal. Those requirements shall not be more stringent than the service requirements for award of the Armed Forces Expeditionary Medal for instances in which the award of that medal is authorized.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“8755. Korea Defense Service Medal.”.

10 USC 3755
note.

(e) AWARD FOR SERVICE BEFORE DATE OF ENACTMENT.—The Secretary of the military department concerned shall take appropriate steps to provide in a timely manner for the issuance of the Korea Defense Service Medal, upon application therefor, to persons whose eligibility for that medal is by reason of service in the Republic of Korea or the waters adjacent thereto before the date of the enactment of this Act.

SEC. 544. COMMENDATION OF MILITARY CHAPLAINS.

(a) FINDINGS.—Congress finds the following:

(1) Military chaplains have served with those who fought for the cause of freedom since the founding of the Nation.

(2) Military chaplains and religious support personnel of the Armed Forces have served with distinction as uniformed members of the Armed Forces in support of the Nation’s defense missions during every conflict in the history of the United States.

(3) 400 United States military chaplains have died in combat, some as a result of direct fire while ministering to fallen Americans, while others made the ultimate sacrifice as a prisoner of war.

(4) Military chaplains currently serve in humanitarian operations, rotational deployments, and in the war on terrorism.

(5) Religious organizations make up the very fabric of religious diversity and represent unparalleled levels of freedom of conscience, speech, and worship that set the United States apart from any other nation on Earth.

(6) Religious organizations have richly blessed the uniformed services by sending clergy to comfort and encourage all persons of faith in the Armed Forces.

(7) During the sinking of the USS *Dorchester* in February 1943 during World War II, four chaplains (Reverend Fox, Reverend Poling, Father Washington, and Rabbi Goode) gave their lives so that others might live.

(8) All military chaplains aid and assist members of the Armed Forces and their family members with the challenging issues of today's world.

(9) The current war against terrorism has brought to the shores of the United States new threats and concerns that strike at the beliefs and emotions of Americans.

(10) Military chaplains must, as never before, deal with the spiritual well-being of the members of the Armed Forces and their families.

(b) COMMENDATION.—Congress, on behalf of the Nation, expresses its appreciation for the outstanding contribution that all military chaplains make to the members of the Armed Forces and their families.

(c) PRESIDENTIAL PROCLAMATION.—The President is authorized and requested to issue a proclamation calling on the people of the United States to recognize the distinguished service of the Nation's military chaplains.

Subtitle F—Administrative Matters

SEC. 551. STAFFING AND FUNDING FOR DEFENSE PRISONER OF WAR/MISSING PERSONNEL OFFICE.

(a) REQUIREMENT FOR STAFFING AND FUNDING AT LEVELS REQUIRED FOR PERFORMANCE OF FULL RANGE OF MISSIONS.—Subsection (a) of section 1501 of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5)(A) The Secretary of Defense shall ensure that the office is provided sufficient military and civilian personnel, and sufficient funding, to enable the office to fully perform the complete range of missions of the office. The Secretary shall ensure that Department of Defense programming, planning, and budgeting procedures are structured so as to ensure compliance with the preceding sentence for each fiscal year.

“(B) For any fiscal year, the number of military and civilian personnel assigned or detailed to the office may not be less than the number requested in the President's budget for fiscal year 2003, unless a level below such number is expressly required by law.

“(C) For any fiscal year, the level of funding allocated to the office within the Department of Defense may not be below the level requested for such purposes in the President's budget for fiscal year 2003, unless such a level of funding is expressly required by law.”.

(b) NAME OF OFFICE.—Such subsection is further amended by inserting after the first sentence of paragraph (1) the following new sentence: “Such office shall be known as the Defense Prisoner of War/Missing Personnel Office.”.

SEC. 552. THREE-YEAR FREEZE ON REDUCTIONS OF PERSONNEL OF AGENCIES RESPONSIBLE FOR REVIEW AND CORRECTION OF MILITARY RECORDS.

(a) IN GENERAL.—Chapter 79 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 1559. Personnel limitation

“(a) LIMITATION.—During fiscal years 2003, 2004, and 2005, the Secretary of a military department may not carry out any reduction in the number of military and civilian personnel assigned to duty with the service review agency for that military department below the baseline number for that agency until—

“(1) the Secretary submits to Congress a report that—

“(A) describes the reduction proposed to be made;

“(B) provides the Secretary’s rationale for that reduction; and

“(C) specifies the number of such personnel that would be assigned to duty with that agency after the reduction; and

“(2) a period of 90 days has elapsed after the date on which the report is submitted.

“(b) BASELINE NUMBER.—The baseline number for a service review agency under this section is—

“(1) for purposes of the first report with respect to a service review agency under this section, the number of military and civilian personnel assigned to duty with that agency as of January 1, 2002; and

“(2) for purposes of any subsequent report with respect to a service review agency under this section, the number of such personnel specified in the most recent report with respect to that agency under this section.

“(c) SERVICE REVIEW AGENCY DEFINED.—In this section, the term ‘service review agency’ means—

“(1) with respect to the Department of the Army, the Army Review Boards Agency;

“(2) with respect to the Department of the Navy, the Board for Correction of Naval Records; and

“(3) with respect to the Department of the Air Force, the Air Force Review Boards Agency.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1559. Personnel limitation.”.

SEC. 553. AUTHORITY FOR ACCEPTANCE OF VOLUNTARY SERVICES OF INDIVIDUALS AS PROCTORS FOR ADMINISTRATION OF ARMED SERVICES VOCATIONAL APTITUDE BATTERY TEST.

Section 1588(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(6) Voluntary services as a proctor for administration to secondary school students of the test known as the ‘Armed Services Vocational Aptitude Battery’.”.

SEC. 554. EXTENSION OF TEMPORARY EARLY RETIREMENT AUTHORITY.

Effective January 1, 2002, section 4403(i) of the National Defense Authorization Act for Fiscal Year 1993 (10 U.S.C. 1293 note) is amended by striking “December 31, 2001” and inserting “September 1, 2002”.

Effective date.
10 USC 1293
note.

Subtitle G—Matters Relating to Minorities and Women in the Armed Forces

SEC. 561. SURVEYS OF RACIAL AND ETHNIC ISSUES AND OF GENDER ISSUES IN THE ARMED FORCES.

(a) DIVISION OF ANNUAL SURVEY INTO FOUR QUADRENNIAL SURVEYS.—(1) Section 481 of title 10, United States Code, is amended to read as follows:

“§ 481. Racial and ethnic issues; gender issues: surveys

“(a) IN GENERAL.—(1) The Secretary of Defense shall carry out four quadrennial surveys (each in a separate year) in accordance with this section to identify and assess racial and ethnic issues and discrimination, and to identify and assess gender issues and discrimination, among members of the armed forces. Each such survey shall be conducted so as to identify and assess the extent (if any) of activity among such members that may be seen as so-called ‘hate group’ activity.

“(2) The four surveys shall be as follows:

“(A) To identify and assess racial and ethnic issues and discrimination among members of the armed forces serving on active duty.

“(B) To identify and assess racial and ethnic issues and discrimination among members of the armed forces in the reserve components.

“(C) To identify and assess gender issues and discrimination among members of the armed forces serving on active duty.

“(D) To identify and assess gender issues and discrimination among members of the armed forces in the reserve components.

“(3) The surveys under this section relating to racial and ethnic issues and discrimination shall be known as the ‘Armed Forces Workplace and Equal Opportunity Surveys’. The surveys under this section relating to gender issues and discrimination shall be known as the ‘Armed Forces Workplace and Gender Relations Surveys’.

“(4) Each survey under this section shall be conducted separately from any other survey conducted by the Department of Defense.

“(b) ARMED FORCES WORKPLACE AND EQUAL OPPORTUNITY SURVEYS.—The Armed Forces Workplace and Equal Opportunity Surveys shall be conducted so as to solicit information on racial and ethnic issues, including issues relating to harassment and discrimination, and the climate in the armed forces for forming professional relationships among members of the armed forces of various racial

and ethnic groups. Both such surveys shall be conducted so as to solicit information on the following:

“(1) Indicators of positive and negative trends for professional and personal relationships among members of all racial and ethnic groups.

“(2) The effectiveness of Department of Defense policies designed to improve relationships among all racial and ethnic groups.

“(3) The effectiveness of current processes for complaints on and investigations into racial and ethnic discrimination.

“(c) ARMED FORCES WORKPLACE AND GENDER RELATIONS SURVEYS.—The Armed Forces Workplace and Gender Relations Surveys shall be conducted so as to solicit information on gender issues, including issues relating to gender-based harassment and discrimination, and the climate in the armed forces for forming professional relationships between male and female members of the armed forces. Both such surveys shall be conducted so as to solicit information on the following:

“(1) Indicators of positive and negative trends for professional and personal relationships between male and female members of the armed forces.

“(2) The effectiveness of Department of Defense policies designed to improve professional relationships between male and female members of the armed forces.

“(3) The effectiveness of current processes for complaints on and investigations into gender-based discrimination.

“(d) SURVEYS TO BE CONDUCTED IN DIFFERENT YEARS.—Each of the four quadrennial surveys conducted under this section shall be conducted in a different year from any other survey conducted under this section, so that one such survey is conducted during each year.

“(e) REPORTS TO CONGRESS.—Upon the completion of a survey under this section, the Secretary shall submit to Congress a report containing the results of the survey.

“(f) INAPPLICABILITY TO COAST GUARD.—This section does not apply to the Coast Guard.”.

(2) The item relating to such section in the table of sections at the beginning of chapter 23 of such title is amended to read as follows:

“481. Racial and ethnic issues; gender issues: surveys.”.

10 USC 481 note.

(b) EFFECTIVE DATE.—The first survey under section 481 of title 10, United States Code, as amended by subsection (a)(1), shall be carried out during 2003.

10 USC 481 note.

SEC. 562. ANNUAL REPORT ON STATUS OF FEMALE MEMBERS OF THE ARMED FORCES.

(a) REQUIREMENT FOR REPORT.—The Secretary of Defense shall submit to Congress, for each of fiscal years 2002 through 2006, a report on the status of female members of the Armed Forces. Information in the annual report shall be shown for the Department of Defense as a whole and separately for each of the Army, Navy, Air Force, and Marine Corps.

(b) MATTERS TO BE INCLUDED.—The report for a fiscal year under subsection (a) shall include the following information:

(1) The positions, weapon systems, and fields of skills for which, by policy, female members are not eligible for assignment, as follows:

(A) In the report for fiscal year 2002—

(i) an identification of each position, weapon system, and field of skills for which, by policy, female members are not eligible; and

(ii) the rationale for the applicability of the policy to each such position, weapon system, and field.

(B) In the report for each fiscal year after fiscal year 2002, the positions, weapon systems, and fields for which policy on the eligibility of female members for assignment has changed during that fiscal year, including a discussion of how the policy has changed and the rationale for the change.

(2) Information on joint spouse assignments, as follows:

(A) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were jointly assigned during that fiscal year, as defined in the applicable Department of Defense and military department personnel assignment policies.

(B) The number of cases in which members of the Armed Forces married to each other are in assignments to which they were assigned during that fiscal year, but were not jointly assigned (as so defined).

(3) Promotion selection rates for female members, for male members, and for all personnel in the reports submitted by promotion selection boards in that fiscal year for promotion to grades E-7, E-8, and E-9, and, in the case of commissioned officers, promotion to grades O-4, O-5, and O-6.

(4) Retention rates for female members in each grade and for male members in each grade during that fiscal year.

(5) Selection rates for female members and for male members for assignment to grade O-6 and grade O-5 command positions in reports of command selection boards that were submitted during that fiscal year.

(6) Selection rates for female members and for male members for attendance at intermediate service schools (ISS) and, separately, for attendance at senior service schools (SSS) in reports of selection boards that were submitted during that fiscal year.

(7) The extent of assignments of female members during that fiscal year in each field in which at least 80 percent of the Armed Forces personnel assigned in the field are men.

(8) The incidence of sexual harassment complaints made during that fiscal year, stated as the number of cases in which complaints of sexual harassment were filed under procedures of military departments that are applicable to the submission of sexual harassment complaints, together with the number and percent of the complaints that were substantiated.

(9) Satisfaction (based on surveys) of female active-duty members, female dependents of active-duty members, and female dependents of nonactive duty members entitled to health care provided by the Department of Defense with access to, and quality of, women's health care benefits provided by the Department of Defense.

Deadline.

(c) **TIME FOR REPORT.**—The report for a fiscal year under this section shall be submitted not later than 120 days after the end of that fiscal year.

SEC. 563. WEAR OF ABAYAS BY FEMALE MEMBERS OF THE ARMED FORCES IN SAUDI ARABIA.

(a) **PROHIBITION RELATING TO WEAR OF ABAYAS.**—No member of the Armed Forces having authority over a member of the Armed Forces and no officer or employee of the United States having authority over a member of the Armed Forces may require or encourage that member to wear the abaya garment or any part of the abaya garment while the member is in the Kingdom of Saudi Arabia pursuant to a permanent change of station or orders for temporary duty.

(b) **INSTRUCTION.**—(1) The Secretary of Defense shall provide each female member of the Armed Forces ordered to a permanent change of station or temporary duty in the Kingdom of Saudi Arabia with instruction regarding the prohibition in subsection (a). Such instruction shall be provided immediately upon or not more than 48 hours prior to the arrival of the member at a United States military installation within the Kingdom of Saudi Arabia. The instruction shall be presented orally and in writing. The written instruction shall include the full text of this section.

(2) In carrying out paragraph (1), the Secretary shall act through the Commander in Chief, United States Central Command and Joint Task Force Southwest Asia, and the commanders of the Army, Navy, Air Force, and Marine Corps components of the United States Central Command and Joint Task Force Southwest Asia.

(c) **PROHIBITION ON USE OF FUNDS FOR PROCUREMENT OF ABAYAS.**—Funds appropriated or otherwise made available to the Department of Defense may not be used to procure abayas for regular or routine issuance to members of the Armed Forces serving in the Kingdom of Saudi Arabia or for any personnel of contractors accompanying the Armed Forces in the Kingdom of Saudi Arabia in the performance of contracts entered into by the United States with such contractors.

Subtitle H—Benefits

SEC. 571. DEPARTMENT OF DEFENSE SUPPORT FOR PERSONS PARTICIPATING IN MILITARY FUNERAL HONORS DETAILS.

Section 1491(d) of title 10, United States Code, is amended—

(1) by striking “To provide a” after “SUPPORT.—” and inserting “(1) To support a”;

(2) by redesignating paragraph (1) as subparagraph (A) and amending such subparagraph, as so redesignated, to read as follows:

“(A) For a person who participates in a funeral honors detail (other than a person who is a member of the armed forces not in a retired status or an employee of the United States), either transportation (or reimbursement for transportation) and expenses or the daily stipend prescribed under paragraph (2).”;

(3) by redesignating paragraph (2) as subparagraph (B) and in that subparagraph—

(A) by striking “Materiel, equipment, and training for” and inserting “For”; and

(B) by inserting before the period at the end “and for members of the armed forces in a retired status, materiel, equipment, and training”;

(4) by redesignating paragraph (3) as subparagraph (C) and in that subparagraph—

(A) by striking “Articles of clothing for” and inserting “For”; and

(B) by inserting “, articles of clothing” after “subsection (b)(2)”; and

(5) by adding at the end the following new paragraphs:

“(2) The Secretary of Defense shall prescribe annually a flat rate daily stipend for purposes of paragraph (1)(A). Such stipend shall be set at a rate so as to encompass typical costs for transportation and other miscellaneous expenses for persons participating in funeral honors details who are members of the armed forces in a retired status and other persons who are not members of the armed forces or employees of the United States.

“(3) A stipend paid under this subsection to a member of the armed forces in a retired status is in addition to any compensation to which the member is entitled under section 435(a)(2) of title 37 and any other compensation to which the member may be entitled.”.

SEC. 572. EMERGENCY LEAVE OF ABSENCE PROGRAM.

(a) IN GENERAL.—Chapter 40 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 709. Emergency leave of absence

“(a) EMERGENCY LEAVE OF ABSENCE.—The Secretary concerned may grant a member of the armed forces emergency leave of absence for a qualifying emergency.

“(b) LIMITATIONS.—An emergency leave of absence under this section—

“(1) may be granted only once for any member;

“(2) may be granted only to prevent the member from entering unearned leave status or excess leave status; and

“(3) may not extend for a period of more than 14 days.

“(c) QUALIFYING EMERGENCY.—In this section, the term ‘qualifying emergency’, with respect to a member of the armed forces, means a circumstance that—

“(1) is due to—

“(A) a medical condition of a member of the immediate family of the member; or

“(B) any other hardship that the Secretary concerned determines appropriate for purposes of this section; and

“(2) is verified to the Secretary’s satisfaction based upon information or opinion from a source in addition to the member that the Secretary considers to be objective and reliable.

“(d) MILITARY DEPARTMENT REGULATIONS.—Regulations prescribed under this section by the Secretaries of the military department shall be as uniform as practicable and shall be subject to approval by the Secretary of Defense.

“(e) DEFINITIONS.—In this section:

“(1) The term ‘unearned leave status’ means leave approved to be used by a member of the armed forces that exceeds

the amount of leave credit that has been accrued as a result of the member's active service and that has not been previously used by the member.

“(2) The term ‘excess leave status’ means leave approved to be used by a member of the armed forces that is unearned leave for which a member is unable to accrue leave credit during the member's current term of service before the member's separation.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“709. Emergency leave of absence.”.

SEC. 573. ENHANCED FLEXIBILITY IN MEDICAL LOAN REPAYMENT PROGRAM.

(a) ELIGIBLE PERSONS.—Subsection (d) of section 2173 of title 10, United States Code, is amended by striking “Participants” and all that follows through “and students” and inserting “Students”.

(b) LOAN REPAYMENT AMOUNTS.—Subsection (e)(2) of such section is amended by striking the last sentence.

SEC. 574. DESTINATIONS AUTHORIZED FOR GOVERNMENT PAID TRANSPORTATION OF ENLISTED PERSONNEL FOR REST AND RECUPERATION ABSENCE UPON EXTENDING DUTY AT DESIGNATED LOCATIONS OVERSEAS.

(a) EXPANSION OF BENEFITS.—Subsection (b)(2) of section 705 of title 10, United States Code, is amended by inserting before the period at the end the following: “, or to an alternative destination and return at a cost not to exceed the cost of round-trip transportation from the location of the extended tour of duty to such nearest port”.

(b) CHANGE IN TERMINOLOGY.—(1) Subsection (b) of such section is further amended by striking “recuperative” in paragraphs (1) and (2) and inserting “recuperation”.

(2)(A) The heading of such section is amended to read as follows:

“§ 705. Rest and recuperation absence: qualified enlisted members extending duty at designated locations overseas”.

(B) The item relating to such section in the table of sections at the beginning of chapter 40 of such title is amended to read as follows:

“705. Rest and recuperation absence: qualified enlisted members extending duty at designated locations overseas.”.

SEC. 575. VEHICLE STORAGE IN LIEU OF TRANSPORTATION WHEN MEMBER IS ORDERED TO A NONFOREIGN DUTY STATION OUTSIDE CONTINENTAL UNITED STATES.

(a) STORAGE COSTS AUTHORIZED.—Subsection (b) of section 2634 of title 10, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

“(b)(1) When a member receives a vehicle storage qualifying order, the member may elect to have a motor vehicle described in subsection (a) stored at the expense of the United States at a location approved by the Secretary concerned. In the case of a vehicle storage qualifying order that is to make a change of

permanent station, such storage is in lieu of transportation authorized by subsection (a).

“(2) In this subsection, the term ‘vehicle storage qualifying order’ means any of the following:

“(A) An order to make a change of permanent station to a foreign country in a case in which the laws, regulations, or other restrictions imposed by the foreign country or by the United States either—

“(i) preclude entry of a motor vehicle described in subsection (a) into that country; or

“(ii) would require extensive modification of the vehicle as a condition to entry.

“(B) An order to make a change of permanent station to a nonforeign area outside the continental United States in a case in which the laws, regulations, or other restrictions imposed by that area or by the United States either—

“(i) preclude entry of a motor vehicle described in subsection (a) into that area; or

“(ii) would require extensive modification of the vehicle as a condition to entry.

“(C) An order under which a member is transferred or assigned in connection with a contingency operation to duty at a location other than the permanent station of the member for a period of more than 30 consecutive days but which is not considered a change of permanent station.”.

(b) NONFOREIGN AREA OUTSIDE THE CONTINENTAL UNITED STATES DEFINED.—Subsection (h) of such section is amended by adding at the end the following new paragraph:

“(3) The term ‘nonforeign area outside the continental United States’ means any of the following: the States of Alaska and Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and any possession of the United States.”.

(c) EFFECTIVE DATE.—The amendments made by this section apply to orders to make a change of permanent station to a nonforeign area outside the continental United States (as such term is defined in subsection (h)(3) of section 2634 of title 10, United States Code, as added by subsection (b)) that are issued on or after the date of the enactment of this Act.

10 USC 2634
note.

Subtitle I—Reports

SEC. 581. QUADRENNIAL QUALITY OF LIFE REVIEW.

(a) REQUIREMENT FOR REVIEW.—(1) Chapter 2 of title 10, United States Code, is amended by inserting after section 118 the following new section:

“§ 118a. Quadrennial quality of life review

“(a) REVIEW REQUIRED.—(1) The Secretary of Defense shall every four years conduct a comprehensive examination of the quality of life of the members of the armed forces (to be known as the ‘quadrennial quality of life review’). The review shall include examination of the programs, projects, and activities of the Department of Defense, including the morale, welfare, and recreation activities.

“(2) The quadrennial quality of life review shall be designed to result in determinations, and to foster policies and actions, that

reflect the priority given the quality of life of members of the armed forces as a primary concern of the Department of Defense leadership.

“(b) CONDUCT OF REVIEW.—Each quadrennial quality of life review shall be conducted so as—

“(1) to assess quality of life priorities and issues consistent with the most recent National Security Strategy prescribed by the President pursuant to section 108 of the National Security Act of 1947 (50 U.S.C. 404a);

“(2) to identify actions that are needed in order to provide members of the armed forces with the quality of life reasonably necessary to encourage the successful execution of the full range of missions that the members are called on to perform under the national security strategy; and

“(3) to identify other actions that have the potential for improving the quality of life of the members of the armed forces.

“(c) CONSIDERATIONS.—The Secretary shall consider addressing the following matters as part of the quadrennial quality of life review:

“(1) Infrastructure.

“(2) Military construction.

“(3) Physical conditions at military installations and other Department of Defense facilities.

“(4) Budget plans.

“(5) Adequacy of medical care for members of the armed forces and their dependents.

“(6) Adequacy of housing and the basic allowance for housing and basic allowance for subsistence.

“(7) Housing-related utility costs.

“(8) Educational opportunities and costs.

“(9) Length of deployments.

“(10) Rates of pay and pay differentials between the pay of members and the pay of civilians.

“(11) Retention and recruiting efforts.

“(12) Workplace safety.

“(13) Support services for spouses and children.

“(14) Other elements of Department of Defense programs and Government policies and programs that affect the quality of life of members.

Reports.

“(d) SUBMISSION TO CONGRESSIONAL COMMITTEES.—(1) The Secretary shall submit a report on each quadrennial quality of life review to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report shall include the following:

“(A) The assumptions used in the review.

“(B) The results of the review, including a comprehensive discussion of how the quality of life of members of the armed forces affects the national security strategy of the United States.

Deadline.

“(2) The report shall be submitted in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 118 the following new item:

“118a. Quadrennial quality of life review.”.

(b) **FIRST QUADRENNIAL QUALITY OF LIFE REVIEW.**—The first quadrennial quality of life review under section 118a of title 10, United States Code, as added by subsection (a), shall be conducted during 2003, and the report on that review required to be submitted to Congress under subsection (d) of such section shall be submitted not later than the date on which the President submits the budget for fiscal year 2005 to Congress.

Deadline.
10 USC 118a
note.

SEC. 582. REPORT ON DESIRABILITY AND FEASIBILITY OF CONSOLIDATING SEPARATE COURSES OF BASIC INSTRUCTION FOR JUDGE ADVOCATES.

Not later than February 1, 2003, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the desirability and feasibility of consolidating the separate Army, Navy, and Air Force courses of basic instruction for judge advocates into a single course to be conducted at a single location. The report shall include—

Deadline.

- (1) an assessment of the advantages and disadvantages of such a consolidation;
- (2) a recommendation as to whether such a consolidation is desirable and feasible; and
- (3) any proposal for legislative action that the Secretary considers appropriate for carrying out such a consolidation.

SEC. 583. REPORTS ON EFFORTS TO RESOLVE STATUS OF CAPTAIN MICHAEL SCOTT SPEICHER, UNITED STATES NAVY.

(a) **REPORTS.**—Not later than 90 days after the date of the enactment of this Act, and every 120 days thereafter, the Secretary of Defense shall submit to Congress a report on the efforts of the United States Government to determine the status of Captain Michael Scott Speicher, United States Navy, whose aircraft was shot down over Iraq on the night of January 17, 1991. Each such report shall be prepared in consultation with the Secretary of State and the Director of Central Intelligence.

Deadline.

(b) **PERIOD COVERED BY REPORTS.**—The first report under subsection (a) shall cover efforts described in that subsection from the time that Michael Scott Speicher’s aircraft was shot down over Iraq until the date of the report, and each subsequent report shall cover efforts described in that subsection since the last such report.

(c) **REPORT ELEMENTS.**—Each report under subsection (a) shall describe, for the period covered by such report, the following:

(1) All direct and indirect contacts by the United States Government with the Government of Iraq regarding the status of Michael Scott Speicher.

(2) Any request made by the United States Government to the government of another country, including the intelligence service of such country, for assistance in resolving the status of Michael Scott Speicher, including the response to such request.

(3) Each current lead on the status of Michael Scott Speicher, including an assessment of the utility of such lead in resolving the status of Michael Scott Speicher.

(4) Any cooperation with nongovernmental organizations or international organizations in resolving the status of Michael Scott Speicher, including the results of such cooperation.

(d) **FORM OF REPORTS.**—Each report under subsection (a) shall be submitted in classified or unclassified form. To the extent submitted in classified form, such report shall include an unclassified summary.

(e) **DURATION.**—The requirement to submit reports under this section shall cease to be effective upon a final determination regarding the status of Michael Scott Speicher by the Secretary of Defense.

SEC. 584. REPORT ON VOLUNTEER SERVICES OF MEMBERS OF THE RESERVE COMPONENTS IN EMERGENCY RESPONSE TO THE TERRORIST ATTACKS OF SEPTEMBER 11, 2001.

Deadline.

(a) **REQUIREMENT FOR REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on volunteer services described in subsection (b) that were provided by members of the reserve components of the Armed Forces, while not in a duty status pursuant to orders, during the period of September 11 through September 14, 2001. The report shall include a discussion of any recognition that the Secretary considers appropriate for those members regarding the provision of such services.

(b) **COVERED VOLUNTEER SERVICES.**—The volunteer services referred to in subsection (a) are volunteer services of a military-unique nature that were provided—

(1) in the vicinity of the site of the World Trade Center, New York, New York, in support of emergency response to the terrorist attack on the World Trade Center on September 11, 2001;

(2) in the vicinity of the Pentagon, Arlington, Virginia, in support of emergency response to the terrorist attack on the Pentagon on September 11, 2001; or

(3) in the vicinity of Shanksville, Pennsylvania, in support of emergency response to the terrorist-caused crash of United Airlines Flight 93 in Shanksville, Pennsylvania, on September 11, 2001.

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

Subtitle A—Pay and Allowances

Sec. 601. Increase in basic pay for fiscal year 2003.

Sec. 602. Basic allowance for housing in cases of low-cost or no-cost moves.

Sec. 603. Rate of basic allowance for subsistence for enlisted personnel occupying single Government quarters without adequate availability of meals.

Subtitle B—Bonuses and Special and Incentive Pays

Sec. 611. One-year extension of certain bonus and special pay authorities for reserve forces.

Sec. 612. One-year extension of certain bonus and special pay authorities for certain health care professionals.

Sec. 613. One-year extension of special pay and bonus authorities for nuclear officers.

- Sec. 614. One-year extension of other bonus and special pay authorities.
 Sec. 615. Increase in maximum rates for certain special pays, bonuses, and financial assistance for health care professionals.
 Sec. 616. Assignment incentive pay.
 Sec. 617. Increase in maximum rates for prior service enlistment bonus.
 Sec. 618. Retention incentives for health care professionals qualified in a critical military skill.

Subtitle C—Travel and Transportation Allowances

- Sec. 621. Extension of leave travel deferral period for members performing consecutive overseas tours of duty.
 Sec. 622. Transportation of motor vehicles for members reported missing.

Subtitle D—Retired Pay and Survivor Benefits

- Sec. 631. Permanent reduction from eight to six in number of years of reserve service required for eligibility for retired pay for non-regular service.
 Sec. 632. Increased retired pay for enlisted Reserves credited with extraordinary heroism.
 Sec. 633. Elimination of possible inversion in retired pay cost-of-living adjustment for initial COLA computation.
 Sec. 634. Technical revisions to so-called “forgotten widows” annuity program.
 Sec. 635. Expansion of authority of Secretary of Defense to waive time limitations on claims against the Government for military personnel benefits.
 Sec. 636. Special compensation for certain combat-related disabled uniformed services retirees.

Subtitle E—Montgomery GI Bill

- Sec. 641. Time limitation for use of Montgomery GI Bill entitlement by members of the Selected Reserve.
 Sec. 642. Repayment requirements under Reserve Component Montgomery GI Bill arising from failure to participate satisfactorily in military service to be considered debts owed to the United States.
 Sec. 643. Technical adjustments to authority for certain members to transfer educational assistance under Montgomery GI Bill to dependents.

Subtitle F—Other Matters

- Sec. 651. Payment of interest on student loans.
 Sec. 652. Additional authority to provide assistance for families of members of the Armed Forces.
 Sec. 653. Repeal of authority for acceptance of honoraria by personnel at certain Department of Defense schools.
 Sec. 654. Addition of definition of continental United States in title 37.

Subtitle A—Pay and Allowances

SEC. 601. INCREASE IN BASIC PAY FOR FISCAL YEAR 2003.

37 USC 1009
note.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—The adjustment to become effective during fiscal year 2003 required by section 1009 of title 37, United States Code, in the rates of monthly basic pay authorized members of the uniformed services shall not be made.

(b) INCREASE IN BASIC PAY.—Effective on January 1, 2003, the rates of monthly basic pay for members of the uniformed services within each pay grade are as follows:

Effective date.

COMMISSIONED OFFICERS ¹

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O–10 ²	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
O–9	0.00	0.00	0.00	0.00	0.00
O–8	7,474.50	7,719.30	7,881.60	7,927.20	8,129.40
O–7	6,210.90	6,499.20	6,633.00	6,739.20	6,930.90
O–6	4,603.20	5,057.10	5,388.90	5,388.90	5,409.60

COMMISSIONED OFFICERS¹—Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-5	3,837.60	4,323.00	4,622.40	4,678.50	4,864.80
O-4	3,311.10	3,832.80	4,088.70	4,145.70	4,383.00
O-3 ³	2,911.20	3,300.30	3,562.20	3,883.50	4,069.50
O-2 ³	2,515.20	2,864.70	3,299.40	3,410.70	3,481.20
O-1 ³	2,183.70	2,272.50	2,746.80	2,746.80	2,746.80
	Over 8	Over 10	Over 12	Over 14	Over 16
O-10 ²	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
O-9	0.00	0.00	0.00	0.00	0.00
O-8	8,468.70	8,547.30	8,868.90	8,961.30	9,238.20
O-7	7,120.80	7,340.40	7,559.40	7,779.00	8,468.70
O-6	5,641.20	5,672.10	5,672.10	5,994.60	6,564.30
O-5	4,977.00	5,222.70	5,403.00	5,635.50	5,991.90
O-4	4,637.70	4,954.50	5,201.40	5,372.70	5,471.10
O-3 ³	4,273.50	4,405.80	4,623.30	4,736.10	4,736.10
O-2 ³	3,481.20	3,481.20	3,481.20	3,481.20	3,481.20
O-1 ³	2,746.80	2,746.80	2,746.80	2,746.80	2,746.80
	Over 18	Over 20	Over 22	Over 24	Over 26
O-10 ²	\$0.00	\$12,077.70	\$12,137.10	\$12,389.40	\$12,829.20
O-9	0.00	10,563.60	10,715.70	10,935.60	11,319.60
O-8	9,639.00	10,008.90	10,255.80	10,255.80	10,255.80
O-7	9,051.30	9,051.30	9,051.30	9,051.30	9,096.90
O-6	6,898.80	7,233.30	7,423.50	7,616.10	7,989.90
O-5	6,161.70	6,329.10	6,519.60	6,519.60	6,519.60
O-4	5,528.40	5,528.40	5,528.40	5,528.40	5,528.40
O-3 ³	4,736.10	4,736.10	4,736.10	4,736.10	4,736.10
O-2 ³	3,481.20	3,481.20	3,481.20	3,481.20	3,481.20
O-1 ³	2,746.80	2,746.80	2,746.80	2,746.80	2,746.80

¹Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for commissioned officers in pay grades O-7 through O-10 may not exceed the rate of pay for level III of the Executive Schedule and the actual rate of basic pay for all other officers may not exceed the rate of pay for level V of the Executive Schedule.

²Subject to the preceding footnote, the rate of basic pay for an officer in this grade while serving as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard is \$14,155.50, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

³This table does not apply to commissioned officers in pay grade O-1, O-2, or O-3 who have been credited with over 4 years of active duty service as an enlisted member or warrant officer.

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-3E	\$0.00	\$0.00	\$0.00	\$3,883.50	\$4,069.50
O-2E	0.00	0.00	0.00	3,410.70	3,481.20
O-1E	0.00	0.00	0.00	2,746.80	2,933.70
	Over 8	Over 10	Over 12	Over 14	Over 16
O-3E	\$4,273.50	\$4,405.80	\$4,623.30	\$4,806.30	\$4,911.00
O-2E	3,591.90	3,778.80	3,923.40	4,031.10	4,031.10

COMMISSIONED OFFICERS WITH OVER 4 YEARS OF ACTIVE DUTY
SERVICE AS AN ENLISTED MEMBER OR WARRANT OFFICER—
Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-1E	3,042.00	3,152.70	3,261.60	3,410.70	3,410.70
	Over 18	Over 20	Over 22	Over 24	Over 26
O-3E	\$5,054.40	\$5,054.40	\$5,054.40	\$5,054.40	\$5,054.40
O-2E	4,031.10	4,031.10	4,031.10	4,031.10	4,031.10
O-1E	3,410.70	3,410.70	3,410.70	3,410.70	3,410.70

WARRANT OFFICERS ¹

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
W-5 ...	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
W-4 ...	3,008.10	3,236.10	3,329.10	3,420.60	3,578.10
W-3 ...	2,747.10	2,862.00	2,979.30	3,017.70	3,141.00
W-2 ...	2,416.50	2,554.50	2,675.10	2,763.00	2,838.30
W-1 ...	2,133.90	2,308.50	2,425.50	2,501.10	2,662.50
	Over 8	Over 10	Over 12	Over 14	Over 16
W-5 ...	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
W-4 ...	3,733.50	3,891.00	4,044.60	4,203.60	4,356.00
W-3 ...	3,281.70	3,467.40	3,580.50	3,771.90	3,915.60
W-2 ...	2,993.10	3,148.50	3,264.00	3,376.50	3,453.90
W-1 ...	2,782.20	2,888.40	3,006.90	3,085.20	3,203.40
	Over 18	Over 20	Over 22	Over 24	Over 26
W-5 ...	\$0.00	\$5,169.30	\$5,346.60	\$5,524.50	\$5,703.30
W-4 ...	4,512.00	4,664.40	4,822.50	4,978.20	5,137.50
W-3 ...	4,058.40	4,201.50	4,266.30	4,407.00	4,548.00
W-2 ...	3,579.90	3,705.90	3,831.00	3,957.30	3,957.30
W-1 ...	3,320.70	3,409.50	3,409.50	3,409.50	3,409.50

¹ Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for warrant officers may not exceed the rate of pay for level V of the Executive Schedule.

ENLISTED MEMBERS ¹

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
E-9 ² ..	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
E-8	0.00	0.00	0.00	0.00	0.00
E-7	2,068.50	2,257.80	2,343.90	2,428.20	2,516.40
E-6	1,770.60	1,947.60	2,033.70	2,117.10	2,204.10
E-5	1,625.40	1,733.70	1,817.40	1,903.50	2,037.00
E-4	1,502.70	1,579.80	1,665.30	1,749.30	1,824.00
E-3	1,356.90	1,442.10	1,528.80	1,528.80	1,528.80
E-2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E-1	³ 1,150.80	1,150.80	1,150.80	1,150.80	1,150.80

ENLISTED MEMBERS¹—Continued

Years of service computed under section 205 of title 37, United States Code

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
	Over 8	Over 10	Over 12	Over 14	Over 16
E-9 ² ..	\$0.00	\$3,564.30	\$3,645.00	\$3,747.00	\$3,867.00
E-8	2,975.40	3,061.20	3,141.30	3,237.60	3,342.00
E-7	2,667.90	2,753.40	2,838.30	2,990.40	3,066.30
E-6	2,400.90	2,477.40	2,562.30	2,636.70	2,663.10
E-5	2,151.90	2,236.80	2,283.30	2,283.30	2,283.30
E-4	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00
E-3	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80
E-2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E-1	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80
	Over 18	Over 20	Over 22	Over 24	Over 26
E-9 ² ..	\$3,987.30	\$4,180.80	\$4,344.30	\$4,506.30	\$4,757.40
E-8	3,530.10	3,625.50	3,787.50	3,877.50	4,099.20
E-7	3,138.60	3,182.70	3,331.50	3,427.80	3,671.40
E-6	2,709.60	2,709.60	2,709.60	2,709.60	2,709.60
E-5	2,283.30	2,283.30	2,283.30	2,283.30	2,283.30
E-4	1,824.00	1,824.00	1,824.00	1,824.00	1,824.00
E-3	1,528.80	1,528.80	1,528.80	1,528.80	1,528.80
E-2	1,290.00	1,290.00	1,290.00	1,290.00	1,290.00
E-1	1,150.80	1,150.80	1,150.80	1,150.80	1,150.80

¹Notwithstanding the basic pay rates specified in this table, the actual rate of basic pay for enlisted members may not exceed the rate of pay for level V of the Executive Schedule.

²Subject to the preceding footnote, the rate of basic pay for an enlisted member in this grade while serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, basic pay is \$5,732.70, regardless of cumulative years of service computed under section 205 of title 37, United States Code.

³In the case of members in pay grade E-1 who have served less than 4 months on active duty, the rate of basic pay is \$1,064.70.

SEC. 602. BASIC ALLOWANCE FOR HOUSING IN CASES OF LOW-COST OR NO-COST MOVES.

Section 403 of title 37, United States Code, is amended—

(1) by transferring paragraph (7) of subsection (b) to the end of the section; and

(2) in such paragraph—

(A) by striking “(7)” and all that follows through “circumstances of which make it necessary that the member be” and inserting “(o) TREATMENT OF LOW-COST AND NO-COST MOVES AS NOT BEING REASSIGNMENTS.—In the case of a member who is assigned to duty at a location or under circumstances that make it necessary for the member to be”; and

(B) by inserting “for the purposes of this section” after “may be treated”.

SEC. 603. RATE OF BASIC ALLOWANCE FOR SUBSISTENCE FOR ENLISTED PERSONNEL OCCUPYING SINGLE GOVERNMENT QUARTERS WITHOUT ADEQUATE AVAILABILITY OF MEALS.

Section 402(d) of title 37, United States Code, is amended to read as follows:

“(d) SPECIAL RATE FOR ENLISTED MEMBERS OCCUPYING SINGLE QUARTERS WITHOUT ADEQUATE AVAILABILITY OF MEALS.—The Secretary of Defense, and the Secretary of the department in which the Coast Guard is operating, may pay an enlisted member the basic allowance for subsistence under this section at a monthly rate that is twice the amount in effect under subsection (b)(2) while—

“(1) the member is assigned to single Government quarters which have no adequate food storage or preparation facility in the quarters; and

“(2) there is no Government messing facility serving those quarters that is capable of making meals available to the occupants of the quarters.”.

Subtitle B—Bonuses and Special and Incentive Pays

SEC. 611. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR RESERVE FORCES.

(a) SELECTED RESERVE REENLISTMENT BONUS.—Section 308b(f) of title 37, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) SELECTED RESERVE ENLISTMENT BONUS.—Section 308c(e) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(c) SPECIAL PAY FOR ENLISTED MEMBERS ASSIGNED TO CERTAIN HIGH PRIORITY UNITS.—Section 308d(c) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(d) SELECTED RESERVE AFFILIATION BONUS.—Section 308e(e) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(e) READY RESERVE ENLISTMENT AND REENLISTMENT BONUS.—Section 308h(g) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(f) PRIOR SERVICE ENLISTMENT BONUS.—Section 308i(f) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 612. ONE-YEAR EXTENSION OF CERTAIN BONUS AND SPECIAL PAY AUTHORITIES FOR CERTAIN HEALTH CARE PROFESSIONALS.

(a) NURSE OFFICER CANDIDATE ACCESSION PROGRAM.—Section 2130a(a)(1) of title 10, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) REPAYMENT OF EDUCATION LOANS FOR CERTAIN HEALTH PROFESSIONALS WHO SERVE IN THE SELECTED RESERVE.—Section 16302(d) of such title is amended by striking “January 1, 2003” and inserting “January 1, 2004”.

(c) ACCESSION BONUS FOR REGISTERED NURSES.—Section 302d(a)(1) of title 37, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(d) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(e) SPECIAL PAY FOR SELECTED RESERVE HEALTH PROFESSIONALS IN CRITICALLY SHORT WARTIME SPECIALTIES.—Section

302g(f) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(f) **ACCESSION BONUS FOR DENTAL OFFICERS.**—Section 302h(a)(1) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 613. ONE-YEAR EXTENSION OF SPECIAL PAY AND BONUS AUTHORITIES FOR NUCLEAR OFFICERS.

(a) **SPECIAL PAY FOR NUCLEAR-QUALIFIED OFFICERS EXTENDING PERIOD OF ACTIVE SERVICE.**—Section 312(e) of title 37, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) **NUCLEAR CAREER ACCESSION BONUS.**—Section 312b(c) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(c) **NUCLEAR CAREER ANNUAL INCENTIVE BONUS.**—Section 312c(d) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 614. ONE-YEAR EXTENSION OF OTHER BONUS AND SPECIAL PAY AUTHORITIES.

(a) **AVIATION OFFICER RETENTION BONUS.**—Section 301b(a) of title 37, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(b) **REENLISTMENT BONUS FOR ACTIVE MEMBERS.**—Section 308(g) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(c) **ENLISTMENT BONUS FOR ACTIVE MEMBERS.**—Section 309(e) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(d) **RETENTION BONUS FOR MEMBERS WITH CRITICAL MILITARY SKILLS.**—Section 323(i) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

(e) **ACCESSION BONUS FOR NEW OFFICERS IN CRITICAL SKILLS.**—Section 324(g) of such title is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 615. INCREASE IN MAXIMUM RATES FOR CERTAIN SPECIAL PAYS, BONUSES, AND FINANCIAL ASSISTANCE FOR HEALTH CARE PROFESSIONALS.

(a) **RETENTION BONUS FOR MEDICAL OFFICERS.**—Section 301d(a)(2) of title 37, United States Code, is amended by striking “\$14,000” and inserting “\$50,000”.

(b) **RETENTION BONUS FOR DENTAL OFFICERS.**—Section 301e(a)(2) of such title is amended by striking “\$14,000” and inserting “\$50,000”.

(c) **INCENTIVE SPECIAL PAY FOR MEDICAL OFFICERS.**—Section 302(b)(1) of such title is amended by striking the second sentence and inserting the following new sentence: “The amount of incentive special pay paid to an officer under this subsection may not exceed \$50,000 for any 12-month period.”

(d) **RETENTION SPECIAL PAY OPTOMETRISTS.**—Section 302a(b)(1) of such title is amended by striking “\$6,000” and inserting “\$15,000”.

(e) **ACCESSION BONUS FOR REGISTERED NURSES.**—Section 302d(a)(2) of such title is amended by striking “\$5,000” and inserting “\$30,000”.

(f) INCENTIVE SPECIAL PAY FOR NURSE ANESTHETISTS.—Section 302e(a)(1) of such title is amended by striking “\$15,000” and inserting “\$50,000”.

(g) RETENTION SPECIAL PAY FOR PHARMACY OFFICERS.—Section 302i of such title is amended—

(1) in subsections (a) and (b), by striking “special pay at the rates specified in subsection (d)” both places it appears and inserting “retention special pay under this section”;

(2) in subsection (c), by striking “LIMITATION.—” and inserting “LIMITATION ON ELIGIBILITY FOR SPECIAL PAY.—”; and

(3) by striking subsection (d) and inserting the following new subsection:

“(d) LIMITATION ON AMOUNT OF SPECIAL PAY.—The amount of retention special pay paid to an officer under this section may not exceed \$15,000 for any 12-month period.”.

(h) FINANCIAL ASSISTANCE FOR NURSE OFFICER CANDIDATES.—Section 2130a(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “\$5,000” in the first sentence and inserting “\$10,000” and by striking “\$2,500” in the second sentence and inserting “\$5,000”; and

(2) in paragraph (2), by striking “\$500” and inserting “\$1,000”.

(i) APPLICATION OF INCREASE.—In the case of an amendment made by this section to increase the maximum amount of a special pay or bonus that may be paid during any 12-month period, the amended limitation shall apply to 12-month periods beginning after September 30, 2002.

37 USC 301d
note.

SEC. 616. ASSIGNMENT INCENTIVE PAY.

(a) AUTHORITY.—(1) Chapter 5 of title 37, United States Code, is amended by inserting after section 307 the following new section:

“§ 307a. Special pay: assignment incentive pay

“(a) AUTHORITY.—The Secretary concerned may pay monthly incentive pay under this section to a member of a uniformed service who performs service, while entitled to basic pay, in an assignment designated by the Secretary concerned.

“(b) WRITTEN AGREEMENT.—The period for which incentive pay will be provided under this section and the monthly rate of the incentive pay for a member shall be specified in a written agreement between the Secretary concerned and the member. Agreements entered into by the Secretary of a military department shall require the concurrence of the Secretary of Defense.

“(c) MAXIMUM RATE.—The maximum monthly rate of incentive pay payable to a member under this section is \$1,500.

“(d) RELATIONSHIP TO OTHER PAY AND ALLOWANCES.—Incentive pay paid to a member under this section is in addition to any other pay and allowances to which the member is entitled.

“(e) STATUS NOT AFFECTED BY TEMPORARY DUTY OR LEAVE.—The service of a member in an assignment referred to in subsection (a) shall not be considered discontinued during any period that the member is not performing service in the assignment by reason of temporary duty performed by the member pursuant to orders or absence of the member for authorized leave.

“(f) TERMINATION OF AUTHORITY.—No agreement under this section may be entered into after December 31, 2005.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 307 the following new item:

“307a. Special pay: assignment incentive pay.”.

Deadlines.
37 USC 307a
note.

(b) **ANNUAL REPORT.**—Not later than February 28, 2004, and February 28, 2005, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the use of the authority provided under section 307a of title 37, United States Code, as added by subsection (a), including an assessment of the utility of that authority.

SEC. 617. INCREASE IN MAXIMUM RATES FOR PRIOR SERVICE ENLISTMENT BONUS.

Section 308i(b)(1) of title 37, United States Code, is amended—

(1) in subparagraph (A), by striking “\$5,000” and inserting “\$8,000”;

(2) in subparagraph (B), by striking “\$2,500” and inserting “\$4,000”; and

(3) in subparagraph (C), by striking “\$2,000” and inserting “\$3,500”.

SEC. 618. RETENTION INCENTIVES FOR HEALTH CARE PROFESSIONALS QUALIFIED IN A CRITICAL MILITARY SKILL.

(a) **EXCEPTION TO LIMITATION ON MAXIMUM BONUS AMOUNT.**—Subsection (d) of section 323 of title 37, United States Code, is amended—

(1) by inserting “(1)” before “A member”; and

(2) by adding at the end the following new paragraph:

“(2) The limitation in paragraph (1) on the total bonus payments that a member may receive under this section does not apply with respect to an officer who is assigned duties as a health care professional.”.

(b) **EXCEPTION TO YEARS OF SERVICE LIMITATION.**—Subsection (e) of such section is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by inserting “(1)” before “A retention”; and

(3) by adding at the end the following new paragraph:

“(2) The limitations in paragraph (1) do not apply with respect to an officer who is assigned duties as a health care professional during the period of active duty for which the bonus is being offered.”.

Subtitle C—Travel and Transportation Allowances

SEC. 621. EXTENSION OF LEAVE TRAVEL DEFERRAL PERIOD FOR MEMBERS PERFORMING CONSECUTIVE OVERSEAS TOURS OF DUTY.

(a) **AUTHORIZED DEFERRAL PERIOD.**—Section 411b of title 37, United States Code is amended by inserting after subsection (a) the following new subsection:

“(b) **AUTHORITY TO DEFER TRAVEL; LIMITATIONS.**—(1) Under the regulations referred to in subsection (a), a member may defer

the travel for which the member is paid travel and transportation allowances under this section until any time before the completion of the consecutive tour at the same duty station or the completion of the tour of duty at the new duty station under the order involved, as the case may be.

“(2) If a member is unable to undertake the travel before expiration of the deferral period under paragraph (1) because of duty in connection with a contingency operation, the member may defer the travel until not more than one year after the date on which the member’s duty in connection with the contingency operation ends.”.

(b) CONFORMING AND CLERICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (a)—

(A) by striking “(a)(1)” and inserting “(a) ALLOWANCES AUTHORIZED.—”; and

(B) by striking paragraph (2); and

(2) by striking “(b) The allowances” and inserting “(c)

LIMITATION ON ALLOWANCE RATE.—The allowances”.

(c) APPLICATION OF AMENDMENT.—Subsection (b) of section 411b of title 37, United States Code, as added by subsection (a), shall apply with respect to members of the uniformed services in a deferred leave travel status under such section as of the date of the enactment of this Act or becomes entitled to travel and transportation allowances under such section on or after that date.

37 USC 411b
note.

SEC. 622. TRANSPORTATION OF MOTOR VEHICLES FOR MEMBERS REPORTED MISSING.

(a) AUTHORITY TO SHIP TWO MOTOR VEHICLES.—Subsection (a) of section 554 of title 37, United States Code, is amended by striking “one privately owned motor vehicle” both places it appears and inserting “two privately owned motor vehicles”.

(b) PAYMENTS FOR LATE DELIVERY.—Subsection (i) of such section is amended by adding at the end the following new sentence: “In a case in which two motor vehicles of a member (or the dependent or dependents of a member) are transported at the expense of the United States, no reimbursement is payable under this subsection unless both motor vehicles do not arrive at the authorized destination of the vehicles by the designated delivery date.”.

(c) APPLICABILITY.—The amendments made by subsection (a) shall apply with respect to members whose eligibility for benefits under section 554 of title 37, United States Code, commences on or after the date of the enactment of this Act.

37 USC 554 note.

Subtitle D—Retired Pay and Survivor Benefits

SEC. 631. PERMANENT REDUCTION FROM EIGHT TO SIX IN NUMBER OF YEARS OF RESERVE SERVICE REQUIRED FOR ELIGIBILITY FOR RETIRED PAY FOR NON-REGULAR SERVICE.

(a) REDUCTION IN REQUIREMENT FOR YEARS OF RESERVE COMPONENT SERVICE BEFORE RETIRED PAY ELIGIBILITY.—Subsection (a)(3) of section 12731 of title 10, United States Code, is amended—

(1) by striking “eight years” and inserting “six years”; and

(2) by inserting before the semicolon “, except that in the case of a person who completed the service requirements of paragraph (2) before October 5, 1994, the number of years of such qualifying service under this paragraph shall be eight”.

(b) CONFORMING AMENDMENT.—Subsection (f) of such section is repealed.

10 USC 12731
note.

(c) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 2002. No benefit shall accrue to any person for any period before that date by reason of the enactment of those amendments.

SEC. 632. INCREASED RETIRED PAY FOR ENLISTED RESERVES CREDITED WITH EXTRAORDINARY HEROISM.

(a) AUTHORITY.—Section 12739 of title 10, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

“(b) If a person entitled to retired pay under this chapter has been credited by the Secretary concerned with extraordinary heroism in the line of duty and if the highest grade held satisfactorily by that person at any time in the armed forces is an enlisted grade, the person’s retired pay shall be increased by 10 percent of the amount determined under subsection (a). The Secretary’s determination as to extraordinary heroism is conclusive for all purposes.”.

(b) CONFORMING AMENDMENT.—Subsection (c) of such section, as redesignated by subsection (a)(1), is amended by striking “amount computed under subsection (a)” and inserting “total amount of the monthly retired pay computed under subsections (a) and (b)”.

10 USC 12739
note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 2002, and shall apply with respect to retired pay for months beginning on or after that date.

SEC. 633. ELIMINATION OF POSSIBLE INVERSION IN RETIRED PAY COST-OF-LIVING ADJUSTMENT FOR INITIAL COLA COMPUTATION.

(a) ELIMINATION OF POSSIBLE COLA INVERSION.—Section 1401a of title 10, United States Code, is amended—

(1) in subsections (c)(1), (d), and (e), by inserting “but subject to subsection (f)(2)” after “Notwithstanding subsection (b)”;

(2) in subsection (c)(2), by inserting “(subject to subsection (f)(2) as applied to other members whose retired pay is computed on the current rates of basic pay in the most recent adjustment under this section)” after “shall be increased”; and

(3) in subsection (f)—

(A) by designating the text after the subsection heading as paragraph (1), indenting that text two ems, and inserting “PREVENTION OF RETIRED PAY INVERSIONS.—” before “Notwithstanding”; and

(B) by adding at the end the following new paragraph:
“(2) PREVENTION OF COLA INVERSIONS.—The percentage of the first adjustment under this section in the retired pay of any person, as determined under subsection (c)(1), (c)(2), (d),

or (e), may not exceed the percentage increase in retired pay determined under subsection (b)(2) that is effective on the same date as the effective date of such first adjustment.”.

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) in subsection (d), by inserting “or on or after August 1, 1986, if the member or former member did not elect to receive a bonus under section 322 of title 37” after “August 1, 1986,”; and

(2) in subsection (e), by inserting “and elected to receive a bonus under section 322 of title 37” after “August 1, 1986,”.

SEC. 634. TECHNICAL REVISIONS TO SO-CALLED “FORGOTTEN WIDOWS” ANNUITY PROGRAM.

10 USC 1448
note.

(a) CLARIFICATION OF ELIGIBILITY.—Subsection (a)(1) of section 644 of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105-85; 10 U.S.C. 1448 note) is amended—

(1) in subparagraph (A), by inserting after “(A)” the following: “became entitled to retired or retainer pay before September 21, 1972,”; and

(2) in subparagraph (B), by striking “was a member of a reserve component of the Armed Forces” and inserting “died”.

(b) CLARIFICATION OF INTERACTION WITH OTHER BENEFITS.—(1) Subsection (a)(2) of such section is amended by striking “and who” and all that follows through “note”.

(2) Subsection (b)(2) of such section is amended to read as follows:

“(2) The amount of an annuity to which a surviving spouse is entitled under this section for any period shall be reduced (but not below zero) by any amount paid to that surviving spouse for the same period under any of the following provisions of law:

“(A) Section 1311(a) of title 38, United States Code (relating to dependency and indemnity compensation payable by the Secretary of Veterans Affairs).

“(B) Chapter 73 of title 10, United States Code.

“(C) Section 4 of Public Law 92-425 (10 U.S.C. 1448 note).”.

(c) CLARIFICATION OF DEFINITION OF SURVIVING SPOUSE.—Subsection (d)(2) of such section is amended by striking “the terms” and all that follows through “and (8)” and inserting “such term in paragraph (9)”.

(d) SPECIFICATION IN LAW OF CURRENT BENEFIT AMOUNT.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking “\$165” and inserting “\$185.58”; and

(2) in paragraph (3)—

(A) by striking “the date of the enactment of this Act” and inserting “May 1, 2002,”; and

(B) by striking the last sentence.

(e) SPECIFICATION OF ENACTMENT MONTH.—Subsection (e) of such section is amended—

(1) in paragraph (1), by striking “the month in which this Act is enacted” and inserting “November 1997”; and

(2) in paragraph (2), by striking “the first month that begins after the month in which this Act is enacted” and inserting “December 1997”.

SEC. 635. EXPANSION OF AUTHORITY OF SECRETARY OF DEFENSE TO WAIVE TIME LIMITATIONS ON CLAIMS AGAINST THE GOVERNMENT FOR MILITARY PERSONNEL BENEFITS.

(a) **AUTHORITY FOR WAIVER OF TIME LIMITATIONS.**—Paragraph (1) of section 3702(e) of title 31, United States Code, is amended by striking “a claim” and all that follows through “title 10” and inserting “a claim referred to in subsection (a)(1)(A)”.

(b) **TECHNICAL AMENDMENTS.**—(1) Such paragraph is further amended—

(A) by striking “Upon the request” and all that follows through “the Secretary of Defense” and inserting “The Secretary of Defense”;

(B) by striking “and, subject to paragraph (2), settle the claim”; and

(C) by adding at the end the following new sentence: “In the case of a claim by or with respect to a member of the uniformed services who is not under the jurisdiction of the Secretary of a military department, such a waiver may be made only upon the request of the Secretary concerned (as defined in section 101 of title 37).”.

(2) Paragraph (2) of such section is amended—

(A) by striking “under paragraph (1)” and inserting “under subsection (a)(1)(A)”; and

(B) by inserting before the period at the end the following: “, except that in the case of a claim for retired pay or survivor benefits, if the obligation claimed would have been paid from a trust fund if timely paid, the payment of the claim shall be made from that trust fund”.

31 USC 3702
note.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall apply with respect to claims against the United States presented to the Secretary of Defense under section 3702 of title 31, United States Code, on or after the date of the enactment of this Act.

SEC. 636. SPECIAL COMPENSATION FOR CERTAIN COMBAT-RELATED DISABLED UNIFORMED SERVICES RETIREES.

(a) **AUTHORITY.**—(1) Chapter 71 of title 10, United States Code, is amended by inserting after section 1413 the following new section:

“§ 1413a. Special compensation for certain combat-related disabled uniformed services retirees

“(a) **AUTHORITY.**—The Secretary concerned shall pay to each eligible combat-related disabled uniformed services retiree who elects benefits under this section a monthly amount for the combat-related disability of the retiree determined under subsection (b).

“(b) **AMOUNT.**—

“(1) **DETERMINATION OF MONTHLY AMOUNT.**—Subject to paragraphs (2) and (3), the monthly amount to be paid an eligible combat-related disabled uniformed services retiree for a combat-related disability under subsection (a) is the monthly amount of compensation to which the retiree would be entitled solely for the combat-related disability consistent with chapter 11 of title 38.

“(2) **MAXIMUM AMOUNT.**—The amount paid to an eligible combat-related disabled uniformed services retiree for any month under paragraph (1) may not exceed the amount of

the reduction in retired pay that is applicable to the retiree for that month under sections 5304 and 5305 of title 38.

“(3) SPECIAL RULES FOR CHAPTER 61 DISABILITY RETIREES.—

In the case of an eligible combat-related disabled uniformed services retiree who is retired under chapter 61 of this title, the amount of the payment under paragraph (1) for any month shall be reduced by the amount (if any) by which the amount of the member’s retired pay under chapter 61 of this title exceeds the amount of retired pay to which the member would have been entitled under any other provision of law based upon the member’s service in the uniformed services if the member had not been retired under chapter 61 of this title.

“(c) ELIGIBLE RETIREES.—For purposes of this section, an eligible combat-related disabled uniformed services retiree referred to in subsection (a) is a member of the uniformed services entitled to retired pay who—

“(1) has completed at least 20 years of service in the uniformed services that are creditable for purposes of computing the amount of retired pay to which the member is entitled; and

“(2) has a qualifying combat-related disability.

“(d) PROCEDURES.—The Secretary of Defense shall prescribe procedures and criteria under which a disabled uniformed services retiree may apply to the Secretary of a military department to be considered to be an eligible combat-related disabled uniformed services retiree. Such procedures shall apply uniformly throughout the Department of Defense.

“(e) QUALIFYING COMBAT-RELATED DISABILITY.—In this section, the term ‘qualifying combat-related disability’ means either of the following:

“(1) A disability that—

“(A) is attributable to an injury for which the member was awarded the Purple Heart; and

“(B) is rated as not less than 10 percent disabling—

“(i) by the Secretary concerned, as of the date on which the member is retired from the uniformed services, under criteria prescribed by the Secretary of Defense; or

“(ii) by the Secretary of Veterans Affairs.

“(2) A service-connected disability that—

“(A) was incurred (as determined under criteria prescribed by the Secretary of Defense)—

“(i) as a direct result of armed conflict;

“(ii) while engaged in hazardous service;

“(iii) in the performance of duty under conditions simulating war; or

“(iv) through an instrumentality of war; and

“(B) is rated as not less than 60 percent disabling—

“(i) by the Secretary concerned, as of the date on which the member is retired from the uniformed services, under criteria prescribed by the Secretary of Defense; or

“(ii) by the Secretary of Veterans Affairs.

“(f) CONSTRUCTION WITH SPECIAL COMPENSATION FOR SEVERELY DISABLED UNIFORMED SERVICES RETIREES.—

“(1) SINGLE SOURCE OF COMPENSATION.—An individual who is paid special compensation under this section may not receive special compensation under section 1413 of this title.

“(2) ELECTION OF SOURCE.—An individual who is eligible for special compensation under this section and special compensation under section 1413 of this title shall elect which special compensation to receive.

“(3) REGULATIONS.—The Secretary of Defense shall prescribe in regulations the manner and form of an election under this subsection.

“(g) STATUS OF PAYMENTS.—Payments under this section are not retired pay.

“(h) SOURCE OF PAYMENTS.—Payments under this section for any fiscal year shall be paid out of funds appropriated for pay and allowances payable by the Secretary concerned for that fiscal year.

“(i) OTHER DEFINITIONS.—In this section:

“(1) The term ‘service-connected’ has the meaning given such term in section 101 of title 38.

“(2) The term ‘retired pay’ includes retainer pay, emergency officers’ retirement pay, and naval pension.”.

10 USC 1413a
note.

(2) Section 1413a of title 10, United States Code, as added by paragraph (1), shall take effect not later than 180 days after the date of the enactment of this Act.

(3) The table of sections at the beginning of chapter 71 of such title is amended by inserting after the item relating to section 1413 the following new item:

“1413a. Special compensation for certain combat-related disabled uniformed services retirees.”.

(b) SPECIAL COMPENSATION FOR CERTAIN SEVERELY DISABLED UNIFORMED SERVICES RETIREES.—Section 1413 of title 10, United States Code, is amended—

(1) by redesignating subsections (e), (f) and (g) as subsections (f), (g), and (h), respectively; and

(2) by inserting after subsection (d) the following new subsection (e):

“(e) CONSTRUCTION WITH SPECIAL COMPENSATION FOR COMBAT-DISABLED UNIFORMED SERVICES RETIREES.—(1) An individual who is paid special compensation under this section may not receive special compensation under section 1413a of this title.

“(2) An individual who is eligible for special compensation under this section and special compensation under section 1413a of this title shall elect which special compensation to receive.

Regulations.

“(3) The Secretary of Defense shall prescribe in regulations the manner and form of an election under this subsection.”.

Subtitle E—Montgomery GI Bill

SEC. 641. TIME LIMITATION FOR USE OF MONTGOMERY GI BILL ENTITLEMENT BY MEMBERS OF THE SELECTED RESERVE.

(a) EXTENSION OF LIMITATION PERIOD.—Section 16133(a)(1) of title 10, United States Code, is amended by striking “10-year” and inserting “14-year”.

(b) **EFFECTIVE DATE AND APPLICABILITY.**—The amendment made by subsection (a) shall take effect on October 1, 2002, and shall apply with respect to periods of entitlement to educational assistance under chapter 1606 of title 10, United States Code, that begin on or after October 1, 1992. 10 USC 16133 note.

SEC. 642. REPAYMENT REQUIREMENTS UNDER RESERVE COMPONENT MONTGOMERY GI BILL ARISING FROM FAILURE TO PARTICIPATE SATISFACTORILY IN MILITARY SERVICE TO BE CONSIDERED DEBTS OWED TO THE UNITED STATES.

Section 16135 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(c)(1) Subject to subsection (a)(2), an obligation to pay a refund to the United States under subsection (a)(1)(B) in an amount determined under subsection (b) is, for all purposes, a debt owed to the United States.

“(2) A discharge in bankruptcy under title 11 that is entered less than five years after the termination of an enlistment or other agreement under this section does not discharge the person signing such enlistment or other agreement from a debt arising under the enlistment or agreement, respectively, under this subsection.”.

SEC. 643. TECHNICAL ADJUSTMENTS TO AUTHORITY FOR CERTAIN MEMBERS TO TRANSFER EDUCATIONAL ASSISTANCE UNDER MONTGOMERY GI BILL TO DEPENDENTS.

(a) **CLARIFICATION OF RATE OF EDUCATIONAL ASSISTANCE FOR DEPENDENTS TO WHOM ENTITLEMENT IS TRANSFERRED.**—Section 3020(h) of title 38, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking “paragraphs (4) and (5)” and inserting “paragraphs (5) and (6)”; and

(B) by striking “and at the same rate”;

(2) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3)(A) Subject to subparagraph (B), the monthly rate of educational assistance payable to a dependent to whom entitlement is transferred under this section shall be the monthly amount payable under sections 3015 and 3022 of this title to the individual making the transfer.

“(B) The monthly rate of assistance payable to a dependent under subparagraph (A) shall be subject to the provisions of section 3032 of this title, except that the provisions of subsection (a)(1) of that section shall not apply even if the individual making the transfer to the dependent under this section is on active duty during all or any part of enrollment period of the dependent in which such entitlement is used.”.

(b) **SOURCE OF FUNDS FROM INCREASED USAGE.**—Section 3035(b) of such title is amended—

(1) in paragraph (1), by striking “paragraphs (2) and (3) of this subsection” and inserting “paragraphs (2), (3), and (4)”; and

(2) by adding at the end the following new paragraph:

“(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department

of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.”

38 USC 3020
note.

(c) EFFECTIVE DATE.—(1) The amendments made by subsection (a) shall take effect as if included in the enactment of section 3020 of title 38, United States Code, by section 654(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1153).

38 USC 3035
note.

(2) The amendments made by subsection (b) shall take effect as if made by section 654 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1153).

Subtitle F—Other Matters

SEC. 651. PAYMENT OF INTEREST ON STUDENT LOANS.

(a) AUTHORITY.—(1) Chapter 109 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2174. Interest payment program: members on active duty

“(a) AUTHORITY.—(1) The Secretary concerned may pay in accordance with this section the interest and any special allowances that accrue on one or more student loans of an eligible member of the armed forces.

“(2) The Secretary of a military department may exercise the authority under paragraph (1) only if approved by the Secretary of Defense and subject to such requirements, conditions, and restrictions as the Secretary of Defense may prescribe.

“(b) ELIGIBLE MEMBERS.—A member of the armed forces is eligible for the benefit under subsection (a) while the member—

“(1) is serving on active duty in fulfillment of the member’s first enlistment in the armed forces or, in the case of an officer, is serving on active duty and has not completed more than three years of service on active duty;

“(2) is the debtor on one or more unpaid loans described in subsection (c); and

“(3) is not in default on any such loan.

“(c) STUDENT LOANS.—The authority to make payments under subsection (a) may be exercised with respect to the following loans:

“(1) A loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.).

“(2) A loan made under part D of such title (20 U.S.C. 1087a et seq.).

“(3) A loan made under part E of such title (20 U.S.C. 1087aa et seq.).

“(d) MAXIMUM BENEFIT.—The months for which interest and any special allowance may be paid on behalf of a member of the armed forces under this section are any 36 consecutive months during which the member is eligible under subsection (b).

“(e) FUNDS FOR PAYMENTS.—Appropriations available for the pay and allowances of military personnel shall be available for payments under this section.

“(f) COORDINATION.—(1) The Secretary of Defense and, with respect to the Coast Guard when it is not operating as a service in the Navy, the Secretary of the Department in which the Coast

Guard is operating shall consult with the Secretary of Education regarding the administration of the authority under this section.

“(2) The Secretary concerned shall transfer to the Secretary of Education the funds necessary—

“(A) to pay interest and special allowances on student loans under this section (in accordance with sections 428(o), 455(l), and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o), 1087e(l), and 1087dd(j)); and

“(B) to reimburse the Secretary of Education for any reasonable administrative costs incurred by the Secretary in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965.

“(g) SPECIAL ALLOWANCE DEFINED.—In this section, the term ‘special allowance’ means a special allowance that is payable under section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087-1).”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2174. Interest payment program: members on active duty.”.

(b) FEDERAL FAMILY EDUCATION LOANS AND DIRECT LOANS.—

(1) Subsection (c)(3) of section 428 of the Higher Education Act of 1965 (20 U.S.C. 1078) is amended—

(A) in clause (i) of subparagraph (A)—

(i) by striking “or” at the end of subclause (II);

(ii) by inserting “or” at the end of subclause (III);

and

(iii) by adding at the end the following new subclause:

“(IV) is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest is being paid on such loan under subsection (o);”;

(B) in clause (ii)(II) of subparagraph (A), by inserting “or (IV)” after “clause (i)(II)”; and

(C) by striking subparagraph (C) and inserting the following:

“(C) shall contain provisions that specify that—

“(i) the form of forbearance granted by the lender pursuant to this paragraph, other than subparagraph (A)(i)(IV), shall be temporary cessation of payments, unless the borrower selects forbearance in the form of an extension of time for making payments, or smaller payments than were previously scheduled; and

“(ii) the form of forbearance granted by the lender pursuant to subparagraph (A)(i)(IV) shall be the temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (o); and”.

(2) Section 428 of such Act is further amended by adding at the end the following new subsection:

“(o) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

“(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest and any special allowance on a

loan to a member of the Armed Forces that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any special allowance on such a loan out of any funds other than funds that have been so transferred.

“(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV).

“(3) SPECIAL ALLOWANCE DEFINED.—For the purposes of this subsection, the term ‘special allowance’, means a special allowance that is payable with respect to a loan under section 438.”.

(c) FEDERAL DIRECT LOANS.—Section 455 of the Higher Education Act of 1965 (20 U.S.C. 1087e) is amended by adding at the end the following new subsection:

“(1) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

“(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

“(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph.”.

(d) FEDERAL PERKINS LOANS.—Section 464 of the Higher Education Act of 1965 (20 U.S.C. 1087dd) is amended—

(1) in subsection (e)—

(A) by striking “or” at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting “; or”; and

(C) by adding at the end the following new paragraph:

“(3) the borrower is eligible for interest payments to be made on such loan for service in the Armed Forces under section 2174 of title 10, United States Code, and, pursuant to that eligibility, the interest on such loan is being paid under subsection (j), except that the form of a forbearance under this paragraph shall be a temporary cessation of all payments on the loan other than payments of interest on the loan that are made under subsection (j).”; and

(2) by adding at the end the following new subsection:

“(j) ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM.—

“(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, for the payment of interest on a loan made under this part to a member of the Armed Forces, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest

on such a loan out of any funds other than funds that have been so transferred.

“(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(3).”.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to interest, and any special allowance under section 438 of the Higher Education Act of 1965, that accrue for months beginning on or after October 1, 2003, on student loans described in subsection (c) of section 2174 of title 10, United States Code (as added by subsection (a)), that were made before, on, or after such date to members of the Armed Forces who are on active duty (as defined in section 101(d) of title 10, United States Code) on or after that date. 10 USC 2174 note.

SEC. 652. ADDITIONAL AUTHORITY TO PROVIDE ASSISTANCE FOR FAMILIES OF MEMBERS OF THE ARMED FORCES.

(a) AUTHORITY.—(1) Subchapter I of chapter 88 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 1788. Additional family assistance

“(a) AUTHORITY.—The Secretary of Defense may provide for the families of members of the armed forces serving on active duty, in addition to any other assistance available for such families, any assistance that the Secretary considers appropriate to ensure that the children of such members obtain needed child care, education, and other youth services.

“(b) PRIMARY PURPOSE OF ASSISTANCE.—The assistance authorized by this section should be directed primarily toward providing needed family support, including child care, education, and other youth services, for children of members of the Armed Forces who are deployed, assigned to duty, or ordered to active duty in connection with a contingency operation.”.

(2) The table of sections at the beginning of such subchapter is amended by adding at the end the following new item:

“1788. Additional family assistance.”.

(b) EFFECTIVE DATE.—Section 1788 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 2002. 10 USC 1788 note.

SEC. 653. REPEAL OF AUTHORITY FOR ACCEPTANCE OF HONORARIA BY PERSONNEL AT CERTAIN DEPARTMENT OF DEFENSE SCHOOLS.

(a) REPEAL OF EXEMPTION.—Section 542 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102–484; 106 Stat. 2413; 10 U.S.C. prec. 2161 note) is repealed.

(b) EFFECTIVE DATE.—The repeal made by subsection (a) shall apply with respect to appearances made, speeches presented, and articles published on or after October 1, 2002. 10 USC note prec. 2161. 10 USC note prec. 2161.

SEC. 654. ADDITION OF DEFINITION OF CONTINENTAL UNITED STATES IN TITLE 37.

(a) DEFINITION.—Section 101(1) of title 37, United States Code, is amended—

(1) by inserting “(A)” after “(1)”; and

(2) by adding at the end the following new subparagraph:
 “(B) The term ‘continental United States’ means the 48 contiguous States and the District of Columbia.”.

(b) CONFORMING AMENDMENTS.—Title 37, United States Code, is amended as follows:

(1) Section 314(a)(3) is amended by striking “the 48 contiguous States and the District of Columbia” and inserting “the continental United States”.

(2) Section 403b(i) is amended by striking paragraph (6).

(3) Section 409 is amended by striking subsection (e).

(4) Section 411b(a) is amended by striking “the 48 contiguous States and the District of Columbia” both places it appears and inserting “the continental United States”.

(5) Section 411d is amended by striking subsection (d).

(6) Section 430 is amended by striking subsection (f) and inserting the following new subsection (f):

“(f) DEFINITIONS.—In this section:

“(1) The term ‘formal education’ means the following:

“(A) A secondary education.

“(B) An undergraduate college education.

“(C) A graduate education pursued on a full-time basis at an institution of higher education.

“(D) Vocational education pursued on a full-time basis at a postsecondary vocational institution.

“(2) The term ‘institution of higher education’ has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

“(3) The term ‘postsecondary vocational institution’ has the meaning given that term in section 102(c) of the Higher Education Act of 1965 (20 U.S.C. 1002(c)).”.

TITLE VII—HEALTH CARE PROVISIONS

Subtitle A—Health Care Program Improvements

- Sec. 701. Elimination of requirement for TRICARE preauthorization of inpatient mental health care for medicare-eligible beneficiaries.
- Sec. 702. Continued TRICARE eligibility of dependents residing at remote locations after departure of sponsors for unaccompanied assignments and eligibility of dependents of reserve component members ordered to active duty.
- Sec. 703. Eligibility of surviving dependents for TRICARE dental program benefits after discontinuance of former enrollment.
- Sec. 704. Department of Defense Medicare-Eligible Retiree Health Care Fund.
- Sec. 705. Approval of medicare providers as TRICARE providers.
- Sec. 706. Technical corrections relating to transitional health care for members separated from active duty.
- Sec. 707. Extension of temporary authority to enter into personal services contracts for the performance of health care responsibilities at locations other than military medical treatment facilities.
- Sec. 708. Access to health care services for beneficiaries eligible for TRICARE and Department of Veterans Affairs health care.
- Sec. 709. Disclosure of information on Project 112 to Department of Veterans Affairs.

Subtitle B—Reports

- Sec. 711. Claims information.
- Sec. 712. Comptroller General report on provision of care under the TRICARE program.
- Sec. 713. Repeal of report requirement.

**Subtitle C—Department of Defense-Department of Veterans Affairs Health
Resources Sharing**

- Sec. 721. Revised coordination and sharing guidelines.
Sec. 722. Health care resources sharing and coordination project.
Sec. 723. Report on improved coordination and sharing of health care and health care resources following domestic acts of terrorism or domestic use of weapons of mass destruction.
Sec. 724. Interoperability of Department of Veterans Affairs and Department of Defense pharmacy data systems.
Sec. 725. Joint pilot program for providing graduate medical education and training for physicians.
Sec. 726. Repeal of certain limits on Department of Veterans Affairs resources.

**Subtitle A—Health Care Program
Improvements**

**SEC. 701. ELIMINATION OF REQUIREMENT FOR TRICARE
PREAUTHORIZATION OF INPATIENT MENTAL HEALTH
CARE FOR MEDICARE-ELIGIBLE BENEFICIARIES.**

(a) ELIMINATION OF REQUIREMENT.—Section 1079(i)(3) of title 10, United States Code, is amended—

(1) by inserting “(A)” after “(3)”;

(2) by striking “Except in the case of an emergency,” and inserting “Except as provided in subparagraph (B),”; and

(3) by adding at the end the following new subparagraphs:

“(B) Preadmission authorization for inpatient mental health services is not required under subparagraph (A) in the following cases:

“(i) In the case of an emergency.

“(ii) In a case in which any benefits are payable for such services under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.), subject to subparagraph (C).

“(C) In a case of inpatient mental health services to which subparagraph (B)(ii) applies, the Secretary shall require advance authorization for a continuation of the provision of such services after benefits cease to be payable for such services under such part A.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect October 1, 2003.

10 USC 1079
note.

**SEC. 702. CONTINUED TRICARE ELIGIBILITY OF DEPENDENTS
RESIDING AT REMOTE LOCATIONS AFTER DEPARTURE
OF SPONSORS FOR UNACCOMPANIED ASSIGNMENTS AND
ELIGIBILITY OF DEPENDENTS OF RESERVE COMPONENT
MEMBERS ORDERED TO ACTIVE DUTY.**

Section 1079(p) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “dependents referred to in subsection (a) of a member of the uniformed services referred to in section 1074(c)(3) of this title who are residing with the member” and inserting “dependents described in paragraph (3)”;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3) This subsection applies with respect to a dependent referred to in subsection (a) who—

“(A) is a dependent of a member of the uniformed services referred to in section 1074(c)(3) of this title and is residing with the member;

“(B) is a dependent of a member who, after having served in a duty assignment described in section 1074(c)(3) of this title, has relocated without the dependent pursuant to orders for a permanent change of duty station from a remote location described in subparagraph (B)(ii) of such section where the member and the dependent resided together while the member served in such assignment, if the orders do not authorize dependents to accompany the member to the new duty station at the expense of the United States and the dependent continues to reside at the same remote location, or

“(C) is a dependent of a reserve component member ordered to active duty for a period of more than 30 days and is residing with the member, and the residence is located more than 50 miles, or approximately one hour of driving time, from the nearest military medical treatment facility adequate to provide the needed care.”.

SEC. 703. ELIGIBILITY OF SURVIVING DEPENDENTS FOR TRICARE DENTAL PROGRAM BENEFITS AFTER DISCONTINUANCE OF FORMER ENROLLMENT.

Section 1076a(k)(2) of title 10, United States Code, is amended by striking “if the dependent is enrolled on the date of the death of the member in a dental benefits plan established under subsection (a)” and inserting “if, on the date of the death of the member, the dependent is enrolled in a dental benefits plan established under subsection (a) or is not enrolled in such a plan by reason of a discontinuance of a former enrollment under subsection (f)”.

SEC. 704. DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND.

(a) **SOURCE OF FUNDS FOR MONTHLY ACCRUAL PAYMENTS INTO THE FUND.**—Section 1116(c) of title 10, United States Code, is amended by striking “health care programs” and inserting “pay of members”.

(b) **MANDATORY PARTICIPATION OF OTHER UNIFORMED SERVICES.**—Section 1111(c) of such title is amended—

(1) in the first sentence, by striking “may enter into an agreement with any other administering Secretary” and inserting “shall enter into an agreement with each other administering Secretary”; and

(2) in the second sentence, by striking “Any such” and inserting “The”.

SEC. 705. APPROVAL OF MEDICARE PROVIDERS AS TRICARE PROVIDERS.

(a) **IN GENERAL.**—Section 1079 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(q) Subject to subsection (a), a physician or other health care practitioner who is eligible to receive reimbursement for services provided under medicare (as defined in section 1086(d)(3)(C) of this title) shall be considered approved to provide medical care authorized under this section and section 1086 of this title unless the administering Secretaries have information indicating medicare,

TRICARE, or other Federal health care program integrity violations by the physician or other health care practitioner.”.

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply with respect to any contract under the TRICARE program entered into on or after the date of the enactment of this Act. 10 USC 1079 note.

SEC. 706. TECHNICAL CORRECTIONS RELATING TO TRANSITIONAL HEALTH CARE FOR MEMBERS SEPARATED FROM ACTIVE DUTY.

(a) **CONTINUED APPLICABILITY TO DEPENDENTS.**—Subsection (a)(1) of section 736 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1172) is amended to read as follows: 10 USC 1145.

“(1) in paragraph (1), by striking ‘paragraph (2), a member’ and all that follows through ‘of the member),’ and inserting ‘paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member)’;”.

(b) **CLARIFICATION REGARDING THE COAST GUARD.**—Subsection (b)(2) of such section is amended to read as follows:

“(2) in subsection (e)—

“(A) by striking the first sentence; and

“(B) by striking ‘the Coast Guard’ in the second sentence and inserting ‘the members of the Coast Guard and their dependents.’”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall take effect as of December 28, 2001, and as if included in the National Defense Authorization Act for Fiscal Year 2002 as enacted. 10 USC 1145 note.

SEC. 707. EXTENSION OF TEMPORARY AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS FOR THE PERFORMANCE OF HEALTH CARE RESPONSIBILITIES AT LOCATIONS OTHER THAN MILITARY MEDICAL TREATMENT FACILITIES.

Section 1091(a)(2) of title 10, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2003”.

SEC. 708. ACCESS TO HEALTH CARE SERVICES FOR BENEFICIARIES ELIGIBLE FOR TRICARE AND DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE. 10 USC 1071 note.

(a) **REQUIREMENT TO ESTABLISH PROCESS.**—(1) The Secretary of Defense shall prescribe in regulations a process for resolving issues relating to patient safety and continuity of care for covered beneficiaries who are concurrently entitled to health care under the TRICARE program and eligible for health care services provided by the Department of Veterans Affairs. The Secretary shall— Regulations.

(A) ensure that the process provides for coordination of, and access to, health care from the two sources in a manner that prevents diminution of access to health care from either source; and

(B) in consultation with the Secretary of Veterans Affairs, prescribe a clear definition of an “episode of care” for use in the resolution of patient safety and continuity of care issues under such process.

(2) Not later than May 1, 2003, the Secretary shall submit to the Committees on Armed Services of the Senate and of the Deadline. Reports.

House of Representatives a report describing the process prescribed under paragraph (1).

(3) While prescribing the process under paragraph (1) and upon completion of the report under paragraph (2), the Secretary shall provide to the Comptroller General information that would be relevant in carrying out the study required by subsection (b).

(b) COMPTROLLER GENERAL STUDY AND REPORT.—(1) The Comptroller General shall conduct a study of the health care issues of covered beneficiaries described in subsection (a). The study shall include the following:

(A) An analysis of whether covered beneficiaries who seek services through the Department of Veterans Affairs are receiving needed health care services in a timely manner from the Department of Veterans Affairs, as compared to the timeliness of the care available to covered beneficiaries under TRICARE Prime (as set forth in access to care standards under TRICARE program policy that are applicable to the care being sought).

(B) An evaluation of the quality of care for covered beneficiaries who do not receive needed services from the Department of Veterans Affairs within a time period that is comparable to the time period provided for under such access to care standards and who then must seek alternative care under the TRICARE program.

(C) Recommendations to improve access to, and timeliness and quality of, care for covered beneficiaries described in subsection (a).

(D) An evaluation of the feasibility and advisability of making access to care standards applicable jointly under the TRICARE program and the Department of Veterans Affairs health care system.

(E) A review of the process prescribed by the Secretary of Defense under subsection (a) to determine whether the process ensures the adequacy and quality of the health care services provided to covered beneficiaries under the TRICARE program and through the Department of Veterans Affairs, together with timeliness of access to such services and patient safety.

Deadline.

(2) Not later than 60 days after the congressional committees specified in subsection (a)(2) receive the report required under that subsection, the Comptroller General shall submit to those committees a report on the study conducted under this subsection.

(c) DEFINITIONS.—In this section:

(1) The term “covered beneficiary” has the meaning provided by section 1072(5) of title 10, United States Code.

(2) The term “TRICARE program” has the meaning provided by section 1072(7) of such title.

(3) The term “TRICARE Prime” has the meaning provided by section 1097a(f) of such title.

10 USC 1074.

SEC. 709. DISCLOSURE OF INFORMATION ON PROJECT 112 TO DEPARTMENT OF VETERANS AFFAIRS.

Deadline.

(a) PLAN FOR DISCLOSURE OF INFORMATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a comprehensive plan for the review, declassification, and submittal to the Department of Veterans Affairs of all records

and information of the Department of Defense on Project 112 that are relevant to the provision of benefits by the Secretary of Veterans Affairs to members of the Armed Forces who participated in that project.

(b) **PLAN REQUIREMENTS.**—(1) The records and information covered by the plan under subsection (a) shall be the records and information necessary to permit the identification of members of the Armed Forces who were or may have been exposed to chemical or biological agents as a result of Project 112.

(2) The plan shall provide for completion of all activities contemplated by the plan not later than one year after the date of the enactment of this Act.

(c) **IDENTIFICATION OF OTHER PROJECTS OR TESTS.**—The Secretary of Defense also shall work with veterans and veterans service organizations to identify other projects or tests conducted by the Department of Defense that may have exposed members of the Armed Forces to chemical or biological agents.

(d) **GAO REPORTS ON PLAN AND IMPLEMENTATION.**—(1) Not later than 30 days after submission of the plan under subsection (a), the Comptroller General shall submit to Congress a report reviewing the plan. The report shall include an examination of whether adequate resources have been committed, the timeliness of the information to be released to the Department of Veterans Affairs, and the adequacy of the procedures to notify affected veterans of potential exposure. Deadline.

(2) Not later than six months after implementation of the plan begins, the Comptroller General shall submit to Congress a report evaluating the progress in the implementation of the plan. Deadline.

(e) **DOD REPORTS ON IMPLEMENTATION.**—(1) Not later than six months after the date of the enactment of this Act, and upon completion of all activities contemplated by the plan under subsection (a), the Secretary of Defense shall submit to Congress and the Secretary of Veterans Affairs a report on progress in the implementation of the plan. Deadline.

(2) Each report under paragraph (1) shall include, for the period covered by such report—

(A) the number of records reviewed;

(B) each test, if any, under Project 112 identified during such review;

(C) for each test so identified—

(i) the test name;

(ii) the test objective;

(iii) the chemical or biological agent or agents involved;

and

(iv) the number of members of the Armed Forces, and civilian personnel, potentially effected by such test; and

(D) the extent of submittal of records and information to the Secretary of Veterans Affairs under this section.

(f) **PROJECT 112.**—For purposes of this section, Project 112 refers to the chemical and biological weapons vulnerability-testing program of the Department of Defense conducted by the Deseret Test Center from 1963 to 1969. The project included the Shipboard Hazard and Defense (SHAD) project of the Navy.

Subtitle B—Reports

SEC. 711. CLAIMS INFORMATION.

(a) CORRESPONDENCE TO MEDICARE CLAIMS INFORMATION REQUIREMENTS.—Section 1095c of title 10, United States Code, is amended by adding at the end the following new subsection:

“(d) CORRESPONDENCE TO MEDICARE CLAIMS INFORMATION REQUIREMENTS.—The Secretary of Defense, in consultation with the other administering Secretaries, shall limit the information required in support of claims for payment for health care items and services provided under the TRICARE program to that information that is identical to the information that would be required for claims for reimbursement for those items and services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) except for that information, if any, that is uniquely required by the TRICARE program. The Secretary of Defense shall report to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives any information that is excepted under this provision, and the justification for that exception.”.

10 USC 1095c
note.

(b) APPLICABILITY.—The Secretary of Defense, in consultation with the other administering Secretaries referred to in section 1072(3) of title 10, United States Code, shall apply the limitations required under subsection (d) of section 1095c of such title (as added by subsection (a)) with respect to contracts entered into under the TRICARE program on or after October 1, 2002.

Deadline.

(c) COMPTROLLER GENERAL REPORT ON TRICARE CLAIMS PROCESSING.—Not later than March 31, 2003, the Comptroller General shall submit to Congress an evaluation of the continuing impediments to cost effective claims processing under the TRICARE program. The evaluation shall include a discussion of the following:

(1) The extent of progress implementing improvements in claims processing, particularly regarding the application of best industry practices.

(2) The extent of progress in simplifying claims processing procedures, including the elimination of, or reduction in, the complexity of the Health Care Service Record requirements.

(3) The cost effectiveness of the data collection and fraud prevention capabilities of existing claims processing practices.

(4) Recommendations for improving the claims processing system that will reduce processing and administration costs, create greater competition, and improve fraud-prevention activities.

SEC. 712. COMPTROLLER GENERAL REPORT ON PROVISION OF CARE UNDER THE TRICARE PROGRAM.

Deadline.

Not later than March 31, 2003, the Comptroller General shall submit to Congress an evaluation of the nature of, reasons for, extent of, and trends regarding network provider instability under the TRICARE program, and the effectiveness of efforts by the Department of Defense and managed care support contractors to measure and mitigate such instability. The evaluation shall include a discussion of the following:

(1) The adequacy of measurement tools of TRICARE network instability and their use by the Department of Defense

and managed care support contractors to assess network adequacy and stability.

(2) Recommendations for improvements needed in measurement tools or their application.

(3) The relationship of reimbursement rates and administration requirements (including preauthorization requirements) to TRICARE network instability.

(4) The extent of problems under the TRICARE program and likely future trends with and without intervention using existing authority.

(5) Use of existing authority by the Department of Defense and TRICARE managed care support contractors to apply higher reimbursement rates in specific geographic areas.

(6) Recommendations for specific fiscally prudent measures that could mitigate negative trends or improve provider and network stability.

SEC. 713. REPEAL OF REPORT REQUIREMENT.

42 USC 1395ggg.

Notwithstanding subsection (f)(2) of section 712 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-179), the amendment made by subsection (e) of such section shall not take effect and the paragraph amended by such subsection is repealed.

Subtitle C—Department of Defense-Department of Veterans Affairs Health Resources Sharing

SEC. 721. REVISED COORDINATION AND SHARING GUIDELINES.

(a) IN GENERAL.—(1) Section 8111 of title 38, United States Code, is amended to read as follows:

“§ 8111. Sharing of Department of Veterans Affairs and Department of Defense health care resources

“(a) REQUIRED COORDINATION AND SHARING OF HEALTH CARE RESOURCES.—The Secretary of Veterans Affairs and the Secretary of Defense shall enter into agreements and contracts for the mutually beneficial coordination, use, or exchange of use of the health care resources of the Department of Veterans Affairs and the Department of Defense with the goal of improving the access to, and quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

“(b) JOINT REQUIREMENTS FOR SECRETARIES OF VETERANS AFFAIRS AND DEFENSE.—To facilitate the mutually beneficial coordination, use, or exchange of use of the health care resources of the two Departments, the two Secretaries shall carry out the following functions:

“(1) Develop and publish a joint strategic vision statement and a joint strategic plan to shape, focus, and prioritize the coordination and sharing efforts among appropriate elements

of the two Departments and incorporate the goals and requirements of the joint sharing plan into the strategic and performance plan of each Department under the Government Performance and Results Act.

“(2) Jointly fund the interagency committee provided for under subsection (c).

“(3) Continue to facilitate and improve sharing between individual Department of Veterans Affairs and Department of Defense health care facilities, but giving priority of effort to initiatives (A) that improve sharing and coordination of health resources at the intraregional and nationwide levels, and (B) that improve the ability of both Departments to provide coordinated health care.

“(4) Establish a joint incentive program under subsection (d).

“(c) DOD-VA HEALTH EXECUTIVE COMMITTEE.—(1) There is established an interagency committee to be known as the Department of Veterans Affairs-Department of Defense Health Executive Committee (hereinafter in this section referred to as the ‘Committee’). The Committee is composed of—

“(A) the Deputy Secretary of Veterans Affairs and such other officers and employees of the Department of Veterans Affairs as the Secretary of Veterans Affairs may designate; and

“(B) the Under Secretary of Defense for Personnel and Readiness and such other officers and employees of the Department of Defense as the Secretary of Defense may designate.

“(2)(A) During odd-numbered fiscal years, the Deputy Secretary of Veterans Affairs shall chair the Committee. During even-numbered fiscal years, the Under Secretary of Defense shall chair the Committee.

“(B) The Deputy Secretary and the Under Secretary shall determine the size and structure of the Committee, as well as the administrative and procedural guidelines for the operation of the Committee. The two Departments shall share equally the Committee’s cost of personnel and administrative support and services. Support for such purposes shall be provided at a level sufficient for the efficient operation of the Committee, including a permanent staff and, as required, other temporary working groups of appropriate departmental staff and outside experts.

“(3) The Committee shall recommend to the Secretaries strategic direction for the joint coordination and sharing efforts between and within the two Departments under this section and shall oversee implementation of those efforts.

“(4) The Committee shall submit to the two Secretaries and to Congress an annual report containing such recommendations as the Committee considers appropriate.

“(5) In order to enable the Committee to make recommendations in its annual report under paragraph (4), the Committee shall do the following:

“(A) Review existing policies, procedures, and practices relating to the coordination and sharing of health care resources between the two Departments.

“(B) Identify changes in policies, procedures, and practices that, in the judgment of the Committee, would promote mutually beneficial coordination, use, or exchange of use of the health care resources of the two Departments, with the goal

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of improving the access to, and quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

“(C) Identify and assess further opportunities for the coordination and sharing of health care resources between the Departments that, in the judgment of the Committee, would not adversely affect the range of services, the quality of care, or the established priorities for care provided by either Department.

“(D) Review the plans of both Departments for the acquisition of additional health care resources, especially new facilities and major equipment and technology, in order to assess the potential effect of such plans on further opportunities for the coordination and sharing of health care resources.

“(E) Review the implementation of activities designed to promote the coordination and sharing of health care resources between the Departments.

“(6) The Committee chairman, under procedures jointly developed by the two Secretaries, may require the Inspector General of either or both Departments to assist in activities under paragraph (5)(E).

“(d) JOINT INCENTIVES PROGRAM.—(1) Pursuant to subsection (b)(4), the two Secretaries shall carry out a program to identify, provide incentives to, implement, fund, and evaluate creative coordination and sharing initiatives at the facility, intraregional, and nationwide levels. The program shall be administered by the Committee established in subsection (c), under procedures jointly prescribed by the two Secretaries.

“(2) To facilitate the incentive program, effective October 1, 2003, there is established in the Treasury a fund to be known as the ‘DOD-VA Health Care Sharing Incentive Fund’. Each Secretary shall annually contribute to the fund a minimum of \$15,000,000 from the funds appropriated to that Secretary’s Department. Such funds shall remain available until expended.

“(3)(A) For each fiscal year during which the program under this subsection is in effect, the Comptroller General shall conduct a review of the implementation and effectiveness of the incentives program under this subsection. Upon completion of each such annual review, the Comptroller General shall submit to the Committees on Armed Services and Veterans’ Affairs of the Senate and House of Representatives a report on the results of that review. Each such report shall be submitted not later than February 28 of the year following the fiscal year covered by the report. In addition, the Comptroller General shall conduct such a review during the first five months of fiscal year 2004 and, not later than February 28, 2004, shall submit to those committees a report on the implementation and effectiveness of the incentives program under this subsection to that date.

“(B) Each report under this paragraph shall describe activities carried out under the program under this subsection during the preceding fiscal year (or, in the case of the first such report, to the date of the submission of the report). Each report shall include at least the following:

“(i) An analysis of the initiatives funded by the Committee, and the funds so expended by such initiatives, from the DOD-VA Health Care Sharing Incentive Fund, including the purposes

Effective date.

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Deadline.

Deadline.

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and effects of those initiatives on improving access to care by beneficiaries, improvements in the quality of care received by those beneficiaries, and efficiencies gained in delivering services to those beneficiaries.

“(ii) Other matters of interest, including recommendations from the Comptroller General for legislative improvements to the program.

Termination
date.

“(4) The program under this subsection shall terminate on September 30, 2007.

“(e) GUIDELINES AND POLICIES FOR IMPLEMENTATION OF COORDINATION AND SHARING RECOMMENDATIONS, CONTRACTS, AND AGREEMENTS.—(1) To implement the recommendations made by the Committee under subsection (c)(2), as well as to carry out other health care contracts and agreements for coordination and sharing initiatives as they consider appropriate, the two Secretaries shall jointly issue guidelines and policy directives. Such guidelines and policies shall provide for coordination and sharing that—

“(A) is consistent with the health care responsibilities of the Department of Veterans Affairs under this title and with the health care responsibilities of the Department of Defense under chapter 55 of title 10;

“(B) will not adversely affect the range of services, the quality of care, or the established priorities for care provided by either Department; and

“(C) will not reduce capacities in certain specialized programs of the Department of Veterans Affairs that the Secretary is required to maintain in accordance with section 1706(b) of this title.

“(2) To facilitate the sharing and coordination of health care services between the two Departments, the two Secretaries shall jointly develop and implement guidelines for a standardized, uniform payment and reimbursement schedule for those services. Such schedule shall be implemented no later than October 1, 2003, and shall be revised periodically as necessary. The two Secretaries, following implementation of the schedule, may on a case-by-case basis waive elements of the schedule if they jointly agree that such a waiver is in the best interests of both Departments.

“(3)(A) The guidelines established under paragraph (1) shall authorize the heads of individual Department of Defense and Department of Veterans Affairs medical facilities and service regions to enter into health care resources coordination and sharing agreements.

“(B) Under any such agreement, an individual who is a primary beneficiary of one Department may be provided health care, as provided in the agreement, at a facility or in the service region of the other Department that is a party to the sharing agreement.

“(C) Each such agreement shall identify the health care resources to be shared.

“(D) Each such agreement shall provide, and shall specify procedures designed to ensure, that the availability of direct health care to individuals who are not primary beneficiaries of the providing Department is (i) on a referral basis from the facility or service region of the other Department, and (ii) does not (as determined by the head of the providing facility or region) adversely affect the range of services, the quality of care, or the established priorities for care provided to the primary beneficiaries of the providing Department.

“(E) Each such agreement shall provide that a providing Department or service region shall be reimbursed for the cost of the health care resources provided under the agreement and that the rate of such reimbursement shall be as determined in accordance with paragraph (2).

“(F) Each proposal for an agreement under this paragraph shall be effective (i) on the 46th day after the receipt of such proposal by the Committee, unless earlier disapproved, or (ii) if earlier approved by the Committee, on the date of such approval.

“(G) Any funds received through such a uniform payment and reimbursement schedule shall be credited to funds that have been allotted to the facility of either Department that provided the care or services, or is due the funds from, any such agreement.

“(f) ANNUAL JOINT REPORT.—(1) At the time the President’s budget is transmitted to Congress in any year pursuant to section 1105 of title 31, the two Secretaries shall submit to Congress a joint report on health care coordination and sharing activities under this section during the fiscal year that ended during the previous calendar year.

“(2) Each report under this section shall include the following:

“(A) The guidelines prescribed under subsection (e) (and any revision of such guidelines).

“(B) The assessment of further opportunities identified under subparagraph (C) of subsection (c)(5) for the sharing of health-care resources between the two Departments.

“(C) Any recommendation made under subsection (c)(4) during such fiscal year.

“(D) A review of the sharing agreements entered into under subsection (e) and a summary of activities under such agreements during such fiscal year and a description of the results of such agreements in improving access to, and the quality and cost effectiveness of, the health care provided by the Veterans Health Administration and the Military Health System to the beneficiaries of both Departments.

“(E) A summary of other planning and activities involving either Department in connection with promoting the coordination and sharing of Federal health-care resources during the preceding fiscal year.

“(F) Such recommendations for legislation as the two Secretaries consider appropriate to facilitate the sharing of health-care resources between the two Departments.

“(3) In addition to the matters specified in paragraph (2), the two Secretaries shall include in the annual report under this subsection an overall status report of the progress of health resources sharing between the two Departments as a consequence of subtitle C of title VII of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 and of other sharing initiatives taken during the period covered by the report. Such status report shall indicate the status of such sharing and shall include appropriate data as well as analyses of that data. The annual report shall include the following:

“(A) Enumerations and explanations of major policy decisions reached by the two Secretaries during the period covered by the report period with respect to sharing between the two Departments.

“(B) A description of progress made in new ventures or particular areas of sharing and coordination that would be

of policy interest to Congress consistent with the intent of such subtitle.

“(C) A description of enhancements of access to care of beneficiaries of both Departments that came about as a result of new sharing approaches brought about by such subtitle.

“(D) A description of proposals for which funds are provided through the joint incentives program under subsection (d), together with a description of their results or status at the time of the report, including access improvements, savings, and quality-of-care enhancements they brought about, and a description of any additional use of funds made available under subsection (d).

“(4) In addition to the matters specified in paragraphs (2) and (3), the two Secretaries shall include in the annual report under this subsection for each year through 2008 the following:

“(A) A description of the measures taken, or planned to be taken, to implement the health resources sharing project under section 722 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 and any cost savings anticipated, or cost sharing achieved, at facilities participating in the project, including information on improvements in access to care, quality, and timeliness, as well as impediments encountered and legislative recommendations to ameliorate such impediments.

“(B) A description of the use of the waiver authority provided by section 722(d)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, including—

“(i) a statement of the numbers and types of requests for waivers under that section of administrative policies that have been made during the period covered by the report and, for each such request, an explanation of the content of each request, the intended purpose or result of the requested waiver, and the disposition of each request; and

“(ii) descriptions of any new administrative policies that enhance the success of the project.

“(5) In addition to the matters specified in paragraphs (2), (3), and (4), the two Secretaries shall include in the annual report under this subsection for each year through 2009 a report on the pilot program for graduate medical education under section 725 of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, including activities under the program during the preceding year and each Secretary’s assessment of the efficacy of providing education and training under that program.

“(g) DEFINITIONS.—For the purposes of this section:

“(1) The term ‘beneficiary’ means a person who is a primary beneficiary of the Department of Veterans Affairs or of the Department of Defense.

“(2) The term ‘direct health care’ means health care provided to a beneficiary in a medical facility operated by the Department of Veterans Affairs or the Department of Defense.

“(3) The term ‘head of a medical facility’ (A) with respect to a medical facility of the Department of Veterans Affairs, means the director of the facility, and (B) with respect to a medical facility of the Department of Defense, means the medical or dental officer in charge or the contract surgeon in charge.

“(4) The term ‘health-care resource’ includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, services under sections 1782 and 1783 of this title, any other health-care service, and any health-care support or administrative resource.

“(5) The term ‘primary beneficiary’ (A) with respect to the Department means a person who is eligible under this title (other than under section 1782, 1783, or 1784 or subsection (d) of this section) or any other provision of law for care or services in Department medical facilities, and (B) with respect to the Department of Defense, means a member or former member of the Armed Forces who is eligible for care under section 1074 of title 10.

“(6) The term ‘providing Department’ means the Department of Veterans Affairs, in the case of care or services furnished by a facility of the Department of Veterans Affairs, and the Department of Defense, in the case of care or services furnished by a facility of the Department of Defense.

“(7) The term ‘service region’ means a geographic service area of the Veterans Health Administration, in the case of the Department of Veterans Affairs, and a service region, in the case of the Department of Defense.”.

(2) The item relating to that section in the table of sections at the beginning of chapter 81 of title 38, United States Code, is amended to read as follows:

“8111. Sharing of Department of Veterans Affairs and Department of Defense health care resources.”.

(b) CONFORMING AMENDMENT.—Section 1104(a) of title 10, United States Code, is amended by striking “may” and inserting “shall”.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 2003. 38 USC 8111 note.

SEC. 722. HEALTH CARE RESOURCES SHARING AND COORDINATION PROJECT. 38 USC 8111 note.

(a) ESTABLISHMENT.—(1) The Secretary of Veterans Affairs and the Secretary of Defense shall conduct a health care resources sharing project to serve as a test for evaluating the feasibility, and the advantages and disadvantages, of measures and programs designed to improve the sharing and coordination of health care and health care resources between the Department of Veterans Affairs and the Department of Defense. The project shall be carried out, as a minimum, at the sites identified under subsection (b).

(2) Reimbursement between the two Departments with respect to the project under this section shall be made in accordance with the provisions of section 8111(e)(2) of title 38, United States Code, as amended by section 721(a).

(b) SITE IDENTIFICATION.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretaries shall jointly identify not less than three sites for the conduct of the project under this section. Deadline.

(2) For purposes of this section, a site at which the resource sharing project shall be carried out is an area in the United States in which—

(A) one or more military treatment facilities and one or more VA health care facilities are situated in relative proximity to each other, including facilities engaged in joint ventures as of the date of the enactment of this Act; and

(B) for which an agreement to coordinate care and programs for patients at those facilities could be implemented not later than October 1, 2004.

(c) CONDUCT OF PROJECT.—(1) At sites at which the project is conducted, the Secretaries shall provide a test of a coordinated management system for the military treatment facilities and VA health care facilities participating in the project. Such a coordinated management system for a site shall include at least one of the elements specified in paragraph (2), and each of the elements specified in that paragraph must be included in the coordinated management system for at least one of the participating sites.

(2) Elements of a coordinated management system referred to in paragraph (1) are the following:

(A) A budget and financial management system for those facilities that—

(i) provides managers with information about the costs of providing health care by both Departments at the site; and

(ii) allows managers to assess the advantages and disadvantages (in terms of relative costs, benefits, and opportunities) of using resources of either Department to provide or enhance health care to beneficiaries of either Department.

(B) A coordinated staffing and assignment system for the personnel (including contract personnel) employed at or assigned to those facilities, including clinical practitioners of either Department.

(C) Medical information and information technology systems for those facilities that—

(i) are compatible with the purposes of the project;

(ii) communicate with medical information and information technology systems of corresponding elements of those facilities; and

(iii) incorporate minimum standards of information quality that are at least equivalent to those adopted for the Departments at large in their separate health care systems.

(d) AUTHORITY TO WAIVE CERTAIN ADMINISTRATIVE POLICIES.—

(1)(A) In order to carry out subsection (c), the Secretary of Defense may, in the Secretary's discretion, waive any administrative policy of the Department of Defense otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

(B) In order to carry out subsection (c), the Secretary of Veterans Affairs may, in the Secretary's discretion, waive any administrative policy of the Department of Veterans Affairs otherwise applicable to that subsection that specifically conflicts with the purposes of the project, in instances in which the Secretary determines that the waiver is necessary for the purposes of the project.

(C) The two Secretaries shall establish procedures for resolving disputes that may arise from the effects of policy changes that are not covered by other agreements or existing procedures.

(2) No waiver under paragraph (1) may alter any labor-management agreement in effect as of the date of the enactment of this Act or adopted by either Department during the period of the project.

(e) USE BY DOD OF CERTAIN TITLE 38 PERSONNEL AUTHORITIES.—(1) In order to carry out subsection (c), the Secretary of Defense may apply to civilian personnel of the Department of Defense assigned to or employed at a military treatment facility participating in the project any of the provisions of subchapters I, III, and IV of chapter 74 of title 38, United States Code, determined appropriate by the Secretary.

(2) For purposes of paragraph (1), any reference in chapter 74 of title 38, United States Code—

(A) to the “Secretary” or the “Under Secretary for Health” shall be treated as referring to the Secretary of Defense; and

(B) to the “Veterans Health Administration” shall be treated as referring to the Department of Defense.

(f) FUNDING.—From amounts available for health care for a fiscal year, each Secretary shall make available to carry out the project not less than—

(1) \$3,000,000 for fiscal year 2003;

(2) \$6,000,000 for fiscal year 2004; and

(3) \$9,000,000 for each succeeding year during which the project is in effect.

(g) DEFINITIONS.—For purposes of this section:

(1) The term “military treatment facility” means a medical facility under the jurisdiction of the Secretary of a military department.

(2) The term “VA health care facility” means a facility under the jurisdiction of the Veterans Health Administration of the Department of Veterans Affairs.

(h) PERFORMANCE REVIEW.—(1) The Comptroller General shall provide for an annual on-site review at each of the project locations selected by the Secretaries under this section.

(2) Not later than 90 days after completion of the annual review under paragraph (1), the Comptroller General shall submit a report on such review to the Committees on Armed Services and Veterans’ Affairs of the Senate and House of Representatives.

(3) Each such report shall include the following:

(A) The strategic mission coordination between shared activities.

(B) The accuracy and validity of performance data used to evaluate sharing performance and changes in standards of care or services at the shared facilities.

(C) A statement that all appropriated funds designated for sharing activities are being used for direct support of sharing initiatives.

(D) Recommendations concerning continuance of the project at each site for the succeeding 12-month period.

(4) Whenever there is a recommendation under paragraph (3)(D) to discontinue a resource sharing project under this section, the two Secretaries shall act upon that recommendation as soon as practicable.

(5) In the initial report under this subsection, the Comptroller General shall validate the baseline information used for comparative analysis.

(i) **TERMINATION.**—(1) The project, and the authority provided by this section, shall terminate on September 30, 2007.

(2) The two Secretaries jointly may terminate the performance of the project at any site when the performance of the project at that site fails to meet performance expectations of the Secretaries, based on recommendations from the Comptroller General under subsection (h) or on other information available to the Secretaries to warrant such action.

SEC. 723. REPORT ON IMPROVED COORDINATION AND SHARING OF HEALTH CARE AND HEALTH CARE RESOURCES FOLLOWING DOMESTIC ACTS OF TERRORISM OR DOMESTIC USE OF WEAPONS OF MASS DESTRUCTION.

(a) **JOINT REVIEW.**—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly review the adequacy of current processes and existing statutory authorities and policy governing the capability of the Department of Defense and the Department of Veterans Affairs to provide health care to members of the Armed Forces following domestic acts of terrorism or domestic use of weapons of mass destruction, both before and after any declaration of national emergency. Such review shall include a determination of the adequacy of current authorities in providing for the coordination and sharing of health care resources between the two Departments in such cases, particularly before the declaration of a national emergency.

(b) **REPORT TO CONGRESS.**—The two Secretaries shall include a joint report on the review under subsection (a), including any recommended legislative changes, shall be submitted to Congress as part of the fiscal year 2004 budget submission to Congress.

10 USC 1074g
note.

SEC. 724. INTEROPERABILITY OF DEPARTMENT OF VETERANS AFFAIRS AND DEPARTMENT OF DEFENSE PHARMACY DATA SYSTEMS.

(a) **INTEROPERABILITY.**—The Secretary of Veterans Affairs and the Secretary of Defense shall seek to ensure that on or before October 1, 2004, the Department of Veterans Affairs pharmacy data system and the Department of Defense pharmacy data system (known as the “Pharmacy Data Transaction System”) are interoperable for both Department of Defense beneficiaries and Department of Veterans Affairs beneficiaries by achieving real-time interface, data exchange, and checking of prescription drug data of outpatients, and using national standards for the exchange of outpatient medication information.

Deadline.

(b) **ALTERNATIVE REQUIREMENT.**—If the interoperability specified in subsection (a) is not achieved by October 1, 2004, as determined jointly by the Secretary of Defense and the Secretary of Veterans Affairs, the Secretary of Veterans Affairs shall adopt the Department of Defense Pharmacy Data Transaction System for use by the Department of Veterans Affairs health care system. Such system shall be fully operational not later than October 1, 2005.

(c) **IMPLEMENTATION FUNDING FOR ALTERNATIVE REQUIREMENT.**—The Secretary of Defense shall transfer to the Secretary of Veterans Affairs, or shall otherwise bear the cost of, an amount sufficient to cover three-fourths of the cost to the Department

of Veterans Affairs for computer programming activities and relevant staff training expenses related to implementation of subsection (b). Such amount shall be determined in such manner as agreed to by the two Secretaries.

SEC. 725. JOINT PILOT PROGRAM FOR PROVIDING GRADUATE MEDICAL EDUCATION AND TRAINING FOR PHYSICIANS.

(a) **IN GENERAL.**—The Secretary of Defense and the Secretary of Veterans Affairs shall jointly carry out a pilot program under which graduate medical education and training is provided to military physicians and physician employees of the Department of Defense and the Department of Veterans Affairs through one or more programs carried out in military medical treatment facilities of the Department of Defense and medical centers of the Department of Veterans Affairs. The pilot program shall begin not later than January 1, 2003.

10 USC 1094a
note.

(b) **COST-SHARING AGREEMENT.**—The Secretaries shall enter into an agreement for carrying out the pilot program. The agreement shall establish means for each Secretary to assist in paying the costs, with respect to individuals under the jurisdiction of that Secretary, incurred by the other Secretary in providing medical education and training under the pilot program.

(c) **USE OF EXISTING AUTHORITIES.**—To carry out the pilot program, the Secretary of Defense and the Secretary of Veterans Affairs may use authorities provided to them under this subtitle, section 8111 of title 38, United States Code (as amended by section 721(a)), and other laws relating to the furnishing or support of medical education and the cooperative use of facilities.

(d) **TERMINATION OF PROGRAM.**—The pilot program under this section shall terminate on July 31, 2008.

(e) **REPEAL OF SUPERSEDED PROVISION.**—Section 738 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 10 U.S.C. 1094 note; 115 Stat.1173) is repealed.

10 USC 1094a
note.

SEC. 726. REPEAL OF CERTAIN LIMITS ON DEPARTMENT OF VETERANS AFFAIRS RESOURCES.

(a) **REPEAL OF VA BED LIMITS.**—Section 8110(a)(1) of title 38, United States Code, is amended—

(1) in the first sentence, by striking “at not more than 125,000 and not less than 100,000”;

(2) in the third sentence, by striking “shall operate and maintain a total of not less than 90,000 hospital beds and nursing home beds and”; and

(3) in the fourth sentence, by striking “to enable the Department to operate and maintain a total of not less than 90,000 hospital and nursing home beds in accordance with this paragraph and”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on October 1, 2003.

38 USC 8110
note.

TITLE VIII—ACQUISITION POLICY, ACQUISITION MANAGEMENT, AND RELATED MATTERS

Subtitle A—Acquisition Policy and Management

Sec. 801. Buy-to-budget acquisition of end items.

- Sec. 802. Report to Congress on evolutionary acquisition of major defense acquisition programs.
- Sec. 803. Spiral development under major defense acquisition programs.
- Sec. 804. Improvement of software acquisition processes.
- Sec. 805. Performance goals for procuring services pursuant to multiple award contracts.
- Sec. 806. Rapid acquisition and deployment procedures.
- Sec. 807. Quick-reaction special projects acquisition team.

Subtitle B—Amendments to General Contracting Authorities, Procedures, and Limitations

- Sec. 811. Limitation period for task and delivery order contracts.
- Sec. 812. One-year extension of program applying simplified procedures to certain commercial items; report.
- Sec. 813. Extension and improvement of personnel demonstration policies and procedures applicable to the civilian acquisition workforce.
- Sec. 814. Past performance given significant weight in renewal of procurement technical assistance cooperative agreements.
- Sec. 815. Increased maximum amount of assistance for tribal organizations or economic enterprises carrying out procurement technical assistance programs in two or more service areas.
- Sec. 816. Extension of contract goal for small disadvantaged businesses and certain institutions of higher education.
- Sec. 817. Grants of exceptions to cost or pricing data certification requirements and waivers of cost accounting standards.
- Sec. 818. Timing of certification in connection with waiver of survivability and lethality testing requirements.
- Sec. 819. Contracting with Federal Prison Industries.
- Sec. 820. Revisions to multiyear contracting authority.

Subtitle C—Acquisition-Related Reports and Other Matters

- Sec. 821. Evaluation of training, knowledge, and resources regarding negotiation of intellectual property arrangements.
- Sec. 822. Independent technology readiness assessments.
- Sec. 823. Extension and amendment of requirement for annual report on defense commercial pricing management improvement.
- Sec. 824. Assessment of purchases of products and services through contracts with other Federal departments and agencies.
- Sec. 825. Repeal of certain requirements and Comptroller General reviews of the requirements.
- Sec. 826. Multiyear procurement authority for purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.
- Sec. 827. Multiyear procurement authority for environmental services for military installations.
- Sec. 828. Report on effects of Army Contracting Agency.
- Sec. 829. Authorization to take actions to correct the industrial resource shortfall for radiation-hardened electronics.

Subtitle A—Acquisition Policy and Management

SEC. 801. BUY-TO-BUDGET ACQUISITION OF END ITEMS.

(a) **AUTHORITY.**—(1) Chapter 137 of title 10, United States Code, is amended by inserting after section 2307 the following new section:

“§ 2308. Buy-to-budget acquisition: end items

“(a) **AUTHORITY TO ACQUIRE ADDITIONAL END ITEMS.**—Using funds available to the Department of Defense for the acquisition of an end item, the head of an agency making the acquisition may acquire a higher quantity of the end item than the quantity specified for the end item in a law providing for the funding of that acquisition if that head of an agency makes each of the following findings:

“(1) The agency has an established requirement for the end item that is expected to remain substantially unchanged throughout the period of the acquisition.

“(2) It is possible to acquire the higher quantity of the end item without additional funding because of production efficiencies or other cost reductions.

“(3) The amount of the funds used for the acquisition of the higher quantity of the end item will not exceed the amount provided under that law for the acquisition of the end item.

“(4) The amount so provided is sufficient to ensure that each unit of the end item acquired within the higher quantity is fully funded as a complete end item.

“(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the administration of this section. The regulations shall include, at a minimum, the following:

“(1) The level of approval within the Department of Defense that is required for a decision to acquire a higher quantity of an end item under subsection (a).

“(2) Authority (subject to subsection (a)) to acquire up to 10 percent more than the quantity of an end item approved in a justification and approval of the use of procedures other than competitive procedures for the acquisition of the end item under section 2304 of this title.

“(c) NOTIFICATION OF CONGRESS.—The head of an agency is not required to notify Congress in advance regarding a decision under the authority of this section to acquire a higher quantity of an end item than is specified in a law described in subsection (a), but shall notify the congressional defense committees of the decision not later than 30 days after the date of the decision. Deadline.

“(d) WAIVER BY OTHER LAW.—A provision of law may not be construed as prohibiting the acquisition of a higher quantity of an end item under this section unless that provision of law—

“(1) specifically refers to this section; and

“(2) specifically states that the acquisition of the higher quantity of the end item is prohibited notwithstanding the authority provided in this section.

“(e) DEFINITIONS.—(1) For the purposes of this section, a quantity of an end item shall be considered specified in a law if the quantity is specified either in a provision of that law or in any related representation that is set forth separately in a table, chart, or explanatory text included in a joint explanatory statement or governing committee report accompanying the law.

“(2) In this section:

“(A) The term ‘congressional defense committees’ means—

“(i) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

“(ii) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

“(B) The term ‘end item’ means a production product assembled, completed, and ready for issue or deployment.

“(C) The term ‘head of an agency’ means the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, and the Secretary of the Air Force.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2307 the following new item:

“2308. Buy-to-budget acquisition: end items.”.

10 USC 2308
note.

(b) TIME FOR ISSUANCE OF FINAL REGULATIONS.—The Secretary of Defense shall issue the final regulations under section 2308(b) of title 10, United States Code (as added by subsection (a)), not later than 120 days after the date of the enactment of this Act.

SEC. 802. REPORT TO CONGRESS ON EVOLUTIONARY ACQUISITION OF MAJOR DEFENSE ACQUISITION PROGRAMS.

Deadline.

(a) REPORT REQUIRED.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the approach that the Secretary plans to take to apply the requirements listed in paragraph (2) to major defense acquisition programs that follow the evolutionary acquisition process.

(2) The requirements referred to in paragraph (1) are—

(A) the requirements of chapter 144 of title 10, United States Code;

(B) sections 139, 181, 2366, 2399, and 2400 of such title;

(C) Department of Defense Directive 5000.1;

(D) Department of Defense Instruction 5000.2;

(E) Chairman of the Joint Chiefs of Staff Instruction 3170.01B; and

(F) other provisions of law and regulations (including successor documents) that are applicable to such programs.

(b) CONTENT OF REPORT.—The report shall, at a minimum, address the following matters:

(1) The manner in which the Secretary plans to establish and approve, for each increment of an evolutionary acquisition process—

(A) operational requirements; and

(B) cost and schedule goals.

(2) The manner in which the Secretary plans, for each increment of an evolutionary acquisition process—

(A) to meet requirements for operational testing and live fire testing;

(B) to monitor cost and schedule performance; and

(C) to comply with laws requiring reports to Congress on results testing and on cost and schedule performance.

(3) The manner in which the Secretary plans to ensure that each increment of an evolutionary acquisition process is designed—

(A) to achieve interoperability within and among United States forces and United States coalition partners; and

(B) to optimize total system performance and minimize total ownership costs by giving appropriate consideration to—

(i) logistics planning;

(ii) manpower, personnel, and training;

(iii) human, environmental, safety, occupational health, accessibility, survivability, operational continuity, and security factors;

(iv) protection of critical program information; and

(v) spectrum management.

(c) DEFINITIONS.—In this section:

(1) The term “evolutionary acquisition process” means a process by which an acquisition program is conducted through discrete phases or blocks, with each phase or block consisting of the planned definition, development, production or acquisition, and fielding of hardware or software that provides operationally useful capability.

(2) The term “increment”, with respect to an evolutionary acquisition program, means one of the discrete phases or blocks of such program.

(3) The term “major defense acquisition program” has the meaning given such term in section 139(a)(2)(B) of title 10, United States Code.

SEC. 803. SPIRAL DEVELOPMENT UNDER MAJOR DEFENSE ACQUISITION PROGRAMS.

10 USC 2430
note.

(a) AUTHORITY.—The Secretary of Defense is authorized to conduct major defense acquisition programs as spiral development programs.

(b) LIMITATION ON SPIRAL DEVELOPMENT PROGRAMS.—A research and development program for a major defense acquisition program of a military department or Defense Agency may not be conducted as a spiral development program unless the Secretary of Defense approves the spiral development plan for that research and development program in accordance with subsection (c). The Secretary of Defense may delegate authority to approve the plan to the Under Secretary of Defense for Acquisition, Technology, and Logistics, or to the senior acquisition executive of the military department or Defense Agency concerned, but such authority may not be further delegated.

(c) SPIRAL DEVELOPMENT PLANS.—A spiral development plan for a research and development program for a major defense acquisition program shall, at a minimum, include the following matters:

(1) A rationale for dividing the research and development program into separate spirals, together with a preliminary identification of the spirals to be included.

(2) A program strategy, including overall cost, schedule, and performance goals for the total research and development program.

(3) Specific cost, schedule, and performance parameters, including measurable exit criteria, for the first spiral to be conducted.

(4) A testing plan to ensure that performance goals, parameters, and exit criteria are met.

(5) An appropriate limitation on the number of prototype units that may be produced under the research and development program.

(6) Specific performance parameters, including measurable exit criteria, that must be met before the major defense acquisition program proceeds into production of units in excess of the limitation on the number of prototype units.

(d) GUIDANCE.—Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance for the implementation of spiral development programs authorized by this section. The guidance shall include appropriate processes for ensuring the independent validation of exit criteria being met,

Deadline.

the operational assessment of fieldable prototypes, and the management of spiral development programs.

(e) **REPORTING REQUIREMENT.**—The Secretary shall submit to Congress by September 30 of each of 2003 through 2008 a status report on each research and development program that is a spiral development program. The report shall contain information on unit costs that is similar to the information on unit costs under major defense acquisition programs that is required to be provided to Congress under chapter 144 of title 10, United States Code, except that the information on unit costs shall address projected prototype costs instead of production costs.

(f) **APPLICABILITY OF EXISTING LAW.**—Nothing in this section shall be construed to exempt any program of the Department of Defense from the application of any provision of chapter 144 of title 10, United States Code, section 139, 181, 2366, 2399, or 2400 of such title, or any requirement under Department of Defense Directive 5000.1, Department of Defense Instruction 5000.2, or Chairman of the Joint Chiefs of Staff Instruction 3170.01B in accordance with the terms of such provision or requirement.

(g) **DEFINITIONS.**—In this section:

(1) The term “spiral development program”, with respect to a research and development program, means a program that—

(A) is conducted in discrete phases or blocks, each of which will result in the development of fieldable prototypes; and

(B) will not proceed into acquisition until specific performance parameters, including measurable exit criteria, have been met.

(2) The term “spiral” means one of the discrete phases or blocks of a spiral development program.

(3) The term “major defense acquisition program” has the meaning given such term in section 139(a)(2)(B) of title 10, United States Code.

10 USC 2302
note.

SEC. 804. IMPROVEMENT OF SOFTWARE ACQUISITION PROCESSES.

(a) **ESTABLISHMENT OF PROGRAMS.**—(1) The Secretary of each military department shall establish a program to improve the software acquisition processes of that military department.

(2) The head of each Defense Agency that manages a major defense acquisition program with a substantial software component shall establish a program to improve the software acquisition processes of that Defense Agency.

Deadline.

(3) The programs required by this subsection shall be established not later than 120 days after the date of the enactment of this Act.

(b) **PROGRAM REQUIREMENTS.**—A program to improve software acquisition processes under this section shall, at a minimum, include the following:

(1) A documented process for software acquisition planning, requirements development and management, project management and oversight, and risk management.

(2) Efforts to develop appropriate metrics for performance measurement and continual process improvement.

(3) A process to ensure that key program personnel have an appropriate level of experience or training in software acquisition.

(4) A process to ensure that each military department and Defense Agency implements and adheres to established processes and requirements relating to the acquisition of software.

(c) DEPARTMENT OF DEFENSE GUIDANCE.—The Assistant Secretary of Defense for Command, Control, Communications, and Intelligence, in consultation with the Under Secretary of Defense for Acquisition, Technology, and Logistics, shall—

(1) prescribe uniformly applicable guidance for the administration of all of the programs established under subsection (a) and take such actions as are necessary to ensure that the military departments and Defense Agencies comply with the guidance; and

(2) assist the Secretaries of the military departments and the heads of the Defense Agencies to carry out such programs effectively by—

(A) ensuring that the criteria applicable to the selection of sources provides added emphasis on past performance of potential sources, as well as on the maturity of the software products offered by the potential sources; and

(B) identifying, and serving as a clearinghouse for information regarding, best practices in software development and acquisition in both the public and private sectors.

(d) DEFINITIONS.—In this section:

(1) The term “Defense Agency” has the meaning given the term in section 101(a)(11) of title 10, United States Code.

(2) The term “major defense acquisition program” has the meaning given such term in section 139(a)(2)(B) of title 10, United States Code.

SEC. 805. PERFORMANCE GOALS FOR PROCURING SERVICES PURSUANT TO MULTIPLE AWARD CONTRACTS.

(a) PERFORMANCE GOALS.—Subsection (a) of section 802 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1178; 10 U.S.C. 2330 note) is amended to read as follows:

“(a) GOALS.—(1) It shall be an objective of the Department of Defense to achieve efficiencies in procurements of services pursuant to multiple award contracts through the use of—

“(A) performance-based services contracting;

“(B) appropriate competition for task orders under services contracts;

“(C) program review, spending analyses, and improved management of services contracts.

“(2) In furtherance of such objective, the Department of Defense shall have the following goals:

“(A) To increase, as a percentage of all of the individual purchases of services made by or for the Department of Defense under multiple award contracts for a fiscal year (calculated on the basis of dollar value), the volume of the individual purchases of services that are made on a competitive basis and involve receipt of more than one offer from qualified contractors to a percentage as follows:

“(i) For fiscal year 2003, a percentage not less than 40 percent.

“(ii) For fiscal year 2004, a percentage not less than 50 percent.

“(iii) For fiscal year 2011, a percentage not less than 75 percent.

“(B) To increase, as a percentage of all of the individual purchases of services made by or for the Department of Defense under multiple award contracts for a fiscal year (calculated on the basis of dollar value), the use of performance-based purchasing specifying firm fixed prices for the specific tasks to be performed to a percentage as follows:

“(i) For fiscal year 2003, a percentage not less than 25 percent.

“(ii) For fiscal year 2004, a percentage not less than 35 percent.

“(iii) For fiscal year 2005, a percentage not less than 50 percent.

“(iv) For fiscal year 2011, a percentage not less than 70 percent.

“(3) The Secretary of Defense may adjust any percentage goal established in paragraph (2) if the Secretary determines in writing that such a goal is too high and cannot reasonably be achieved. In the event that the Secretary chooses to adjust such a goal, the Secretary shall—

“(A) establish a percentage goal that the Secretary determines would create an appropriate incentive for Department of Defense components to use competitive procedures or performance-based services contracting, as the case may be; and

“(B) submit to the congressional defense committees a report containing an explanation of the reasons for the Secretary’s determination and a statement of the new goal that the Secretary has established.”.

(b) EXTENSION AND REVISION OF REPORTING REQUIREMENT.—Subsection (b) of such section is amended—

(1) by striking “March 1, 2006” and inserting “March 1, 2011”; and

(2) by amending paragraph (5) to read as follows:

“(5) Regarding the individual purchases of services that were made by or for the Department of Defense under multiple award contracts in the fiscal year preceding the fiscal year in which the report is required to be submitted, information (determined using the data collection system established under section 2330a of title 10, United States Code) as follows:

“(A) The percentage (calculated on the basis of dollar value) of such purchases that are purchases that were made on a competitive basis and involved receipt of more than one offer from qualified contractors.

“(B) The percentage (calculated on the basis of dollar value) of such purchases that are performance-based purchases specifying firm fixed prices for the specific tasks to be performed.”.

(c) DEFINITIONS.—Such section is further amended by adding at the end the following new subsection:

“(c) DEFINITIONS.—(1) In this section, the terms ‘individual purchase’ and ‘multiple award contract’ have the meanings given such terms in section 803(c) of this Act.

“(2) For the purposes of this section, an individual purchase of services is made on a competitive basis only if it is made pursuant

to procedures described in paragraphs (2), (3), and (4) of section 803(b) of this Act.”

(d) CONFORMING AMENDMENT.—The heading for such section is amended by striking “SAVINGS GOALS” and inserting “PERFORMANCE GOALS”.

SEC. 806. RAPID ACQUISITION AND DEPLOYMENT PROCEDURES.

10 USC 2302
note.
Deadline.

(a) REQUIREMENT TO ESTABLISH PROCEDURES.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall prescribe procedures for the rapid acquisition and deployment of items that are—

(1) currently under development by the Department of Defense or available from the commercial sector; and

(2) urgently needed to react to an enemy threat or to respond to significant and urgent safety situations.

(b) ISSUES TO BE ADDRESSED.—The procedures prescribed under subsection (a) shall include the following:

(1) A process for streamlined communications between the Chairman of the Joint Chiefs of Staff, the acquisition community, and the research and development community, including—

(A) a process for the commanders of the combatant commands and the Joint Chiefs of Staff to communicate their needs to the acquisition community and the research and development community; and

(B) a process for the acquisition community and the research and development community to propose items that meet the needs communicated by the combatant commands and the Joint Chiefs of Staff.

(2) Procedures for demonstrating, rapidly acquiring, and deploying items proposed pursuant to paragraph (1)(B), including—

(A) a process for demonstrating performance and evaluating for current operational purposes the existing capability of an item;

(B) a process for developing an acquisition and funding strategy for the deployment of an item; and

(C) a process for making deployment determinations based on information obtained pursuant to subparagraphs (A) and (B).

(c) TESTING REQUIREMENT.—(1) The process for demonstrating performance and evaluating for current operational purposes the existing capability of an item prescribed under subsection (b)(2)(A) shall include—

(A) an operational assessment in accordance with procedures prescribed by the Director of Operational Test and Evaluation; and

(B) a requirement to provide information about any deficiency of the item in meeting the original requirements for the item (as stated in an operational requirements document or similar document) to the deployment decisionmaking authority.

(2) The process may not include a requirement for any deficiency of an item to be the determining factor in deciding whether to deploy the item.

(d) LIMITATION.—The quantity of items of a system procured using the procedures prescribed pursuant to this section may not exceed the number established for low-rate initial production for

the system. Any such items shall be counted for purposes of the number of items of the system that may be procured through low-rate initial production.

10 USC 1702
note.

SEC. 807. QUICK-REACTION SPECIAL PROJECTS ACQUISITION TEAM.

(a) **ESTABLISHMENT.**—The Under Secretary of Defense for Acquisition, Technology, and Logistics shall establish a team of highly qualified acquisition professionals who shall be available to advise the Under Secretary on actions that can be taken to expedite the acquisition of urgently needed systems.

(b) **DUTIES.**—The issues on which the team may provide advice shall include the following:

(1) Industrial base issues, including the limited availability of suppliers.

(2) Technology development and technology transition issues.

(3) Issues of acquisition policy, including the length of the acquisition cycle.

(4) Issues of testing policy and ensuring that weapon systems perform properly in combat situations.

(5) Issues of procurement policy, including the impact of socio-economic requirements.

(6) Issues relating to compliance with environmental requirements.

Subtitle B—Amendments to General Contracting Authorities, Procedures, and Limitations

SEC. 811. LIMITATION PERIOD FOR TASK AND DELIVERY ORDER CONTRACTS.

(a) **LIMITATION PERIOD.**—Section 2306c of title 10, United States Code, is amended by adding at the end the following new subsection:

“(g) **LIMITATION PERIOD FOR TASK AND DELIVERY ORDER CONTRACTS.**—(1) The authority and restrictions of this section, including the authority to enter into contracts for periods of not more than five years, shall apply with respect to task order and delivery order contracts entered into under the authority of section 2304a, 2304b, or 2304c of this title.

“(2) The regulations implementing this subsection shall establish a preference that, to the maximum extent practicable, multi-year requirements for task order and delivery order contracts be met with separate awards to two or more sources under the authority of section 2304a(d)(1)(B) of this title.”.

10 USC 2306c
note.

(b) **EFFECTIVE DATE.**—Subsection (g) of section 2306c of title 10, United States Code, as added by subsection (a), shall apply to all task order and delivery order contracts entered into on or after the date of the enactment of this Act.

(c) **COMPTROLLER GENERAL REPORT.**—Not later than March 15, 2003, the Comptroller General shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the contract periods (including any options or extensions) for all single and multiple contract awards entered into under section 2304a(d) of

title 10, United States Code, before the effective date in subsection (b).

SEC. 812. ONE-YEAR EXTENSION OF PROGRAM APPLYING SIMPLIFIED PROCEDURES TO CERTAIN COMMERCIAL ITEMS; REPORT.

(a) **EXTENSION OF PILOT PROGRAM.**—Section 4202 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 2304 note) is amended in subsection (e) by striking “January 1, 2003” and inserting “January 1, 2004”.

(b) **REPORT REQUIRED.**—(1) Not later than March 15, 2003, the Comptroller General shall submit to Congress a report on the authority to issue solicitations for purchases of commercial items in excess of the simplified acquisition threshold pursuant to the special simplified procedures authorized by section 2304(g)(1) of title 10, United States Code, and section 31(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 427(a)).

(2) The report required by paragraph (1) shall address, at a minimum—

(A) the extent to which such authority has been used by the Secretary of Defense;

(B) the benefits realized by the Department of Defense through the use of such authority;

(C) the impact of the use of such authority on competition for contracts with the Department of Defense; and

(D) any recommendations of the Comptroller General for the continuation or modification of such authority.

SEC. 813. EXTENSION AND IMPROVEMENT OF PERSONNEL DEMONSTRATION POLICIES AND PROCEDURES APPLICABLE TO THE CIVILIAN ACQUISITION WORKFORCE.

(a) **PLAN REQUIRED.**—(1) The Secretary of Defense shall develop a plan for improving the personnel management policies and procedures applicable to the Department of Defense civilian acquisition workforce based on the results of the demonstration project described in section 4308 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 1701 note).

(2) Not later than February 15, 2003, the Secretary shall submit to Congress the plan required under paragraph (1) and a report on the plan, including any recommendations for legislative action necessary to implement the plan.

(b) **EXTENSION OF DEMONSTRATION PROJECT AUTHORITY.**—Section 4308 of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106; 10 U.S.C. 1701 note) is amended—

(1) in subsection (b)(2)(C), by striking “subsection (d)(1)(A)” and inserting “subsection (d)(1)”;

(2) by amending subparagraph (B) of subsection (b)(3) to read as follows:

“(B) commences before October 1, 2007.”; and

(3) by adding at the end the following new subsection:

“(e) **TERMINATION OF AUTHORITY.**—The authority to conduct a demonstration program under this section shall terminate on September 30, 2012.”.

SEC. 814. PAST PERFORMANCE GIVEN SIGNIFICANT WEIGHT IN RENEWAL OF PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENTS.

Section 2413 of title 10, United States Code, is amended by adding at the end the following new subsection:

“(d) In conducting a competition for the award of a cooperative agreement under subsection (a), and in determining the level of funding to provide under an agreement under subsection (b), the Secretary shall give significant weight to successful past performance of eligible entities under a cooperative agreement under this section.”.

SEC. 815. INCREASED MAXIMUM AMOUNT OF ASSISTANCE FOR TRIBAL ORGANIZATIONS OR ECONOMIC ENTERPRISES CARRYING OUT PROCUREMENT TECHNICAL ASSISTANCE PROGRAMS IN TWO OR MORE SERVICE AREAS.

Section 2414(a)(4) of title 10, United States Code, is amended by striking “\$300,000” and inserting “\$600,000”.

SEC. 816. EXTENSION OF CONTRACT GOAL FOR SMALL DISADVANTAGED BUSINESSES AND CERTAIN INSTITUTIONS OF HIGHER EDUCATION.

Section 2323(k) of title 10, United States Code, is amended by striking “2003” both places it appears and inserting “2006”.

10 USC 2306a
note.

SEC. 817. GRANTS OF EXCEPTIONS TO COST OR PRICING DATA CERTIFICATION REQUIREMENTS AND WAIVERS OF COST ACCOUNTING STANDARDS.

Deadline.

(a) **GUIDANCE FOR EXCEPTIONS IN EXCEPTIONAL CIRCUMSTANCES.**—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall issue guidance on the circumstances under which it is appropriate to grant an exceptional case exception or waiver with respect to certified cost and pricing data and cost accounting standards.

(b) **DETERMINATION REQUIRED FOR EXCEPTIONAL CASE EXCEPTION OR WAIVER.**—The guidance shall, at a minimum, include a limitation that a grant of an exceptional case exception or waiver is appropriate with respect to a contract, subcontract, or (in the case of submission of certified cost and pricing data) modification only upon a determination that—

(1) the property or services cannot reasonably be obtained under the contract, subcontract, or modification, as the case may be, without the grant of the exception or waiver;

(2) the price can be determined to be fair and reasonable without the submission of certified cost and pricing data or the application of cost accounting standards, as the case may be; and

(3) there are demonstrated benefits to granting the exception or waiver.

(c) **APPLICABILITY OF NEW GUIDANCE.**—The guidance issued under subsection (a) shall apply to each exceptional case exception or waiver that is granted on or after the date on which the guidance is issued.

(d) **ANNUAL REPORT ON BOTH COMMERCIAL ITEM AND EXCEPTIONAL CASE EXCEPTIONS AND WAIVERS WITH PRICE OR VALUE GREATER THAN \$15,000,000.**—(1) The Secretary of Defense shall transmit to the congressional defense committees promptly after the end of each fiscal year a report on commercial item exceptions,

and exceptional case exceptions and waivers, described in paragraph (2) that were granted during that fiscal year.

(2) The report for a fiscal year shall include—

(A) with respect to any commercial item exception granted in the case of a contract, subcontract, or contract or subcontract modification that is expected to have a price of \$15,000,000 or more, an explanation of the basis for the determination that the products or services to be purchased are commercial items, including an identification of the specific steps taken to ensure price reasonableness; and

(B) with respect to any exceptional case exception or waiver granted in the case of a contract or subcontract that is expected to have a value of \$15,000,000 or more, an explanation of the basis for the determination described in subsection (b), including an identification of the specific steps taken to ensure that the price was fair and reasonable.

(e) DEFINITIONS.—In this section:

(1) The term “exceptional case exception or waiver” means either of the following:

(A) An exception pursuant to section 2306a(b)(1)(C) of title 10, United States Code, relating to submission of certified cost and pricing data.

(B) A waiver pursuant to section 26(f)(5)(B) of the Office of Federal Procurement Policy Act (41 U.S.C. 422(f)(5)(B)), relating to the applicability of cost accounting standards to contracts and subcontracts.

(2) The term “commercial item exception” means an exception pursuant to section 2306a(b)(1)(B) of title 10, United States Code, relating to submission of certified cost and pricing data.

SEC. 818. TIMING OF CERTIFICATION IN CONNECTION WITH WAIVER OF SURVIVABILITY AND LETHALITY TESTING REQUIREMENTS.

(a) CERTIFICATION FOR EXPEDITED PROGRAMS.—Paragraph (1) of subsection (c) of section 2366 of title 10, United States Code, is amended to read as follows:

“(1) The Secretary of Defense may waive the application of the survivability and lethality tests of this section to a covered system, munitions program, missile program, or covered product improvement program if the Secretary determines that live-fire testing of such system or program would be unreasonably expensive and impractical and submits a certification of that determination to Congress—

“(A) before Milestone B approval for the system or program;

or

“(B) in the case of a system or program initiated at—

“(i) Milestone B, as soon as is practicable after the Milestone B approval; or

“(ii) Milestone C, as soon as is practicable after the Milestone C approval.”

(b) DEFINITIONS.—Subsection (e) of such section is amended by adding at the end the following new paragraphs:

“(8) The term ‘Milestone B approval’ means a decision to enter into system development and demonstration pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.

“(9) The term ‘Milestone C approval’ means a decision to enter into production and deployment pursuant to guidance prescribed by the Secretary of Defense for the management of Department of Defense acquisition programs.”.

SEC. 819. CONTRACTING WITH FEDERAL PRISON INDUSTRIES.

(a) ASSURANCE OF BEST VALUE FOR NATIONAL DEFENSE.—(1) Section 2410n of title 10, United States Code, is amended—

(A) in subsection (a)—

(i) by amending the heading to read as follows: “MARKET RESEARCH.—”; and

(ii) by striking “comparable in price, quality, and time of delivery to products available from the private sector” and inserting “comparable to products available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery”;

(B) by striking subsection (b) and inserting the following:

“(b) COMPETITION REQUIREMENT.—If the Secretary determines that a Federal Prison Industries product is not comparable in price, quality, or time of delivery to products available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery, the Secretary shall use competitive procedures for the procurement of the product or shall make an individual purchase under a multiple award contract. In conducting such a competition or making such a purchase, the Secretary shall consider a timely offer from Federal Prison Industries.”; and

(C) by adding at the end the following new subsections:

“(c) IMPLEMENTATION BY SECRETARY OF DEFENSE.—The Secretary of Defense shall ensure that—

“(1) the Department of Defense does not purchase a Federal Prison Industries product or service unless a contracting officer of the Department determines that the product or service is comparable to products or services available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery; and

“(2) Federal Prison Industries performs its contractual obligations to the same extent as any other contractor for the Department of Defense.

“(d) MARKET RESEARCH DETERMINATION NOT SUBJECT TO REVIEW.—A determination by a contracting officer regarding whether a product or service offered by Federal Prison Industries is comparable to products or services available from the private sector that best meet the Department’s needs in terms of price, quality, and time of delivery shall not be subject to review pursuant to section 4124(b) of title 18.

“(e) PERFORMANCE AS A SUBCONTRACTOR.—(1) A contractor or potential contractor of the Department of Defense may not be required to use Federal Prison Industries as a subcontractor or supplier of products or provider of services for the performance of a Department of Defense contract by any means, including means such as—

“(A) a contract solicitation provision requiring a contractor to offer to make use of products or services of Federal Prison Industries in the performance of the contract;

“(B) a contract specification requiring the contractor to use specific products or services (or classes of products or services) offered by Federal Prison Industries in the performance of the contract; or

“(C) any contract modification directing the use of products or services of Federal Prison Industries in the performance of the contract.

“(2) In this subsection, the term ‘contractor’, with respect to a contract, includes a subcontractor at any tier under the contract.

“(f) PROTECTION OF CLASSIFIED AND SENSITIVE INFORMATION.—The Secretary of Defense may not enter into any contract with Federal Prison Industries under which an inmate worker would have access to—

“(1) any data that is classified;

“(2) any geographic data regarding the location of—

“(A) surface and subsurface infrastructure providing communications or water or electrical power distribution;

“(B) pipelines for the distribution of natural gas, bulk petroleum products, or other commodities; or

“(C) other utilities; or

“(3) any personal or financial information about any individual private citizen, including information relating to such person’s real property however described, without the prior consent of the individual.

“(g) DEFINITIONS.—In this section:

“(1) The term ‘competitive procedures’ has the meaning given such term in section 2302(2) of this title.

“(2) The term ‘market research’ means obtaining specific information about the price, quality, and time of delivery of products available in the private sector through a variety of means, which may include—

“(A) contacting knowledgeable individuals in government and industry;

“(B) interactive communication among industry, acquisition personnel, and customers; and

“(C) interchange meetings or pre-solicitation conferences with potential offerors.”.

(2) Paragraph (1) and the amendments made by such paragraph shall take effect as of October 1, 2001.

(b) REGULATORY IMPLEMENTATION.—(1) Proposed revisions to the Department of Defense Supplement to the Federal Acquisition Regulation to implement this section shall be published not later than 90 days after the date of the enactment of this Act, and not less than 60 days shall be provided for public comment on the proposed revisions.

(2) Final regulations shall be published not later than 180 days after the date of the enactment of this Act and shall be effective on the date that is 30 days after the date of the publication.

SEC. 820. REVISIONS TO MULTIYEAR CONTRACTING AUTHORITY.

(a) USE OF PROCUREMENT AND ADVANCE PROCUREMENT FUNDS.—Section 2306b(i) of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(4)(A) The Secretary of Defense may obligate funds for procurement of an end item under a multiyear contract for the purchase of property only for procurement of a complete and usable end item.

Effective date.
10 USC 2410n
note.
Publication.
Deadlines.
10 USC 2410n
note.

“(B) The Secretary of Defense may obligate funds appropriated for any fiscal year for advance procurement under a contract for the purchase of property only for the procurement of those long-lead items necessary in order to meet a planned delivery schedule for complete major end items that are programmed under the contract to be acquired with funds appropriated for a subsequent fiscal year (including an economic order quantity of such long-lead items when authorized by law).”.

10 USC 2306b
note.

(b) **EFFECTIVE DATE.**—(1) Paragraph (4) of section 2306b(i) of title 10, United States Code, as added by subsection (a), shall not apply with respect to any contract awarded before the date of the enactment of this Act.

(2) Nothing in this section shall be construed to authorize the expenditure of funds under any contract awarded before the date of the enactment of this Act for any purpose other than the purpose for which such funds have been authorized and appropriated.

Subtitle C—Acquisition-Related Reports and Other Matters

SEC. 821. EVALUATION OF TRAINING, KNOWLEDGE, AND RESOURCES REGARDING NEGOTIATION OF INTELLECTUAL PROP- ERTY ARRANGEMENTS.

(a) **AVAILABILITY OF TRAINING, KNOWLEDGE, AND RESOURCES.**—The Secretary of Defense shall evaluate the training, knowledge, and resources needed by the Department of Defense in order to effectively negotiate intellectual property rights using the principles of the Defense Federal Acquisition Regulation Supplement and determine whether the Department of Defense currently has in place the training, knowledge, and resources available to meet those Departmental needs.

Deadline.

(b) **REPORT.**—Not later than February 1, 2003, the Secretary of Defense shall submit to Congress a report describing—

(1) the results of the evaluation performed under subsection (a);

(2) to the extent the Department does not have adequate training, knowledge, and resources available, actions to be taken to improve training and knowledge and to make resources available to meet the Department's needs; and

(3) the number of Department of Defense legal personnel trained in negotiating intellectual property arrangements.

SEC. 822. INDEPENDENT TECHNOLOGY READINESS ASSESSMENTS.

Section 804(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1180) is amended—

(1) by striking “and” at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(3) identify each case in which an authoritative decision has been made within the Department of Defense not to conduct an independent technology readiness assessment for a critical technology on a major defense acquisition program and explain the reasons for the decision.”.

SEC. 823. EXTENSION AND AMENDMENT OF REQUIREMENT FOR ANNUAL REPORT ON DEFENSE COMMERCIAL PRICING MANAGEMENT IMPROVEMENT.

Section 803(c)(4) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105-261; 112 Stat. 2082; 10 U.S.C. 2306a note) is amended—

(1) by striking “2000, 2001, and 2002,” and inserting “2000 through 2006,”;

(2) by inserting after “were conducted” the following: “by the Secretary of each military department and the Director of the Defense Logistics Agency”; and

(3) by inserting after “actions taken” the following: “by each Secretary and the Director”.

SEC. 824. ASSESSMENT OF PURCHASES OF PRODUCTS AND SERVICES THROUGH CONTRACTS WITH OTHER FEDERAL DEPARTMENTS AND AGENCIES.

(a) **REQUIREMENT FOR ASSESSMENT.**—The Secretary of Defense shall carry out an assessment of purchases by the Department of Defense of products and services through contracts entered into with other Federal departments and agencies.

(b) **PERIOD COVERED BY ASSESSMENT.**—The assessment required by subsection (a) shall cover purchases made during fiscal years 2000 through 2002.

(c) **REPORT.**—Not later than February 1, 2003, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the assessment conducted under subsection (a). The report shall include the following:

(1) The total amount paid by the Department of Defense as fees for the acquisition of such products and services.

(2) A determination of whether such total amount paid is excessive and should be reduced.

(3) A description of the benefits received by the Department as a result of purchasing such products and services through such contracts.

Deadline.

SEC. 825. REPEAL OF CERTAIN REQUIREMENTS AND COMPTROLLER GENERAL REVIEWS OF THE REQUIREMENTS.

(a) **TERMINATION OF AUTHORITY TO TRANSFER FUNDS INTO DEFENSE MODERNIZATION ACCOUNT.**—(1) Paragraph (1) of section 912(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 410; 10 U.S.C. 2216 note) is amended by striking “September 30, 2003” and inserting “September 30, 2002”.

(2) Section 912(d) of such Act (110 Stat. 410; 10 U.S.C. 2216 note), relating to Comptroller General reviews of the administration of the Defense Modernization Account, is repealed.

(b) **REPEAL OF SOLUTIONS-BASED CONTRACTING PILOT PROGRAM.**—(1) Section 11522 of title 40, United States Code, is repealed.

(2)(A) Section 11501 of title 40, United States Code, is amended—

(i) in the section heading, by striking “**PROGRAMS**” and inserting “**PROGRAM**”;

(ii) in subsection (a)(1), by striking “conduct pilot programs” and inserting “conduct a pilot program pursuant to the requirements of section 11521 of this title”;

(iii) in subsection (a)(2), by striking “each pilot program” and inserting “the pilot program”;

(iv) in subsection (b)—

(I) by striking “LIMITATIONS.—” and all that follows through “pilot programs conducted” and inserting the following: “LIMITATION ON AMOUNT.—The total amount obligated for contracts entered into under the pilot program conducted”; and

(II) by striking “paragraph.” and inserting “subsection.”; and

(v) in subsection (c)(1), by striking “a pilot” and inserting “the pilot”.

(B) The following provisions of chapter 115 of such title are each amended by striking “a pilot” each place it appears and inserting “the pilot”:

(i) Section 11502(a).

(ii) Section 11502(b).

(iii) Section 11503(a).

(iv) Section 11504.

(C) Section 11505 of such chapter is amended by striking “programs” and inserting “program”.

(3)(A) The chapter heading for chapter 115 of such title is amended by striking “**PROGRAMS**” and inserting “**PROGRAM**”.

(B) The subchapter heading for subchapter I and for subchapter II of such chapter are each amended by striking “**PROGRAMS**” and inserting “**PROGRAM**”.

(C) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

“SUBCHAPTER I—CONDUCT OF PILOT PROGRAM”.

(D) The item relating to subchapter II in the table of sections at the beginning of such chapter is amended to read as follows:

“SUBCHAPTER II—SPECIFIC PILOT PROGRAM”.

(E) The item relating to section 11501 in the table of sections at the beginning of such is amended by striking “programs” and inserting “program”.

(F) The table of sections at the beginning of such chapter is amended by striking the item relating to section 11522.

(G) The item relating to chapter 115 in the table of chapters for subtitle III of title 40, United States Code, is amended to read as follows:

“115. INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAM11501”.

(c) **REPEAL OF ON-LINE MULTIPLE AWARD SCHEDULE CONTRACTING REQUIREMENTS.**—(1) Section 11701 of title 40, United States Code, is repealed.

(2) Sections 11702, 11703, and 11704 of such title are redesignated as sections 11701, 11702, and 11703, respectively.

(3) The table of sections for chapter 117 of such title is amended—

(A) by striking the item relating to section 11701; and

(B) by redesignating the items relating to sections 11702, 11703, and 11704 as sections 11701, 11702, and 11703, respectively.

SEC. 826. MULTIYEAR PROCUREMENT AUTHORITY FOR PURCHASE OF DINITROGEN TETROXIDE, HYDRAZINE, AND HYDRAZINE-RELATED PRODUCTS.

(a) IN GENERAL.—Chapter 141 of title 10, United States Code, is amended by inserting after section 2410n the following new section:

“§ 2410o. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products

“(a) TEN-YEAR CONTRACT PERIOD.—The Secretary of Defense may enter into a contract for a period of up to 10 years for the purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products for the support of a United States national security program or a United States space program.

“(b) EXTENSIONS.—A contract entered into for more than one year under the authority of subsection (a) may be extended for a total of not more than 10 years pursuant to any option or options set forth in the contract.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following item:

“2410o. Multiyear procurement authority: purchase of dinitrogen tetroxide, hydrazine, and hydrazine-related products.”.

SEC. 827. MULTIYEAR PROCUREMENT AUTHORITY FOR ENVIRONMENTAL SERVICES FOR MILITARY INSTALLATIONS.

(a) AUTHORITY.—Subsection (b) of section 2306c of title 10, United States Code, is amended by adding at the end the following new paragraph:

“(5) Environmental remediation services for—

“(A) an active military installation;

“(B) a military installation being closed or realigned under a base closure law; or

“(C) a site formerly used by the Department of Defense.”.

(b) DEFINITIONS.—Such section, as amended by section 811, is further amended by adding at the end the following new subsection:

“(h) ADDITIONAL DEFINITIONS.—In this section:

“(1) The term ‘base closure law’ has the meaning given such term in section 2667(h)(2) of this title.

“(2) The term ‘military installation’ has the meaning given such term in section 2801(c)(2) of this title.”.

SEC. 828. REPORT ON EFFECTS OF ARMY CONTRACTING AGENCY.

(a) IN GENERAL.—The Secretary of the Army shall submit a report on the effects of the establishment of an Army Contracting Agency on small business participation in Army procurements during the first year of operation of such an agency to—

(1) the Committee on Armed Services of the House of Representatives;

(2) the Committee on Armed Services of the Senate;

(3) the Committee on Small Business of the House of Representatives; and

(4) the Committee on Small Business and Entrepreneurship of the Senate.

(b) **CONTENT.**—The report required under subsection (a) shall include, in detail—

(1) the justification for the establishment of an Army Contracting Agency;

(2) the impact of the creation of an Army Contracting Agency on—

(A) Army compliance with—

(i) Department of Defense Directive 4205.1;

(ii) section 15(g) of the Small Business Act (15 U.S.C. 644(g)); and

(iii) section 15(k) of the Small Business Act (15 U.S.C. 644(k)); and

(B) small business participation in Army procurement of products and services for affected Army installations, including—

(i) the impact on small businesses located near Army installations, including—

(I) the increase or decrease in the total value of Army prime contracting with local small businesses; and

(II) the opportunities for small business owners to meet and interact with Army procurement personnel; and

(ii) any change or projected change in the use of consolidated contracts and bundled contracts; and

(3) a description of the Army's plan to address any negative impact on small business participation in Army procurement, to the extent such impact is identified in the report.

(c) **TIME FOR SUBMISSION.**—The report under this section shall be submitted 15 months after the date of the establishment of the Army Contracting Agency.

50 USC app.
2093 note.

SEC. 829. AUTHORIZATION TO TAKE ACTIONS TO CORRECT THE INDUSTRIAL RESOURCE SHORTFALL FOR RADIATION-HARDENED ELECTRONICS.

Notwithstanding the limitation in section 303(a)(6)(C) of the Defense Production Act of 1950 (50 U.S.C. App. 2093(a)(6)(C)), action or actions may be taken under section 303 of that Act to correct the industrial resource shortfall for radiation-hardened electronics, if such actions do not cause the aggregate outstanding amount of all such actions to exceed \$106,000,000.

TITLE IX—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

Subtitle A—Duties and Functions of Department of Defense Officers

Sec. 901. Under Secretary of Defense for Intelligence.

Sec. 902. Reorganization of Office of Secretary of Defense for administration of duties relating to homeland defense and combating terrorism.

Subtitle B—Space Activities

Sec. 911. Oversight of acquisition for defense space programs.

Sec. 912. Report regarding assured access to space for the United States.

Subtitle C—Reports

Sec. 921. Report on establishment of United States Northern Command.

Sec. 922. Time for submittal of report on Quadrennial Defense Review.

Sec. 923. National defense mission of Coast Guard to be included in future Quadrennial Defense Reviews.

Sec. 924. Report on establishment of a Joint National Training Complex and joint opposing forces.

Subtitle D—Other Matters

- Sec. 931. Authority to accept gifts for National Defense University.
Sec. 932. Western Hemisphere Institute for Security Cooperation.
Sec. 933. Conforming amendment to reflect disestablishment of Department of Defense Consequence Management Program Integration Office.
Sec. 934. Increase in number of Deputy Commandants of the Marine Corps.

**Subtitle A—Duties and Functions of
Department of Defense Officers**

SEC. 901. UNDER SECRETARY OF DEFENSE FOR INTELLIGENCE.

(a) ESTABLISHMENT OF POSITION.—Chapter 4 of title 10, United States Code, is amended—

(1) by transferring section 137 within such chapter to appear after section 139 and redesignating that section as section 139a; and

(2) by inserting after section 136a the following new section 137:

“§ 137. Under Secretary of Defense for Intelligence

“(a) There is an Under Secretary of Defense for Intelligence, appointed from civilian life by the President, by and with the advice and consent of the Senate.

“(b) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Intelligence shall perform such duties and exercise such powers as the Secretary of Defense may prescribe in the area of intelligence.

“(c) The Under Secretary of Defense for Intelligence takes precedence in the Department of Defense after the Under Secretary of Defense for Personnel and Readiness.”.

(b) CONFORMING AMENDMENTS.—(1) Section 131(b) of such title is amended—

(A) by striking paragraphs (2) through (5) and inserting the following:

“(2) The Under Secretaries of Defense, as follows:

“(A) The Under Secretary of Defense for Acquisition, Technology, and Logistics.

“(B) The Under Secretary of Defense for Policy.

“(C) The Under Secretary of Defense (Comptroller).

“(D) The Under Secretary of Defense for Personnel and Readiness.

“(E) The Under Secretary of Defense for Intelligence.”;

and

(B) by redesignating paragraphs (6), (7), (8), (9), (10), and (11) as paragraphs (3), (4), (5), (6), (7), and (8), respectively.

(2) The table of sections at the beginning of chapter 4 of such title is amended—

(A) by striking the item relating to section 137 and inserting the following:

“137. Under Secretary of Defense for Intelligence.”;

and

(B) by inserting after the item relating to section 139 the following new item:

“139a. Director of Defense Research and Engineering.”.

(c) EXECUTIVE LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting after “Under Secretary of Defense for Personnel and Readiness.” the following:

“Under Secretary of Defense for Intelligence.”.

10 USC 137 note.

(d) RELATIONSHIP TO AUTHORITIES UNDER NATIONAL SECURITY ACT OF 1947.—Nothing in section 137 of title 10, United States Code, as added by subsection (a), shall supersede or modify the authorities of the Secretary of Defense and the Director of Central Intelligence as established by the National Security Act of 1947 (50 U.S.C. 401 et seq.).

Deadline.

(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the establishment of the position of Under Secretary of Defense for Intelligence. The report shall set forth the following:

(1) The mission prescribed for that Under Secretary.

(2) The organizational structure established for the office of that Under Secretary.

(3) The relationship of that Under Secretary with the Under Secretary of Defense for Acquisition, Technology, and Logistics and the Under Secretary of Defense for Policy.

(4) The relationship of that Under Secretary with each of the following intelligence components of the Department of Defense: the National Security Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, and the National Reconnaissance Office.

(5) The mission of the position designated, as of the date of the enactment of this Act, as Assistant Secretary of Defense for Command, Control, Communications, and Intelligence and the relationship of that position to the Under Secretary of Defense for Intelligence.

SEC. 902. REORGANIZATION OF OFFICE OF SECRETARY OF DEFENSE FOR ADMINISTRATION OF DUTIES RELATING TO HOMELAND DEFENSE AND COMBATING TERRORISM.

(a) ASSISTANT SECRETARY OF DEFENSE FOR HOMELAND DEFENSE.—Section 138(b) of title 10, United States Code, is amended by inserting after paragraph (2) the following new paragraph:

“(3) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Homeland Defense. He shall have as his principal duty the overall supervision of the homeland defense activities of the Department of Defense.”.

(b) TRANSFER TO UNDER SECRETARY OF DEFENSE FOR POLICY OF RESPONSIBILITY FOR COMBATING TERRORISM.—Section 134(b) of such title is amended by adding at the end the following new paragraph:

“(4) Subject to the authority, direction, and control of the Secretary of Defense, the Under Secretary of Defense for Policy shall have overall direction and supervision for policy, program planning and execution, and allocation and use of resources for the activities of the Department of Defense for combating terrorism.”.

(c) CONFORMING AMENDMENT.—Section 138(b) of such title is amended by striking paragraph (6).

(d) REPEAL OF PREVIOUS CONTINGENT REDUCTION IN NUMBER OF ASSISTANT SECRETARIES OF DEFENSE.—Subsections (c) and (d) of section 901 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1194) are repealed.

5 USC 5315;
10 USC 138.

Subtitle B—Space Activities

SEC. 911. OVERSIGHT OF ACQUISITION FOR DEFENSE SPACE PROGRAMS.

(a) IN GENERAL.—The Secretary of Defense shall provide for oversight of acquisition for defense space programs through appropriate organizations of the Office of the Secretary of Defense.

(b) REPORT ON OVERSIGHT.—(1) Not later than March 15, 2003, the Secretary of Defense shall submit to the congressional defense committees a detailed plan on how the Office of the Secretary of Defense shall provide oversight of acquisition for defense space programs.

Deadline.

(2) The plan shall set forth the following:

(A) The organizations in the Office of the Secretary of Defense, and the Joint Staff organizations, to be involved in oversight of acquisition for defense space programs.

(B) The process for the review of acquisition for defense space programs by the organizations specified under subparagraph (A).

(C) The process for the provision by such organizations of technical, programmatic, scheduling, and budgetary oversight of acquisition for defense space programs.

(D) The process for the development of independent cost estimates for acquisition for defense space programs, including the organization responsible for developing such cost estimates and when such cost estimates shall be required.

(E) The process by which the military departments, Defense Agencies, and organizations in the Office of the Secretary of Defense develop and coordinate the budgets for acquisition for defense space programs.

(F) The process for the resolution of conflicts among the Department of Defense elements referred to in subparagraphs (A) and (E) regarding acquisition for defense space programs.

(c) DEFENSE SPACE PROGRAM DEFINED.—In this section, the term “defense space program” means a program of the Department of Defense that—

(1) is included in the “virtual major force program” for space activities that was established by the Secretary of Defense and was to have been submitted with the 2003 fiscal year budget for the Department of Defense; or

(2) after the date of the enactment of this Act, is included in a virtual major force program for space categories or in a major force program for space activities established after such date.

SEC. 912. REPORT REGARDING ASSURED ACCESS TO SPACE FOR THE UNITED STATES.

(a) PLAN.—The Secretary of Defense shall—

- Deadline. (1) evaluate all options for sustaining the space launch industrial base of the United States; and
 (2) develop an integrated, long-range, and adequately funded plan for assuring access to space by the United States.
 (b) REPORT.—Not later than March 1, 2003, the Secretary of Defense shall submit to Congress a report on the plan developed under subsection (a)(2).

Subtitle C—Reports

Deadline. **SEC. 921. REPORT ON ESTABLISHMENT OF UNITED STATES NORTHERN COMMAND.**

Not later than March 1, 2003, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report providing an implementation plan for the establishment of the United States Northern Command, which is established effective October 1, 2002. The report shall address the following:

(1) The required budget for standing-up and maintaining that command over the period of the future-years defense program.

(2) The rationale for the selection of Peterson Air Force Base, Colorado, as the headquarters of that command, the criteria used in the selection of Peterson Air Force Base, and the alternative locations considered for that headquarters.

(3) The required military and civilian personnel levels for the headquarters of that command and a specification of the combatant commands and other Department of Defense sources from which such headquarters personnel will be transferred, shown by the number of military and civilian personnel from each such command or other Department of Defense source.

(4) The organization of the command, a justification of any components of the command, and a review of organizations and units permanently assigned or tasked to the command.

(5) The relationship of that command (A) to the Office of Homeland Security, the Department of Homeland Security, the Homeland Security Council, and any other Federal coordinating entity, (B) to other Federal departments and agencies, and (C) to State and local law enforcement agencies.

(6) The relationship of that command with the National Guard Bureau, individual State National Guard Headquarters, and State and local officials the command may be called upon to provide support.

(7) The legal implications of members of the Armed Forces, including the National Guard in both Federal and State status, operating on United States territory pursuant to missions, operations, or activities of that command.

(8) The status of Department of Defense consultations—

(A) with Canada regarding Canada's role in, or relationship with, and any expansion of mission for, the North American Air Defense Command; and

(B) with Mexico regarding Mexico's role in, or relationship with, the United States Northern Command.

(9) The status of United States consultations with the North Atlantic Treaty Organization relating to the position

of Supreme Allied Commander, Atlantic, and the new chain of command for that position.

(10) The effect of the creation of the United States Northern Command on the mission, budget, and resource levels of other combatant commands, particularly the United States Joint Forces Command.

SEC. 922. TIME FOR SUBMITTAL OF REPORT ON QUADRENNIAL DEFENSE REVIEW.

Section 118(d) of title 10, United States Code, is amended by striking “not later than September 30 of the year in which the review is conducted” in the second sentence and inserting “in the year following the year in which the review is conducted, but not later than the date on which the President submits the budget for the next fiscal year to Congress under section 1105(a) of title 31”.

SEC. 923. NATIONAL DEFENSE MISSION OF COAST GUARD TO BE INCLUDED IN FUTURE QUADRENNIAL DEFENSE REVIEWS.

Section 118(d) of title 10, United States Code, is amended—

(1) by redesignating paragraph (14) as paragraph (15); and

(2) by inserting after paragraph (13) the following new paragraph:

“(14) The national defense mission of the Coast Guard.”.

SEC. 924. REPORT ON ESTABLISHMENT OF A JOINT NATIONAL TRAINING COMPLEX AND JOINT OPPOSING FORCES.

(a) **REPORT REQUIRED.**—The commander of the United States Joint Forces Command shall submit to the Secretary of Defense a report that outlines a plan that would provide for the development and implementation of a joint national training concept together with the establishment of a joint training complex for supporting the implementation of that concept. Such a concept and complex—

(1) may include various training sites, mobile training ranges, public and private modeling and simulation centers, and appropriate joint opposing forces; and

(2) shall be capable of supporting field exercises and experimentation at the operational level of war across a broad spectrum of adversary capabilities.

(b) **SUBMISSION OF REPORT.**—Not later than six months after the date of the enactment of this Act, the Secretary shall submit the report under subsection (a), together with any comments that the Secretary considers appropriate and any comments that the Chairman of the Joint Chiefs of Staff considers appropriate, to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives. The report may be included in the next annual report submitted under section 485 of title 10, United States Code, after the date of the enactment of this Act or it may be submitted separately.

Deadline.

(c) **MATTERS TO BE INCLUDED.**—The report under subsection (a) shall include the following:

(1) An identification and description of the types of joint training and experimentation that would be conducted at such a joint national training complex, together with a description of how such training and experimentation would enhance accomplishment of the six critical operational goals for the

Department of Defense specified at page 30 of the Quadrennial Defense Review Report of the Secretary of Defense issued on September 30, 2001.

(2) A discussion of how establishment of such a complex (including joint opposing forces) would promote innovation and transformation throughout the Department of Defense.

(3) A discussion of how results from training and experiments conducted at such a complex would be taken into consideration in the Department of Defense plans, programs, and budgeting process and by appropriate decision making bodies within the Department of Defense.

(4) A methodology, framework, and options for selecting sites for such a complex, including consideration of current training facilities that would accommodate requirements among all the Armed Forces.

(5) Options for development as part of such a complex of a joint urban warfare training center that could also be used for homeland defense and consequence management training for Federal, State, and local training.

(6) Cost estimates and resource requirements to establish and maintain such a complex, including estimates of costs and resource requirements for the use of contract personnel for the performance of management, operational, and logistics activities for such a complex.

(7) An explanation of the relationship between and among such a complex and the Department of Defense Office of Transformation, the Joint Staff, the United States Joint Forces Command, the United States Northern Command, and each element of the major commands within the separate Armed Forces with responsibility for experimentation and training.

(8) A discussion of how implementation of a joint opposing force would be established, including the feasibility of using qualified contractors for the function of establishing and maintaining joint opposing forces and the role of foreign forces.

(9) A timeline for the establishment of such a complex and for such a complex to achieve (A) initial operational capability, and (B) full operational capability.

Subtitle D—Other Matters

SEC. 931. AUTHORITY TO ACCEPT GIFTS FOR NATIONAL DEFENSE UNIVERSITY.

(a) IN GENERAL.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2612. National Defense University: acceptance of gifts

“(a) The Secretary of Defense may accept, hold, administer, and spend any gift, including a gift from an international organization and a foreign gift or donation (as defined in section 2611(f) of this title), that is made on the condition that it be used in connection with the operation or administration of the National Defense University. The Secretary may pay all necessary expenses in connection with the acceptance of a gift under this subsection.

“(b) There is established in the Treasury a fund to be known as the ‘National Defense University Gift Fund’. Gifts of money, and the proceeds of the sale of property, received under subsection

(a) shall be deposited in the fund. The Secretary may disburse funds deposited under this subsection for the benefit or use of the National Defense University.

“(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

“(d)(1) Upon request of the Secretary of Defense, the Secretary of the Treasury may—

“(A) retain money, securities, and the proceeds of the sale of securities, in the National Defense University Gift Fund; and

“(B) invest money and reinvest the proceeds of the sale of securities in that fund in securities of the United States or in securities guaranteed as to principal and interest by the United States.

“(2) The interest and profits accruing from those securities shall be deposited to the credit of the fund and may be disbursed as provided in subsection (b).

“(e) In this section:

“(1) the term ‘gift’ includes a devise of real property or a bequest of personal property and any gift of an interest in real property.

“(2) The term ‘National Defense University’ includes any school or other component of the National Defense University specified under section 2165(b) of this title.

“(f) The Secretary of Defense shall prescribe regulations to carry out this section.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2612. National Defense University: acceptance of gifts.”.

SEC. 932. WESTERN HEMISPHERE INSTITUTE FOR SECURITY COOPERATION.

(a) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—Section 2166 of title 10, United States Code, is amended—

(1) by redesignating subsections (f), (g), and (h), as subsections (g), (h), and (i), respectively; and

(2) by inserting after subsection (e) the following new subsection (f):

“(f) AUTHORITY TO ACCEPT FOREIGN GIFTS AND DONATIONS.—

(1) The Secretary of Defense may, on behalf of the Institute, accept foreign gifts or donations in order to defray the costs of, or enhance the operation of, the Institute.

“(2) Funds received by the Secretary under paragraph (1) shall be credited to appropriations available for the Department of Defense for the Institute. Funds so credited shall be merged with the appropriations to which credited and shall be available for the Institute for the same purposes and same period as the appropriations with which merged.

“(3) The Secretary of Defense shall notify Congress if the total amount of money accepted under paragraph (1) exceeds \$1,000,000 in any fiscal year. Any such notice shall list each of the contributors of such money and the amount of each contribution in such fiscal year.

Notification.

“(4) For the purposes of this subsection, a foreign gift or donation is a gift or donation of funds, materials (including research materials), property, or services (including lecture services and faculty services) from a foreign government, a foundation or other charitable organization in a foreign country, or an individual in a foreign country.”.

(b) **CONTENT OF ANNUAL REPORT TO CONGRESS.**—Subsection (i) of such section, as redesignated by subsection (a)(1), is amended by inserting after the first sentence the following: “The report shall include a copy of the latest report of the Board of Visitors received by the Secretary under subsection (e)(5), together with any comments of the Secretary on the Board’s report.”.

SEC. 933. CONFORMING AMENDMENT TO REFLECT DISESTABLISHMENT OF DEPARTMENT OF DEFENSE CONSEQUENCE MANAGEMENT PROGRAM INTEGRATION OFFICE.

Section 12310(c)(3) of title 10, United States Code, is amended by striking “only—” and all that follows through “(B) while assigned” and inserting “only while assigned”.

SEC. 934. INCREASE IN NUMBER OF DEPUTY COMMANDANTS OF THE MARINE CORPS.

Section 5045 of title 10, United States Code, is amended by striking “five” and inserting “six”.

TITLE X—GENERAL PROVISIONS

Subtitle A—Financial Matters

- Sec. 1001. Transfer authority.
- Sec. 1002. Authorization of supplemental appropriations for fiscal year 2002.
- Sec. 1003. United States contribution to NATO common-funded budgets in fiscal year 2003.
- Sec. 1004. Development and implementation of financial management enterprise architecture.
- Sec. 1005. Accountable officials in the Department of Defense.
- Sec. 1006. Uniform standards throughout Department of Defense for exposure of personnel to pecuniary liability for loss of Government property.
- Sec. 1007. Improvements in purchase card management.
- Sec. 1008. Improvements in travel card management.
- Sec. 1009. Clearance of certain transactions recorded in Treasury suspense accounts and resolution of certain check issuance discrepancies.
- Sec. 1010. Authorization of funds for ballistic missile defense programs or combating terrorism programs of the Department of Defense.
- Sec. 1011. Reduction in overall authorization due to inflation savings.

Subtitle B—Naval Vessels and Shipyards

- Sec. 1021. Number of Navy combatant surface vessels in active and reserve service.
- Sec. 1022. Annual long-range plan for the construction of naval vessels.
- Sec. 1023. Assessment of the feasibility of the expedited equipping of a Navy ship with a version of the 155-millimeter Advanced Gun System.
- Sec. 1024. Report on initiatives to increase operational days of Navy ships.
- Sec. 1025. Ship combat system industrial base.
- Sec. 1026. Sense of Congress concerning aircraft carrier force structure.
- Sec. 1027. Conveyance, Navy drydock, Portland, Oregon.

Subtitle C—Strategic Matters

- Sec. 1031. Strategic force structure plan for nuclear weapons and delivery systems.
- Sec. 1032. Annual report on weapons to defeat hardened and deeply buried targets.
- Sec. 1033. Report on effects of nuclear earth-penetrator weapon and other weapons.

Subtitle D—Reports

- Sec. 1041. Repeal and modification of various reporting requirements applicable to the Department of Defense.

- Sec. 1042. Requirement that Department of Defense reports to Congress be accompanied by electronic version.
- Sec. 1043. Annual report on the conduct of military operations conducted as part of Operation Enduring Freedom.
- Sec. 1044. Report on efforts to ensure adequacy of fire fighting staffs at military installations.
- Sec. 1045. Report on designation of certain Louisiana highway as Defense Access Road.

Subtitle E—Extension of Expiring Authorities

- Sec. 1051. Extension of authority for Secretary of Defense to sell aircraft and aircraft parts for use in responding to oil spills.
- Sec. 1052. Six-month extension of expiring Governmentwide information security requirements; continued applicability of expiring Governmentwide information security requirements to the Department of Defense.
- Sec. 1053. Two-year extension of authority of the Secretary of Defense to engage in commercial activities as security for intelligence collection activities abroad.

Subtitle F—Other Matters

- Sec. 1061. Time for transmittal of annual defense authorization legislative proposal.
- Sec. 1062. Technical and clerical amendments.
- Sec. 1063. Use for law enforcement purposes of DNA samples maintained by Department of Defense for identification of human remains.
- Sec. 1064. Enhanced authority to obtain foreign language services during periods of emergency.
- Sec. 1065. Rewards for assistance in combating terrorism.
- Sec. 1066. Provision of space and services to military welfare societies.
- Sec. 1067. Prevention and mitigation of corrosion of military equipment and infrastructure.
- Sec. 1068. Transfer of historic DF–9E Panther aircraft to Women Airforce Service Pilots Museum.
- Sec. 1069. Increase in amount authorized to be expended for Department of Defense program to commemorate 50th anniversary of the Korean War.

Subtitle A—Financial Matters

SEC. 1001. TRANSFER AUTHORITY.

(a) **AUTHORITY TO TRANSFER AUTHORIZATIONS.**—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this division for fiscal year 2003 between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary may transfer under the authority of paragraph (1) may not exceed \$2,000,000,000.

(b) **LIMITATIONS.**—The authority provided by subsection (a) to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) **EFFECT ON AUTHORIZATION AMOUNTS.**—A transfer made from one account to another under the authority of subsection (a) shall be deemed to increase the amount authorized for the account to which the amount is transferred by an amount equal to the amount transferred.

(d) **NOTICE TO CONGRESS.**—The Secretary shall promptly notify Congress of each transfer made under subsection (a).

(e) INCREASE IN AMOUNT OF TRANSFER AUTHORITY AUTHORIZED FOR FY02.—Section 1001 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1201) is amended by striking “\$2,000,000,000” and inserting “\$2,500,000,000”.

SEC. 1002. AUTHORIZATION OF SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR 2002.

(a) DOD AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2002 in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to chapter 3 or chapter 10 of title I of Public Law 107-206 (116 Stat. 835, 878).

(b) NNSA AUTHORIZATIONS.—Amounts authorized to be appropriated to the Department of Energy for fiscal year 2002 in the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorization are increased (by a supplemental appropriation) or decreased (by a rescission), or both, or are increased by a transfer of funds, pursuant to chapter 5 of title I of Public Law 107-206 (116 Stat. 848).

Deadline.

(c) REPORT ON FISCAL YEAR 2002 TRANSFERS.—Not later than January 15, 2003, the Secretary of Defense shall submit to the congressional defense committees a report stating, for each transfer during fiscal year 2002 of an amount provided for the Department of Defense for that fiscal year through a so-called “transfer account”, including the Defense Emergency Response Fund or any other similar account, the amount of the transfer, the appropriation account to which the transfer was made, and the specific purpose for which the transferred funds were used.

SEC. 1003. UNITED STATES CONTRIBUTION TO NATO COMMON-FUNDED BUDGETS IN FISCAL YEAR 2003.

(a) FISCAL YEAR 2003 LIMITATION.—The total amount contributed by the Secretary of Defense in fiscal year 2003 for the common-funded budgets of NATO may be any amount up to, but not in excess of, the amount specified in subsection (b) (rather than the maximum amount that would otherwise be applicable to those contributions under the fiscal year 1998 baseline limitation).

(b) TOTAL AMOUNT.—The amount of the limitation applicable under subsection (a) is the sum of the following:

(1) The amounts of unexpended balances, as of the end of fiscal year 2002, of funds appropriated for fiscal years before fiscal year 2003 for payments for those budgets.

(2) The amount specified in subsection (c)(1).

(3) The amount specified in subsection (c)(2).

(4) The total amount of the contributions authorized to be made under section 2501.

(c) AUTHORIZED AMOUNTS.—Amounts authorized to be appropriated by titles II and III of this Act are available for contributions for the common-funded budgets of NATO as follows:

(1) Of the amount provided in section 201(1), \$750,000 for the Civil Budget.

(2) Of the amount provided in section 301(1), \$205,623,000 for the Military Budget.

(d) DEFINITIONS.—For purposes of this section:

(1) COMMON-FUNDED BUDGETS OF NATO.—The term “common-funded budgets of NATO” means the Military Budget, the Security Investment Program, and the Civil Budget of the North Atlantic Treaty Organization (and any successor or additional account or program of NATO).

(2) FISCAL YEAR 1998 BASELINE LIMITATION.—The term “fiscal year 1998 baseline limitation” means the maximum annual amount of Department of Defense contributions for common-funded budgets of NATO that is set forth as the annual limitation in section 3(2)(C)(ii) of the resolution of the Senate giving the advice and consent of the Senate to the ratification of the Protocols to the North Atlantic Treaty of 1949 on the Accession of Poland, Hungary, and the Czech Republic (as defined in section 4(7) of that resolution), approved by the Senate on April 30, 1998.

SEC. 1004. DEVELOPMENT AND IMPLEMENTATION OF FINANCIAL MANAGEMENT ENTERPRISE ARCHITECTURE. 10 USC 113 note.

(a) REQUIREMENT FOR ENTERPRISE ARCHITECTURE AND FOR TRANSITION PLAN.—Not later than May 1, 2003, the Secretary of Defense shall develop— Deadline.

(1) a financial management enterprise architecture for all budgetary, accounting, finance, enterprise resource planning, and mixed information systems of the Department of Defense; and

(2) a transition plan for implementing that financial management enterprise architecture.

(b) COMPOSITION OF ENTERPRISE ARCHITECTURE.—(1) The financial management enterprise architecture developed under subsection (a)(1) shall describe an information infrastructure that, at a minimum, would enable the Department of Defense to—

(A) comply with all Federal accounting, financial management, and reporting requirements;

(B) routinely produce timely, accurate, and reliable financial information for management purposes;

(C) integrate budget, accounting, and program information and systems; and

(D) provide for the systematic measurement of performance, including the ability to produce timely, relevant, and reliable cost information.

(2) That enterprise architecture shall also include policies, procedures, data standards, and system interface requirements that are to apply uniformly throughout the Department of Defense.

(c) COMPOSITION OF TRANSITION PLAN.—The transition plan developed under subsection (a)(2) shall include the following:

(1) The acquisition strategy for the enterprise architecture, including specific time-phased milestones, performance metrics, and financial and nonfinancial resource needs.

(2) A listing of the mission critical or mission essential operational and developmental financial and nonfinancial management systems of the Department of Defense, as defined by the Under Secretary of Defense (Comptroller), consistent with budget justification documentation, together with—

(A) the costs to operate and maintain each of those systems during fiscal year 2002; and

(B) the estimated cost to operate and maintain each of those systems during fiscal year 2003.

(3) A listing of the operational and developmental financial management systems of the Department of Defense as of the date of the enactment of this Act (known as “legacy systems”) that will not be part of the objective financial and nonfinancial management system, together with the schedule for terminating those legacy systems that provides for reducing the use of those legacy systems in phases.

(d) CONDITIONS FOR OBLIGATION OF SIGNIFICANT AMOUNTS FOR FINANCIAL SYSTEM IMPROVEMENTS.—An amount in excess of \$1,000,000 may be obligated for a defense financial system improvement only if the Under Secretary of Defense (Comptroller) makes a determination regarding that improvement as follows:

(1) Before the date of an approval specified in paragraph (2), a determination that the defense financial system improvement is necessary for either of the following reasons:

(A) To achieve a critical national security capability or address a critical requirement in an area such as safety or security.

(B) To prevent a significant adverse effect (in terms of a technical matter, cost, or schedule) on a project that is needed to achieve an essential capability, taking into consideration in the determination the alternative solutions for preventing the adverse effect.

(2) On and after the date of any approval by the Secretary of Defense of a financial management enterprise architecture and a transition plan that satisfy the requirements of this section, a determination that the defense financial system improvement is consistent with both the enterprise architecture and the transition plan.

Deadline.

(e) CONGRESSIONAL REPORTS.—Not later than March 15 of each year from 2004 through 2007, the Secretary of Defense shall submit to the congressional defense committees a report on the progress of the Department of Defense in implementing the enterprise architecture and transition plan required by this section. Each report shall include, at a minimum—

(1) a description of the actions taken during the preceding fiscal year to implement the enterprise architecture and transition plan (together with the estimated costs of such actions);

(2) an explanation of any action planned in the enterprise architecture and transition plan to be taken during the preceding fiscal year that was not taken during that fiscal year;

(3) a description of the actions taken and planned to be taken during the current fiscal year to implement the enterprise architecture and transition plan (together with the estimated costs of such actions); and

(4) a description of the actions taken and planned to be taken during the next fiscal year to implement the enterprise architecture and transition plan (together with the estimated costs of such actions).

Deadlines.

(f) COMPTROLLER GENERAL REVIEW.—Not later than 60 days after the approval of an enterprise architecture and transition plan in accordance with the requirements of subsection (a), and not later than 60 days after the submission of an annual report required

by subsection (e), the Comptroller General shall submit to the congressional defense committees an assessment of the extent to which the actions taken by the Department comply with the requirements of this section.

(g) DEFINITIONS.—In this section:

(1) The term “defense financial system improvement” means the acquisition of a new budgetary, accounting, finance, enterprise resource planning, or mixed information system for the Department of Defense or a modification of an existing budgetary, accounting, finance, enterprise resource planning, or mixed information system of the Department of Defense. Such term does not include routine maintenance and operation of any such system.

(2) The term “mixed information system” means an information system that supports financial and non-financial functions of the Federal Government as defined in Office of Management and Budget Circular A-127 (Financial management Systems).

(h) REPEAL.—(1) Section 2222 of title 10, United States Code, is repealed. The table of sections at the beginning of chapter 131 of such title is amended by striking the item relating to such section.

(2) Section 185(d) of such title is amended by striking “has the meaning given that term in section 2222(c)(2) of this title” and inserting “means an automated or manual system from which information is derived for a financial management system or an accounting system”.

SEC. 1005. ACCOUNTABLE OFFICIALS IN THE DEPARTMENT OF DEFENSE.

(a) ACCOUNTABLE OFFICIALS WITHIN THE DEPARTMENT OF DEFENSE.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2773 the following new section:

“§ 2773a. Departmental accountable officials

“(a) DESIGNATION BY SECRETARY OF DEFENSE.—The Secretary of Defense may designate any civilian employee of the Department of Defense or member of the armed forces under the Secretary’s jurisdiction who is described in subsection (b) as an employee or member who, in addition to any other potential accountability, may be held accountable through personal monetary liability for an illegal, improper, or incorrect payment made the Department of Defense described in subsection (c). Any such designation shall be in writing. Any employee or member who is so designated may be referred to as a ‘departmental accountable official’.

“(b) COVERED EMPLOYEES AND MEMBERS.—An employee or member of the armed forces described in this subsection is an employee or member who—

“(1) is responsible in the performance of the employee’s or member’s duties for providing to a certifying official of the Department of Defense information, data, or services that are directly relied upon by the certifying official in the certification of vouchers for payment; and

“(2) is not otherwise accountable under subtitle III of title 31 or any other provision of law for payments made on the basis of such vouchers.

“(c) **PECUNIARY LIABILITY.**—(1) The Secretary of Defense may subject a departmental accountable official to pecuniary liability for an illegal, improper, or incorrect payment made by the Department of Defense if the Secretary determines that such payment—

“(A) resulted from information, data, or services that that official provided to a certifying official and upon which that certifying official directly relies in certifying the voucher supporting that payment; and

“(B) was the result of fault or negligence on the part of that departmental accountable official.

“(2) Pecuniary liability under this subsection shall apply in the same manner and to the same extent as applies to an official accountable under subtitle III of title 31.

“(3) Any pecuniary liability of a departmental accountable official under this subsection for a loss to the United States resulting from an illegal, improper, or incorrect payment is joint and several with that of any other officer or employee of the United States or member of the uniformed services who is pecuniarily liable for such loss.

“(d) **CERTIFYING OFFICIAL DEFINED.**—In this section, the term ‘certifying official’ means an employee who has the responsibilities specified in section 3528(a) of title 31.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2773 the following new item:

“2773a. Departmental accountable officials.”.

SEC. 1006. UNIFORM STANDARDS THROUGHOUT DEPARTMENT OF DEFENSE FOR EXPOSURE OF PERSONNEL TO PECUNIARY LIABILITY FOR LOSS OF GOVERNMENT PROPERTY.

(a) **EXTENSION OF ARMY AND AIR FORCE REPORT-OF-SURVEY PROCEDURES TO NAVY AND MARINE CORPS AND ALL DOD CIVILIAN EMPLOYEES.**—(1) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2787. Reports of survey

“(a) **ACTION ON REPORTS OF SURVEY.**—Under regulations prescribed pursuant to subsection (c), any officer of the Army, Navy, Air Force, or Marine Corps or any civilian employee of the Department of Defense designated in accordance with those regulations may act upon reports of surveys and vouchers pertaining to the loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of the United States under the control of the Department of Defense.

“(b) **FINALITY OF ACTION.**—(1) Action taken under subsection (a) is final except as provided in paragraph (2).

“(2) An action holding a person pecuniarily liable for loss, spoilage, destruction, or damage is not final until approved by a person designated to do so by the Secretary of a military department, commander of a combatant command, or Director of a Defense Agency, as the case may be, who has jurisdiction of the person held pecuniarily liable. The person designated to provide final approval shall be an officer of an armed force, or a civilian employee, under the jurisdiction of the official making the designation.

“(c) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations to carry out this section.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2787. Reports of survey.”.

(b) EXTENSION TO MEMBERS OF NAVY AND MARINE CORPS OF PAY DEDUCTION AUTHORITY PERTAINING TO DAMAGE OR REPAIR OF ARMS AND EQUIPMENT.—Section 1007(e) of title 37, United States Code, is amended by striking “Army or the Air Force” and inserting “Army, Navy, Air Force, or Marine Corps”.

(c) REPEAL OF SUPERSEDED PROVISIONS.—(1) Sections 4835 and 9835 of title 10, United States Code, are repealed.

(2) The tables of sections at the beginning of chapters 453 and 953 of such title are amended by striking the items relating to sections 4835 and 9835, respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the loss, spoilage, unserviceability, unsuitability, or destruction of, or damage to, property of the United States under the control of the Department of Defense occurring on or after the effective date of regulations prescribed pursuant to section 2787 of title 10, United States Code, as added by subsection (a).

10 USC 2787
note.

SEC. 1007. IMPROVEMENTS IN PURCHASE CARD MANAGEMENT.

(a) PURCHASE CARD MANAGEMENT IMPROVEMENTS.—Section 2784 of title 10, United States Code, is amended—

(1) in subsection (a), by striking “, acting through the Under Secretary of Defense (Comptroller),”; and

(2) by adding at the end of subsection (b) the following:

“(7) That periodic reviews are performed to determine whether each purchase card holder has a need for the purchase card.

“(8) That the Inspector General of the Department of Defense, the Inspector General of the Army, the Naval Inspector General, and the Inspector General of the Air Force perform periodic audits to identify—

“(A) potentially fraudulent, improper, and abusive uses of purchase cards;

“(B) any patterns of improper card holder transactions, such as purchases of prohibited items; and

“(C) categories of purchases that should be made by means other than purchase cards in order to better aggregate purchases and obtain lower prices.

“(9) That appropriate training is provided to each purchase card holder and each official with responsibility for overseeing the use of purchase cards issued by the Department of Defense.

“(10) That the Department of Defense has specific policies regarding the number of purchase cards issued by various organizations and categories of organizations, the credit limits authorized for various categories of card holders, and categories of employees eligible to be issued purchase cards, and that those policies are designed to minimize the financial risk to the Federal Government of the issuance of the purchase cards and to ensure the integrity of purchase card holders.

“(c) PENALTIES FOR VIOLATIONS.—The regulations prescribed under subsection (a) shall—

“(1) provide for appropriate adverse personnel actions or other punishment to be imposed in cases in which employees

of the Department of Defense violate such regulations or are negligent or engage in misuse, abuse, or fraud with respect to a purchase card, including removal in appropriate cases; and

“(2) provide that a violation of such regulations by a person subject to chapter 47 of this title (the Uniform Code of Military Justice) is punishable as a violation of section 892 of this title (article 92 of the Uniform Code of Military Justice).”.

(b) CONFORMING AND CLERICAL AMENDMENTS.—(1) Section 2784 of such title is further amended—

(A) in the section heading, by striking “**credit**” and inserting “**purchase**”;

(B) in the heading of subsection (a), by striking “CREDIT” and inserting “PURCHASE”; and

(C) in subsection (a) and paragraphs (1) through (6) of subsection (b), by striking “credit” and inserting “purchase” each place it appears.

(2) The table of sections at the beginning of chapter 165 of such title is amended by striking the item relating to section 2784 and inserting the following:

“2784. Management of purchase cards.”.

SEC. 1008. IMPROVEMENTS IN TRAVEL CARD MANAGEMENT.

(a) TRAVEL CARD MANAGEMENT IMPROVEMENTS.—Chapter 165 of title 10, United States Code, is amended by inserting after section 2784 the following new section:

“§ 2784a. Management of travel cards

“(a) DISBURSEMENT OF TRAVEL ALLOWANCES DIRECTLY TO CREDITORS.—(1) The Secretary of Defense may require that any part of a travel or transportation allowance of an employee of the Department of Defense or a member of the armed forces be disbursed directly to the issuer of a Defense travel card if the amount is disbursed to the issuer in payment of amounts of expenses of official travel that are charged by the employee or member on the Defense travel card.

“(2) For the purposes of this subsection, the travel and transportation allowances referred to in paragraph (1) are amounts to which an employee of the Department of Defense is entitled under section 5702 of title 5 or a member of the armed forces is entitled under section 404 of title 37.

“(b) OFFSETS FOR DELINQUENT TRAVEL CARD CHARGES.—(1) The Secretary of Defense may require that there be deducted and withheld from any basic pay payable to an employee of the Department of Defense or a member of the armed forces any amount that is owed by the employee or member to a creditor by reason of one or more charges of expenses of official travel of the employee or member on a Defense travel card issued by the creditor if the employee or member—

“(A) is delinquent in the payment of such amount under the terms of the contract under which the card is issued; and

“(B) does not dispute the amount of the delinquency.

“(2) The amount deducted and withheld from pay under paragraph (1) with respect to a debt owed a creditor as described in that paragraph shall be disbursed to the creditor to reduce the amount of the debt.

“(3) The amount of pay deducted and withheld from the pay owed to an employee or member with respect to a pay period under paragraph (1) may not exceed 15 percent of the disposable pay of the employee or member for that pay period, except that a higher amount may be deducted and withheld with the written consent of the employee or member.

“(4) The Secretary of Defense shall prescribe procedures for deducting and withholding amounts from pay under this subsection. The procedures shall be substantially equivalent to the procedures under section 3716 of title 31.

“(c) OFFSETS OF RETIRED PAY.—In the case of a former employee of the Department of Defense or a retired member of the armed forces who is receiving retired pay and who owes an amount to a creditor by reason of one or more charges on a Defense travel card that were made before the retirement of the employee or member, the Secretary may require amounts to be deducted and withheld from any retired pay of the former employee or retired member in the same manner and subject to the same conditions as the Secretary deducts and withholds amounts from basic pay payable to an employee or member under subsection (b).

“(d) DEFINITIONS.—In this section:

“(1) The term ‘Defense travel card’ means a charge or credit card that—

“(A) is issued to an employee of the Department of Defense or a member of the armed forces under a contract entered into by the Department of Defense with the issuer of the card; and

“(B) is to be used for charging expenses incurred by the employee or member in connection with official travel.

“(2) The term ‘disposable pay’, with respect to a pay period, means the amount equal to the excess of the amount of basic pay or retired pay, as the case may be, payable for the pay period over the total of the amounts deducted and withheld from such pay.

“(3) The term ‘retired pay’ means—

“(A) in the case of a former employee of the Department of Defense, any retirement benefit payable to that individual, out of the Civil Service Retirement and Disability Fund, based (in whole or in part) on service performed by such individual as a civilian employee of the Department of Defense; and

“(B) in the case of a retired member of the armed forces or member of the Fleet Reserve or Fleet Marine Corps Reserve, retired or retainer pay to which the member is entitled.

“(e) EXCLUSION OF COAST GUARD.—This section does not apply to the Coast Guard.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 165 of such title is amended by inserting after the item relating to section 2784 the following new item:

“2784a. Management of travel cards.”.

SEC. 1009. CLEARANCE OF CERTAIN TRANSACTIONS RECORDED IN TREASURY SUSPENSE ACCOUNTS AND RESOLUTION OF CERTAIN CHECK ISSUANCE DISCREPANCIES.

(a) CLEARANCE OF CERTAIN SUSPENSE ACCOUNTS.—(1) In the case of any transaction that was entered into by or on behalf

of the Department of Defense before March 1, 2001, that is recorded in the Department of Treasury Budget Clearing Account (Suspense) designated as account F3875, the Unavailable Check Cancellations and Overpayments Account (Suspense) designated as account F3880, or an Undistributed Intergovernmental Payments account designated as account F3885, and for which no appropriation for the Department of Defense has been identified—

(A) any undistributed collection credited to such account in such case shall be deposited to the miscellaneous receipts of the Treasury; and

(B) subject to paragraph (2), any undistributed disbursement recorded in such account in such case shall be canceled.

(2) An undistributed disbursement may not be canceled under paragraph (1)(B) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to identify which appropriation should be charged with such disbursement and that further efforts to do so are not in the best interests of the United States.

(b) RESOLUTION OF CHECK ISSUANCE DISCREPANCIES.—(1) In the case of any check drawn on the Treasury that was issued by or on behalf of the Department of Defense before October 31, 1998, for which the Secretary of the Treasury has reported to the Department of Defense a discrepancy between the amount paid and the amount of the check as transmitted to the Department of Treasury, and for which no specific appropriation for the Department of Defense can be identified as being associated with the check, the discrepancy shall be canceled, subject to paragraph (2).

(2) A discrepancy may not be canceled under paragraph (1) until the Secretary of Defense has made a written determination that the appropriate official or officials of the Department of Defense have attempted without success to locate the documentation necessary to identify which appropriation should be charged with the amount of the check and that further efforts to do so are not in the best interests of the United States.

(c) CONSULTATION.—The Secretary of Defense shall consult the Secretary of the Treasury in the exercise of the authority granted by subsections (a) and (b).

(d) DURATION OF CANCELLATION AUTHORITY FOLLOWING DETERMINATION.—(1) A particular undistributed disbursement may not be canceled under paragraph (1)(B) of subsection (a) more than 30 days after the date of the written determination made by the Secretary of Defense under paragraph (2) of such subsection regarding that undistributed disbursement.

(2) A particular discrepancy may not be canceled under paragraph (1) of subsection (b) more than 30 days after the date of the written determination made by the Secretary of Defense under paragraph (2) of such subsection regarding that discrepancy.

(e) PROGRAM TERMINATION.—No authority may be exercised under this section after the date that is two years after the date of the enactment of this Act.

**SEC. 1010. AUTHORIZATION OF FUNDS FOR BALLISTIC MISSILE
DEFENSE PROGRAMS OR COMBATING TERRORISM PRO-
GRAMS OF THE DEPARTMENT OF DEFENSE.**

(a) **AUTHORIZATION.**—There is hereby authorized to be appropriated for fiscal year 2003 for the military functions of the Department of Defense, in addition to amounts authorized to be appropriated in titles I, II, and III, the amount of \$814,300,000, to be available, in accordance with subsection (b), for the following purposes:

(1) Research, development, test, and evaluation for ballistic missile defense programs of the Missile Defense Agency of the Department of Defense.

(2) Activities of the Department of Defense for combating terrorism at home and abroad.

(b) **ALLOCATION BY PRESIDENT.**—(1) The amount authorized to be appropriated by subsection (a) shall be allocated between the purposes stated in paragraphs (1) and (2) of that subsection in such manner as may be determined by the President based upon the national security interests of the United States. The amount authorized in subsection (a) shall not be available for any other purpose.

(2) Upon an allocation of such amount by the President, the amount so allocated shall be transferred to the appropriate regular authorization account under this division in the same manner as provided in section 1001. Transfers under this paragraph shall not be counted for the purposes of section 1001(a)(2).

(3) Not later than 15 days after an allocation is made under this subsection, the Secretary of Defense shall submit to the congressional defense committees a report describing the President's allocation, the basis for the President's determination in making such allocation, and the Secretary's plan for the use by the Department of Defense of the funds made available pursuant to such allocation.

Deadline.
Reports.

**SEC. 1011. REDUCTION IN OVERALL AUTHORIZATION DUE TO INFLA-
TION SAVINGS.**

(a) **REDUCTION.**—The total amount authorized to be appropriated by titles I, II, and III is the amount equal to the sum of the individual authorizations in those titles reduced by \$1,000,000,000.

(b) **SOURCE OF SAVINGS.**—Reductions required in order to comply with subsection (a) shall be derived from savings resulting from lower-than-expected inflation as a result of the midsession review of the budget conducted by the Office of Management and Budget.

(c) **ALLOCATION OF REDUCTION.**—The Secretary of Defense shall allocate the reduction required by subsection (a) among the accounts in titles I, II, and III to reflect the extent to which net inflation savings are available in those accounts.

Subtitle B—Naval Vessels and Shipyards

**SEC. 1021. NUMBER OF NAVY COMBATANT SURFACE VESSELS IN
ACTIVE AND RESERVE SERVICE.**

(a) **CONTINGENT REQUIREMENT FOR REPORT.**—(1) If, on the date of the enactment of this Act, the number of combatant surface

Deadline.

vessels of the Navy is less than 116, the Secretary of the Navy shall, not later than 90 days after such date, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the size of the force of combatant surface vessels of the Navy. The report shall include a risk assessment for a force of combatant surface vessels in the number as of the date of the enactment of this Act that is based on the same assumptions as were applied in the QDR 2001 combatant surface force risk assessment.

(2) The definitions in subsection (c) of section 7296 of title 10, United States Code, as added by subsection (b), apply to this subsection.

(b) NUMBER OF COMBATANT SURFACE VESSELS.—(1) Chapter 633 of title 10, United States Code, is amended by inserting after section 7295 the following new section:

“§ 7296. Combatant surface vessels: notice before reduction in number; preservation of surge capability

“(a) NOTICE-AND-WAIT BEFORE REDUCTIONS.—(1) A reduction described in paragraph (2) in the number of combatant surface vessels may only be carried out after—

“(A) the Secretary of the Navy submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a written notification of the proposed reduction; and

“(B) a period of 90 days has expired after the date on which such notification is received.

“(2) A reduction described in this paragraph in the number of combatant surface vessels is a reduction—

“(A) from 116, or a number greater than 116, to a number less than 116; or

“(B) from a number less than 116 to a lesser number.

“(3) Any notification under paragraph (1)(A) shall include the following:

“(A) The schedule for the proposed reduction.

“(B) The number of vessels that are to comprise the force of combatant surface vessels after the reduction.

“(C) A risk assessment for a force of combatant surface vessels of the number specified under subparagraph (B) that is based on the same assumptions as were applied in the QDR 2001 combatant surface force risk assessment.

“(b) PRESERVATION OF SURGE CAPABILITY.—Whenever the number of combatant surface vessels is less than 116, the Secretary of the Navy shall maintain on the Naval Vessel Register a sufficient number of combatant surface vessels to enable the Navy to regain a force of combatant surface vessels numbering not less than 116 within 120 days after the date of any decision by the President to increase the number of combatant surface vessels.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘combatant surface vessels’ means cruisers, destroyers, and frigates that are in active service in the Navy or in active reserve service in the Navy.

“(2) The term ‘QDR 2001 combatant surface force risk assessment’ means the risk assessment associated with a force of combatant surface vessels numbering 116 that is set forth in the report on the quadrennial defense review submitted

to Congress on September 30, 2001, under section 118 of this title.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 7295 the following new item:

“7296. Combatant surface vessels: notice before reduction in number; preservation of surge capability.”.

(c) EFFECTIVE DATE FOR 90-DAY WAITING PERIOD.—The provisions of subparagraph (B) of subsection (a)(1) of section 7296 of title 10, United States Code, as added by subsection (b)(1) of this section, shall apply only with respect to notifications submitted under subparagraph (A) of that subsection on or after January 15, 2003.

10 USC 7296
note.

SEC. 1022. ANNUAL LONG-RANGE PLAN FOR THE CONSTRUCTION OF NAVAL VESSELS.

(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 231. Budgeting for construction of naval vessels: annual plan and certification

“(a) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN AND CERTIFICATION.—The Secretary of Defense shall include with the defense budget materials for a fiscal year—

“(1) a plan for the construction of combatant and support vessels for the Navy developed in accordance with this section; and

“(2) a certification by the Secretary that both the budget for that fiscal year and the future-years defense program submitted to Congress in relation to such budget under section 221 of this title provide for funding of the construction of naval vessels at a level that is sufficient for the procurement of the vessels provided for in the plan under paragraph (1) on the schedule provided in that plan.

“(b) ANNUAL NAVAL VESSEL CONSTRUCTION PLAN.—(1) The annual naval vessel construction plan developed for a fiscal year for purposes of subsection (a)(1) should be designed so that the naval vessel force provided for under that plan is capable of supporting the national security strategy of the United States as set forth in the most recent national security strategy report of the President under section 108 of the National Security Act of 1947 (50 U.S.C. 404a), except that, if at the time such plan is submitted with the defense budget materials for that fiscal year, a national security strategy report required under such section 108 has not been submitted to Congress as required by paragraph (2) or paragraph (3), if applicable, of subsection (a) of such section, then such annual plan should be designed so that the naval vessel force provided for under that plan is capable of supporting the ship force structure recommended in the report of the most recent Quadrennial Defense Review.

“(2) Each such naval vessel construction plan shall include the following:

“(A) A detailed program for the construction of combatant and support vessels for the Navy over the next 30 fiscal years.

“(B) A description of the necessary naval vessel force structure to meet the requirements of the national security strategy of the United States or the most recent Quadrennial Defense Review, whichever is applicable under paragraph (1).

“(C) The estimated levels of annual funding necessary to carry out the program, together with a discussion of the procurement strategies on which such estimated levels of annual funding are based.

“(c) ASSESSMENT WHEN VESSEL CONSTRUCTION BUDGET IS INSUFFICIENT TO MEET APPLICABLE REQUIREMENTS.—If the budget for a fiscal year provides for funding of the construction of naval vessels at a level that is not sufficient to sustain the naval vessel force structure specified in the naval vessel construction plan for that fiscal year under subsection (a), the Secretary shall include with the defense budget materials for that fiscal year an assessment that describes and discusses the risks associated with the reduced force structure of naval vessels that will result from funding naval vessel construction at such level. Such assessment shall be coordinated in advance with the commanders of the combatant commands.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘budget’, with respect to a fiscal year, means the budget for that fiscal year that is submitted to Congress by the President under section 1105(a) of title 31.

“(2) The term ‘defense budget materials’, with respect to a fiscal year, means the materials submitted to Congress by the Secretary of Defense in support of the budget for that fiscal year.

“(3) The term ‘Quadrennial Defense Review’ means the review of the defense programs and policies of the United States that is carried out every four years under section 118 of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“231. Budgeting for construction of naval vessels: annual plan and certification.”.

SEC. 1023. ASSESSMENT OF THE FEASIBILITY OF THE EXPEDITED EQUIPPING OF A NAVY SHIP WITH A VERSION OF THE 155-MILLIMETER ADVANCED GUN SYSTEM.

(a) FEASIBILITY ASSESSMENT REQUIRED.—(1) The Secretary of the Navy shall conduct an assessment of the feasibility of the expedited equipping of a Navy ship in active or inactive service with a version of the 155-millimeter Advanced Gun System that is being developed for the DD(X) next generation, multi-mission, land attack surface combatant vessel.

(2) The assessment shall include an analysis of—

(A) the actions required to achieve such equipping and the technical and programmatic risks associated with those actions;

(B) the plan, schedule, and funding required to achieve such equipping; and

(C) the effect (if any) that such equipping might have on the development program and schedule for the DD(X) vessel.

(b) EQUIPPING ON EXPEDITED SCHEDULE.—The schedule to be considered in the assessment under subsection (a) shall provide for equipping of a ship with a version of the 155-millimeter Advanced Gun System on an expedited schedule that is consistent

with the achievement of safety of operation, but not later than October 1, 2006.

(c) **REPORT REQUIRED.**—The Secretary shall submit to the congressional defense committees a report on the results of the assessment under subsection (a). The report shall be submitted at the same time that the President submits the budget for fiscal year 2004 to Congress under section 1105(a) of title 31, United States Code.

SEC. 1024. REPORT ON INITIATIVES TO INCREASE OPERATIONAL DAYS OF NAVY SHIPS.

(a) **REQUIREMENT FOR REPORT ON INITIATIVES.**—(1) The Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on Department of Defense initiatives to increase the number of operational days of Navy ships as described in subsection (b).

(2) The report shall cover the ongoing Department of Defense initiatives as well as any potential initiatives that are under consideration within the Department of Defense.

(b) **INITIATIVES WITHIN LIMITS OF EXISTING FLEET AND DEPLOYMENT POLICY.**—In the report, the Under Secretary shall assess the feasibility and identify the projected effects of conducting initiatives that have the potential to increase the number of operational days of Navy ships available to the commanders-in-chief of the regional unified combatant commands without increasing the number of Navy ships and without increasing the routine lengths of deployments of Navy ships above six months.

(c) **REQUIRED FOCUS AREAS.**—The report shall address, at a minimum, the following focus areas:

(1) Assignment of additional ships, including submarines, to home ports closer to the areas of operation for the ships (known as “forward homeporting”).

(2) Assignment of ships to remain in a forward area of operations, together with rotation of crews for each ship so assigned.

(3) Retention of ships for use until the end of the full service life, together with investment of the funds necessary to support retention to that extent.

(4) Prepositioning of additional ships with, under normal circumstances, small crews in a forward area of operations.

(d) **SHIP MAINTENANCE.**—The report shall include an assessment of how routine programmed ship maintenance would be accomplished for Navy ships that would remain in a forward area of operations.

(e) **TIME FOR SUBMITTAL.**—The report shall be submitted at the same time that the President submits the budget for fiscal year 2004 to Congress under section 1105(a) of title 31, United States Code.

SEC. 1025. SHIP COMBAT SYSTEM INDUSTRIAL BASE.

(a) **REVIEW.**—The Secretary of Defense shall conduct a review of the effect of the contract award announced on April 29, 2002, for the lead design agent for the DD(X) ship program on the industrial base for ship combat system development, including the industrial base for each of the following: ship systems integration, radar, electronic warfare, and launch systems.

Deadline.

(b) **REPORT REQUIRED.**—Not later than March 31, 2003, the Secretary shall submit to the congressional defense committees a report based on the review under subsection (a). The report shall include the following:

(1) The Secretary's assessment of the effect of the contract award referred to in that subsection on ship combat system development and on the associated industrial base.

(2) A description of any actions that the Secretary proposes to ensure future competition in the ship combat system development and industrial base.

SEC. 1026. SENSE OF CONGRESS CONCERNING AIRCRAFT CARRIER FORCE STRUCTURE.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The aircraft carrier has been an integral component in Operation Enduring Freedom and in the homeland defense mission of Operation Noble Eagle beginning on September 11, 2001. The aircraft carriers that have participated in Operation Enduring Freedom, as of May 1, 2002, are the USS Enterprise (CVN-65), the USS Carl Vinson (CVN-70), the USS Kitty Hawk (CV-63), the USS Theodore Roosevelt (CVN-71), the USS John C. Stennis (CVN-74), and the USS John F. Kennedy (CV-67). The aircraft carriers that have participated in Operation Noble Eagle, as of May 1, 2002, are the USS George Washington (CVN-73), the USS John F. Kennedy (CV-67), and the USS John C. Stennis (CVN-74).

(2) Since 1945, the United States has built 172 bases overseas, of which only 24 are currently in use.

(3) The aircraft carrier provides an independent base of operations should no land base be available for aircraft, with carrier air wings providing the United States sea-based forward-deployed offensive strike capability.

(4) The aircraft carrier is an essential component of the Navy.

(5) The naval tactical aircraft modernization programs are proceeding on schedule.

(6) As established by the Navy, the United States requires the service of 15 aircraft carriers to completely fulfill all the naval commitments assigned to the Navy without gapping carrier presence.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the number of aircraft carriers of the Navy in active service should not be less than 12.

(c) **OPERATION ENDURING FREEDOM AND OPERATION NOBLE EAGLE COMMENDATION.**—Congress hereby commends the military and civilian personnel who have participated in Operation Enduring Freedom and Operation Noble Eagle.

SEC. 1027. CONVEYANCE, NAVY DRYDOCK, PORTLAND, OREGON.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Navy may sell Navy Drydock No. YFD-69, located in Portland, Oregon, to Portland Shipyard, LLC, which is the current user of the drydock.

(b) **CONDITION OF CONVEYANCE.**—The conveyance under subsection (a) shall be subject to the condition that the purchaser agree to retain the drydock on Swan Island in Portland, Oregon, until at least September 30, 2007.

(c) **CONSIDERATION.**—As consideration for the conveyance of the drydock under subsection (a), the purchaser shall pay to the

Secretary an amount equal to the fair market value of the drydock at the time of the conveyance, as determined by the Secretary.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Subtitle C—Strategic Matters

SEC. 1031. STRATEGIC FORCE STRUCTURE PLAN FOR NUCLEAR WEAPONS AND DELIVERY SYSTEMS.

(a) **PLAN REQUIRED.**—The Secretary of Defense and the Secretary of Energy shall jointly prepare a plan for the United States strategic force structure for nuclear weapons and nuclear weapons delivery systems for the period of fiscal years from 2003 through 2012. The plan shall—

(1) define the range of missions assigned to strategic nuclear forces in the national defense strategy consistent with—

(A) the Quadrennial Defense Review dated September 30, 2001, under section 118 of title 10, United States Code;

(B) the Nuclear Posture Review dated December 2001 under section 1041 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–262); and

(C) other relevant planning documents;

(2) delineate a baseline strategic force structure for such weapons and systems over such period consistent with such Nuclear Posture Review;

(3) define sufficient force structure, force modernization and life extension plans, infrastructure, and other elements of the defense program of the United States associated with such weapons and systems that would be required to execute successfully the full range of missions defined under paragraph (1);

(4) identify the budget plan that would be required to provide sufficient resources to execute successfully the full range of missions using such force structure called for in that national defense strategy; and

(5)(A) evaluate options for achieving, prior to fiscal year 2012, a posture under which the United States maintains a number of operationally deployed nuclear warheads at a level of from 1,700 to 2,200 such warheads, as outlined in the Nuclear Posture Review referred to in paragraph (1)(B); and

(B) contain an assessment of the advantages and disadvantages of options for achieving such posture as early as 2007, including effects on cost, the dismantlement workforce, and any other affected matter.

(b) **REPORT.**—Not later than March 1, 2003, the Secretary of Defense and the Secretary of Energy shall submit a report on the plan to the congressional defense committees. Deadline.

SEC. 1032. ANNUAL REPORT ON WEAPONS TO DEFEAT HARDENED AND DEEPLY BURIED TARGETS.

(a) **ANNUAL REPORT.**—Not later than April 1 of each year, the Secretary of Defense, the Secretary of Energy, and the Director of Central Intelligence shall jointly submit to the congressional Deadline.
10 USC 2358
note.

defense committees, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives a report on the research and development, procurement, and other activities undertaken during the preceding fiscal year by the Department of Defense, the Department of Energy, and the intelligence community to develop weapons to defeat hardened and deeply buried targets.

(b) **REPORT ELEMENTS.**—The report for a fiscal year under subsection (a) shall—

(1) include a discussion of the integration and interoperability of the activities referred to in that subsection that were undertaken during that fiscal year, including a discussion of the relevance of such activities to applicable recommendations by the Chairman of the Joint Chiefs of Staff, assisted under section 181(b) of title 10, United States Code, by the Joint Requirements Oversight Council; and

(2) set forth separately a description of the activities referred to in that subsection, if any, that were undertaken during such fiscal year by each element of—

(A) the Department of Defense;

(B) the Department of Energy; and

(C) the intelligence community.

(c) **DEFINITION.**—In this section, the term “intelligence community” has the meaning given such term in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).

(d) **TERMINATION.**—No report is required under this section after the submission of the report that is due on April 1, 2007.

SEC. 1033. REPORT ON EFFECTS OF NUCLEAR EARTH-PENETRATOR WEAPON AND OTHER WEAPONS.

(a) **NATIONAL ACADEMY OF SCIENCES STUDY.**—The Secretary of Defense shall request the National Academy of Sciences to conduct a study and prepare a report on the following:

(1) The anticipated short-term effects and long-term effects of the use by the United States of a nuclear earth-penetrator weapon on the target area, including the effects on civilian populations in proximity to the target area at the time of or after such use and the effects on United States military personnel who after such use carry out operations or battle damage assessments in the target area.

(2) The anticipated short-term and long-term effects on civilian population in proximity to a target area—

(A) if a non-penetrating nuclear weapon is used to attack a hard or deeply-buried target; and

(B) if a conventional high-explosive weapon is used to attack an adversary’s facilities for storage or production of weapons of mass destruction and, as a result of such attack, radioactive, nuclear, biological, or chemical weapons materials, agents, or other contaminants are released or spread into populated areas.

Deadline.

(b) **REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress the report under subsection (a), together with any comments the Secretary may consider appropriate on the report. The report shall be submitted in unclassified form to the maximum extent possible, with a classified annex if needed.

Subtitle D—Reports

SEC. 1041. REPEAL AND MODIFICATION OF VARIOUS REPORTING REQUIREMENTS APPLICABLE TO THE DEPARTMENT OF DEFENSE.

(a) PROVISIONS OF TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1)(A) Section 183 is repealed.

(B) The table of sections at the beginning of chapter 7 is amended by striking the item relating to section 183.

(2)(A) Section 230 is repealed.

(B) The table of sections at the beginning of chapter 9 is amended by striking the items relating to section 230.

(3) Section 526 is amended by striking subsection (c).

(4) Section 721(d) is amended—

(A) by striking paragraph (2); and

(B) by striking “(1)” before “If an officer”.

(5) Section 1095(g) is amended—

(A) by striking paragraph (2); and

(B) by striking “(1)” after “(g)”.

(6) Section 1798 is amended by striking subsection (d).

(7) Section 1799 is amended by striking subsection (d).

(8) Section 2220 is amended—

(A) by striking subsections (b) and (c);

(B) by striking “(1)” after “ESTABLISHMENT OF GOALS.—”; and

(C) by striking “(2) The” and inserting “(b) EVALUATION OF COST GOALS.—The”.

(9) Section 2350a(g) is amended by striking paragraph

(4).

(10) Section 2350f is amended by striking subsection (c).

(11) Section 2350k is amended by striking subsection (d).

(12) Section 2367(d) is amended by striking “EFFORT.—

(1) In the” and all that follows through “(2) After the close of” and inserting “EFFORT.—After the close of”.

(13) Section 2391 is amended by striking subsection (c).

(14) Section 2486(b)(12) is amended by striking “, except that” and all that follows and inserting the following: “, except that the Secretary shall notify Congress of any addition of, or change in, a merchandise category under this paragraph.”.

(15) Section 2492 is amended by striking subsection (c) and inserting the following:

“(c) NOTIFICATION OF CONDITIONS NECESSITATING RESTRICTIONS.—The Secretary of Defense shall notify Congress of any change proposed or made to any of the host nation laws or any of the treaty obligations of the United States, and any changed conditions within host nations, if the change would necessitate the use of quantity or other restrictions on purchases in commissary and exchange stores located outside the United States.”.

(16) Section 2537(a) is amended by striking “\$100,000” and inserting “\$10,000,000”.

(17) Section 2611 is amended by striking subsection (e).

(18) Section 2667(d) is amended by striking paragraph

(3).

(19) Section 4416 is amended by striking subsection (f).

(20) Section 5721(f) is amended—

(A) by striking paragraph (2); and

(B) by striking “(1)” after the subsection heading.

(b) NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1995.—Section 553(b) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2772; 10 U.S.C. 4331 note) is amended by striking the last sentence.

(c) BALLISTIC MISSILE DEFENSE ACT OF 1995.—Section 234 of the Ballistic Missile Defense Act of 1995 (subtitle C of title II of Public Law 104-106; 10 U.S.C. 2431 note) is amended by striking subsection (f).

SEC. 1042. REQUIREMENT THAT DEPARTMENT OF DEFENSE REPORTS TO CONGRESS BE ACCOMPANIED BY ELECTRONIC VERSION.

Section 480(a) of title 10, United States Code, is amended by striking “shall, upon request” and all that follows through “(or each” and inserting “shall provide to Congress (or”.

10 USC 113 note.

SEC. 1043. ANNUAL REPORT ON THE CONDUCT OF MILITARY OPERATIONS CONDUCTED AS PART OF OPERATION ENDURING FREEDOM.

Deadlines.

(a) REPORTS REQUIRED.—(1) The Secretary of Defense shall submit to the congressional committees specified in subsection (d) an annual report on the conduct of military operations conducted as part of Operation Enduring Freedom. The first report, which shall include a definition of the military operations carried out as part of Operation Enduring Freedom, shall be submitted not later than June 15, 2003. Subsequent reports shall be submitted not later than June 15 each year, and the final report shall be submitted not later than 180 days after the date (as determined by the Secretary of Defense) of the cessation of hostilities undertaken as part of Operation Enduring Freedom.

(2) Each report under this section shall be prepared in consultation with the Chairman of the Joint Chiefs of Staff, the commander of the United States Central Command, the Director of Central Intelligence, and such other officials as the Secretary considers appropriate.

(3) Each such report shall be submitted in both a classified form and an unclassified form, as necessary.

(b) SPECIAL MATTERS TO BE INCLUDED.—Each report under this section shall include the following:

(1) A discussion of the command, control, coordination, and support relationship between United States special operations forces and Central Intelligence Agency elements participating in Operation Enduring Freedom and any lessons learned from the joint conduct of operations by those forces and elements.

(2) Recommendations to improve operational readiness and effectiveness of these forces and elements.

(c) OTHER MATTERS TO BE INCLUDED.—Each report under this section shall include a discussion, with a particular emphasis on accomplishments and shortcomings, of the following matters with respect to Operation Enduring Freedom:

(1) The political and military objectives of the United States.

(2) The military strategy of the United States to achieve those political and military objectives.

(3) The concept of operations, including any new operational concepts, for the operation.

(4) The benefits and disadvantages of operating with local opposition forces.

(5) The benefits and disadvantages of operating in a coalition with the military forces of allied and friendly nations.

(6) The cooperation of nations in the region for overflight, basing, command and control, and logistic and other support.

(7) The conduct of relief operations both during and after the period of hostilities.

(8) The conduct of close air support (CAS), particularly with respect to the timeliness, efficiency, and effectiveness of such support.

(9) The use of unmanned aerial vehicles for intelligence, surveillance, reconnaissance, and combat support to operational forces.

(10) The use and performance of United States and coalition military equipment, weapon systems, and munitions.

(11) The effectiveness of reserve component forces, including their use and performance in the theater of operations.

(12) The importance and effectiveness of the International Security Assistance Force.

(13) The importance and effectiveness of United States civil affairs forces.

(14) The anticipated duration of the United States military presence in Afghanistan.

(15) The most critical lessons learned that could lead to long-term doctrinal, organizational, and technological changes.

(d) CONGRESSIONAL COMMITTEES.—The committees referred to in subsection (a)(1) are the following:

(1) The Committee on Armed Services and the Select Committee on Intelligence of the Senate.

(2) The Committee on Armed Services and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 1044. REPORT ON EFFORTS TO ENSURE ADEQUACY OF FIRE FIGHTING STAFFS AT MILITARY INSTALLATIONS.

Not later than May 31, 2003, the Secretary of Defense shall submit to Congress a report on the actions being undertaken to ensure that the fire fighting staffs at military installations are adequate under applicable Department of Defense regulations. Deadline.

SEC. 1045. REPORT ON DESIGNATION OF CERTAIN LOUISIANA HIGHWAY AS DEFENSE ACCESS ROAD.

Not later than March 1, 2003, the Secretary of the Army shall submit to the congressional defense committees a report containing the results of a study on the advisability of designating Louisiana Highway 28 between Alexandria, Louisiana, and Leesville, Louisiana, a road providing access to the Joint Readiness Training Center, Louisiana, and to Fort Polk, Louisiana, as a defense access road for purposes of section 210 of title 23, United States Code. Deadline.

Subtitle E—Extension of Expiring Authorities

SEC. 1051. EXTENSION OF AUTHORITY FOR SECRETARY OF DEFENSE TO SELL AIRCRAFT AND AIRCRAFT PARTS FOR USE IN RESPONDING TO OIL SPILLS.

(a) **FOUR-YEAR EXTENSION.**—Section 740 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (Public Law 106-181; 114 Stat. 173; 10 U.S.C. 2576 note) is amended—

(1) in subsection (a)(1), by striking “, during the period beginning on the date of the enactment of this Act and ending September 30, 2002,”; and

(2) by adding at the end the following new subsection:

“(i) **EXPIRATION OF AUTHORITY.**—The authority to sell aircraft and aircraft parts under this section expires on September 30, 2006.”.

(b) **ADDITIONAL REPORT.**—Subsection (f) of such section is amended by striking “March 31, 2002” and inserting “March 31, 2006”.

SEC. 1052. SIX-MONTH EXTENSION OF EXPIRING GOVERNMENTWIDE INFORMATION SECURITY REQUIREMENTS; CONTINUED APPLICABILITY OF EXPIRING GOVERNMENTWIDE INFORMATION SECURITY REQUIREMENTS TO THE DEPARTMENT OF DEFENSE.

(a) **SIX-MONTH EXTENSION OF EXPIRING GOVERNMENTWIDE REQUIREMENTS.**—Section 3536 of title 44, United States Code, is amended to read as follows:

“§ 3536. Expiration

“This subchapter shall not be in effect after May 31, 2003.”.

(b) **CONTINUED APPLICABILITY OF EXPIRING GOVERNMENTWIDE REQUIREMENTS TO DEPARTMENT OF DEFENSE.**—(1) Chapter 131 of title 10, United States Code, is amended by inserting after section 2224 the following new section:

“§ 2224a. Information security: continued applicability of expiring Governmentwide requirements to the Department of Defense

“(a) **IN GENERAL.**—The provisions of subchapter II of chapter 35 of title 44 shall continue to apply through September 30, 2004, with respect to the Department of Defense, notwithstanding the expiration of authority under section 3536 of such title.

“(b) **RESPONSIBILITIES.**—In administering the provisions of subchapter II of chapter 35 of title 44 with respect to the Department of Defense after the expiration of authority under section 3536 of such title, the Secretary of Defense shall perform the duties set forth in that subchapter for the Director of the Office of Management and Budget.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2224 the following new item:

“2224a. Information security: continued applicability of expiring Governmentwide requirements to the Department of Defense.”.

SEC. 1053. TWO-YEAR EXTENSION OF AUTHORITY OF THE SECRETARY OF DEFENSE TO ENGAGE IN COMMERCIAL ACTIVITIES AS SECURITY FOR INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking “December 31, 2002” and inserting “December 31, 2004”.

Subtitle F—Other Matters

SEC. 1061. TIME FOR TRANSMITTAL OF ANNUAL DEFENSE AUTHORIZATION LEGISLATIVE PROPOSAL.

(a) IN GENERAL.—Chapter 2 of title 10, United States Code, is amended by inserting after section 113 the following new section:

“§ 113a. Transmission of annual defense authorization request

“(a) TIME FOR TRANSMITTAL.—The Secretary of Defense shall transmit to Congress the annual defense authorization request for a fiscal year during the first 30 days after the date on which the President transmits to Congress the budget for that fiscal year pursuant to section 1105 of title 31.

“(b) DEFENSE AUTHORIZATION REQUEST DEFINED.—In this section, the term ‘defense authorization request’, with respect to a fiscal year, means a legislative proposal submitted to Congress for the enactment of the following:

“(1) Authorizations of appropriations for that fiscal year, as required by section 114 of this title.

“(2) Personnel strengths for that fiscal year, as required by section 115 of this title.

“(3) Any other matter that is proposed by the Secretary of Defense to be enacted as part of the annual defense authorization bill for that fiscal year.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 113 the following new item:

“113a. Transmission of annual defense authorization request.”.

SEC. 1062. TECHNICAL AND CLERICAL AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Title 10, United States Code, is amended as follows:

(1) Section 153 is amended—

(A) by inserting “(a) PLANNING; ADVICE; POLICY FORMULATION.—” at the beginning of the text; and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

(2) Section 624(d)(1) is amended by striking “subsection (d)(2)” in the second sentence and inserting “paragraph (2)”.

(3) Section 661(b)(2) is amended by striking “the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002” and inserting “December 28, 2001,”.

(4) Section 662(a)(2) is amended—

(A) in subparagraph (A), by striking “during the three-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2002,” and inserting “during the period beginning on December 28, 2001, and ending on December 27, 2004,”; and

(B) in subparagraph (B), by striking “after the end of the period specified in subparagraph (A)” and inserting “after December 27, 2004”.

(5) Section 663(e)(2) is amended by striking “Armed Forces Staff College” and inserting “Joint Forces Staff College”.

(6) Section 1451(c)(3) is amended by striking “section” before “clause”.

(7) Section 2162(b)(2) is amended by striking “the date of the enactment of this paragraph” and inserting “December 28, 2001.”

(8) Section 2330(c) is amended by inserting a comma after “a task order”.

(9) Section 2399(a)(2) is amended—

(A) in the matter preceding subparagraph (A), by striking “means—” and inserting “means a conventional weapons system that—”; and

(B) in subparagraph (A), by striking “a conventional weapons system that”.

(10)(A) Section 2410h is transferred to the end of subchapter IV of chapter 87 and redesignated as section 1747.

(B) The item relating to that section in the table of sections at the beginning of chapter 141 is transferred to the end of the table of sections at the beginning of subchapter IV of chapter 87 and amended to reflect the redesignation made by subparagraph (A).

(11) Section 2676(a) is amended by inserting an open parenthesis before “41 U.S.C.”.

(12) Section 2677 is amended by striking subsection (c).

(13) Section 2680(e) is amended by striking “the” after “the Committee on” the first place it appears.

(14) Section 2815(b) is amended by striking “for fiscal year 2003 and each fiscal year thereafter” and inserting “for any fiscal year”.

(15) Section 2828(b)(2) is amended by inserting “time” after “from time to”.

(16) Sections 3755, 6257, and 8755, as added by section 8143(c) of Public Law 107-248 (116 Stat. 1570), are amended by striking “the date of the enactment of this section” and inserting “October 23, 2002”.

(b) TITLE 14, UNITED STATES CODE.—Title 14, United States Code, is amended as follows:

(1) Section 505, as added by section 8143(c)(4) of Public Law 107-248 (116 Stat. 1571), is amended by striking “the date of the enactment of this section” and inserting “October 23, 2002”.

(2) Section 516(c) is amended by striking “his section” and inserting “this section”.

(c) TITLE 37, UNITED STATES CODE.—Title 37, United States Code, is amended as follows:

(1) Section 302j(a) is amended by striking “subsection (c)” and inserting “subsection (d)”.

(2) Section 324(b) is amended by striking “(1)” before “The Secretary”.

(d) PUBLIC LAW 107–248.—Section 8118(a) of Public Law 107–248 (116 Stat. 1565) is amended by striking “subsection (i)” and inserting “subsection (j)”.

(e) PUBLIC LAW 107–217.—Effective as if included therein as originally enacted, section 3(b) of Public Law 107–217 is amended—

10 USC 2562

(1) in paragraph (8) (116 Stat. 1295), by inserting “the second place it appears” before the semicolon; and

note.
10 USC 2562.

(2) in paragraph (34) (116 Stat. 1298), by striking “section 7545(a)” and inserting “section 7545(c)”.

10 USC 7545.

(f) PUBLIC LAW 107–107.—Effective as of December 28, 2001, and as if included therein as enacted, the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107) is amended as follows:

10 USC 2350a
note.

(1) Section 602(a)(2) (115 Stat. 1132) is amended by striking “an” in the first quoted matter.

37 USC 203.

(2) Section 1212(a)(5) (115 Stat. 1249) is amended by inserting “in” after the paragraph designation.

10 USC 2350a.

(3) Section 1410(a)(3)(C) (115 Stat. 1266) by inserting “both places it appears” before “and inserting”.

24 USC 420.

(4) Section 3007(d)(1)(C) (115 Stat. 1352) is amended by striking “2905(b)(7)(B)(iv)” and inserting “2905(b)(7)(C)(iv)”.

10 USC 2687
note.

(g) PUBLIC LAW 106–398.—Effective as of October 30, 2000, and as if included therein as enacted, the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398) is amended as follows:

32 USC 509 note.

(1) Section 577(b)(2) (114 Stat. 1654A–140) is amended by striking “Federal” in the quoted matter and inserting “Department of Defense”.

32 USC 509.

(2) Section 612(c)(4)(B) (114 Stat. 1654A–150) is amended by striking the comma at the end of the first quoted matter.

32 USC 209.

(h) PUBLIC LAW 106–246.—Section 136 of Public Law 106–246 (114 Stat. 520) is amended—

(1) in subsection (d)(7), by striking subparagraphs (B) and (C) and inserting the following new subparagraphs:

“(B) Section 1302 of title 40, United States Code.

“(C) Subtitle I of title 40, United States Code.”; and

(2) in subsection (e)(3), by striking subparagraph (B) and inserting the following new subparagraph:

“(B) Subtitle I of title 40, United States Code.”.

(i) PUBLIC LAW 106–181.—Section 740(a)(1) of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (10 U.S.C. 2576 note) is amended by striking “section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483)” and inserting “subchapter II of chapter 5 of title 40, United States Code.”.

(j) PUBLIC LAW 106–65.—The National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is amended as follows:

(1) Section 573(b) (10 U.S.C. 513 note) is amended by inserting a period at the end of paragraph (2).

(2) Section 1305(6) (22 U.S.C. 5952 note) is amended by striking the first period after “facility”.

(k) PUBLIC LAW 104–307.—Section 2(a)(1) of the Wildfire Suppression Aircraft Transfer Act of 1996 (10 U.S.C. 2576 note)

is amended by striking “section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483)” and inserting “subchapter II of chapter 5 of title 40, United States Code,”.

10 USC 2687
note.

(l) PUBLIC LAW 103-337.—Section 2814 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337) is amended by striking “the Public Buildings Act of 1959 (40 U.S.C. 601 et seq.) and the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.)” and inserting “chapter 5 or 33 of title 40, United States Code”.

(m) PUBLIC LAW 101-510.—The National Defense Authorization Act for Fiscal Year 1991 (Public Law 101-510) is amended as follows:

(1) Section 2905(b)(1) (10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A), by striking “section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483)” and inserting “subchapter II of chapter 5 of title 40, United States Code”; and

(B) in subparagraph (B), by striking “section 203 of that Act (40 U.S.C. 484)” and inserting “subchapter III of chapter 5 of title 40, United States Code”.

(2) Section 2905(b)(4)(F) is amended by striking “sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)” and inserting “subchapters II and III of chapter 5 of title 40, United States Code,”.

(3) Section 2905(b)(7) is amended by striking “section 203(k) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(k))” in subparagraphs (K)(v), (L)(iv)(V), and (P) and inserting “section 550 of title 40, United States Code,”.

10 USC 2687
note.

(4) Section 2926(d)(2) is amended by striking “title IX of the Federal Property and Administrative Services Act (Public Law 92-582; 40 U.S.C. 541 et seq., as amended)” and inserting “chapter 11 of title 40, United States Code”.

(n) PUBLIC LAW 100-526.—The Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) is amended as follows:

(1) Section 204(b)(1) (10 U.S.C. 2687 note) is amended—

(A) in subparagraph (A), by striking “section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483)” and inserting “subchapter II of chapter 5 of title 40, United States Code”; and

(B) in subparagraph (B), by striking “section 203 of that Act (40 U.S.C. 484)” and inserting “subchapter III of chapter 5 of title 40, United States Code”.

(2) Section 204(b)(4)(F) is amended by striking “sections 202 and 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483, 484)” and inserting “subchapters II and III of chapter 5 of title 40, United States Code,”.

(o) OTHER LAWS.—(1) Section 502(a) of the National Emergencies Act (50 U.S.C. 1651(a)) is amended by striking paragraph (2) and redesignating paragraphs (3) through (7) as paragraphs (1) through (5), respectively.

(2) Section 10(b)(8) of the Military Selective Service Act (50 U.S.C. App. 460(b)(8)) is amended by striking “Public Law 26” and all that follows through the period at the end of the paragraph

and inserting “the Act of March 31, 1947 (50 U.S.C. App. 321 et seq.).”.

(3) The Defense Production Act of 1950 is amended in both section 305(i) and section 306(j) (50 U.S.C. App. 2095(i), 2096(j))—

(A) in the first sentence, by striking “the Act entitled” and all that follows through the period at the end of the sentence and inserting “subchapter IV of chapter 31 of title 40, United States Code.”; and

(B) in the last sentence, by striking “and section 276(c) of title 40”.

SEC. 1063. USE FOR LAW ENFORCEMENT PURPOSES OF DNA SAMPLES MAINTAINED BY DEPARTMENT OF DEFENSE FOR IDENTIFICATION OF HUMAN REMAINS.

(a) IN GENERAL.—Chapter 80 of title 10, United States Code, is amended by inserting after section 1565 the following new section:

“§ 1565a. DNA samples maintained for identification of human remains: use for law enforcement purposes

“(a) COMPLIANCE WITH COURT ORDER.—(1) Subject to paragraph (2), if a valid order of a Federal court (or military judge) so requires, an element of the Department of Defense that maintains a repository of DNA samples for the purpose of identification of human remains shall make available, for the purpose specified in subsection (b), such DNA samples on such terms and conditions as such court (or military judge) directs.

“(2) A DNA sample with respect to an individual shall be provided under paragraph (1) in a manner that does not compromise the ability of the Department of Defense to maintain a sample with respect to that individual for the purpose of identification of human remains.

“(b) COVERED PURPOSE.—The purpose referred to in subsection (a) is the purpose of an investigation or prosecution of a felony, or any sexual offense, for which no other source of DNA information is reasonably available.

“(c) DEFINITION.—In this section, the term ‘DNA sample’ has the meaning given such term in section 1565(c) of this title.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1565 the following new item:

“1565a. DNA samples maintained for identification of human remains: use for law enforcement purposes.”.

SEC. 1064. ENHANCED AUTHORITY TO OBTAIN FOREIGN LANGUAGE SERVICES DURING PERIODS OF EMERGENCY.

(a) NATIONAL FOREIGN LANGUAGE SKILLS REGISTRY.—(1) Chapter 81 of title 10, United States Code, is amended by inserting after section 1596a the following new section:

“§ 1596b. Foreign language proficiency: National Foreign Language Skills Registry

“(a) ESTABLISHMENT.—(1) The Secretary of Defense may establish and maintain a registry of persons who—

“(A) have proficiency in one or more critical foreign languages;

“(B) are willing to provide linguistic services to the United States in the interests of national security during war or a national emergency; and

“(C) meet the eligibility requirements of subsection (b).

“(2) The registry shall be known as the ‘National Foreign Language Skills Registry’ (in this section referred to as the ‘Registry’).

“(b) ELIGIBLE PERSONS.—To be eligible for listing on the Registry, a person—

“(1) must be—

“(A) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))); or

“(B) an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20)));

“(2) shall express willingness, in a form and manner prescribed by the Secretary—

“(A) to provide linguistic services for a foreign language as described in subsection (a); and

“(B) to be listed on the Registry; and

“(3) shall meet such language proficiency and other selection criteria as may be prescribed by the Secretary.

“(c) REGISTERED INFORMATION.—The Registry shall consist of the following:

“(1) The names of eligible persons selected by the Secretary for listing on the Registry.

“(2) Such other information on such persons as the Secretary determines pertinent to the use of such persons to provide linguistic services as described in subsection (a).

“(d) PROTECTION OF PRIVACY.—The Secretary may withhold from public disclosure the information maintained in the Registry in accordance with section 552a of title 5.

“(e) DESIGNATION OF CRITICAL FOREIGN LANGUAGES.—The Secretary shall designate those languages that are critical foreign languages for the purposes of this section. The Secretary shall make such a designation for any foreign language for which there is a shortage of experts in translation or interpretation available to meet requirements of the Secretary or of the head of any other department or agency of the United States for translation or interpretation in the national security interests of the United States.

“(f) LINGUISTIC SERVICES DEFINED.—In this section, the term ‘linguistic services’ means translation or interpretation of communication in a foreign language.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after section 1596a the following new item:

“1596b. Foreign language proficiency: National Foreign Language Skills Registry.”.

(b) AUTHORITY TO ACCEPT VOLUNTARY TRANSLATION AND INTERPRETATION SERVICES.—Section 1588(a) of title 10, United States Code, is amended by adding after paragraph (6), as added by section 553, the following new paragraph:

“(7) Voluntary translation or interpretation services offered with respect to a foreign language by a person (A) who is registered for such foreign language on the National Foreign Language Skills Registry under section 1596b of this title,

or (B) who otherwise is approved to provide voluntary translation or interpretation services for national security purposes, as determined by the Secretary of Defense.”.

SEC. 1065. REWARDS FOR ASSISTANCE IN COMBATING TERRORISM.

(a) **AUTHORITY.**—Chapter 3 of title 10, United States Code, is amended by inserting after section 127a the following new section:

“§ 127b. Assistance in combating terrorism: rewards

“(a) **AUTHORITY.**—The Secretary of Defense may pay a monetary amount, or provide a payment-in-kind, to a person as a reward for providing United States Government personnel with information or nonlethal assistance that is beneficial to—

“(1) an operation or activity of the armed forces conducted outside the United States against international terrorism; or

“(2) force protection of the armed forces.

“(b) **LIMITATION.**—The amount or value of a reward provided under this section may not exceed \$200,000.

“(c) **DELEGATION OF AUTHORITY.**—(1) The authority of the Secretary of Defense under subsection (a) may be delegated only—

“(A) to the Deputy Secretary of Defense and an Under Secretary of Defense, without further redelegation; and

“(B) to the commander of a combatant command, but only for a reward in an amount or with a value not in excess of \$50,000.

“(2) A commander of a combatant command to whom authority to provide rewards under this section is delegated under paragraph (1) may further delegate that authority, but only for a reward in an amount or with a value not in excess of \$2,500, except that such a delegation may be made to the commander’s deputy commander without regard to such limitation.

“(d) **COORDINATION.**—(1) The Secretary of Defense shall prescribe policies and procedures for the offering and making of rewards under this section and otherwise for administering the authority under this section. Such policies and procedures shall be prescribed in consultation with the Secretary of State and the Attorney General and shall ensure that the making of a reward under this section does not duplicate or interfere with the payment of a reward authorized by the Secretary of State or the Attorney General.

“(2) The Secretary of Defense shall consult with the Secretary of State regarding the making of any reward under this section in an amount or with a value in excess of \$100,000.

“(e) **PERSONS NOT ELIGIBLE.**—The following persons are not eligible to receive a reward under this section:

“(1) A citizen of the United States.

“(2) An officer or employee of the United States.

“(3) An employee of a contractor of the United States.

“(f) **ANNUAL REPORT.**—(1) Not later than December 1 of each year, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the administration of the rewards program under this section during the preceding fiscal year.

“(2) Each report for a fiscal year under this subsection shall include the following:

Deadline.

“(A) Information on the total amount expended during that fiscal year to carry out the rewards program under this section during that fiscal year.

“(B) Specification of the amount, if any, expended during that fiscal year to publicize the availability of rewards under this section.

“(C) With respect to each reward provided during that fiscal year—

“(i) the amount or value of the reward and whether the reward was provided as a monetary payment or in some other form;

“(ii) the recipient of the reward; and

“(iii) a description of the information or assistance for which the reward was paid, together with an assessment of the significance and benefit of the information or assistance.

“(3) The Secretary may submit the report in classified form if the Secretary determines that it is necessary to do so.

“(g) DETERMINATIONS BY THE SECRETARY.—A determination by the Secretary under this section is final and conclusive and is not subject to judicial review.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 127a the following new item:

“127b. Assistance in combating terrorism: rewards.”.

SEC. 1066. PROVISION OF SPACE AND SERVICES TO MILITARY WELFARE SOCIETIES.

(a) AUTHORITY TO PROVIDE SPACE AND SERVICES.—Chapter 152 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2566. Space and services: provision to military welfare societies

“(a) AUTHORITY TO PROVIDE SPACE AND SERVICES.—The Secretary of a military department may provide, without charge, space and services under the jurisdiction of that Secretary to a military welfare society.

“(b) DEFINITIONS.—In this section:

“(1) The term ‘military welfare society’ means the following:

“(A) The Army Emergency Relief Society.

“(B) The Navy-Marine Corps Relief Society.

“(C) The Air Force Aid Society, Inc.

“(2) The term ‘services’ includes lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone and other information technology services (including installation of lines and equipment, connectivity, and other associated services), and security systems (including installation and other associated expenses).”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2566. Space and services: provision to military welfare societies.”.

SEC. 1067. PREVENTION AND MITIGATION OF CORROSION OF MILITARY EQUIPMENT AND INFRASTRUCTURE.

(a) IN GENERAL.—(1) Chapter 131 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2228. Military equipment and infrastructure: prevention and mitigation of corrosion

“(a) DESIGNATION OF RESPONSIBLE OFFICIAL OR ORGANIZATION.—The Secretary of Defense shall designate an officer or employee of the Department of Defense, or a standing board or committee of the Department of Defense, as the senior official or organization responsible in the Department to the Secretary of Defense (after the Under Secretary of Defense for Acquisition, Technology, and Logistics) for the prevention and mitigation of corrosion of the military equipment and infrastructure of the Department.

“(b) DUTIES.—(1) The official or organization designated under subsection (a) shall oversee and coordinate efforts throughout the Department of Defense to prevent and mitigate corrosion of the military equipment and infrastructure of the Department. The duties under this paragraph shall include the duties specified in paragraphs (2) through (5).

“(2) The designated official or organization shall develop and recommend any policy guidance on the prevention and mitigation of corrosion to be issued by the Secretary of Defense.

“(3) The designated official or organization shall review the programs and funding levels proposed by the Secretary of each military department during the annual internal Department of Defense budget review process as those programs and funding proposals relate to programs and funding for the prevention and mitigation of corrosion and shall submit to the Secretary of Defense recommendations regarding those programs and proposed funding levels.

“(4) The designated official or organization shall provide oversight and coordination of the efforts within the Department of Defense to prevent or mitigate corrosion during—

“(A) the design, acquisition, and maintenance of military equipment; and

“(B) the design, construction, and maintenance of infrastructure.

“(5) The designated official or organization shall monitor acquisition practices within the Department of Defense—

“(A) to ensure that the use of corrosion prevention technologies and the application of corrosion prevention treatments are fully considered during research and development in the acquisition process; and

“(B) to ensure that, to the extent determined appropriate for each acquisition program, such technologies and treatments are incorporated into that program, particularly during the engineering and design phases of the acquisition process.

“(c) LONG-TERM STRATEGY.—(1) The Secretary of Defense shall develop and implement a long-term strategy to reduce corrosion and the effects of corrosion on the military equipment and infrastructure of the Department of Defense.

“(2) The strategy under paragraph (1) shall include the following:

“(A) Expansion of the emphasis on corrosion prevention and mitigation within the Department of Defense to include coverage of infrastructure.

“(B) Application uniformly throughout the Department of Defense of requirements and criteria for the testing and certification of new corrosion-prevention technologies for equipment and infrastructure with similar characteristics, similar missions, or similar operating environments.

“(C) Implementation of programs, including supporting databases, to ensure that a focused and coordinated approach is taken throughout the Department of Defense to collect, review, validate, and distribute information on proven methods and products that are relevant to the prevention of corrosion of military equipment and infrastructure.

“(D) Establishment of a coordinated research and development program for the prevention and mitigation of corrosion for new and existing military equipment and infrastructure that includes a plan to transition new corrosion prevention technologies into operational systems.

“(3) The strategy shall include, for the matters specified in paragraph (2), the following:

“(A) Policy guidance.

“(B) Performance measures and milestones.

“(C) An assessment of the necessary personnel and funding necessary to accomplish the long-term strategy.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘corrosion’ means the deterioration of a material or its properties due to a reaction of that material with its chemical environment.

“(2) The term ‘military equipment’ includes all weapon systems, weapon platforms, vehicles, and munitions of the Department of Defense, and the components of such items.

“(3) The term ‘infrastructure’ includes all buildings, structures, airfields, port facilities, surface and subterranean utility systems, heating and cooling systems, fuel tanks, pavements, and bridges.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“2228. Military equipment and infrastructure: prevention and mitigation of corrosion.”.

10 USC 2228
note.

(b) DEADLINE FOR DESIGNATION OF RESPONSIBLE OFFICIAL OR ORGANIZATION.—The Secretary of Defense shall designate an officer, employee, or standing board or committee of the Department of Defense under subsection (a) of section 2228 of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

(c) INTERIM REPORT.—When the President submits the budget for fiscal year 2004 to Congress pursuant to section 1105(a) of title 31, United States Code, the Secretary of Defense shall submit to Congress a report regarding the actions taken to that date under section 2228 of title 10, United States Code, as added by subsection (a). That report shall include the following:

(1) A description of the organizational structure for the personnel carrying out the responsibilities of the official or organization designated under subsection (a) of that section with respect to the prevention and mitigation of corrosion.

(2) An outline for the long-term strategy for prevention and mitigation of corrosion required by subsection (c) of that section and milestones for development of that strategy.

(d) **DEADLINE FOR LONG-TERM STRATEGY.**—The Secretary of Defense shall submit to Congress a report setting forth the long-term strategy required under subsection (c) of section 2228 of title 10, United States Code, as added by subsection (a), not later than one year after the date of the enactment of this Act.

(e) **GAO REVIEW.**—The Comptroller General shall monitor the implementation of the long-term strategy required under subsection (c) of section 2228 of title 10, United States Code, as added by subsection (a), and, not later than 18 months after the date of the enactment of this Act, shall submit to Congress an assessment of the extent to which that strategy has been implemented.

Deadline.

SEC. 1068. TRANSFER OF HISTORIC DF-9E PANTHER AIRCRAFT TO WOMEN AIRFORCE SERVICE PILOTS MUSEUM.

(a) **AUTHORITY TO CONVEY.**—The Secretary of the Navy may convey, without consideration, to the Women Airforce Service Pilots Museum in Quartzsite, Arizona (in this section referred to as the “W.A.S.P. Museum”), all right, title, and interest of the United States in and to a DF-9E Panther aircraft (Bureau Number 125316). The conveyance shall be made by means of a conditional deed of gift.

(b) **CONDITION OF AIRCRAFT.**—The aircraft shall be conveyed under subsection (a) in its current unflyable, “as is” condition. The Secretary is not required to repair or alter the condition of the aircraft before conveying ownership of the aircraft.

(c) **REVERTER UPON BREACH OF CONDITIONS.**—The Secretary shall include in the instrument of conveyance of the aircraft under subsection (a) the following conditions:

(1) The W.A.S.P. Museum may not convey any ownership interest in, or transfer possession of, the aircraft to any other party without the prior approval of the Secretary.

(2) If the Secretary determines at any time that the W.A.S.P. Museum has conveyed an ownership interest in, or transferred possession of, the aircraft to any other party without the prior approval of the Secretary, all right, title, and interest in and to the aircraft, including any repair or alteration of the aircraft, shall revert to the United States, and the United States shall have the right of immediate possession of the aircraft.

(d) **CONVEYANCE AT NO COST TO THE UNITED STATES.**—The conveyance of the aircraft under subsection (a) shall be made at no cost to the United States. Any costs associated with the conveyance, costs of determining compliance with subsection (b), and costs of operation and maintenance of the aircraft conveyed shall be borne by the W.A.S.P. Museum.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with a conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 1069. INCREASE IN AMOUNT AUTHORIZED TO BE EXPENDED FOR DEPARTMENT OF DEFENSE PROGRAM TO COMMEMORATE 50TH ANNIVERSARY OF THE KOREAN WAR.

Section 1083(f)(2) of the National Defense Authorization Act for Fiscal Year 1998 (10 U.S.C. 113 note) is amended by striking “\$7,000,000” and inserting “\$10,000,000”.

**TITLE XI—DEPARTMENT OF DEFENSE
CIVILIAN PERSONNEL**

Sec. 1101. Eligibility of Department of Defense nonappropriated fund employees for long-term care insurance.

Sec. 1102. Extension of Department of Defense authority to make lump-sum severance payments.

Sec. 1103. Continuation of Federal Employee Health Benefits Program eligibility.

Sec. 1104. Certification for Department of Defense professional accounting positions.

SEC. 1101. ELIGIBILITY OF DEPARTMENT OF DEFENSE NON-APPROPRIATED FUND EMPLOYEES FOR LONG-TERM CARE INSURANCE.

(a) **IN GENERAL.**—Section 9001(1) of title 5, United States Code, is amended—

(1) in subparagraph (B), by striking “and”;

(2) in subparagraph (C), by striking the comma at the end and inserting “; and”; and

(3) by inserting after subparagraph (C) the following new subparagraph:

“(D) an employee of a nonappropriated fund instrumentality of the Department of Defense described in section 2105(c).”.

(b) **DISCRETIONARY AUTHORITY.**—Section 9002 of such title is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (c), (d), (e), and (f), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

“(b) **DISCRETIONARY AUTHORITY REGARDING NONAPPROPRIATED FUND INSTRUMENTALITIES.**—The Secretary of Defense may determine that a nonappropriated fund instrumentality of the Department of Defense is covered under this chapter or is covered under an alternative long-term care insurance program.”.

SEC. 1102. EXTENSION OF DEPARTMENT OF DEFENSE AUTHORITY TO MAKE LUMP-SUM SEVERANCE PAYMENTS.

(a) **IN GENERAL.**—Section 5595(i)(4) of title 5, United States Code, is amended by striking “2003” and inserting “2006”.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the President shall submit to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on Armed Services and on Government Reform of the House of Representatives a report, including recommendations, on whether the authority under section 5595(i) of title 5, United States Code, should be made permanent or expanded to be made Governmentwide.

Deadline.
5 USC 5595 note.

SEC. 1103. CONTINUATION OF FEDERAL EMPLOYEE HEALTH BENEFITS PROGRAM ELIGIBILITY.

Paragraph (4)(B) of section 8905a(d) of title 5, United States Code, is amended—

- (1) in clause (i), by striking “2003” and inserting “2006”; and
- (2) in clause (ii)—
 - (A) by striking “2004” and inserting “2007”; and
 - (B) by striking “2003” and inserting “2006”.

SEC. 1104. CERTIFICATION FOR DEPARTMENT OF DEFENSE PROFESSIONAL ACCOUNTING POSITIONS.

(a) IN GENERAL.—(1) Chapter 81 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 1599d. Professional accounting positions: authority to prescribe certification and credential standards

“(a) AUTHORITY TO PRESCRIBE PROFESSIONAL CERTIFICATION STANDARDS.—The Secretary of Defense may prescribe professional certification and credential standards for professional accounting positions within the Department of Defense. Any such standard shall be prescribed as a Department of Defense regulation.

“(b) WAIVER AUTHORITY.—The Secretary may waive any standard prescribed under subsection (a) whenever the Secretary determines such a waiver to be appropriate.

“(c) APPLICABILITY.—A standard prescribed under subsection (a) shall not apply to any person employed by the Department of Defense before the standard is prescribed.

“(d) REPORT.—The Secretary of Defense shall submit to Congress a report on the Secretary’s plans to provide training to appropriate Department of Defense personnel to meet any new professional and credential standards prescribed under subsection (a). Such report shall be prepared in conjunction with the Director of the Office of Personnel Management. Such a report shall be submitted not later than one year after the effective date of any regulations, or any revision to regulations, prescribed pursuant to subsection (a).

Deadline.

“(e) DEFINITION.—In this section, the term ‘professional accounting position’ means a position or group of positions in the GS-510, GS-511, and GS-505 series that involves professional accounting work.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“1599d. Professional accounting positions: authority to prescribe certification and credential standards.”.

(b) EFFECTIVE DATE.—Standards established pursuant to section 1599d of title 10, United States Code, as added by subsection (a), may take effect no sooner than 120 days after the date of the enactment of this Act.

10 USC 1599d note.

TITLE XII—MATTERS RELATING TO OTHER NATIONS

- Sec. 1201. Authority to provide administrative services and support for coalition liaison officers.
- Sec. 1202. Authority to pay for certain travel of defense personnel of countries participating in NATO Partnership for Peace program.
- Sec. 1203. Limitation on funding for Joint Data Exchange Center in Moscow.
- Sec. 1204. Support of United Nations-sponsored efforts to inspect and monitor Iraqi weapons activities.
- Sec. 1205. Comprehensive annual report to Congress on coordination and integration of all United States nonproliferation activities.
- Sec. 1206. Report requirement regarding Russian proliferation to Iran and other countries of proliferation concern.
- Sec. 1207. Monitoring of implementation of 1979 agreement between the United States and China on cooperation in science and technology.
- Sec. 1208. Extension of certain counterproliferation activities and programs.
- Sec. 1209. Semiannual report by Director of Central Intelligence on contributions by foreign persons to efforts by countries of proliferation concern to obtain weapons of mass destruction and their delivery systems.
- Sec. 1210. Report on feasibility and advisability of senior officer exchanges between the Armed Forces of the United States and the military forces of Taiwan.
- Sec. 1211. Report on United States force structure in the Pacific.

SEC. 1201. AUTHORITY TO PROVIDE ADMINISTRATIVE SERVICES AND SUPPORT FOR COALITION LIAISON OFFICERS.

(a) **AUTHORITY.**—(1) Chapter 53 of title 10, United States Code, is amended by inserting after section 1051 the following new section:

“§ 1051a. Coalition liaison officers: administrative services and support; travel, subsistence, and other per- sonal expenses

“(a) **AUTHORITY.**—The Secretary of Defense may provide administrative services and support for the performance of duties by a liaison officer of another nation involved in a coalition with the United States while the liaison officer is assigned temporarily to the headquarters of a combatant command, component command, or subordinate operational command of the United States in connection with the planning for, or conduct of, a coalition operation.

“(b) **TRAVEL AND SUBSISTENCE EXPENSES.**—(1) The Secretary may pay the expenses specified in paragraph (2) of a liaison officer of a developing country in connection with the assignment of that officer to the headquarters of a combatant command as described in subsection (a), if the assignment is requested by the commander of the combatant command.

“(2) Expenses of a liaison officer that may be paid under paragraph (1) in connection with an assignment described in that paragraph are the following:

“(A) Travel and subsistence expenses.

“(B) Personal expenses directly necessary to carry out the duties of that officer in connection with that assignment.

“(c) **REIMBURSEMENT.**—To the extent that the Secretary determines appropriate, the Secretary may provide the services and support authorized by subsection (a) and the expenses authorized by subsection (b) with or without reimbursement from (or on behalf of) the recipients.

“(d) **DEFINITIONS.**—In this section:

“(1) The term ‘administrative services and support’ includes base or installation support services, office space, utilities,

copying services, fire and police protection, and computer support.

“(2) The term ‘coalition’ means an ad hoc arrangement between or among the United States and one or more other nations for common action.

“(e) EXPIRATION OF AUTHORITY.—The authority under this section shall expire on September 30, 2005.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1051 the following new item:

“1051a. Coalition liaison officers: administrative services and support; travel, subsistence, and other personal expenses.”.

(b) GAO REPORT.—Not later than March 1, 2005, the Comptroller General shall submit to the Committees on Armed Services of the Senate and House of Representatives a report providing an assessment of the implementation of section 1051a of title 10, United States Code, as added by subsection (a). The assessment shall include the following:

Deadline.
10 USC 1051a
note.

(1) A description of the benefits to coalition operations of the authority provided by that section.

(2) A statement of the cost to the Department of Defense of the use of the authority provided by that section.

(3) A summary of activities carried out under the authority provided by that section, including (A) the number of liaison officers for whom administrative services and support or expenses were provided under that authority and their countries of origin, and (B) the type of services, support, and expenses provided.

SEC. 1202. AUTHORITY TO PAY FOR CERTAIN TRAVEL OF DEFENSE PERSONNEL OF COUNTRIES PARTICIPATING IN NATO PARTNERSHIP FOR PEACE PROGRAM.

(a) AUTHORITY FOR USE OF FUNDS.—Section 1051(b) of title 10, United States Code, is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following new paragraph (3):

“(3) In the case of defense personnel of a developing country that is not a member of the North Atlantic Treaty Organization and that is participating in the Partnership for Peace program of the North Atlantic Treaty Organization (NATO), expenses authorized to be paid under subsection (a) may be paid in connection with travel of personnel to the territory of any of the countries participating in the Partnership for Peace program or the territory of any NATO member country.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply only with respect to travel performed on or after the date of the enactment of this Act.

10 USC 1051
note.

SEC. 1203. LIMITATION ON FUNDING FOR JOINT DATA EXCHANGE CENTER IN MOSCOW.

(a) LIMITATION.—Not more than 50 percent of the funds made available to the Department of Defense for fiscal year 2003 for activities associated with the Joint Data Exchange Center in

Moscow, Russia, may be obligated or expended for any such activity until—

(1) the United States and the Russian Federation enter into a cost-sharing agreement as described in subsection (d) of section 1231 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-329);

(2) the United States and the Russian Federation enter into an agreement or agreements exempting the United States and any United States person from Russian taxes, and from liability under Russian laws, with respect to activities associated with the Joint Data Exchange Center;

(3) the Secretary of Defense submits to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a copy of each agreement referred to in paragraphs (1) and (2); and

(4) a period of 30 days has expired after the date of the final submission under paragraph (3).

(b) **JOINT DATA EXCHANGE CENTER.**—For purposes of this section, the term “Joint Data Exchange Center” means the United States-Russian Federation joint center for the exchange of data to provide early warning of launches of ballistic missiles and for notification of such launches that is provided for in a joint United States-Russian Federation memorandum of agreement signed in Moscow in June 2000.

SEC. 1204. SUPPORT OF UNITED NATIONS-SPONSORED EFFORTS TO INSPECT AND MONITOR IRAQI WEAPONS ACTIVITIES.

(a) **LIMITATION ON AMOUNT OF ASSISTANCE IN FISCAL YEAR 2003.**—The total amount of the assistance for fiscal year 2003 that is provided by the Secretary of Defense under section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) as activities of the Department of Defense in support of activities under that Act may not exceed \$15,000,000.

(b) **EXTENSION OF AUTHORITY TO PROVIDE ASSISTANCE.**—Subsection (f) of section 1505 of the Weapons of Mass Destruction Control Act of 1992 (22 U.S.C. 5859a) is amended by striking “2002” and inserting “2003”.

22 USC 5952
note.

SEC. 1205. COMPREHENSIVE ANNUAL REPORT TO CONGRESS ON COORDINATION AND INTEGRATION OF ALL UNITED STATES NONPROLIFERATION ACTIVITIES.

Section 1205 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1247) is amended by adding at the end the following new subsection:

Deadline.

“(d) **ANNUAL REPORT ON IMPLEMENTATION OF PLAN.**—(1) Not later than January 31, 2003, and each year thereafter, the President shall submit to Congress a report on the implementation of the plan required by subsection (a) during the preceding year.

“(2) Each report under paragraph (1) shall include—

“(A) a discussion of progress made during the year covered by such report in the matters of the plan required by subsection (a);

“(B) a discussion of consultations with foreign nations, and in particular the Russian Federation, during such year on joint programs to implement the plan;

“(C) a discussion of cooperation, coordination, and integration during such year in the implementation of the plan among

the various departments and agencies of the United States Government, as well as private entities that share objectives similar to the objectives of the plan; and

“(D) any recommendations that the President considers appropriate regarding modifications to law or regulations, or to the administration or organization of any Federal department or agency, in order to improve the effectiveness of any programs carried out during such year in the implementation of the plan.”.

SEC. 1206. REPORT REQUIREMENT REGARDING RUSSIAN PROLIFERATION TO IRAN AND OTHER COUNTRIES OF PROLIFERATION CONCERN.

22 USC 5952
note.

(a) **REPORT REQUIREMENT.**—Not later than March 15 of 2003 through 2009, the President shall submit to Congress a report (in unclassified and classified form as necessary) describing in detail Russian proliferation of weapons of mass destruction and ballistic missile goods, technology, expertise, and information, and of dual-use items that may contribute to the development of weapons of mass destruction and ballistic missiles, to Iran and to other countries of proliferation concern during the year preceding the year in which the report is submitted. The report shall include a detailed description of the following, for the year covered by the report:

Deadline.
President.

(1) The number, type, and quality of direct and dual-use weapons of mass destruction and ballistic missile goods, technology, expertise, and information transferred.

(2) The form, location, and manner in which such transfers took place.

(3) The contribution that such transfers could make to the recipient countries' weapons of mass destruction and ballistic missile programs, and an estimate of how soon such countries will test, possess, and deploy weapons of mass destruction and ballistic missiles.

(4) The impact and consequences that such transfers have, and could have over the next 10 years—

(A) on United States national security;

(B) on United States military forces deployed in the region to which such transfers are being made;

(C) on United States allies, friends, and interests in that region; and

(D) on the military capabilities of the country receiving such transfers from Russia.

(5) The policy and strategy that the President intends to employ to halt Russian proliferation, the policy tools that the President intends to use to carry out that policy and strategy, the rationale for employing such tools, and the timeline by which the President expects to see material progress in ending Russian proliferation of direct and dual-use weapons of mass destruction and missile goods, technology, expertise, and information.

(b) **DEFINITION.**—In this section, the term “country of proliferation concern” means any country identified by the Director of Central Intelligence as having engaged in the acquisition of dual-use and other technology useful for the development or production

of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) or advanced conventional munitions—

(1) in the most recent report under section 721 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104-293; 50 U.S.C. 2366); or

(2) in any successor report on the acquisition by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction.

22 USC 6901
note.

SEC. 1207. MONITORING OF IMPLEMENTATION OF 1979 AGREEMENT BETWEEN THE UNITED STATES AND CHINA ON COOPERATION IN SCIENCE AND TECHNOLOGY.

(a) **IN GENERAL.**—The Secretary of State shall—

(1) monitor the implementation of the Agreement specified in subsection (c);

(2) keep a systematic account of the protocols to the Agreement;

(3) coordinate the activities of all agencies of the United States Government that carry out cooperative activities under the Agreement; and

(4) ensure that all activities conducted under the Agreement comply with applicable laws and regulations concerning the transfer of militarily sensitive technologies and dual-use technologies.

(b) **RESPONSIBILITIES OF THE OFFICE OF SCIENCE AND TECHNOLOGY COOPERATION.**—Except as otherwise provided by the Secretary of State, the functions of the Secretary under this section shall be carried out through the Director of the Office of Science and Technology Cooperation of the Department of State.

(c) **AGREEMENT DEFINED.**—For purposes of this section, the term “Agreement” means the agreement between the United States and the People’s Republic of China known as the “Agreement between the Government of the United States of America and the Government of the People’s Republic of China on Cooperation in Science and Technology”, signed in Washington on January 31, 1979, and its protocols.

Deadline.

(d) **BIENNIAL REPORT TO CONGRESS.**—(1) Not later than April 1 of each even-numbered year, the Secretary of State shall submit to Congress a report on the implementation of the Agreement and on activities under the Agreement. Each such report shall be submitted in both classified and unclassified form, as necessary.

(2) Each report under this subsection shall provide an evaluation of the benefits of the Agreement to the economy, to the military, and to the industrial base of the People’s Republic of China and shall include the following:

(A) An accounting of all activities conducted under the Agreement since the previous report (or, in the case of the first report, since the Agreement was entered into) and a projection of activities to be undertaken under the Agreement during the next two years.

(B) An estimate of the costs to the United States to administer the Agreement during the period covered by the report.

(C) An assessment of how the Agreement has influenced the foreign and domestic policies of the People’s Republic of

China and the policy of the People's Republic of China toward scientific and technological cooperation with the United States.

(D) An analysis by the Director of Central Intelligence of the involvement of military specialists, weapons specialists, and intelligence specialists of the People's Republic of China in the activities of the Joint Commission established under the Agreement and in other activities conducted under the Agreement.

(E) A determination by the Secretary of Defense, developed with the assistance of the Director of Central Intelligence, of the extent to which the activities conducted under the Agreement have enhanced the military and defense industrial base of the People's Republic of China, and an assessment of the effect that projected activities under the Agreement for the next two years, including the transfer of technology and know-how, could have on the economic and military capabilities of the People's Republic of China.

(F) An assessment by the Inspector General of the Department of Commerce of—

(i) the extent to which programs or activities carried out under the Agreement provide access to technology, information, or know-how that could enhance military capabilities of the People's Republic of China; and

(ii) the extent to which those programs or activities are carried out in compliance with export control laws and regulations of the United States, especially those laws and regulations governing so-called “deemed exports”.

(G) Any recommendations of the Secretary of State, Secretary of Defense, or Director of Central Intelligence for improving the monitoring of the activities of the Joint Commission established under the Agreement.

(3) The Secretary of State shall prepare each report under this subsection in consultation with the Secretary of Defense, the Secretary of Energy, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, and the Director of the National Science Foundation.

(e) INTERAGENCY WORKING GROUP.—The President shall establish an interagency working group to oversee the implementation of the Agreement by departments and agencies of the United States. The working group shall consist of representatives of such departments, agencies, and offices of the executive branch as the President considers appropriate. The working group shall perform the following functions:

(1) Assisting the Secretary of State and other appropriate officials in setting standards under the Agreement for science and technology transfers between the United States and the People's Republic of China.

(2) Monitoring ongoing programs and activities under the Agreement and recommending future programs and activities under the Agreement.

(3) Developing a comprehensive database of all government-to-government programs and United States Government-funded programs under the Agreement.

(4) Coordinating activities under the Agreement between United States Government agencies, including elements of the intelligence community, as appropriate.

SEC. 1208. EXTENSION OF CERTAIN COUNTERPROLIFERATION ACTIVITIES AND PROGRAMS.

(a) **EXTENSION OF INTERAGENCY COUNTERPROLIFERATION PROGRAM REVIEW COMMITTEE.**—Section 1605(f) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking “September 30, 2004” and inserting “September 30, 2008”.

(b) **LATER DEADLINE FOR SUBMISSION OF ANNUAL REPORT.**—Subsection (a) of section 1503 of the National Defense Authorization Act for Fiscal Year 1995 (22 U.S.C. 2751 note) is amended by striking “February 1 of each year” and inserting “May 1 each year”.

(c) **ADDITIONAL MATTERS TO BE INCLUDED IN ANNUAL REPORT.**—Subsection (b) of such section is amended by adding at the end the following new paragraph:

“(8) A discussion of the limitations and impediments to the biological weapons counterproliferation efforts of the Department of Defense (including legal, policy, and resource constraints) and recommendations for the removal or mitigation of such impediments and for ways to make such efforts more effective.”.

(d) **TECHNICAL AMENDMENT TO REFLECT CHANGE IN POSITION TITLE.**—Section 1605(a)(4) of the National Defense Authorization Act for Fiscal Year 1994 (22 U.S.C. 2751 note) is amended by striking “Under Secretary of Defense for Acquisition and Technology” in the first sentence and inserting “Under Secretary of Defense for Acquisition, Technology, and Logistics”.

SEC. 1209. SEMIANNUAL REPORT BY DIRECTOR OF CENTRAL INTELLIGENCE ON CONTRIBUTIONS BY FOREIGN PERSONS TO EFFORTS BY COUNTRIES OF PROLIFERATION CONCERN TO OBTAIN WEAPONS OF MASS DESTRUCTION AND THEIR DELIVERY SYSTEMS.

(a) **CONTENT OF SEMIANNUAL REPORT.**—The Combatting Proliferation of Weapons of Mass Destruction Act of 1996 (title VII of Public Law 104-293) is amended by inserting after section 721 (50 U.S.C. 2366) the following new section:

“SEC. 722. SEMIANNUAL REPORT ON CONTRIBUTIONS OF FOREIGN PERSONS TO WEAPONS OF MASS DESTRUCTION AND DELIVERY SYSTEMS EFFORTS OF COUNTRIES OF PROLIFERATION CONCERN.

50 USC 2369.

“(a) **REPORTS.**—The Director of Central Intelligence shall submit to Congress a semiannual report identifying each foreign person that, during the period covered by the report, made a material contribution to the research, development, production, or acquisition by a country of proliferation concern of—

“(1) weapons of mass destruction (including nuclear weapons, chemical weapons, or biological weapons); or

“(2) ballistic or cruise missile systems.

“(b) **PERIOD OF SEMIANNUAL REPORTS.**—Semiannual reports under subsection (a) shall be submitted as follows:

Deadline.

“(1) One semiannual report shall cover the first six months of the calendar year and shall be submitted not later than January 1 of the following year.

“(2) The other semiannual report shall cover the second six months of the calendar year and shall be submitted not later than July 1 of the following year. Deadline.

“(c) FORM OF REPORTS.—(1) A report under subsection (a) may be submitted in classified form, in whole or in part, if the Director of Central Intelligence determines that submittal in that form is advisable.

“(2) Any portion of a report under subsection (a) that is submitted in classified form shall be accompanied by an unclassified summary of such portion.

“(d) DEFINITIONS.—In this section:

“(1) The term ‘foreign person’ means any of the following:

“(A) A natural person who is not a citizen of the United States.

“(B) A corporation, business association, partnership, society, trust, or other nongovernmental entity, organization, or group that is organized under the laws of a foreign country or has its principal place of business in a foreign country.

“(C) Any foreign government or foreign governmental entity operating as a business enterprise or in any other capacity.

“(D) Any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).

“(2) The term ‘country of proliferation concern’ means any country identified by the Director of Central Intelligence as having engaged in the acquisition of dual-use and other technology useful for the development or production of weapons of mass destruction (including nuclear weapons, chemical weapons, and biological weapons) or advanced conventional munitions—

“(A) in the most recent report under section 721; or

“(B) in any successor report on the acquisition by foreign countries of dual-use and other technology useful for the development or production of weapons of mass destruction.”.

(b) EFFECTIVE DATE.—Section 722 of the Combatting Proliferation of Weapons of Mass Destruction Act of 1996, as added by subsection (a), shall take effect with the report with respect to the first six months of 2003 required to be submitted under that section not later than January 1, 2004. 50 USC 2369 note.

SEC. 1210. REPORT ON FEASIBILITY AND ADVISABILITY OF SENIOR OFFICER EXCHANGES BETWEEN THE ARMED FORCES OF THE UNITED STATES AND THE MILITARY FORCES OF TAIWAN.

(a) PRESIDENTIAL REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on— Deadline. President.

(1) the feasibility and advisability of conducting combined operational training with, and exchanges of general and flag officers between, the Armed Forces of the United States and the military forces of Taiwan; and

(2) the progress being made in meeting United States commitments to the security of Taiwan.

(b) **CLASSIFICATION OF REPORT.**—The report required by this section shall be submitted in unclassified form and, as necessary, in classified form.

SEC. 1211. REPORT ON UNITED STATES FORCE STRUCTURE IN THE PACIFIC.

Deadline.

(a) **SECRETARY OF DEFENSE REPORT.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the plans of the Department of Defense to maintain adequate United States force structure in the Pacific, including any efforts (1) to augment current basing arrangements, and (2) to implement the recommendations from the most recent Quadrennial Defense Review to improve United States military capabilities in the Pacific.

(b) **CLASSIFICATION OF REPORT.**—The report required by this section shall be submitted in unclassified form and, as necessary, in classified form.

TITLE XIII—COOPERATIVE THREAT REDUCTION WITH STATES OF THE FORMER SOVIET UNION

Sec. 1301. Specification of Cooperative Threat Reduction programs and funds.

Sec. 1302. Funding allocations.

Sec. 1303. Prohibition against use of funds until submission of reports.

Sec. 1304. Report on use of revenue generated by activities carried out under Cooperative Threat Reduction programs.

Sec. 1305. Prohibition against use of funds for second wing of fissile material storage facility.

Sec. 1306. Limited waiver of restrictions on use of funds for threat reduction in states of the former Soviet Union.

SEC. 1301. SPECIFICATION OF COOPERATIVE THREAT REDUCTION PROGRAMS AND FUNDS.

22 USC 5952
note.

(a) **SPECIFICATION OF CTR PROGRAMS.**—For purposes of section 301 and other provisions of this Act, Cooperative Threat Reduction programs are the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 110 Stat. 2731; 50 U.S.C. 2362 note).

(b) **FISCAL YEAR 2003 COOPERATIVE THREAT REDUCTION FUNDS DEFINED.**—As used in this title, the term “fiscal year 2003 Cooperative Threat Reduction funds” means the funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs.

(c) **AVAILABILITY OF FUNDS.**—Funds appropriated pursuant to the authorization of appropriations in section 301 for Cooperative Threat Reduction programs shall be available for obligation for three fiscal years.

SEC. 1302. FUNDING ALLOCATIONS.

(a) **FUNDING FOR SPECIFIC PURPOSES.**—Of the \$416,700,000 authorized to be appropriated to the Department of Defense for fiscal year 2003 in section 301(23) for Cooperative Threat Reduction programs, the following amounts may be obligated for the purposes specified:

(1) For strategic offensive arms elimination in Russia, \$70,500,000.

(2) For strategic nuclear arms elimination in Ukraine, \$6,500,000.

(3) For nuclear weapons transportation security in Russia, \$19,700,000.

(4) For nuclear weapons storage security in Russia, \$40,000,000.

(5) For activities designated as Other Assessments/Administrative Support, \$14,700,000.

(6) For defense and military contacts, \$18,900,000.

(7) For weapons of mass destruction infrastructure elimination activities in Kazakhstan, \$9,000,000.

(8) For weapons of mass destruction infrastructure elimination activities in Ukraine, \$8,800,000.

(9) For chemical weapons destruction in Russia, \$50,000,000.

(10) For biological weapons proliferation prevention in the former Soviet Union, \$55,000,000.

(11) For weapons of mass destruction proliferation prevention in the States of the former Soviet Union, \$40,000,000.

(b) ADDITIONAL FUNDS AUTHORIZED FOR CERTAIN PURPOSES.—Of the funds authorized to be appropriated to the Department of Defense for fiscal year 2003 in section 301(23) for Cooperative Threat Reduction programs, \$83,600,000 may be obligated for any of the purposes specified in paragraphs (1) through (4) and (9) of subsection (a) in addition to the amounts specifically authorized in such paragraphs.

(c) REPORT ON OBLIGATION OR EXPENDITURE OF FUNDS FOR OTHER PURPOSES.—No fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended for a purpose other than a purpose listed in paragraphs (1) through (11) of subsection (a) until 30 days after the date that the Secretary of Defense submits to Congress a report on the purpose for which the funds will be obligated or expended and the amount of funds to be obligated or expended. Nothing in the preceding sentence shall be construed as authorizing the obligation or expenditure of fiscal year 2003 Cooperative Threat Reduction funds for a purpose for which the obligation or expenditure of such funds is specifically prohibited under this title or any other provision of law.

(d) LIMITED AUTHORITY TO VARY INDIVIDUAL AMOUNTS.—(1) Subject to paragraphs (2) and (3), in any case in which the Secretary of Defense determines that it is necessary to do so in the national interest, the Secretary may obligate amounts appropriated for fiscal year 2003 for a purpose listed in any of the paragraphs in subsection (a) in excess of the specific amount authorized for that purpose.

(2) An obligation of funds for a purpose stated in any of the paragraphs in subsection (a) in excess of the specific amount authorized for such purpose may be made using the authority provided in paragraph (1) only after—

(A) the Secretary submits to Congress notification of the intent to do so together with a complete discussion of the justification for doing so; and

(B) 15 days have elapsed following the date of the notification.

(3) The Secretary may not, under the authority provided in paragraph (1), obligate amounts for a purpose stated in any of paragraphs (5) through (10) of subsection (a) in excess of 125 percent of the specific amount authorized for such purpose.

(4) In this section, the term “specific amount authorized” means, with respect to a purpose listed in any paragraph in subsection (a)—

(A) the amount specifically authorized for that purpose in subsection (a), plus

(B) in the case of a purpose listed in paragraph (1), (2), (3), (4), or (9) of subsection (a), any amount obligated under subsection (b) for that purpose.

SEC. 1303. PROHIBITION AGAINST USE OF FUNDS UNTIL SUBMISSION OF REPORTS.

Not more than 50 percent of fiscal year 2003 Cooperative Threat Reduction funds may be obligated or expended until 30 days after the date of the submission of—

(1) the report required to be submitted in fiscal year 2002 under section 1308(a) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-341); and

(2) the update for the multiyear plan required to be submitted for fiscal year 2001 under section 1205 of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 22 U.S.C. 5952 note).

SEC. 1304. REPORT ON USE OF REVENUE GENERATED BY ACTIVITIES CARRIED OUT UNDER COOPERATIVE THREAT REDUCTION PROGRAMS.

(a) **ADDITIONAL REPORT REQUIREMENTS.**—Section 1308(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-341) is amended by inserting at the end the following new paragraphs:

22 USC 5959.

“(6) To the maximum extent practicable, a description of how revenue generated by activities carried out under Cooperative Threat Reduction programs in recipient States is being utilized, monitored, and accounted for.

“(7) A description of the defense and military activities carried out under Cooperative Threat Reduction programs during the fiscal year ending in the year preceding the year of the report, including—

“(A) the amounts obligated or expended for such activities;

“(B) the purposes, goals, and objectives for which such amounts were obligated and expended;

“(C) a description of the activities carried out, including the forms of assistance provided, and the justification for each form of assistance provided;

“(D) the success of each activity, including the goals and objectives achieved for each;

“(E) a description of participation by private sector entities in the United States in carrying out such activities, and the participation of any other Federal department or agency in such activities; and

“(F) any other information that the Secretary considers relevant to provide a complete description of the operation and success of activities carried out under Cooperative Threat Reduction programs.”.

(b) **EFFECTIVE DATE.**—Paragraphs (6) and (7) of section 1308(c) of such Act, as added by subsection (a), shall apply beginning with the report submitted under that section in 2004.

Applicability.
22 USC 5959
note.
22 USC 5952
note.

SEC. 1305. PROHIBITION AGAINST USE OF FUNDS FOR SECOND WING OF FISSILE MATERIAL STORAGE FACILITY.

No funds authorized to be appropriated for Cooperative Threat Reduction programs for any fiscal year may be used for the design, planning, or construction of a second wing for a storage facility for Russian fissile material.

SEC. 1306. LIMITED WAIVER OF RESTRICTIONS ON USE OF FUNDS FOR THREAT REDUCTION IN STATES OF THE FORMER SOVIET UNION.

(a) **AUTHORITY TO WAIVE RESTRICTIONS AND ELIGIBILITY REQUIREMENTS.**—If the President submits the certification and report described in subsection (b) with respect to an independent state of the former Soviet Union for a fiscal year—

22 USC 5952
note.

(1) the restrictions in subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952) shall cease to apply, and funds may be obligated and expended under that section for assistance, to that state during that fiscal year; and

(2) funds may be obligated and expended during that fiscal year under section 502 of the FREEDOM Support Act (22 U.S.C. 5852) for assistance or other programs and activities for that state even if that state has not met one or more of the requirements for eligibility under paragraphs (1) through (4) of that section.

(b) **CERTIFICATION AND REPORT.**—(1) The certification and report referred to in subsection (a) are a written certification submitted by the President to Congress that the waiver of the restrictions and requirements described in paragraphs (1) and (2) of that subsection during such fiscal year is important to the national security interests of the United States, together with a report containing the following:

(A) A description of the activity or activities that prevent the President from certifying that the state is committed to the matters set forth in the provisions of law specified in paragraphs (1) and (2) of subsection (a) in such fiscal year.

(B) An explanation of why the waiver is important to the national security interests of the United States.

(C) A description of the strategy, plan, or policy of the President for promoting the commitment of the state to, and compliance by the state with, such matters, notwithstanding the waiver.

(2) The matter included in the report under paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) **FISCAL YEARS COVERED.**—The authority under subsection (a) shall apply only with respect to fiscal years 2003, 2004, and 2005.

(d) **EXPIRATION OF AUTHORITY.**—The authority under subsection (a) shall expire on September 30, 2005.

(e) **ADMINISTRATION OF RESTRICTIONS ON ASSISTANCE.**—Subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (title XII of Public Law 103-160; 107 Stat. 1778; 22 U.S.C. 5952) is amended—

- (1) by striking “any year” and inserting “any fiscal year”;
and
(2) by striking “that year” and inserting “such fiscal year”.

TITLE XIV—HOMELAND SECURITY

- Sec. 1401. Transfer of technology items and equipment in support of homeland security.
Sec. 1402. Comprehensive plan for improving the preparedness of military installations for terrorist incidents.
Sec. 1403. Additional Weapons of Mass Destruction Civil Support Teams.
Sec. 1404. Report on the role of the Department of Defense in supporting homeland security.
Sec. 1405. Sense of Congress on Department of Defense assistance to local first responders.

50 USC 2312
note.

SEC. 1401. TRANSFER OF TECHNOLOGY ITEMS AND EQUIPMENT IN SUPPORT OF HOMELAND SECURITY.

(a) RESPONSIBLE SENIOR OFFICIAL.—The Secretary of Defense shall designate a senior official of the Department of Defense to coordinate all Department of Defense efforts to identify, evaluate, deploy, and transfer to Federal, State, and local first responders technology items and equipment in support of homeland security.

(b) DUTIES.—The official designated pursuant to subsection (a) shall—

(1) identify technology items and equipment developed or being developed by Department of Defense components that have the potential to enhance public safety and improve homeland security;

(2) cooperate with appropriate Federal Government officials outside the Department of Defense to evaluate whether such technology items and equipment would be useful to first responders;

(3) facilitate the timely transfer, through identification of appropriate private sector manufacturers, of appropriate technology items and equipment to Federal, State, and local first responders, in coordination with appropriate Federal Government officials outside the Department of Defense;

(4) identify and eliminate redundant and unnecessary research efforts within the Department of Defense with respect to technologies to be deployed to first responders;

(5) expedite the advancement of high priority Department of Defense projects from research through implementation of initial manufacturing; and

(6) participate in outreach programs established by appropriate Federal Government officials outside the Department of Defense to communicate with first responders and to facilitate awareness of available technology items and equipment to support responses to crises.

(c) SUPPORT AGREEMENT.—The official designated pursuant to subsection (a) shall enter into an appropriate agreement with a nongovernment entity for such entity to assist the official designated under subsection (a) in carrying out that official’s duties under this section. Any such agreement shall be entered into using competitive procedures in compliance with applicable requirements of law and regulation.

Deadline.

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to

the congressional defense committees a report on the actions taken to carry out this section. The report shall include the following:

- (1) Identification of the senior official designated pursuant to subsection (a).
- (2) A summary of the actions taken or planned to be taken to implement subsection (b), including a schedule for planned actions.
- (3) An initial list of technology items and equipment identified pursuant to subsection (b)(1), together with a summary of any program schedule for the development, deployment, or transfer of such items and equipment.
- (4) A description of any agreement entered into pursuant to subsection (c).

SEC. 1402. COMPREHENSIVE PLAN FOR IMPROVING THE PREPAREDNESS OF MILITARY INSTALLATIONS FOR TERRORIST INCIDENTS.

10 USC 113 note.

(a) **COMPREHENSIVE PLAN.**—The Secretary of Defense shall develop a comprehensive plan for improving the preparedness of military installations for preventing and responding to terrorist attacks, including attacks involving the use or threat of use of weapons of mass destruction.

(b) **PREPAREDNESS STRATEGY.**—The plan under subsection (a) shall include a preparedness strategy that includes each of the following:

- (1) Identification of long-term goals and objectives for improving the preparedness of military installations for preventing and responding to terrorist attacks.
- (2) Identification of budget and other resource requirements necessary to achieve those goals and objectives.
- (3) Identification of factors beyond the control of the Secretary that could impede the achievement of those goals and objectives.
- (4) A discussion of the extent to which local, regional, or national military response capabilities are to be developed, integrated, and used.
- (5) A discussion of how the Secretary will coordinate the capabilities referred to in paragraph (4) with local, regional, or national civilian and other military capabilities.

(c) **PERFORMANCE PLAN.**—The plan under subsection (a) shall include a performance plan that includes each of the following:

- (1) A reasonable schedule, with milestones, for achieving the goals and objectives of the strategy under subsection (b).
- (2) Performance criteria for measuring progress in achieving those goals and objectives.
- (3) A description of the process, together with a discussion of the resources, necessary to achieve those goals and objectives.
- (4) A description of the process for evaluating results in achieving those goals and objectives.

(d) **SUBMITTAL TO CONGRESS.**—The Secretary shall submit the comprehensive plan developed under subsection (a) to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives not later than 180 days after the date of the enactment of this Act.

(e) **COMPTROLLER GENERAL REVIEW AND REPORT.**—Not later than 60 days after the date on which the Secretary submits the comprehensive plan under subsection (a), the Comptroller General

Deadline.

shall review the plan and submit to the committees referred to in subsection (d) the Comptroller General's assessment of the plan.

(f) ANNUAL REPORT.—(1) In each of 2004, 2005, and 2006, the Secretary of Defense shall include a report on the comprehensive plan developed under subsection (a) with the materials that the Secretary submits to Congress in support of the budget submitted by the President that year pursuant to section 1105(a) of title 31, United States Code.

(2) Each such report shall include—

(A) a discussion of any revision that the Secretary has made in the comprehensive plan developed under subsection (a) since the last report under this subsection or, in the case of the first such report, since the plan was submitted under subsection (d); and

(B) an assessment of the progress made in achieving the goals and objectives of the strategy set forth in the plan.

(3) If the Secretary includes in the report for 2004 or 2005 under this subsection a declaration that the goals and objectives of the preparedness strategy set forth in the comprehensive plan have been achieved, no further report is required under this subsection.

10 USC 12310
note.

SEC. 1403. ADDITIONAL WEAPONS OF MASS DESTRUCTION CIVIL SUPPORT TEAMS.

(a) ESTABLISHMENT OF ADDITIONAL TEAMS.—The Secretary of Defense shall—

(1) establish 23 additional teams designated as Weapons of Mass Destruction Civil Support Teams, for a total of 55 such teams; and

(2) ensure that of such 55 teams, there is at least one team established in each State and territory.

(b) PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to Congress a plan, in furtherance of subsection (a), for establishing at least one Weapons of Mass Destruction Civil Support Team in each State and territory that does not have such a team as of the date of the enactment of this Act. The plan shall include the following:

(1) A schedule and budget for manning, training, and equipping the new teams as rapidly as is possible without jeopardizing the attainment of full effectiveness by the new teams.

(2) A discussion of whether the mission of the Weapons of Mass Destruction Civil Support Teams should be expanded and, if so, how.

(c) DEFINITIONS.—For purposes of this section:

(1) The term “Weapons of Mass Destruction Civil Support Team” means a team of members of the reserve components of the Armed Forces that is established under section 12310(c) of title 10, United States Code, in support of emergency preparedness programs to prepare for or to respond to any emergency involving the use of a weapon of mass destruction.

(2) The term “State and territory” means each of the several States, the District of Columbia, Puerto Rico, Guam, and the Virgin Islands.

SEC. 1404. REPORT ON THE ROLE OF THE DEPARTMENT OF DEFENSE IN SUPPORTING HOMELAND SECURITY.

(a) REPORT REQUIRED.—Not later than March 1, 2003, the Secretary of Defense shall submit to the congressional defense

Deadline.

committees a report on Department of Defense responsibilities, mission, and plans for military support of homeland security.

(b) CONTENTS OF REPORT.—The report shall include, at a minimum, a discussion of the following:

(1) The Department of Defense definition of its homeland security mission, particularly with respect to how it relates to providing military support to civil authorities, managing the consequences of terrorist attacks, and homeland defense, and the actions the Department is taking to implement the homeland security mission as so defined.

(2) Changes in the roles, missions, responsibilities, organization, and capabilities of the following organizations in order to conduct their homeland security support mission, and the reasons for such changes:

(A) The Office of the Secretary of Defense.

(B) The Army, Navy, Air Force, and Marine Corps.

(C) The Army National Guard and the Air National Guard.

(D) The combatant commands of the Department of Defense.

(3) The relationship between the Department of Defense, including its combatant commands, and the following with regard to homeland security:

(A) Other departments and agencies of the Federal Government.

(B) State and local governments.

(C) The National Guard and Reserve components.

(4) The current capability of the Department of Defense to respond to terrorist attacks employing chemical, biological, radiological, nuclear, high explosive or cyberterrorism weapons against personnel and critical infrastructure of the Department, including identification of the goals of the Department for being fully capable of responding to such attacks, current deficiencies in that capability, the resources required to achieve that capability, and a long-term plan to reach that capability.

(5) The roles, missions, and responsibilities of the intelligence components of the Department of Defense in support of its homeland security mission, including the policies and plans for—

(A) collecting and analyzing information related to homeland security;

(B) sharing that information with other agencies of the Federal Government; and

(C) preparing threat and risk assessments and issuing warnings.

(6) A discussion of plans of the Department of Defense for training, exercising, and preparing to perform its homeland security mission, including—

(A) individual and collective training for civilian and military personnel of the Department involved in homeland security;

(B) integrated training with other agencies of the Federal Government, and with State and local governments, as appropriate;

(C) interagency exercises and simulations; and

(D) the development of a permanent “terrorist opposing force” capable of challenging the Department’s plans, policies, and capabilities during training events and exercises.

(7) A discussion of how the Department of Defense biological defense research program supports its homeland security mission.

(8) A discussion of the efforts by the Department of Defense to develop, either within the Department or through contracts with private entities, anticyberterrorism technology, including an assessment of whether and how such efforts should be increased.

(9) An assessment of the need for and feasibility of developing and fielding Department of Defense regional chemical-biological incident response teams across the United States, including options for providing the resources and personnel necessary for developing and fielding any such teams.

(10) A discussion of the Department of Defense plans and efforts to place new emphasis on the unique operational demands associated with homeland security while ensuring that defense of the United States remains the primary mission of the Department of Defense.

(11) The resource constraints and legal impediments to implementing any of the activities discussed under paragraphs (1) through (10).

SEC. 1405. SENSE OF CONGRESS ON DEPARTMENT OF DEFENSE ASSISTANCE TO LOCAL FIRST RESPONDERS.

It is the sense of Congress that the Secretary of Defense should, to the extent the Secretary considers appropriate and feasible, provide assistance, in accordance with otherwise applicable provisions of law, to entities that are local first responders for domestic terrorist incidents in order to assist those entities in improving their capabilities to respond to such incidents.

TITLE XV—AUTHORIZATION OF APPROPRIATIONS FOR THE WAR ON TERRORISM

Sec. 1501. Authorization of appropriations for continued operations for the war on terrorism.

Sec. 1502. Mobilization and personnel.

Sec. 1503. Operations.

Sec. 1504. Equipment replacement and enhancement.

Sec. 1505. Classified activities.

Sec. 1506. Procurement of munitions.

Sec. 1507. Discretionary restoration of authorizations of appropriations reduced for management efficiencies.

Sec. 1508. General provisions applicable to transfers.

SEC. 1501. AUTHORIZATION OF APPROPRIATIONS FOR CONTINUED OPERATIONS FOR THE WAR ON TERRORISM.

In addition to any other amounts authorized to be appropriated by this Act, there is hereby authorized to be appropriated for the Department of Defense for fiscal year 2003, subject to subsection (b), \$10,000,000,000 only for the conduct of Operation Noble Eagle and Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes stated in section 2(a)

of the Authorization for Use of Military Force (Public Law 107-40; 50 U.S.C. 1541 note).

SEC. 1502. MOBILIZATION AND PERSONNEL.

Of the amount authorized to be appropriated in section 1501, \$2,550,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 military personnel accounts of the Department of Defense for the purpose of providing for the personnel and personnel support costs of the members of the Armed Forces who are participating in Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a).

SEC. 1503. OPERATIONS.

Of the amount authorized to be appropriated in section 1501, \$4,270,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 operation and maintenance accounts and working-capital funds of the Department of Defense for operating costs of the conduct of Operation Noble Eagle and Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a).

SEC. 1504. EQUIPMENT REPLACEMENT AND ENHANCEMENT.

Of the amount authorized to be appropriated in section 1501, \$1,000,000,000 shall be available only for transfer (subject to sections 1507 and 1508) to fiscal year 2003 procurement and research, development, test, and evaluation accounts of the Department of Defense for—

(1) emergency replacement of equipment and munitions lost or expended in operations conducted as part of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a); or

(2) enhancement of critical military capabilities necessary to carry out operations as part of those Operations in continuation of the war on terrorism in accordance with those purposes.

SEC. 1505. CLASSIFIED ACTIVITIES.

Of the amount authorized to be appropriated in section 1501, \$1,980,000,000 shall be available only for unspecified intelligence and classified activities carried out in support of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in accordance with the purposes referred to in section 1501(a), and only by transfer (subject to sections 1507 and 1508) to fiscal year 2003 accounts of the Department of Defense in amounts as follows:

(1) To procurement accounts, \$1,618,200,000.

(2) To operation and maintenance accounts, \$301,600,000.

(3) To research, development, test, and evaluation accounts, \$60,200,000.

SEC. 1506. PROCUREMENT OF MUNITIONS.

Of the amount authorized to be appropriated in section 1501, \$200,000,000 shall be available only for the procurement of munitions for the support of Operation Noble Eagle or Operation Enduring Freedom in continuation of the war on terrorism in

accordance with the purposes referred to in section 1501(a), and only by transfer (subject to sections 1507 and 1508) to fiscal year 2003 procurement accounts of the Department of Defense in amounts as follows:

(1) To accounts of the Army for the procurement of ammunition \$94,000,000.

(2) To accounts of the Navy for the procurement of weapons, \$35,000,000.

(3) To accounts of the Navy and Marine Corps for the procurement of ammunition, \$25,000,000.

(4) To accounts of the Air Force for the procurement of ammunition, \$40,000,000.

(5) To Defense-wide procurement accounts for special operations forces, \$6,000,000.

SEC. 1507. DISCRETIONARY RESTORATION OF AUTHORIZATIONS OF APPROPRIATIONS REDUCED FOR MANAGEMENT EFFICIENCIES.

(a) **TRANSFER AUTHORITY.**—(1) The Secretary of Defense may, subject to section 1508, transfer up to a total of \$1,000,000,000 of the amount authorized to be appropriated by section 1501 to Department of Defense accounts under titles I, II, and III that are reduced for savings described in paragraph (2) if and to the extent that the Secretary determines that such savings are not achievable.

(2) The savings referred to in paragraph (1) are savings that are to be achieved from—

(A) improved management of Department of Defense contracts for the procurement of services; and

(B) the deferral of expenditures on financial management systems.

(b) **RELATIONSHIP TO OTHER TITLE XV TRANSFER AUTHORITIES.**—The total amount transferred under sections 1502 through 1506 and under section 1507 may not exceed the total amount authorized to be appropriated by section 1501.

SEC. 1508. GENERAL PROVISIONS APPLICABLE TO TRANSFERS.

(a) **MERGER OF TRANSFERRED AMOUNTS.**—Amounts transferred pursuant to this title shall be merged with, and shall be available for the same purposes and the same period as, the account to which transferred.

(b) **CONGRESSIONAL NOTICE-AND-WAIT REQUIREMENT.**—A transfer may not be made under section 1502, 1503, 1504, 1505, 1506, or 1507 until the Secretary of Defense has submitted a notice in writing to the congressional defense committees of the proposed transfer and a period of 15 days has elapsed after the date such notice is received. Any such notice shall include specification of the amount of the proposed transfer, the account to which the transfer is to be made, and the purpose of the transfer.

(c) **RELATIONSHIP TO OTHER TRANSFER AUTHORITY.**—The transfer authorities provided in this title are in addition to any other transfer authority available to the Secretary of Defense under any provision of any other title of this Act or under any other provision of law.

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Military
Construction
Authorization
Act for Fiscal
Year 2003.

SEC. 2001. SHORT TITLE.

This division may be cited as the “Military Construction Authorization Act for Fiscal Year 2003”.

TITLE XXI—ARMY

Sec. 2101. Authorized Army construction and land acquisition projects.

Sec. 2102. Family housing.

Sec. 2103. Improvements to military family housing units.

Sec. 2104. Authorization of appropriations, Army.

Sec. 2105. Modification of authority to carry out certain fiscal year 2002 projects.

Sec. 2106. Modification of authority to carry out certain fiscal year 2001 project.

SEC. 2101. AUTHORIZED ARMY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(1), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Army: Inside the United States

State	Installation or location	Amount
Alabama	Anniston Army Depot	\$1,900,000
	Fort Rucker	\$15,808,000
	Redstone Arsenal	\$1,950,000
Alaska	Fort Greely	\$2,700,000
	Fort Richardson	\$20,011,000
	Fort Wainwright	\$139,906,000
Arizona	Fort Huachuca	\$10,400,000
	Yuma Proving Ground	\$4,500,000
California	Fort Irwin	\$2,522,000
Colorado	Fort Carson	\$9,698,000
District of Columbia	Walter Reed Army Medical Center	\$13,794,000
Georgia	Fort Benning	\$86,250,000
	Fort Stewart/Hunter Army Air Field	\$26,000,000
Hawaii	Schofield Barracks	\$191,000,000
Kansas	Fort Leavenworth	\$7,979,000
	Fort Riley	\$81,095,000
Kentucky	Blue Grass Army Depot	\$5,500,000
	Fort Campbell	\$106,300,000
	Fort Knox	\$5,873,000
Louisiana	Fort Polk	\$37,620,000
Maryland	Fort Detrick	\$22,500,000
Massachusetts	Natick Research, Development, and Engineering Center	\$4,100,000
Missouri	Fort Leonard Wood	\$24,993,000
New Jersey	Picatinny Arsenal	\$7,500,000
New York	Fort Drum	\$18,300,000
	United States Military Academy, West Point	\$4,991,000
North Carolina	Fort Bragg	\$99,632,000

Army: Inside the United States—Continued

State	Installation or location	Amount
Oklahoma	Fort Sill	\$39,652,000
Pennsylvania	Letterkenny Army Depot	\$1,550,000
South Carolina	Fort Jackson	\$3,051,000
Texas	Fort Bliss	\$5,200,000
	Fort Hood	\$83,061,000
Virginia	Fort Eustis	\$4,133,000
	Fort Lee	\$7,103,000
Washington	Fort Lewis	\$56,195,000
	Yakima Training Center	\$3,000,000
	Total	\$1,155,767,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(2), the Secretary of the Army may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Army: Outside the United States

Country	Installation or location	Amount
Belgium	Supreme Headquarters, Allied Powers Europe	\$13,600,000
Germany	Area Support Group, Bamberg	\$17,200,000
	Campbell Barracks	\$8,300,000
	Coleman Barracks	\$1,350,000
	Darmstadt	\$3,500,000
	Grafenwoehr	\$69,866,000
	Landstuhl	\$2,400,000
	Mannheim	\$42,000,000
	Schweinfurt	\$2,000,000
Italy	Vicenza	\$34,700,000
Korea	Camp Carroll	\$20,000,000
	Camp Castle	\$6,800,000
	Camp Hovey	\$25,000,000
	Camp Humphreys	\$36,000,000
	Camp Henry	\$10,200,000
	Camp Tango	\$12,600,000
	K16 Airfield	\$40,000,000
Qatar	Qatar	\$8,600,000
	Total	\$354,116,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(3), the Secretary of the Army may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Army: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Unspecified Worldwide	\$4,000,000

SEC. 2102. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section

2104(a)(6)(A), the Secretary of the Army may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Army: Family Housing

State or Country	Installation or location	Purpose	Amount
Alaska	Fort Wainwright	38 Units	\$17,752,000
Arizona	Yuma Proving Ground	33 Units	\$6,100,000
Korea	Yongsan	10 Units	\$3,100,000
Total:			\$26,952,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed \$15,653,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2104(a)(6)(A), the Secretary of the Army may improve existing military family housing units in an amount not to exceed \$239,751,000.

SEC. 2104. AUTHORIZATION OF APPROPRIATIONS, ARMY.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of \$3,104,176,000, as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), \$949,567,000.

(2) For military construction projects outside the United States authorized by section 2101(b), \$354,116,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2101(c), \$4,000,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$21,550,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$160,313,000.

(6) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$282,356,000.

(B) For support of military family housing (including the functions described in section 2833 of title 10, United States Code), \$1,117,274,000.

(7) For the construction of phase 2 of Saddle Access Road, Pohakoula Training Facility, Hawaii, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted

into law by Public Law 106-398; 114 Stat. 1654A-389), \$13,000,000.

(8) For the construction of phase 3 of a barracks complex, Butner Road, at Fort Bragg, North Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106-398; 114 Stat. 1654A-389), \$50,000,000.

(9) For the construction of phase 2 of a barracks complex, D Street, at Fort Richardson, Alaska, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1280), \$21,000,000.

(10) For the construction of phase 2 of a barracks complex, Nelson Boulevard, at Fort Carson, Colorado, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1280), as amended by section 2105 of this Act, \$42,000,000.

(11) For the construction of phase 2 of a basic combat trainee complex at Fort Jackson, South Carolina, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1280), as amended by section 2105 of this Act, \$39,000,000.

(12) For the construction of phase 2 of a barracks complex, 17th and B Streets, at Fort Lewis, Washington, authorized by section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1280), \$50,000,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2), and (3) of subsection (a);

(2) \$18,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Main Post, at Fort Benning, Georgia);

(3) \$100,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Capron Avenue, at Schofield Barracks, Hawaii);

(4) \$13,200,000 (the balance of the amount authorized under section 2101(a) for construction of a combined arms collective training facility at Fort Riley, Kansas);

(5) \$50,000,000 (the balance of the amount authorized under section 2101(a) for construction of a barracks complex, Range Road, at Fort Campbell, Kentucky); and

(6) \$25,000,000 (the balance of the amount authorized under section 2101(a) for construction of a consolidated maintenance complex at Fort Sill, Oklahoma).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (12) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by the following:

(1) \$18,596,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

(2) \$29,350,000, which represents savings resulting from adjustments in the accounting of civilian personnel benefits.

(3) \$16,740,000, which represents savings resulting from reductions in supervision, inspection, and overhead costs.

(4) \$18,000,000, which represents savings resulting from lower-than-expected inflation.

SEC. 2105. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) **MODIFICATION.**—The table in section 2101(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1281) is amended—

(1) in the item relating to Fort Carson, Colorado, by striking “\$66,000,000” in the amount column and inserting “\$67,000,000”; and

(2) in the item relating to Fort Jackson, South Carolina, by striking “\$65,650,000” in the amount column and inserting “\$68,650,000”.

(b) **CONFORMING AMENDMENTS.**—Section 2104(b) of that Act (115 Stat. 1284) is amended—

(1) in paragraph (3), by striking “\$41,000,000” and inserting “\$42,000,000”; and

(2) in paragraph (4), by striking “\$36,000,000” and inserting “\$39,000,000”.

SEC. 2106. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2001 PROJECT.

The table in section 2101(b) of the Military Construction Authorization Act for Fiscal Year 2001 (division B of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001, as enacted into law by Public Law 106-398; 114 Stat. 1654A-390) is amended by striking “Camp Page” in the installation or location column and inserting “Camp Stanley”.

TITLE XXII—NAVY

Sec. 2201. Authorized Navy construction and land acquisition projects.

Sec. 2202. Family housing.

Sec. 2203. Improvements to military family housing units.

Sec. 2204. Authorizations of appropriations, Navy.

Sec. 2205. Modification of authority to carry out certain fiscal year 2002 projects.

SEC. 2201. AUTHORIZED NAVY CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(1), the Secretary of the Navy may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Navy: Inside the United States

State	Installation or location	Amount
Arizona	Marine Corps Air Station, Yuma	\$3,000,000
California	Auxiliary Landing Field, San Diego (San Clemente Island)	\$6,150,000
	Marine Corps Air-Ground Combat Center, Twentynine Palms	\$39,470,000
	Marine Corps Air Station, Camp Pen- dleton	\$11,930,000
	Marine Corps Air Station, Miramar ...	\$12,210,000
	Marine Corps Base, Camp Pendleton	\$84,040,000
	Marine Corps Logistics Base, Barstow	\$4,450,000
	Naval Air Station, Lemoore	\$35,855,000
	Naval Air Warfare Center, Point Mugu, San Nicholas Island	\$6,760,000
	Naval Air Warfare Center, China Lake	\$10,100,000
	Naval Construction Training Center, Port Hueneme	\$10,170,000
	Naval Post Graduate School, Mon- terey	\$9,020,000
	Naval Station, San Diego	\$12,210,000
Connecticut	Naval Submarine Base, New London	\$7,880,000
District of Columbia ...	Marine Corps Barracks	\$3,700,000
	Naval District, Washington	\$2,690,000
Florida	Naval Air Station, Jacksonville	\$13,342,000
	Naval Air Station, Pensacola	\$990,000
	Naval School Explosive Ordnance De- tachment, Eglin	\$6,350,000
	Naval Station, Mayport	\$1,900,000
	Naval Surface Warfare Center Coast- al Systems Station, Panama City ...	\$10,700,000
Georgia	Naval Submarine Base, Kings Bay	\$1,580,000
Hawaii	Marine Corps Base	\$9,500,000
	Naval Shipyard, Pearl Harbor	\$18,500,000
	Naval Station, Pearl Harbor	\$34,090,000
Illinois	Naval Training Center, Great Lakes ..	\$83,190,000
Indiana	Naval Surface Warfare Center, Crane	\$11,610,000
Maine	Naval Air Station, Brunswick	\$9,830,000
	Naval Shipyard, Kittery-Portsmouth ..	\$15,200,000
Maryland	Naval Air Facility, Andrews Air Force Base	\$9,680,000
	Naval Surface Warfare Center, Carderock Division	\$12,900,000
	United States Naval Academy	\$1,800,000
Mississippi	Naval Air Station, Meridian	\$2,850,000
	Naval Construction Battalion Center, Gulfport	\$5,460,000
	Naval Station, Pascagoula	\$25,305,000
New Jersey	Naval Air Warfare Center, Lakehurst	\$5,200,000
	Naval Weapons Station, Earle	\$5,600,000
North Carolina	Marine Corps Air Station, Cherry Point.	\$6,040,000
	Marine Corps Air Station, New River	\$6,920,000
	Marine Corps Base, Camp Lejeune ...	\$9,570,000
Rhode Island	Naval Station, Newport	\$15,900,000
South Carolina	Marine Corps Air Station, Beaufort ...	\$13,700,000
	Marine Corps Recruit Depot, Parris Island	\$10,490,000
	Naval Weapons Station, Charleston ...	\$5,740,000
Texas	Naval Air Station, Corpus Christi	\$7,150,000

Navy: Inside the United States—Continued

State	Installation or location	Amount
Virginia	Naval Station, Ingleside	\$5,000,000
	Naval Air Station, Kingsville	\$6,210,000
	Marine Corps Combat Development Command, Quantico	\$24,864,000
	Naval Air Station Oceana	\$16,490,000
	Naval Amphibious Base, Little Creek	\$9,770,000
	Naval Shipyard, Norfolk, Portsmouth	\$36,470,000
	Naval Station, Norfolk	\$168,965,000
	Naval Support Activity, Norfolk	\$2,260,000
Washington	Naval Surface Warfare Center, Dahlgren	\$15,830,000
	Naval Weapons Station, Yorktown	\$15,020,000
	Naval Air Station, Whidbey Island	\$17,580,000
	Naval Magazine, Indian Island	\$4,030,000
	Naval Station, Bremerton	\$45,870,000
	Naval Submarine Base, Bangor	\$22,310,000
	Naval Undersea Warfare Center, Keyport	\$7,500,000
	Puget Sound Naval Shipyard, Bremerton	\$57,132,000
Various Locations	Strategic Weapons Facility, Bangor	\$7,340,000
	Host Nation Infrastructure	\$1,000,000
Total		\$1,084,363,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(2), the Secretary of the Navy may acquire real property and carry out military construction projects for the locations outside the United States, and in the amounts, set forth in the following table:

Navy: Outside the United States

Country	Installation or location	Amount
Bahrain	Naval Support Activity, Bahrain	\$25,970,000
Cuba	Naval Station, Guantanamo Bay	\$4,280,000
Diego Garcia	Diego Garcia, Naval Support Facility ...	\$11,090,000
Greece	Naval Support Activity, Joint Headquarters Command, Larissa	\$6,800,000
Guam	Commander, United States Naval Forces, Guam	\$13,400,000
Iceland	Naval Air Station, Keflavik	\$14,920,000
Italy	Naval Air Station, Sigonella	\$55,660,000
Spain	Naval Station, Rota	\$18,700,000
Total		\$150,820,000

SEC. 2202. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Navy: Family Housing

State or Country	Installation or location	Purpose	Amount
California	Naval Air Station, Lemoore	178 Units	\$40,981,000
	Twentynine Palms	76 Units	\$19,425,000
Connecticut	Naval Submarine Base, New London	100 Units	\$24,415,000
Florida	Naval Station, Mayport ..	1 Unit	\$329,000
Hawaii	Marine Corps Base, Kaneohe Bay	65 Units	\$24,797,000
Maine	Naval Air Station, Brunswick	22 Units	\$5,000,000
Mississippi	Naval Air Station, Merid- ian	56 Units	\$9,755,000
North Carolina	Marine Corps Base, Camp Lejeune	317 Units	\$43,650,000
Virginia	Marine Corps Base, Quantico	290 Units	\$41,843,000
United Kingdom	Joint Maritime Facility, St. Mawgan	62 Units	\$18,524,000
		Total	\$228,719,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriation in section 2204(a)(5)(A), the Secretary of the Navy may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$11,281,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2204(a)(5)(A), the Secretary of the Navy may improve existing military family housing units in an amount not to exceed \$139,468,000.

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS, NAVY.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of \$2,576,381,000, as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), \$1,025,598,000.

(2) For military construction projects outside the United States authorized by section 2201(b), \$148,250,000.

(3) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$26,187,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$95,570,000.

(5) For military family housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$379,468,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$867,788,000.

(6) For replacement of a pier at Naval Station, Norfolk, Virginia, authorized by section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1287), as amended by section 2205 of this Act, \$33,520,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) \$10,645,000 (the balance of the amount authorized under section 2201(a) for a bachelors enlisted quarters shipboard ashore, Naval Station, Pascagoula, Mississippi);

(3) \$48,120,000 (the balance of the amount authorized under section 2201(a) for a bachelors enlisted quarters shipboard ashore, Naval Station, Norfolk, Virginia); and

(4) \$2,570,000 (the balance of the amount authorized under section 2201(b) for a quality of life support facility, Naval Air Station Sigonella, Italy).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by the following:

(1) \$3,992,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

(2) \$10,470,000, which represents savings resulting from adjustments in the accounting of civilian personnel benefits.

(3) \$15,017,000, which represents savings resulting from reductions in supervision, inspection, and overhead costs.

(4) \$14,000,000, which represents savings resulting from lower-than-expected inflation.

SEC. 2205. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2002 PROJECTS.

(a) MILITARY CONSTRUCTION PROJECT AT NAVAL STATION, NORFOLK, VIRGINIA.—The table in section 2201(a) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1286) is amended—

(1) in the item relating to Naval Station, Norfolk, Virginia, by striking “\$139,270,000” in the amount column and inserting “\$139,550,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$1,059,030,000”.

(b) MILITARY FAMILY HOUSING AT QUANTICO, VIRGINIA.—The table in section 2202(a) of that Act (115 Stat. 1288) is amended in the item relating to Marine Corps Combat Development Command, Quantico, Virginia, by striking “60 Units” in the purpose column and inserting “39 Units”.

(c) CONFORMING AMENDMENT.—Section 2204(b)(2) of that Act (115 Stat. 1289) is amended by striking “\$33,240,000” and inserting “\$33,520,000”.

TITLE XXIII—AIR FORCE

Sec. 2301. Authorized Air Force construction and land acquisition projects.
 Sec. 2302. Family housing.
 Sec. 2303. Improvements to military family housing units.
 Sec. 2304. Authorization of appropriations, Air Force.
 Sec. 2305. Authority for use of military construction funds for construction of public road near Aviano Air Base, Italy, to replace road closed for force protection purposes.

SEC. 2301. AUTHORIZED AIR FORCE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) INSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(1), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Air Force: Inside the United States

State	Installation or location	Amount
Alaska	Clear Air Station	\$14,400,000
	Eielson Air Force Base	\$41,100,000
Arizona	Davis-Monthan Air Force Base	\$19,270,000
	Luke Air Force Base	\$13,000,000
Arkansas	Little Rock Air Force Base	\$25,600,000
California	Beale Air Force Base	\$11,740,000
	Travis Air Force Base	\$33,469,000
	Vandenberg Air Force Base	\$10,500,000
Colorado	Buckley Air National Guard Base	\$17,700,000
	Peterson Air Force Base	\$5,500,000
	Schriever Air Force Base	\$5,700,000
	United States Air Force Academy	\$4,200,000
District of Columbia	Bolling Air Force Base	\$5,000,000
Florida	Avon Park Air Force Range	\$2,000,000
	Elgin Air Force Base	\$4,250,000
	Hurlburt Field	\$15,000,000
	MacDill Air Force Base	\$20,000,000
Georgia	Robins Air Force Base	\$29,400,000
Hawaii	Hickam Air Force Base	\$1,350,000
Kansas	McConnell Air Force Base	\$7,500,000
Louisiana	Barksdale Air Force Base	\$22,900,000
Maryland	Andrews Air Force Base	\$9,600,000
Massachusetts	Hanscom Air Force Base	\$7,700,000
Mississippi	Keesler Air Force Base	\$22,000,000
Nebraska	Offutt Air Force Base	\$11,000,000
Nevada	Nellis Air Force Base	\$56,850,000
New Jersey	McGuire Air Force Base	\$29,831,000
New Mexico	Cannon Air Force Base	\$4,650,000
	Holloman Air Force Base	\$4,650,000
	Kirtland Air Force Base	\$21,900,000
North Carolina	Pope Air Force Base	\$9,700,000
North Dakota	Minot Air Force Base	\$5,000,000
Ohio	Wright-Patterson Air Force Base ..	\$25,000,000
Oklahoma	Altus Air Force Base	\$14,800,000
	Vance Air Force Base	\$4,800,000
South Carolina	Shaw Air Force Base	\$6,800,000
South Dakota	Ellsworth Air Force Base	\$13,200,000
Texas	Goodfellow Air Force Base	\$10,600,000
	Lackland Air Force Base	\$37,300,000
	Lackland Air Force Base (Camp Bullis)	\$10,000,000

Air Force: Inside the United States—Continued

State	Installation or location	Amount
Utah	Laughlin Air Force Base	\$8,000,000
	Sheppard Air Force Base	\$16,000,000
	Hill Air Force Base	\$14,500,000
	Langley Air Force Base	\$70,940,000
Virginia		
	Total	\$724,400,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(2), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Air Force: Outside the United States

Country	Installation or location	Amount
Diego Garcia	Diego Garcia	\$17,100,000
Germany	Ramstein Air Force Base	\$71,783,000
Guam	Andersen Air Force Base	\$31,000,000
Italy	Aviano Air Force Base	\$6,600,000
Japan	Kadena Air Force Base	\$6,000,000
Korea	Osan Air Base	\$15,100,000
Spain	Naval Station, Rota	\$31,818,000
Turkey	Incirlik Air Force Base	\$1,550,000
United Kingdom	Royal Air Force, Fairford	\$19,000,000
	Royal Air Force, Lakenheath	\$13,400,000
Wake Island	Wake Island	\$24,900,000
	Total	\$238,251,000

(c) UNSPECIFIED WORLDWIDE.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(3), the Secretary of the Air Force may acquire real property and carry out military construction projects for the installation and location, and in the amount, set forth in the following table:

Air Force: Unspecified Worldwide

Location	Installation	Amount
Unspecified Worldwide	Classified Location	\$24,993,000
	Total	\$24,993,000

SEC. 2302. FAMILY HOUSING.

(a) CONSTRUCTION AND ACQUISITION.—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may construct or acquire family housing units (including land acquisition and supporting facilities) at the installations, for the purposes, and in the amounts set forth in the following table:

Air Force: Family Housing

State or Country	Installation or location	Purpose	Amount
Arizona	Luke Air Force Base	140 Units	\$18,954,000

Air Force: Family Housing—Continued

State or Country	Installation or location	Purpose	Amount
California	Travis Air Force Base	110 Units	\$24,320,000
Colorado	Peterson Air Force Base	2 Units	\$959,000
	United States Air Force Academy	71 Units	\$12,424,000
Delaware	Dover Air Force Base	112 Units	\$19,615,000
Florida	Eglin Air Force Base	Housing Office.	\$597,000
	Eglin Air Force Base	134 Units	\$15,906,000
	MacDill Air Force Base ..	96 Units	\$18,086,000
Hawaii	Hickam Air Force Base ..	96 Units	\$29,050,000
Idaho	Mountain Home Air Force Base	95 Units	\$24,392,000
Kansas	McConnell Air Force Base	Housing Maintenance Facility	\$1,514,000
	Andrews Air Force Base	53 Units	\$9,838,000
Maryland	Andrews Air Force Base	52 Units	\$8,807,000
Mississippi	Columbus Air Force Base	Housing Office.	\$412,000
	Keesler Air Force Base ...	117 Units	\$16,505,000
Missouri	Whiteman Air Force Base	97 Units	\$17,107,000
Montana	Malmstrom Air Force Base	18 Units	\$4,717,000
New Mexico	Holloman Air Force Base	101 Units	\$20,161,000
North Carolina	Pope Air Force Base	Housing Maintenance Facility	\$991,000
	Seymour Johnson Air Force Base	126 Units	\$18,615,000
North Dakota	Grand Forks Air Force Base	150 Units	\$30,140,000
	Minot Air Force Base	112 Units	\$21,428,000
	Minot Air Force Base	102 Units	\$20,315,000
Oklahoma	Vance Air Force Base	59 Units	\$11,423,000
South Dakota	Ellsworth Air Force Base	Housing Maintenance Facility	\$447,000
	Ellsworth Air Force Base	22 Units	\$4,794,000
Texas	Dyess Air Force Base	85 Units	\$14,824,000
	Randolph Air Force Base	Housing Maintenance Facility	\$447,000
	Randolph Air Force Base	112 Units	\$14,311,000
Virginia	Langley Air Force Base ..	Housing Office	\$1,193,000
Germany	Ramstein Air Force Base	19 Units	\$8,534,000
Korea	Osan Air Base	113 Units	\$35,705,000
	Osan Air Base	Housing Supply Warehouse	\$834,000

Air Force: Family Housing—Continued

State or Country	Installation or location	Purpose	Amount
United Kingdom	Royal Air Force, Lakenheath	Housing Of- fice and Mainte- nance Fa- cility	\$2,203,000
	Total		\$429,568,000

(b) **PLANNING AND DESIGN.**—Using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed \$34,188,000.

SEC. 2303. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2304(a)(6)(A), the Secretary of the Air Force may improve existing military family housing units in an amount not to exceed \$226,068,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE.

(a) **IN GENERAL.**—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of \$2,633,738,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), \$717,300,000.

(2) For military construction projects outside the United States authorized by section 2301(b), \$238,251,000.

(3) For military construction projects at unspecified worldwide locations authorized by section 2301(c), \$24,993,000.

(4) For unspecified minor construction projects authorized by section 2805 of title 10, United States Code, \$11,500,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$82,820,000.

(6) For military housing functions:

(A) For construction and acquisition, planning and design, and improvement of military family housing and facilities, \$689,824,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$869,050,000.

(b) **LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.**—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1), (2) and (3) of subsection (a); and

(2) \$7,100,000 (the balance of the amount authorized under section 2301(a) for construction of a consolidated base engineer complex at Altus Air Force Base, Oklahoma).

(c) **ADJUSTMENTS.**—The total amount authorized to be appropriated pursuant to paragraphs (1) through (6) of subsection (a) is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by the following:

(1) \$19,063,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

(2) \$15,306,000, which represents savings resulting from reductions in supervision, inspection, and overhead costs.

(3) \$16,000,000, which represents savings resulting from lower-than-expected inflation.

SEC. 2305. AUTHORITY FOR USE OF MILITARY CONSTRUCTION FUNDS FOR CONSTRUCTION OF PUBLIC ROAD NEAR AVIANO AIR BASE, ITALY, TO REPLACE ROAD CLOSED FOR FORCE PROTECTION PURPOSES.

(a) **AUTHORITY TO USE FUNDS.**—Using amounts authorized to be appropriated by section 2304(a)(2), the Secretary of the Air Force may carry out a project to provide a public road, and associated improvements, to replace a public road adjacent to Aviano Air Base, Italy, that has been closed for force protection purposes.

(b) **SCOPE OF AUTHORITY.**—(1) The authority of the Secretary to carry out the project referred to in subsection (a) shall include authority as follows:

(A) To acquire property for the project for transfer to a host nation authority.

(B) To provide funds to a host nation authority to acquire property for the project.

(C) To make a contribution to a host nation authority for purposes of carrying out the project.

(D) To provide vehicle and pedestrian access to landowners affected by the project.

(2) The acquisition of property using the authority in subparagraph (A) or (B) of paragraph (1) may be made regardless of whether or not ownership of such property will vest in the United States.

(c) **INAPPLICABILITY OF CERTAIN REAL PROPERTY MANAGEMENT REQUIREMENT.**—Section 2672(a)(1)(B) of title 10, United States Code, shall not apply with respect to any acquisition of interests in land for purposes of the project authorized by subsection (a).

TITLE XXIV—DEFENSE AGENCIES

Sec. 2401. Authorized Defense Agencies construction and land acquisition projects.

Sec. 2402. Improvements to military family housing units.

Sec. 2403. Energy conservation projects.

Sec. 2404. Authorization of appropriations, Defense Agencies.

Sec. 2405. Modification of authority to carry out certain fiscal year 2000 project.

Sec. 2406. Modification of authority to carry out certain fiscal year 1999 project.

Sec. 2407. Modification of authority to carry out certain fiscal year 1997 project.

SEC. 2401. AUTHORIZED DEFENSE AGENCIES CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) **INSIDE THE UNITED STATES.**—Using amounts appropriated pursuant to the authorization of appropriations in section

2404(a)(1), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations inside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Inside the United States

Agency	Installation or location	Amount
Chemical Demilitarization ..	Pine Bluff, Arkansas	\$18,937,000
Defense Intelligence Agency	Bolling Air Force Base, District of Columbia	\$111,958,000
Defense Logistics Agency	Defense Supply Center, Richmond, Virginia	\$5,500,000
	Naval Air Station, New Orleans, Louisiana	\$9,500,000
	Travis Air Force Base, California	\$16,000,000
Defense Threat Reduction Agency	Fort Belvoir, Virginia	\$76,388,000
Department of Defense Dependents Schools	Fort Bragg, North Carolina	\$2,036,000
	Fort Jackson, South Carolina	\$2,506,000
	Marine Corps Base, Camp Lejeune, North Carolina	\$12,138,000
	Marine Corps Base, Quantico, Virginia	\$1,418,000
	United States Military Academy, West Point, New York	\$4,347,000
Joint Chiefs of Staff	Peterson Air Force Base, Colorado	\$25,000,000
Missile Defense Agency	Kauai, Hawaii	\$23,400,000
National Security Agency	Fort Meade, Maryland	\$4,484,000
Special Operations Command	Dam Neck, Virginia	\$3,900,000
	Fort Bragg, North Carolina	\$30,800,000
	Hurlburt Field, Florida	\$11,100,000
	Naval Amphibious Base, Little Creek, Virginia	\$14,300,000
	Stennis Space Center, Mississippi	\$5,000,000
TRICARE Management Activity	Elmendorf Air Force Base, Alaska	\$10,400,000
	Hickam Air Force Base, Hawaii ...	\$2,700,000
Washington Headquarters Services	District of Columbia	\$2,500,000
	Total	\$394,312,000

(b) OUTSIDE THE UNITED STATES.—Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(2), the Secretary of Defense may acquire real property and carry out military construction projects for the installations and locations outside the United States, and in the amounts, set forth in the following table:

Defense Agencies: Outside the United States

Agency	Installation or location	Amount
Defense Logistics Agency	Andersen Air Force Base, Guam ..	\$17,586,000
	Naval Forces Marianas Islands, Guam	\$6,000,000
	Naval Station, Rota, Spain	\$23,400,000

Defense Agencies: Outside the United States—Continued

Agency	Installation or location	Amount
Department of Defense Dependents Schools	Royal Air Force, Fairford, United Kingdom	\$17,000,000
	Yokota Air Base, Japan	\$23,000,000
	Kaiserslautern, Germany	\$957,000
	Lajes Field, Azores, Portugal	\$1,192,000
	Seoul, Korea	\$31,683,000
	Supreme Headquarters, Allied Powers Europe, Belgium	\$1,573,000
	Spangdahlem Air Base, Germany	\$997,000
	Vicenza, Italy	\$2,117,000
	TRICARE Management Activity	
	Naval Support Activity, Naples, Italy	\$41,449,000
	Spangdahlem Air Base, Germany	\$39,629,000
	Total	\$206,583,000

SEC. 2402. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS.

Subject to section 2825 of title 10, United States Code, and using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(8)(A), the Secretary of Defense may improve existing military family housing units in an amount not to exceed \$5,480,000.

SEC. 2403. ENERGY CONSERVATION PROJECTS.

Using amounts appropriated pursuant to the authorization of appropriations in section 2404(a)(6), the Secretary of Defense may carry out energy conservation projects under section 2865 of title 10, United States Code, in the amount of \$34,531,000.

SEC. 2404. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments) in the total amount of \$1,434,795,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), \$357,712,000.

(2) For military construction projects outside the United States authorized by section 2401(b), \$206,583,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, \$16,293,000.

(4) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, \$10,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, \$45,532,000.

(6) For energy conservation projects authorized by section 2403, \$34,531,000.

(7) For base closure and realignment activities as authorized by the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), \$565,138,000.

(8) For military family housing functions:

(A) For improvement of military family housing and facilities, \$5,480,000.

(B) For support of military family housing (including functions described in section 2833 of title 10, United States Code), \$42,432,000.

(C) For credit to the Department of Defense Family Housing Improvement Fund established by section 2883(a)(1) of title 10, United States Code, \$2,000,000.

(9) For payment of a claim against the Hospital Replacement project at Elmendorf Air Force Base, Alaska, \$10,400,000.

(10) For the construction of phase 4 of an ammunition demilitarization facility at Pueblo Chemical Activity, Colorado, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104-201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 839) and section 2407 of this Act, \$38,000,000.

(11) For the construction of phase 5 of an ammunition demilitarization facility at Newport Army Depot, Indiana, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261; 112 Stat. 2193), as amended by section 2406 of this Act, \$61,494,000.

(12) For the construction of phase 5 of an ammunition demilitarization facility at Aberdeen Proving Ground, Maryland, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1299), \$20,600,000.

(13) For the construction of phase 3 of an ammunition demilitarization facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1298) and section 2405 of this Act, \$10,300,000.

(14) For the construction of phase 3 of an ammunition demilitarization support facility at Blue Grass Army Depot, Kentucky, authorized by section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 835), \$8,300,000.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2401 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) \$26,200,000 (the balance of the amount authorized under section 2401(a) for the construction of the Defense Threat Reduction Center, Fort Belvoir, Virginia).

(c) ADJUSTMENTS.—The total amount authorized to be appropriated pursuant to paragraphs (1) through (14) of subsection (a)

is the sum of the amounts authorized to be appropriated in such paragraphs, reduced by the following:

(1) \$2,976,000, which represents savings resulting from adjustments to foreign currency exchange rates for military construction, military family housing construction, and military family housing support outside the United States.

(2) \$37,000, which represents savings resulting from adjustments in the accounting of civilian personnel benefits.

(3) \$7,414,000, which represents savings resulting from reductions in supervision, inspection, and overhead costs.

(4) \$7,000,000, which represents savings resulting from lower-than-expected inflation.

SEC. 2405. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 2000 PROJECT.

(a) **MODIFICATION.**—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 835), as amended by section 2405 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1298), is further amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Blue Grass Army Depot, Kentucky, by striking “\$254,030,000” in the amount column and inserting “\$290,325,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$748,245,000”.

(b) **CONFORMING AMENDMENT.**—Section 2405(b)(3) of the Military Construction Authorization Act for Fiscal Year 2000 (113 Stat. 839), as so amended, is further amended by striking “\$231,230,000” and inserting “\$267,525,000”.

SEC. 2406. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1999 PROJECT.

(a) **MODIFICATION.**—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261; 112 Stat. 2193), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1299), is further amended—

(1) under the agency heading relating to Chemical Demilitarization, in the item relating to Newport Army Depot, Indiana, by striking “\$191,550,000” in the amount column and inserting “\$293,853,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$829,919,000”.

(b) **CONFORMING AMENDMENT.**—Section 2404(b)(2) of the Military Construction Authorization Act for Fiscal Year 1999 (112 Stat. 2196) is amended by striking “\$162,050,000” and inserting “\$264,353,000”.

SEC. 2407. MODIFICATION OF AUTHORITY TO CARRY OUT CERTAIN FISCAL YEAR 1997 PROJECT.

(a) **MODIFICATION.**—The table in section 2401(a) of the Military Construction Authorization Act for Fiscal Year 1997 (division B of Public Law 104-201; 110 Stat. 2775), as amended by section 2406 of the Military Construction Authorization Act for Fiscal Year

2000 (division B of Public Law 106-65; 113 Stat. 839), is further amended—

(1) under the agency heading relating to Chemical Demilitarization Program, in the item relating to Pueblo Chemical Activity, Colorado, by striking “\$203,500,000” in the amount column and inserting “\$261,000,000”; and

(2) by striking the amount identified as the total in the amount column and inserting “\$607,454,000”.

(b) CONFORMING AMENDMENT.—Section 2406(b)(2) of the Military Construction Authorization Act for Fiscal Year 1997 (110 Stat. 2779), as so amended, is further amended by striking “\$203,500,000” and inserting “\$261,000,000”.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

Sec. 2501. Authorized NATO construction and land acquisition projects.

Sec. 2502. Authorization of appropriations, NATO.

SEC. 2501. AUTHORIZED NATO CONSTRUCTION AND LAND ACQUISITION PROJECTS.

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Security Investment program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO.

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 2002, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Security Investment program authorized by section 2501, in the amount of \$168,200,000.

(b) ADJUSTMENT.—The total amount authorized to be appropriated pursuant to subsection (a) is the amount specified in such subsection, reduced by \$1,000,000, which represents savings resulting from lower-than-expected inflation.

TITLE XXVI—GUARD AND RESERVE FORCES FACILITIES

Sec. 2601. Authorized Guard and Reserve construction and land acquisition projects.

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS.

(a) IN GENERAL.—There are authorized to be appropriated for fiscal years beginning after September 30, 2002, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions

therefor, under chapter 1803 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, \$237,236,000; and

(B) for the Army Reserve, \$99,399,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserve, \$75,801,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, \$204,215,000; and

(B) for the Air Force Reserve, \$85,649,000.

(b) **ADJUSTMENT.**—The total amount authorized to be appropriated pursuant to subsection (a)(1)(A) is the amount specified in such subsection, reduced by \$1,000,000, which represents savings resulting from lower-than-expected inflation.

TITLE XXVII—EXPIRATION AND EXTENSION OF AUTHORIZATIONS

Sec. 2701. Expiration of authorizations and amounts required to be specified by law.

Sec. 2702. Extension of authorizations of certain fiscal year 2000 projects.

Sec. 2703. Extension of authorizations of certain fiscal year 1999 projects.

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW.

(a) **EXPIRATION OF AUTHORIZATIONS AFTER THREE YEARS.**—Except as provided in subsection (b), all authorizations contained in titles XXI through XXVI for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) shall expire on the later of—

(1) October 1, 2005; or

(2) the date of the enactment of an Act authorizing funds for military construction for fiscal year 2006.

(b) **EXCEPTION.**—Subsection (a) shall not apply to authorizations for military construction projects, land acquisition, family housing projects, and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program (and authorizations of appropriations therefor) for which appropriated funds have been obligated before the later of—

(1) October 1, 2005; or

(2) the date of the enactment of an Act authorizing funds for fiscal year 2006 for military construction projects, land acquisition, family housing projects and facilities, and contributions to the North Atlantic Treaty Organization Security Investment program.

SEC. 2702. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 2000 PROJECTS.

(a) **EXTENSION OF CERTAIN PROJECTS.**—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 2000 (division B of Public Law 106-65; 113 Stat. 841), authorizations set forth in the tables in subsection (b), as provided in section

2302 or 2601 of that Act, shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(b) TABLES.—The tables referred to in subsection (a) are as follows:

Air Force: Extension of 2000 Project Authorizations

State	Installation or location	Project	Amount
Oklahoma	Tinker Air Force Base	Replace Family Housing (41 Units)	\$6,000,000
Texas	Lackland Air Force Base	Dormitory	\$5,300,000

Army National Guard: Extension of 2000 Project Authorization

State	Installation or location	Project	Amount
Virginia	Fort Pickett	Multi-Purpose Range Complex—Heavy ..	\$13,500,000

SEC. 2703. EXTENSION OF AUTHORIZATIONS OF CERTAIN FISCAL YEAR 1999 PROJECTS.

(a) EXTENSION.—Notwithstanding section 2701 of the Military Construction Authorization Act for Fiscal Year 1999 (division B of Public Law 105-261; 112 Stat. 2199), authorizations set forth in the table in subsection (b), as provided in section 2302 of that Act and extended by section 2702 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1301), shall remain in effect until October 1, 2003, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 2004, whichever is later.

(b) TABLE.—The table referred to in subsection (a) is as follows:

Air Force: Extension of 1999 Project Authorizations

State	Installation or location	Project	Amount
Delaware	Dover Air Force Base	Replace Family Housing (55 Units)	\$8,988,000
Florida	Patrick Air Force Base	Replace Family Housing (46 Units)	\$9,692,000
New Mexico	Kirtland Air Force Base	Replace Family Housing (37 Units)	\$6,400,000
Ohio	Wright-Patterson Air Force Base	Replace Family Housing (40 Units)	\$5,600,000

TITLE XXVIII—GENERAL PROVISIONS

Subtitle A—Military Construction Program and Military Family Housing Changes

- Sec. 2801. Lease of military family housing in Korea.
- Sec. 2802. Modification of alternative authority for acquisition and improvement of military housing.
- Sec. 2803. Pilot housing privatization authority for acquisition or construction of military unaccompanied housing.
- Sec. 2804. Repeal of source requirements for family housing construction overseas.
- Sec. 2805. Availability of energy cost savings realized at military installations.

Subtitle B—Real Property and Facilities Administration

- Sec. 2811. Agreements to limit encroachments and other constraints on military training, testing, and operations.
- Sec. 2812. Conveyance of surplus real property for natural resource conservation purposes.
- Sec. 2813. Modification of demonstration program on reduction in long-term facility maintenance costs.
- Sec. 2814. Expanded authority to transfer property at military installations to be closed to persons who construct or provide military family housing.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

- Sec. 2821. Transfer of jurisdiction, Fort McClellan, Alabama, to establish Mountain Longleaf National Wildlife Refuge.
- Sec. 2822. Land conveyances, lands in Alaska no longer required for National Guard purposes.
- Sec. 2823. Land conveyance, Sunflower Army Ammunition Plant, Kansas.
- Sec. 2824. Land conveyances, Bluegrass Army Depot, Richmond, Kentucky.
- Sec. 2825. Land conveyance, Fort Campbell, Kentucky.
- Sec. 2826. Land conveyance, Army Reserve Training Center, Buffalo, Minnesota.
- Sec. 2827. Land conveyance, Fort Monmouth, New Jersey.
- Sec. 2828. Land conveyance, Fort Bliss, Texas.
- Sec. 2829. Land conveyance, Fort Hood, Texas.
- Sec. 2830. Land conveyances, Engineer Proving Ground, Fort Belvoir, Virginia.

PART II—NAVY CONVEYANCES

- Sec. 2831. Land conveyance, Marine Corps Air Station, Miramar, San Diego, California.
- Sec. 2832. Modification of authority for land transfer and conveyance, Naval Security Group Activity, Winter Harbor, Maine.
- Sec. 2833. Land conveyance, Westover Air Reserve Base, Massachusetts.
- Sec. 2834. Land conveyance, Naval Station, Newport, Rhode Island.
- Sec. 2835. Land exchange and boundary adjustments, Marine Corps Base, Quantico, and Prince William Forest Park, Virginia.

PART III—AIR FORCE CONVEYANCES

- Sec. 2841. Modification of land conveyance, Los Angeles Air Force Base, California.
- Sec. 2842. Land exchange, Buckley Air Force Base, Colorado.
- Sec. 2843. Land conveyances, Wendover Air Force Base Auxiliary Field, Nevada.

Subtitle D—Other Matters

- Sec. 2851. Master plan for use of Navy Annex, Arlington, Virginia.
- Sec. 2852. Sale of excess treated water and wastewater treatment capacity, Marine Corps Base, Camp Lejeune, North Carolina.
- Sec. 2853. Conveyance of real property, Adak Naval Complex, Alaska, and related land conveyances.
- Sec. 2854. Special requirement for adding military installation to closure list.

Subtitle A—Military Construction Program and Military Family Housing Changes

SEC. 2801. LEASE OF MILITARY FAMILY HOUSING IN KOREA.

- (a) INCREASE IN NUMBER OF UNITS AUTHORIZED FOR LEASE AT CURRENT MAXIMUM AMOUNT.—Paragraph (3) of section 2828(e)

of title 10, United States Code, is amended by striking “800 units” and inserting “1,175 units”.

(b) **AUTHORITY TO LEASE ADDITIONAL NUMBER OF UNITS AT INCREASED MAXIMUM AMOUNT.**—That section is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively;

(2) by inserting after paragraph (3) the following new paragraph (4):

“(4) In addition to the units of family housing referred to in paragraph (1) for which the maximum lease amount is \$25,000 per unit per year, the Secretary of the Army may lease not more than 2,400 units of family housing in Korea subject to a maximum lease amount of \$35,000 per unit per year.”;

(3) in paragraph (5), as so redesignated, by striking “and (3)” and inserting “(3), and (4)”;

(4) in paragraph (6), as so redesignated, by striking “53,000” and inserting “55,775”.

SEC. 2802. MODIFICATION OF ALTERNATIVE AUTHORITY FOR ACQUISITION AND IMPROVEMENT OF MILITARY HOUSING.

(a) **AUTHORIZED UTILITIES AND SERVICES.**—Section 2872a(b) of title 10, United States Code, is amended by adding at the end the following new paragraphs:

“(11) Firefighting and fire protection services.

“(12) Police protection services.”.

(b) **LEASING OF HOUSING.**—(1) Section 2874 of such title is amended—

(A) by redesignating subsection (b) as subsection (c); and

(B) by striking subsection (a) and inserting the following new subsections:

“(a) **LEASE AUTHORIZED.**—The Secretary concerned may enter into contracts for the lease of housing units that the Secretary determines are suitable for use as military family housing or military unaccompanied housing.

“(b) **USE OF LEASED UNITS.**—The Secretary concerned shall utilize housing units leased under this section as military family housing or military unaccompanied housing, as appropriate.”.

(2) The heading for such section is amended to read as follows:

“§ 2874. Leasing of housing”.

(3) The table of sections at the beginning of subchapter IV of chapter 169 of such title is amended by striking the item relating to section 2874 and inserting the following new item:

“2874. Leasing of housing.”.

(c) **REPEAL OF INTERIM LEASE AUTHORITY.**—(1) Section 2879 of such title is repealed.

(2) The table of sections at the beginning of subchapter IV of chapter 169 of such title is amended by striking the item relating to section 2879.

SEC. 2803. PILOT HOUSING PRIVATIZATION AUTHORITY FOR ACQUISITION OR CONSTRUCTION OF MILITARY UNACCOMPANIED HOUSING.

(a) **IN GENERAL.**—(1) Subchapter IV of chapter 169 of title 10, United States Code, is amended by inserting after section 2881 the following new section:

“§ 2881a. Pilot projects for acquisition or construction of military unaccompanied housing

“(a) PILOT PROJECTS AUTHORIZED.—The Secretary of the Navy may carry out not more than three pilot projects under the authority of this section or another provision of this subchapter to use the private sector for the acquisition or construction of military unaccompanied housing in the United States, including any territory or possession of the United States.

“(b) TREATMENT OF HOUSING; ASSIGNMENT OF MEMBERS.—The Secretary of the Navy may assign members of the armed forces without dependents to housing units acquired or constructed under the pilot projects, and such housing units shall be considered as quarters of the United States or a housing facility under the jurisdiction of the Secretary for purposes of section 403 of title 37.

“(c) BASIC ALLOWANCE FOR HOUSING.—(1) The Secretary of Defense may prescribe and, under section 403(n) of title 37, pay for members of the armed forces without dependents in privatized housing acquired or constructed under the pilot projects higher rates of partial basic allowance for housing than the rates authorized under paragraph (2) of such section.

“(2) The partial basic allowance for housing paid for a member at a higher rate under this subsection may be paid directly to the private sector source of the housing to whom the member is obligated to pay rent or other charge for residing in such housing if the private sector source credits the amount so paid against the amount owed by the member for the rent or other charge.

“(d) FUNDING.—(1) The Secretary of the Navy shall use the Department of Defense Military Unaccompanied Housing Improvement Fund to carry out activities under the pilot projects.

“(2) Subject to 90 days prior notification to the appropriate committees of Congress, such additional amounts as the Secretary of Defense considers necessary may be transferred to the Department of Defense Military Unaccompanied Housing Improvement Fund from amounts appropriated for construction of military unaccompanied housing in military construction accounts. The amounts so transferred shall be merged with and be available for the same purposes and for the same period of time as amounts appropriated directly to the Fund.

“(e) REPORTS.—(1) The Secretary of the Navy shall transmit to the appropriate committees of Congress a report describing—

“(A) each contract for the acquisition of military unaccompanied housing that the Secretary proposes to solicit under the pilot projects;

“(B) each conveyance or lease proposed under section 2878 of this title in furtherance of the pilot projects; and

“(C) the proposed partial basic allowance for housing rates for each contract as they vary by grade of the member and how they compare to basic allowance for housing rates for other contracts written under the authority of the pilot programs.

“(2) The report shall describe the proposed contract, conveyance, or lease and the intended method of participation of the United States in the contract, conveyance, or lease and provide a justification of such method of participation. The report shall be submitted not later than 90 days before the date on which the Secretary issues the contract solicitation or offers the conveyance or lease.

Deadline.

“(f) EXPIRATION.—Notwithstanding section 2885 of this title, the authority of the Secretary of the Navy to enter into a contract under the pilot programs shall expire September 30, 2007.”.

(2) The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 2881 the following new item:

“2881a. Pilot projects for acquisition or construction of military unaccompanied housing.”.

(b) CONFORMING AMENDMENT.—Section 2871(7) of title 10, United States Code, is amended by inserting before the period at the end the following: “and transient housing intended to be occupied by members of the armed forces on temporary duty”.

SEC. 2804. REPEAL OF SOURCE REQUIREMENTS FOR FAMILY HOUSING CONSTRUCTION OVERSEAS.

Section 803 of the Military Construction Authorization Act, 1984 (Public Law 98–115; 10 U.S.C. 2821 note) is repealed.

SEC. 2805. AVAILABILITY OF ENERGY COST SAVINGS REALIZED AT MILITARY INSTALLATIONS.

Section 2865(b) of title 10, United States Code, is amended by striking “through the end of the fiscal year following the fiscal year for which the funds were appropriated” and inserting “until expended”.

Subtitle B—Real Property and Facilities Administration

SEC. 2811. AGREEMENTS TO LIMIT ENCROACHMENTS AND OTHER CONSTRAINTS ON MILITARY TRAINING, TESTING, AND OPERATIONS.

(a) IN GENERAL.—Chapter 159 of title 10, United States Code, is amended by inserting after section 2684 the following new section:

“§ 2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations

“(a) AGREEMENTS AUTHORIZED.—The Secretary of Defense or the Secretary of a military department may enter into an agreement with an eligible entity described in subsection (b) to address the use or development of real property in the vicinity of a military installation for purposes of—

“(1) limiting any development or use of the property that would be incompatible with the mission of the installation; or

“(2) preserving habitat on the property in a manner that—
“(A) is compatible with environmental requirements; and

“(B) may eliminate or relieve current or anticipated environmental restrictions that would or might otherwise restrict, impede, or otherwise interfere, whether directly or indirectly, with current or anticipated military training, testing, or operations on the installation.

“(b) ELIGIBLE ENTITIES.—An agreement under this section may be entered into with any of the following:

“(1) A State or political subdivision of a State.

“(2) A private entity that has as its stated principal organizational purpose or goal the conservation, restoration, or preservation of land and natural resources, or a similar purpose or goal, as determined by the Secretary concerned.

“(c) INAPPLICABILITY OF CERTAIN CONTRACT REQUIREMENTS.—Chapter 63 of title 31 shall not apply to any agreement entered into under this section.

“(d) ACQUISITION AND ACCEPTANCE OF PROPERTY AND INTERESTS.—(1) An agreement with an eligible entity under this section may provide for—

“(A) the acquisition by the entity of all right, title, and interest in and to any real property, or any lesser interest in the property, as may be appropriate for purposes of this section; and

“(B) the sharing by the United States and the entity of the acquisition costs.

“(2) Property or interests may not be acquired pursuant to the agreement unless the owner of the property or interests consents to the acquisition.

“(3) The agreement shall require the entity to transfer to the United States, upon the request of the Secretary concerned, all or a portion of the property or interest acquired under the agreement or a lesser interest therein. The Secretary shall limit such transfer request to the minimum property or interests necessary to ensure that the property concerned is developed and used in a manner appropriate for purposes of this section.

“(4) The Secretary concerned may accept on behalf of the United States any property or interest to be transferred to the United States under the agreement.

“(5) For purposes of the acceptance of property or interests under the agreement, the Secretary concerned may accept an appraisal or title documents prepared or adopted by a non-Federal entity as satisfying the applicable requirements of section 301 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4651) or section 3111 of title 40, if the Secretary concerned finds that the appraisal or title documents substantially comply with the requirements.

“(e) ACQUISITION OF WATER RIGHTS.—The authority of the Secretary concerned to enter into an agreement under this section for the acquisition of real property (or an interest therein) includes the authority to support the purchase of water rights from any available source when necessary to support or protect the mission of a military installation.

“(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary concerned may require such additional terms and conditions in an agreement under this section as the Secretary considers appropriate to protect the interests of the United States.

“(g) FUNDING.—(1) Except as provided in paragraph (2), funds authorized to be appropriated for operation and maintenance of the Army, Navy, Marine Corps, Air Force, or Defense-wide activities may be used to enter into agreements under this section.

“(2) In the case of a military installation operated primarily with funds authorized to be appropriated for research, development, test, and evaluation, funds authorized to be appropriated for the Army, Navy, Marine Corps, Air Force, or Defense-wide activities for research, development, test, and evaluation may be used to

enter into agreements under this section with respect to the installation.

“(h) DEFINITIONS.—In this section:

“(1) The term ‘Secretary concerned’ means the Secretary of Defense or the Secretary of a military department.

“(2) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2684 the following new item:

“2684a. Agreements to limit encroachments and other constraints on military training, testing, and operations.”.

SEC. 2812. CONVEYANCE OF SURPLUS REAL PROPERTY FOR NATURAL RESOURCE CONSERVATION PURPOSES.

(a) CONVEYANCE AUTHORITY.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2694 the following new section:

“§ 2694a. Conveyance of surplus real property for natural resource conservation

“(a) AUTHORITY TO CONVEY.—The Secretary of a military department may convey to an eligible entity described in subsection (b) any surplus real property that—

“(1) is under the administrative control of the Secretary;

“(2) is suitable and desirable for conservation purposes;

“(3) has been made available for public benefit transfer for a sufficient period of time to potential claimants; and

“(4) is not subject to a pending request for transfer to another Federal agency or for conveyance to any other qualified recipient for public benefit transfer under the real property disposal processes and authorities under subtitle I of title 40.

“(b) ELIGIBLE ENTITIES.—The conveyance of surplus real property under this section may be made to any of the following:

“(1) A State or political subdivision of a State.

“(2) A nonprofit organization that exists for the primary purpose of conservation of natural resources on real property.

“(c) REVISIONARY INTEREST AND OTHER DEED REQUIREMENTS.—

(1) The deed of conveyance of any surplus real property conveyed under this section shall require the property to be used and maintained for the conservation of natural resources in perpetuity. If the Secretary concerned determines at any time that the property is not being used or maintained for such purpose, then, at the option of the Secretary, all or any portion of the property shall revert to the United States.

“(2) The deed of conveyance may permit the recipient of the property—

“(A) to convey the property to another eligible entity, subject to the approval of the Secretary concerned and subject to the same covenants and terms and conditions as provided in the deed from the United States; and

“(B) to conduct incidental revenue-producing activities on the property that are compatible with the use of the property for conservation purposes.

“(3) The deed of conveyance may contain such additional terms, reservations, restrictions, and conditions as the Secretary concerned considers appropriate to protect the interests of the United States.

“(d) RELEASE OF COVENANTS.—With the concurrence of the Secretary of Interior, the Secretary concerned may grant a release from a covenant included in the deed of conveyance of real property conveyed under this section, subject to the condition that the recipient of the property pay the fair market value, as determined by the Secretary concerned, of the property at the time of the release of the covenant. The Secretary concerned may reduce the amount required to be paid under this subsection to account for the value of the natural resource conservation benefit that has accrued to the United States during the period the covenant was in effect, if the benefit was not taken into account in determining the original consideration for the conveyance.

“(e) CONGRESSIONAL NOTIFICATION.—The Secretary concerned may not approve of the reconveyance of real property under subsection (c) or grant the release of a covenant under subsection (d) until the Secretary notifies the appropriate committees of Congress of the proposed reconveyance or release and a period of 21 days elapses from the date the notification is received by the committees.

“(f) LIMITATIONS.—The conveyance of real property under this section shall not be used as a condition of allowing any defense activity under any Federal, State, or local permitting or review process. The Secretary concerned may make the conveyance, with the restrictions specified in subsection (c), to establish a mitigation bank, but only if the establishment of the mitigation bank does not occur in order to satisfy any condition for permitting military activity under a Federal, State, or local permitting or review process.

“(g) CONSIDERATION.—In fixing the consideration for the conveyance of real property under this section, or in determining the amount of any reduction of the amount to be paid for the release of a covenant under subsection (d), the Secretary concerned shall take into consideration any benefit that has accrued or may accrue to the United States from the use of such property for the conservation of natural resources.

“(h) RELATION TO OTHER CONVEYANCE AUTHORITIES.—(1) The Secretary concerned may not make a conveyance under this section of any real property to be disposed of under a base closure law in a manner that is inconsistent with the requirements and conditions of the base closure law.

“(2) In the case of real property on Guam, the Secretary concerned may not make a conveyance under this section unless the Government of Guam has been first afforded the opportunity to acquire the real property as authorized by section 1 of Public Law 106-504 (114 Stat. 2309).

“(i) DEFINITIONS.—In this section:

“(1) The term ‘appropriate committees of Congress’ has the meaning given such term in section 2801 of this title.

“(2) The term ‘base closure law’ means the following:

“(A) Section 2687 of this title.

“(B) Title II of the Defense Authorization Amendments and Base Closure and Realignment Act of 1988 (10 U.S.C. 2687 note).

“(C) The Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note).

“(D) Any other similar authority for the closure or realignment of military installations that is enacted after the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003.

“(3) The term ‘Secretary concerned’ means the Secretary of a military department.

“(4) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Marianas, and the territories and possessions of the United States.”.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2694 the following new item:

“2694a. Conveyance of surplus real property for natural resource conservation.”.

(b) ACCEPTANCE OF FUNDS TO COVER ADMINISTRATIVE EXPENSES.—Section 2695(b) of such title is amended by adding at the end the following new paragraph:

“(5) The conveyance of real property under section 2694a of this title.”.

(c) AGREEMENTS WITH NONPROFIT NATURAL RESOURCE CONSERVATION ORGANIZATIONS.—Section 2701(d) of such title is amended—

(1) in the subsection heading, by striking “AGENCIES” and inserting “ENTITIES”;

(2) in paragraph (1)—

(A) by striking “with any State or local government agency, or with any Indian tribe,” and inserting “any State or local government agency, any Indian tribe, or any nonprofit conservation organization”; and

(B) by striking “the agency” and inserting “the agency, Indian tribe, or organization”; and

(3) by striking paragraph (4), as redesignated by section 311(2) of this Act, and inserting the following new paragraph:

“(4) DEFINITIONS.—In this subsection:

“(A) The term ‘Indian tribe’ has the meaning given such term in section 101(36) of CERCLA (42 U.S.C. 9601(36)).

“(B) The term ‘nonprofit conservation organization’ means any non-governmental nonprofit organization whose primary purpose is conservation of open space or natural resources.”.

SEC. 2813. MODIFICATION OF DEMONSTRATION PROGRAM ON REDUCTION IN LONG-TERM FACILITY MAINTENANCE COSTS.

(a) ADMINISTRATOR OF PROGRAM.—Subsection (a) of section 2814 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1310; 10 U.S.C. 2809 note) is amended by striking “Secretary of the Army” and inserting “Secretary of Defense or the Secretary of a military department”.

(b) CONTRACTS.—Subsection (b) of such section is amended to read as follows:

“(b) **CONTRACTS.**—(1) Not more than 12 contracts per military department may contain requirements referred to in subsection (a) for the purpose of the demonstration program.

“(2) The demonstration program may only cover contracts entered into on or after the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003, except that the Secretary of the Army shall treat any contract containing requirements referred to in subsection (a) that was entered into under the authority in such subsection between that date and December 28, 2001, as a contract for the purpose of the demonstration program.”.

(c) **REPORTING REQUIREMENTS.**—Subsection (d) of such section is amended by striking “Secretary of the Army” and inserting “Secretary of Defense”.

(d) **FUNDING.**—(1) Subsection (f) of such section is amended by striking “the Army” and inserting “the military departments or defense-wide”.

10 USC 2809
note.

(2) The amendment made by paragraph (1) shall not affect the availability for the purpose of the demonstration program under section 2814 of the Military Construction Authorization Act for Fiscal Year 2002, as amended by this section, of any amounts authorized to be appropriated before the date of the enactment of this Act for the Army for military construction that have been obligated for the demonstration program, but not expended, as of that date.

SEC. 2814. EXPANDED AUTHORITY TO TRANSFER PROPERTY AT MILITARY INSTALLATIONS TO BE CLOSED TO PERSONS WHO CONSTRUCT OR PROVIDE MILITARY FAMILY HOUSING.

(a) **1988 LAW.**—Section 204(e)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526; 10 U.S.C. 2687 note) is amended by striking the last sentence.

(b) **1990 LAW.**—Section 2905(f)(1) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note) is amended by striking the last sentence.

Subtitle C—Land Conveyances

PART I—ARMY CONVEYANCES

16 USC 668dd
note.

SEC. 2821. TRANSFER OF JURISDICTION, FORT MCCLELLAN, ALABAMA, TO ESTABLISH MOUNTAIN LONGLEAF NATIONAL WILDLIFE REFUGE.

Deadline.

(a) **TRANSFER REQUIRED.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Army shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior a parcel of real property at Fort McClellan, Alabama, consisting of approximately 7,600 acres, which is described as the “acquisition area” in a memorandum of agreement between the Secretaries numbered 1448-40181-00-K-014.

(b) **ESTABLISHMENT AND MANAGEMENT OF REFUGE.**—(1) The Secretary of the Interior shall establish on the real property transferred under subsection (a) the Mountain Longleaf National Wildlife

Refuge to enhance, manage, and protect the unique mountain longleaf pine ecosystem on the property.

(2) The Secretary of Interior shall manage the Mountain Longleaf National Wildlife Refuge in a manner that—

(A) conserves and enhances populations of fish, wildlife, and plants in the Refuge, including migratory birds and species that are threatened or endangered, with particular emphasis on the protection of the mountain longleaf pine plant ecosystem;

(B) protects and enhances the quality of aquatic habitat in the Refuge;

(C) provides, in coordination with the Alabama Department of Conservation and Natural Resources, the public with recreational opportunities, including hunting, fishing, wildlife observation, and photography;

(D) provides opportunities for scientific research and education on land use and environmental law; and

(E) is consistent with environmental restoration efforts conducted by the Secretary of the Army on the Refuge or on lands adjacent to the Refuge.

(c) ENVIRONMENTAL RESTORATION.—(1) The Secretary of the Army shall continue to be responsible for unexploded ordnance, discarded military munitions, and munitions constituents on the real property transferred under subsection (a) and shall continue to follow a remediation process in accordance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) The Secretary of the Army shall appropriately factor the management directives for the Mountain Longleaf National Wildlife Refuge, as described in subsection (b), into the remedy selection process for the property transferred under subsection (a).

(d) RELATION TO OTHER ENVIRONMENTAL LAWS.—Nothing in this section shall relieve, and no action taken under this section may relieve, the Secretary of the Army or the Secretary of the Interior, or any other person from any liability or other obligation under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), or any other Federal or State law.

(e) ASSISTANCE.—The Secretary of the Army may provide up to \$500,000 from the funds in the Base Realignment and Closure Account 1990 to the Secretary of Interior to facilitate the establishment of the Mountain Longleaf National Wildlife Refuge and to support environmental research at the Refuge during the first two years of the operation of the Refuge.

SEC. 2822. LAND CONVEYANCES, LANDS IN ALASKA NO LONGER REQUIRED FOR NATIONAL GUARD PURPOSES.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to an eligible entity described in subsection (b) all right, title, and interest of the United States in and to any parcel of real property, including any improvements thereon, in the State of Alaska described in subsection (c) if the Secretary determines the conveyance would be in the public interest.

(b) ELIGIBLE RECIPIENTS.—The following entities shall be eligible to receive real property under subsection (a):

(1) The State of Alaska.

(2) A governmental entity in the State of Alaska.

(3) A Native Corporation (as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602)).

(4) The Metlakatla Indian Community.

(c) COVERED PROPERTY.—Subsection (a) applies to real property located in the State of Alaska that—

(1) is under the jurisdiction of the Department of the Army and, before December 2, 1980, was under such jurisdiction for the use of the Alaska National Guard;

(2) is located in a unit of the National Wildlife Refuge System designated in the Alaska National Interest Lands Conservation Act (Public Law 96-487; 16 U.S.C. 668dd note);

(3) is excess to the needs of the Alaska National Guard and the Department of Defense; and

(4) the Secretary determines that—

(A) the anticipated cost to the United States of retaining the property exceeds the value of such property; or

(B) the condition of the property makes it unsuitable for retention by the United States.

(d) CONSIDERATION.—The conveyance of real property under this section shall, at the election of the Secretary, be for no consideration or for consideration in an amount determined by the Secretary to be appropriate under the circumstances.

(e) USE OF CONSIDERATION.—If consideration is received for the conveyance of real property under subsection (a), the Secretary may use the amounts received, in such amounts as are provided in appropriations Acts, to pay for—

(1) the cost of a survey described in subsection (f) with respect to the property;

(2) the cost of carrying out any environmental assessment, study, or analysis, and any remediation, that may be required under Federal law, or is considered appropriate by the Secretary, in connection with the property or the conveyance of the property; and

(3) any other costs incurred by the Secretary in conveying the property.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of any real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with a conveyance of real property under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LAND CONVEYANCE, SUNFLOWER ARMY AMMUNITION PLANT, KANSAS.

(a) CONVEYANCE AUTHORIZED.—The Administrator of General Services may convey to the Johnson County Park and Recreation District, Kansas (in this section referred to as the “District”), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, at the Sunflower Army Ammunition Plant in the State of Kansas consisting of approximately 2,000 acres.

(b) BASIS OF CONVEYANCE.—The conveyance under this section shall be made in a manner consistent with section 550(e) of title 40, United States Code, for the purpose of permitting the District to use the conveyed property for public recreational purposes.

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage, location, and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Administrator. The cost of such legal description, survey, or both shall be borne by the District.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Administrator may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Administrator considers appropriate to protect the interests of the United States.

(e) **APPLICATION OF SECTION.**—If the Administrator and the District reach an agreement regarding the conveyance of the property described in subsection (a) before January 31, 2003, the authority provided by this section shall not take effect.

SEC. 2824. LAND CONVEYANCES, BLUEGRASS ARMY DEPOT, RICHMOND, KENTUCKY.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to Madison County, Kentucky (in this section referred to as the “County”), all right, title, and interest of the United States in and to the following parcels of real property, including any improvements thereon, at the Bluegrass Army Depot, Richmond, Kentucky:

(1) A parcel consisting of approximately 10 acres.

(2) A parcel consisting of approximately 3 acres, including the building known as Quarters 29.

(b) **CONDITIONS OF CONVEYANCE.**—(1) The Secretary may not convey the parcel of real property referred to in subsection (a)(1) unless the County agrees to use the property to facilitate the construction of a veterans’ center on the property by the State of Kentucky and the Secretary determines that the State has appropriated adequate funds for the construction of the veterans’ center.

(2) The Secretary may not convey the parcel of real property referred to in subsection (a)(2) unless the County agrees to utilize the property for historical preservation and education purposes.

(c) **REVERSIONARY INTEREST.**—(1) At the end of the seven-year period beginning on the date on which the Secretary makes the conveyance of the parcel of real property referred to in subsection (a)(1), if the Secretary determines that a veterans’ center is not in operation on the conveyed real property, then, at the option of the Secretary, all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States, and the United States shall have the right of immediate entry onto the property.

(2) If the Secretary determines at any time that the parcel of real property referred to in subsection (a)(2) has ceased to be utilized for the purposes specified in subsection (b)(2), then, at the option of the Secretary, all right, title, and interest in and to the property shall revert to the United States, and the United States shall have the right of immediate entry onto the property.

(3) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(d) **REIMBURSEMENT FOR COSTS OF CONVEYANCE.**—(1) The Secretary may require the County to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyances under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the County to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyances, if the excess costs were incurred as a result of a request by the County. In this paragraph, the term “excess costs” means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyances.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyances. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND CONVEYANCE, FORT CAMPBELL, KENTUCKY.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the City of Hopkinsville, Kentucky (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property at Fort Campbell, Kentucky, consisting of approximately 50 acres and containing an abandoned railroad spur for the purpose of permitting the City to use the property for storm water management, recreation, transportation, and other public purposes.

(b) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the City to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the City to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the City. In this paragraph, the term “excess costs” means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) **DESCRIPTION OF PROPERTY.**—The acreage of the real property to be conveyed under subsection (a) has been determined by the Secretary through a legal description outlining such acreage. No further survey of the property is required before the conveyance is made.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2826. LAND CONVEYANCE, ARMY RESERVE TRAINING CENTER, BUFFALO, MINNESOTA.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the Buffalo Independent School District 877 of Buffalo, Minnesota (in this section referred to as the “School District”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, that is located at 800 8th Street, N.E., in Buffalo, Minnesota, and contains a former Army Reserve Training Center, which is being used by the School District as the site of the Phoenix Learning Center.

(b) **REIMBURSEMENT FOR COSTS OF CONVEYANCE.**—(1) The Secretary may require the School District to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the School District to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the School District. In this paragraph, the term “excess costs” means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the School District.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2827. LAND CONVEYANCE, FORT MONMOUTH, NEW JERSEY.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey by sale all right, title, and interest of the United States in and to a parcel of real property, consisting of approximately 63.95 acres of military family housing known as Howard Commons, that comprises a portion of Fort Monmouth, New Jersey.

(b) **COMPETITIVE BID REQUIREMENT.**—The Secretary shall use competitive procedures for the sale authorized by subsection (a).

(c) **CONSIDERATION.**—(1) As consideration for the conveyance authorized by subsection (a), the recipient shall provide the United States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by the Secretary, of the property conveyed under such subsection.

(2) In-kind consideration under paragraph (1) may include the construction of replacement military family housing or the rehabilitation of existing military family housing at Fort Monmouth, New Jersey, as agreed upon by the Secretary.

(3) If the value of in-kind consideration to be provided under this subsection exceeds \$1,500,000, the Secretary may not accept such consideration until after the end of the 21-day period beginning on the date the Secretary notifies the congressional defense committees of the decision of the Secretary to accept in-kind consideration in excess of that amount.

(4) Any proceeds received by the Secretary under this subsection and not used to construct or rehabilitate such military family housing shall be deposited in the special account in the Treasury established pursuant to section 572(b) of title 40, United States Code.

(d) **EFFECT OF TRANSFER OF ADMINISTRATIVE JURISDICTION.**—If the real property authorized to be conveyed by this section is transferred to the administrative jurisdiction of the Administrator of General Services, the Administrator, rather than the Secretary, shall have the authority to convey such property under this section.

(e) **DESCRIPTION OF PARCEL.**—The exact acreage and legal description of the parcel to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary. The cost of the survey shall be borne by the recipient of the parcel.

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2828. LAND CONVEYANCE, FORT BLISS, TEXAS.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Army may convey, without consideration, to the County of El Paso, Texas (in this section referred to as the “County”), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 44 acres at Fort Bliss, Texas, for the purpose of facilitating the construction by the State of Texas of a nursing home for veterans of the Armed Forces.

(b) **REVERSIONARY INTEREST.**—(1) At the end of the seven-year period beginning on the date on which the Secretary makes the conveyance under subsection (a), if the Secretary determines that a nursing home for veterans is not in operation on the conveyed real property, then, at the option of the Secretary—

(A) all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States; and

(B) the United States shall have the right of immediate entry onto the property.

(2) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the County to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the County to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the County. In this paragraph, the term “excess costs” means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, FORT HOOD, TEXAS.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey, without consideration, to the Veterans Land Board of the State of Texas (in this section referred to as the “Board”) all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 174 acres at Fort Hood, Texas, for the purpose of permitting the Board to establish a State-run cemetery for veterans of the Armed Forces.

(b) REVERSIONARY INTEREST.—(1) At the end of the seven-year period beginning on the date on which the Secretary makes the conveyance under subsection (a), if the Secretary determines that a cemetery for veterans is not in operation on the conveyed real property, then, at the option of the Secretary—

(A) all right, title, and interest in and to the property, including any improvements thereon, shall revert to the United States; and

(B) the United States shall have the right of immediate entry onto the property.

(2) Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(c) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the Board to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under

subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the Board to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the Board. In this paragraph, the term “excess costs” means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the Board.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2830. LAND CONVEYANCES, ENGINEER PROVING GROUND, FORT BELVOIR, VIRGINIA.

(a) CONVEYANCE TO FAIRFAX COUNTY, VIRGINIA, AUTHORIZED.—

(1) The Secretary of the Army may convey, without consideration, to Fairfax County, Virginia, all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 135 acres, located in the northwest portion of the Engineer Proving Ground at Fort Belvoir, Virginia, in order to permit the County to use such property for park and recreational purposes.

(2) The parcel of real property authorized to be conveyed by paragraph (1) is generally described as that portion of the Engineer Proving Ground located west of Accotink Creek, east of the Fairfax County Parkway, and north of Cissna Road to the northern boundary, but excludes a parcel of land consisting of approximately 15 acres located in the southeast corner of such portion of the Engineer Proving Ground.

(3) The land excluded under paragraph (2) from the parcel of real property authorized to be conveyed by paragraph (1) shall be reserved for an access road to be constructed in the future.

(b) CONVEYANCE OF BALANCE OF PROPERTY AUTHORIZED.—The Secretary may convey to any competitively selected grantee all right, title, and interest of the United States in and to the real property, including any improvements thereon, at the Engineering Proving Ground not conveyed under the authority in subsection (a).

(c) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (b), the grantee shall provide the United

States, whether by cash payment, in-kind contribution, or a combination thereof, an amount that is not less than the fair market value, as determined by the Secretary, of the property conveyed under such subsection.

(2) In-kind consideration under paragraph (1) may include the maintenance, improvement, alteration, repair, remodeling, restoration (including environmental restoration), or construction of facilities for the Department of the Army at Fort Belvoir or at any other site or sites designated by the Secretary.

(3) If in-kind consideration under paragraph (1) includes the construction of facilities, the grantee shall also convey to the United States—

(A) title to such facilities, free of all liens and other encumbrances; and

(B) if the United States does not have fee simple title to the land underlying such facilities, convey to the United States all right, title, and interest in and to such lands not held by the United States.

(4) If the value of in-kind consideration to be provided under paragraph (1) exceeds \$1,500,000, the Secretary may not accept such consideration until after the end of the 21-day period beginning on the date the Secretary notifies the congressional defense committees of the decision of the Secretary to accept in-kind consideration in excess of that amount.

(5) The Secretary shall deposit any cash received as consideration under this subsection in the special account established pursuant to section 572(b) of title 40, United States Code.

(d) EFFECT OF TRANSFER OF ADMINISTRATIVE JURISDICTION.—If all or a portion of the real property authorized to be conveyed by this section is transferred to the administrative jurisdiction of the Administrator of General Services, the Administrator, rather than the Secretary of the Army, shall have the authority to convey such property under this section.

(e) REPEAL OF SUPERSEDED AUTHORITY.—Section 2821 of the Military Construction Authorization Act for Fiscal Years 1990 and 1991 (division B of Public Law 101-189; 103 Stat. 1658), as amended by section 2854 of the Military Construction Authorization Act for Fiscal Year 1996 (division B of Public Law 104-106; 110 Stat. 568), is repealed.

(f) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsections (a) and (b) shall be determined by surveys satisfactory to the Secretary. The cost of each such survey shall be borne by the grantee.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under subsections (a) and (b) as the Secretary considers appropriate to protect the interests of the United States.

PART II—NAVY CONVEYANCES

SEC. 2831. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Navy may convey to the ENPEX Corporation, Incorporated (in this section referred to as the “Corporation”), all right, title, and interest of the United States in and to a parcel of real property, including

any improvements thereon, at Marine Corps Air Station, Miramar, San Diego, California, consisting of approximately 60 acres and appurtenant easements and any other necessary interests in real property for the purpose of permitting the Corporation to use the property for the production of electric power and related ancillary activities.

(b) CONSIDERATION.—(1) As consideration for the conveyance under subsection (a), the Corporation shall—

(A) convey to the United States all right, title, and interest of the Corporation in and to a parcel of real property in the San Diego area that is suitable for military family housing, as determined by the Secretary; and

(B) if the parcel conveyed under subparagraph (A) does not contain housing units suitable for use as military family housing, design and construct such military family housing units and supporting facilities as the Secretary considers appropriate.

(2) The total combined value of the real property and military family housing conveyed by the Corporation under this subsection shall be at least equal to the fair market value of the real property conveyed to the Secretary under subsection (a), including any severance costs arising from any diminution of the value or utility of other property at Marine Corps Air Station, Miramar, attributable to the prospective future use of the property conveyed under subsection (a).

(3) The Secretary shall determine the fair market value of the real property to be conveyed under subsection (a) and the fair market value of the consideration to be provided under this subsection. Such determinations shall be final.

(c) REVERSIONARY INTEREST.—(1) Subject to paragraph (2), if the Secretary determines at any time that the property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) If Marine Corps Air Station, Miramar, is no longer used as a Federal aviation facility, paragraph (1) shall no longer apply, and the Secretary shall release, without consideration, the reversionary interest retained by the United States under such paragraph.

(d) ADMINISTRATIVE EXPENSES.—(1) The Corporation shall make funds available to the Secretary to cover costs to be incurred by the Secretary, or reimburse the Secretary for costs incurred, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. This paragraph does not apply to costs associated with the removal of explosive ordnance from the parcel and environmental remediation of the parcel.

(2) Section 2695(c) of title 10 United States Code, shall apply to any amount received under paragraph (1). If the amounts received in advance under such paragraph exceed the costs actually

incurred by the Secretary, the Secretary shall refund the excess amount to the Corporation.

(e) **DESCRIPTIONS OF PROPERTY.**—The exact acreage and legal descriptions of the real property to be conveyed by the Secretary under subsection (a) and the property to be conveyed by the Corporation under subsection (b) shall be determined by a survey satisfactory to the Secretary.

(f) **EXEMPTIONS.**—Section 2696 of title 10, United States Code, does not apply to the conveyance authorized by subsection (a), and the authority to make the conveyance shall not be considered to render the property excess or underutilized.

(g) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyances authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2832. MODIFICATION OF AUTHORITY FOR LAND TRANSFER AND CONVEYANCE, NAVAL SECURITY GROUP ACTIVITY, WINTER HARBOR, MAINE.

(a) **MODIFICATION OF CONVEYANCE AUTHORITY FOR COREA AND WINTER HARBOR PROPERTIES.**—Subsection (b) of section 2845 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1319) is amended to read as follows:

“(b) **CONVEYANCE AND TRANSFER OF COREA AND WINTER HARBOR PROPERTIES AUTHORIZED.**—(1) The Secretary of the Navy may convey, without consideration, to the State of Maine, any political subdivision of the State of Maine, or any tax-supported agency in the State of Maine, all right, title, and interest of the United States in and to parcels of real property, including any improvements thereon and appurtenances thereto, comprising the former facilities of the Naval Security Group Activity, Winter Harbor, Maine, as follows:

“(A) The parcel consisting of approximately 50 acres known as the Corea Operations Site.

“(B) Three parcels consisting of approximately 23 acres and comprising family housing facilities.

“(2) The Secretary of the Navy may transfer to the administrative jurisdiction of the Secretary of the Interior a parcel of real property consisting of approximately 404 acres at the former Naval Security Group Activity, which is the balance of the real property comprising the Corea Operations Site. The Secretary of the Interior shall administer the property transferred under this paragraph as part of the National Wildlife Refuge System.”.

(b) **EXEMPTION OF MODIFIED CONVEYANCES FROM FEDERAL SCREENING REQUIREMENT.**—Such section is further amended—

(1) by redesignating subsections (g) and (h) as subsections (h) and (i), respectively; and

(2) by inserting after subsection (f) the following new subsection (g):

“(g) **EXEMPTION FROM FEDERAL SCREENING.**—Any conveyance authorized by subsection (b)(1) is exempt from the requirement to screen the property concerned for further Federal use pursuant to section 2696 of title 10, United States Code.”.

(c) **CONFORMING AMENDMENTS.**—Subsections (c), (d), (e), (f), (h) (as redesignated), and (i) (as redesignated) of such section are

amended by striking “subsection (b)” each place it appears and inserting “subsection (b)(1)”.

SEC. 2833. LAND CONVEYANCE, WESTOVER AIR RESERVE BASE, MASSACHUSETTS.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Navy may convey, without consideration, to the City of Chicopee, Massachusetts (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, including 133 housing units and other improvements thereon, consisting of approximately 30.38 acres located at Westover Air Reserve Base in Chicopee, Massachusetts, for the purpose of permitting the City to use the property for economic development and other public purposes.

(b) **REIMBURSEMENT FOR COSTS OF CONVEYANCE.**—(1) The Secretary may require the City to reimburse the Secretary for the costs incurred by the Secretary to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation (other than the environmental baseline survey), and other administrative costs related to the conveyance.

(2) The Secretary shall require the City to reimburse the Secretary for any excess costs incurred by the Secretary for any environmental assessment, study, or analysis, or for any other excess costs incurred by the Secretary, in connection with the conveyance, if the excess costs were incurred as a result of a request by the City. In this paragraph, the term “excess costs” means costs in excess of those costs considered reasonable and necessary by the Secretary to comply with existing law to make the conveyance.

(3) Any reimbursement received under this subsection shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) **ADDITIONAL TERMS AND CONDITIONS.**—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2834. LAND CONVEYANCE, NAVAL STATION, NEWPORT, RHODE ISLAND.

(a) **CONVEYANCE AUTHORIZED.**—The Secretary of the Navy may convey to the State of Rhode Island, or any political subdivision thereof, any or all right, title, and interest of the United States in and to a parcel of real property, together with improvements thereon, consisting of approximately 34 acres located in Melville, Rhode Island, and known as the Melville Marina site.

(b) **CONSIDERATION.**—(1) As consideration for the conveyance of real property under subsection (a), the conveyee shall pay the United States an amount equal to the fair market value of the real property, as determined by the Secretary based on an appraisal of the real property acceptable to the Secretary.

(2) The consideration received under paragraph (1) shall be deposited in the account established pursuant to section 572(b) of title 40, United States Code, and shall be available as provided for in that section.

(c) REIMBURSEMENT FOR COSTS OF CONVEYANCE.—(1) The Secretary may require the conveyee of the real property under subsection (a) to reimburse the Secretary for any costs incurred by the Secretary in carrying out the conveyance.

(2) Any reimbursement for costs that is received under paragraph (1) shall be credited to the fund or account providing funds for such costs. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2835. LAND EXCHANGE AND BOUNDARY ADJUSTMENTS, MARINE CORPS BASE, QUANTICO, AND PRINCE WILLIAM FOREST PARK, VIRGINIA.

(a) LAND EXCHANGE.—Administrative jurisdiction over certain lands at Prince William Forest Park, Virginia, and at the Marine Corps Base, Quantico, Virginia, shall be adjusted through the following actions:

(1) The Secretary of the Navy shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Interior approximately 352 acres of land, depicted as “Lands Transferred from Department of the Navy to Department of the Interior” on the map entitled “Boundary Adjustments Between Prince William Forest Park and Marine Corps Base, Quantico”, numbered 860/80283, and dated May 1, 2002.

(2) The Secretary of the Interior shall transfer, without reimbursement, to the administrative jurisdiction of the Secretary of the Navy approximately 3,398 acres of land, depicted as “Lands Transferred from Department of the Interior to Department of the Navy” on the map described in paragraph (1).

(b) RETENTION OF CERTAIN LAND.—The Secretary of the Interior shall continue to administer approximately 1,346 acres of land, depicted as “Lands Retained by Department of the Interior” on the map described in subsection (a)(1). Effective on the date of the enactment of this Act, the special use permit dated March 16, 1972, which provides for the use of part of this land by the Marine Corps, shall no longer be in effect.

(c) SUBSEQUENT DISPOSAL OF LAND.—(1) If any of the land described in subsection (a)(1) or (b) is determined to be excess to the needs of the Department of the Interior, the Secretary of the Interior shall offer to transfer, without reimbursement, administrative jurisdiction over the land to the Secretary of the Navy.

(2) If any of the land described in subsection (a)(2) is determined to be excess to the needs of the Department of the Navy, the

Secretary of the Navy shall offer to transfer, without reimbursement, administrative jurisdiction over the land to the Secretary of the Interior.

(3) If an offer made under this subsection is not accepted within 90 days, the land covered by the offer may be disposed of in accordance with the laws and regulations governing the disposal of excess property.

(d) BOUNDARY MODIFICATION AND ADMINISTRATION.—(1) The boundaries of Prince William Forest Park and the Marine Corps Base, Quantico, shall be modified to reflect the land exchanges or disposals made under this section.

(2) Land transferred to the Secretary of the Interior under subsection (a)(1) or retained under subsection (b) shall be administered as part of Prince William Forest Park in accordance with applicable laws and regulations.

(e) AVAILABILITY OF MAP.—The map described in subsection (a)(1) shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(f) CONFORMING AMENDMENTS.—The Act of June 22, 1948 (Chapter 596; 62 Stat. 571), is amended—

(1) by striking the first section and inserting the following new section:

“SECTION 1. PRINCE WILLIAM FOREST PARK, VIRGINIA.

“Chopawamsic Park, which was established in 1933 as Chopawamsic Recreational Demonstration Area, shall be known as ‘Prince William Forest Park’.”;

(2) in section 2—

(A) by striking “That all” and inserting “All”; and

(B) by striking “the Chopawamsic Park” and inserting “Prince William Forest Park”; and

(3) in section 3—

(A) by striking “That the Secretary of the Interior and the Secretary of the Navy be, and they are hereby” and inserting “The Secretary of the Interior is”; and

(B) by striking “the Chopawamsic Park” both places it appears and inserting “Prince William Forest Park”.

PART III—AIR FORCE CONVEYANCES

SEC. 2841. MODIFICATION OF LAND CONVEYANCE, LOS ANGELES AIR FORCE BASE, CALIFORNIA.

Section 2861(c) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-433) is amended in the first sentence by striking “10 years” and inserting “30 years”.

SEC. 2842. LAND EXCHANGE, BUCKLEY AIR FORCE BASE, COLORADO.

(a) EXCHANGE AUTHORIZED.—For the purpose of facilitating the acquisition of real property suitable for the construction of military family housing for Buckley Air Force Base, Colorado, the Secretary of the Air Force may convey to the State of Colorado (in this section referred to as the “State”) all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of all or part of the Watkins Communications Site in Arapahoe County, Colorado.

(b) CONSIDERATION.—(1) As consideration for the conveyance authorized by subsection (a) the State shall convey to the United States all right, title, and interest of the State in and to a parcel of real property, including improvements thereon, consisting of approximately 41 acres that is owned by the State and is contiguous to Buckley Air Force Base, Colorado.

(2) The Secretary shall have jurisdiction over the real property conveyed under paragraph (1).

(3) Upon conveyance to the United States under paragraph (1), the real property conveyed under that paragraph is withdrawn from all forms of appropriation under the general land laws, including the mining laws and mineral and geothermal leasing laws.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the parcels of real property to be conveyed under this section shall be determined by surveys satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2843. LAND CONVEYANCES, WENDOVER AIR FORCE BASE AUXILIARY FIELD, NEVADA.

(a) CONVEYANCES AUTHORIZED TO WEST WENDOVER, NEVADA.—(1) The Secretary of the Interior may convey, without consideration, to the City of West Wendover, Nevada, all right, title, and interest of the United States in and to the following:

(A) The lands at Wendover Air Force Base Auxiliary Field, Nevada, identified in Easement No. AFMC-HL-2-00-334 that are determined by the Secretary of the Air Force to be no longer required.

(B) The lands at Wendover Air Force Base Auxiliary Field identified for disposition on the map entitled “West Wendover, Nevada-Excess”, dated January 5, 2001, that are determined by the Secretary of the Air Force to be no longer required.

(2) The purposes of the conveyances under this subsection are—

(A) to permit the establishment and maintenance of runway protection zones; and

(B) to provide for the development of an industrial park and related infrastructure.

(3) The map referred to in paragraph (1)(B) shall be on file and available for public inspection in the offices of the Director of the Bureau of Land Management and the Elko District Office of the Bureau of Land Management.

(b) CONVEYANCE AUTHORIZED TO TOOELE COUNTY, UTAH.—(1) The Secretary of the Interior may convey, without consideration, to Tooele County, Utah, all right, title, and interest of the United States in and to the lands at Wendover Air Force Base Auxiliary Field identified in Easement No. AFMC-HL-2-00-318 that are determined by the Secretary of the Air Force to be no longer required.

(2) The purpose of the conveyance under this subsection is to permit the establishment and maintenance of runway protection

zones and an aircraft accident potential protection zone as necessitated by continued military aircraft operations at the Utah Test and Training Range.

(c) PHASED CONVEYANCES.—The land conveyances authorized by subsections (a) and (b) may be conducted in phases. To the extent practicable, the first phase of the conveyances should involve at least 3,000 acres.

(d) MANAGEMENT OF CONVEYED LANDS.—The lands conveyed under subsections (a) and (b) shall be managed by the City of West Wendover, Nevada, City of Wendover, Utah, Tooele County, Utah, and Elko County, Nevada—

(1) in accordance with the provisions of an Interlocal Memorandum of Agreement entered into between the Cities of West Wendover, Nevada, and Wendover, Utah, Tooele County, Utah, and Elko County, Nevada, providing for the coordinated management and development of the lands for the economic benefit of both communities; and

(2) in a manner that is consistent with such provisions of the easements referred to subsections (a) and (b) that, as jointly determined by the Secretary of the Air Force and Secretary of the Interior, remain applicable and relevant to the operation and management of the lands following conveyance and are consistent with the provisions of this section.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Air Force and the Secretary of the Interior may jointly require such additional terms and conditions in connection with the conveyances authorized by subsections (a) and (b) as the Secretaries consider appropriate to protect the interests of the United States.

Subtitle D—Other Matters

SEC. 2851. MASTER PLAN FOR USE OF NAVY ANNEX, ARLINGTON, VIRGINIA.

(a) MODIFICATION OF AUTHORITY FOR TRANSFER FROM NAVY ANNEX.—Section 2881 of the Military Construction Authorization Act for Fiscal Year 2000 (113 Stat. 879) is amended—

(1) in subsection (b)(2), as amended by section 2863(f) of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1332), by striking “as a site for—” and all that follows and inserting “as a site for such other memorials or museums that the Secretary considers compatible with Arlington National Cemetery and the Air Force Memorial.”; and

(2) in subsection (d)—

(A) in paragraph (2), by striking “the recommendation (if any) of the Commission on the National Military Museum to use a portion of the Navy Annex property as the site for the National Military Museum” and inserting “the use of the acres reserved under subsection (b)(2) for a memorial or museum”; and

(B) in paragraph (4), by striking “the date on which the Commission on the National Military Museum submits to Congress its report under section 2903” and inserting “the date of the enactment of the Bob Stump National Defense Authorization Act for Fiscal Year 2003”.

(b) CONSTRUCTION OF AMENDMENTS.—The amendments made by subsection (a) may not be construed to delay the establishment of the United States Air Force Memorial authorized by section 2863 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 115 Stat. 1330).

SEC. 2852. SALE OF EXCESS TREATED WATER AND WASTEWATER TREATMENT CAPACITY, MARINE CORPS BASE, CAMP LEJEUNE, NORTH CAROLINA.

(a) SALE AUTHORIZED.—The Secretary of the Navy may provide to Onslow County, North Carolina, or any authority or political subdivision organized under the laws of North Carolina to provide public water or sewage services in Onslow County (in this section referred to as the “County”), treated water and wastewater treatment services from facilities at Marine Corps Base, Camp Lejeune, North Carolina, if the Secretary determines that the provision of these utility services is in the public interest and will not interfere with current or future operations at Camp Lejeune.

(b) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—Section 2686 of title 10, United States Code, shall not apply to the provision of public water or sewage services authorized by subsection (a).

(c) CONSIDERATION.—As consideration for the receipt of public water or sewage services under subsection (a), the County shall pay to the Secretary an amount (in cash or in kind) equal to the fair market value of the services. Amounts received in cash shall be credited to the base operation and maintenance accounts of Camp Lejeune.

(d) EXPANSION.—The Secretary may make minor expansions and extensions and permit connections to the public water or sewage systems of the County in order to furnish the services authorized under subsection (a). The Secretary shall restrict the provision of services to the County to those areas in the County where residential development would be compatible with current and future operations at Camp Lejeune.

(e) ADMINISTRATIVE EXPENSES.—(1) The Secretary may require the County to reimburse the Secretary for the costs incurred by the Secretary to provide public water or sewage services to the County under subsection (a).

(2) Section 2695(c) of title 10 United States Code, shall apply to any amount received under this subsection.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the provision of public water or sewage services under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2853. CONVEYANCE OF REAL PROPERTY, ADAK NAVAL COMPLEX, ALASKA, AND RELATED LAND CONVEYANCES.

Section 6 of the Act entitled “An Act to ratify an agreement between The Aleut Corporation and the United States of America to exchange land rights received under the Alaska Native Claims Settlement Act for certain land interests on Adak Island, and for other purposes.”, approved October 11, 2002 (Public Law 107-239), is amended by adding at the end the following new subsection:

“(f) For purposes of section 21(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1620(c)), all property received by the Aleut Corporation under this Act shall be given a tax basis equal

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to fair value on the date of the transfer. Fair value shall be determined by replacement cost appraisal.”.

SEC. 2854. SPECIAL REQUIREMENT FOR ADDING MILITARY INSTALLATION TO CLOSURE LIST.

Section 2914(d) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101-510; 10 U.S.C. 2687 note), as added by section 3003 of the Military Construction Authorization Act for Fiscal Year 2002 (division B of Public Law 107-107; 155 Stat. 1346), is amended—

- (1) by redesignating paragraph (5) as paragraph (6); and
(2) by inserting after paragraph (4) the following new paragraph (5):

“(5) **SITE VISIT.**—In the report required under section 2903(d)(2)(A) that is to be transmitted under paragraph (1), the Commission may not recommend the closure of a military installation not recommended for closure by the Secretary under subsection (a) unless at least two members of the Commission visit the installation before the date of the transmittal of the report.”.

**DIVISION C—DEPARTMENT OF ENERGY
NATIONAL SECURITY AUTHORIZA-
TIONS AND OTHER AUTHORIZATIONS**

**TITLE XXXI—DEPARTMENT OF ENERGY
NATIONAL SECURITY PROGRAMS**

Subtitle A—National Security Programs Authorizations

- Sec. 3101. National Nuclear Security Administration.
Sec. 3102. Defense environmental management.
Sec. 3103. Other defense activities.
Sec. 3104. Defense nuclear waste disposal.

Subtitle B—Program Authorizations, Restrictions, and Limitations

- Sec. 3141. Annual assessments and reports to the President and Congress regarding the condition of the United States nuclear weapons stockpile.
Sec. 3142. Plans for achieving enhanced readiness posture for resumption by the United States of underground nuclear weapons tests.
Sec. 3143. Requirements for specific request for new or modified nuclear weapons.
Sec. 3144. Database to track notification and resolution phases of Significant Finding Investigations.
Sec. 3145. Defense environmental management cleanup reform program.
Sec. 3146. Limitation on obligation of funds for Robust Nuclear Earth Penetrator program pending submission of report.

Subtitle C—Proliferation Matters

- Sec. 3151. Transfer to National Nuclear Security Administration of Department of Defense's Cooperative Threat Reduction program relating to elimination of weapons grade plutonium production in Russia.
Sec. 3152. Repeal of requirement for reports on obligation of funds for programs on fissile materials in Russia.
Sec. 3153. Expansion of annual reports on status of nuclear materials protection, control, and accounting programs.
Sec. 3154. Testing of preparedness for emergencies involving nuclear, radiological, chemical, or biological weapons.
Sec. 3155. Cooperative program on research, development, and demonstration of technology regarding nuclear or radiological terrorism.
Sec. 3156. Matters relating to the International Materials Protection, Control, and Accounting program of the Department of Energy.

- Sec. 3157. Accelerated disposition of highly enriched uranium.
- Sec. 3158. Strengthened international security for nuclear materials and security of nuclear operations.
- Sec. 3159. Export control programs.
- Sec. 3160. Plan for accelerated return of weapons-usable nuclear materials.
- Sec. 3161. Sense of Congress on amendment of Convention on Physical Protection of Nuclear Materials.
- Sec. 3162. Sense of Congress on program to secure stockpiles of highly enriched uranium and plutonium.

Subtitle D—Other Matters

- Sec. 3171. Indemnification of Department of Energy contractors.
- Sec. 3172. Support for public education in the vicinity of Los Alamos National Laboratory, New Mexico.
- Sec. 3173. Worker health and safety rules for Department of Energy nuclear facilities.
- Sec. 3174. Extension of authority to appoint certain scientific, engineering, and technical personnel.
- Sec. 3175. One-year extension of panel to assess the reliability, safety, and security of the United States nuclear stockpile.
- Sec. 3176. Report on status of environmental management initiatives to accelerate the reduction of environmental risks and challenges posed by the legacy of the Cold War.

Subtitle E—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

- Sec. 3181. Findings.
- Sec. 3182. Disposition of weapons-usable plutonium at Savannah River Site.
- Sec. 3183. Study of facilities for storage of plutonium and plutonium materials at Savannah River Site.

Subtitle A—National Security Programs Authorizations

SEC. 3101. NATIONAL NUCLEAR SECURITY ADMINISTRATION.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for the activities of the National Nuclear Security Administration in carrying out programs necessary for national security in the amount of \$8,038,490,000, to be allocated as follows:

- (1) For weapons activities, \$5,901,641,000.
- (2) For defense nuclear nonproliferation activities, \$1,104,130,000.
- (3) For naval reactors, \$706,790,000.
- (4) For the Office of the Administrator for Nuclear Security, \$325,929,000.

(b) **AUTHORIZATION OF NEW PLANT PROJECTS.**—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects as follows:

- (1) For weapons activities, the following new plant projects:
 - Project 03–D–101, Sandia underground reactor facility (SURF), Sandia National Laboratories, Albuquerque, New Mexico, \$2,000,000.
 - Project 03–D–103, project engineering and design, various locations, \$17,039,000.
 - Project 03–D–121, gas transfer capacity expansion, Kansas City Plant, Kansas City, Missouri, \$4,000,000.
 - Project 03–D–122, prototype purification facility, Y–12 plant, Oak Ridge, Tennessee, \$20,800,000.
 - Project 03–D–123, special nuclear materials requalification, Pantex plant, Amarillo, Texas, \$3,000,000.

- (2) For naval reactors, the following new plant project:
Project 03-D-201, cleanroom technology facility, Bettis Atomic Power Laboratory, West Mifflin, Pennsylvania, \$7,200,000.

SEC. 3102. DEFENSE ENVIRONMENTAL MANAGEMENT.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for environmental management activities in carrying out programs necessary for national security in the amount of \$6,759,846,000, to be allocated as follows:

(1) For defense environmental restoration and waste management, \$4,510,133,000.

(2) For defense environmental management cleanup reform in carrying out environmental restoration and waste management activities necessary for national security programs, \$982,000,000.

(3) For defense facilities closure projects, \$1,109,314,000.

(4) For defense environmental management privatization, \$158,399,000.

(b) **AUTHORIZATION OF NEW PLANT PROJECTS.**—From funds referred to in subsection (a) that are available for carrying out plant projects, the Secretary of Energy may carry out new plant projects as follows:

(1) For environmental restoration and waste management activities, the following new plant project:

Project 03-D-403, immobilized high-level waste interim storage facility, Richland, Washington, \$6,363,000.

(2) For defense environmental management cleanup reform, the following new plant project:

Project 03-D-414, project engineering and design, various locations, \$8,800,000.

SEC. 3103. OTHER DEFENSE ACTIVITIES.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for other defense activities in carrying out programs necessary for national security in the amount of \$462,664,000.

SEC. 3104. DEFENSE NUCLEAR WASTE DISPOSAL.

Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 2003 for defense nuclear waste disposal for payment to the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) in the amount of \$315,000,000.

Subtitle B—Program Authorizations, Restrictions, and Limitations

42 USC 7274s.

**SEC. 3141. ANNUAL ASSESSMENTS AND REPORTS TO THE PRESIDENT
AND CONGRESS REGARDING THE CONDITION OF THE
UNITED STATES NUCLEAR WEAPONS STOCKPILE.**

(a) **ANNUAL ASSESSMENTS REQUIRED.**—For each nuclear weapon type in the stockpile of the United States, each official specified in subsection (b) on an annual basis shall, to the extent such official is directly responsible for the safety, reliability, performance,

or military effectiveness of that nuclear weapon type, complete an assessment of the safety, reliability, performance, or military effectiveness (as the case may be) of that nuclear weapon type.

(b) COVERED OFFICIALS.—The officials referred to in subsection (a) are the following:

(1) The head of each national security laboratory.

(2) The commander of the United States Strategic Command.

(c) USE OF TEAMS OF EXPERTS FOR ASSESSMENTS.—The head of each national security laboratory shall establish and use one or more teams of experts, known as “red teams”, to assist in the assessments required by subsection (a). Each such team shall include experts from both of the other national security laboratories. Each such team for a national security laboratory shall—

(1) review the matters covered by the assessments under subsection (a) performed by the head of that laboratory;

(2) subject such matters to challenge; and

(3) submit the results of such review and challenge, together with the findings and recommendations of such team with respect to such review and challenge, to the head of that laboratory.

(d) REPORT ON ASSESSMENTS.—Not later than December 1 of each year, each official specified in subsection (b) shall submit to the Secretary concerned, and to the Nuclear Weapons Council, a report on the assessments that such official was required by subsection (a) to complete. The report shall include the following: Deadline.

(1) The results of each such assessment.

(2)(A) Such official’s determination as to whether or not one or more underground nuclear tests are necessary to resolve any issues identified in the assessments and, if so—

(i) an identification of the specific underground nuclear tests that are necessary to resolve such issues; and

(ii) a discussion of why options other than an underground nuclear test are not available or would not resolve such issues.

(B) An identification of the specific underground nuclear tests which, while not necessary, might have value in resolving any such issues and a discussion of the anticipated value of conducting such tests.

(C) Such official’s determination as to the readiness of the United States to conduct the underground nuclear tests identified under subparagraphs (A)(i) and (B), if directed by the President to do so.

(3) In the case of a report submitted by the head of a national security laboratory—

(A) a concise statement regarding the adequacy of the science-based tools and methods being used to determine the matters covered by the assessments;

(B) a concise statement regarding the adequacy of the tools and methods employed by the manufacturing infrastructure required by section 3137 of the National Defense Authorization Act for Fiscal Year 1996 (42 U.S.C. 2121 note) to identify and fix any inadequacy with respect to the matters covered by the assessments; and

(C) a concise summary of the findings and recommendations of any teams under subsection (c) that relate

to the assessments, together with a discussion of those findings and recommendations.

(4) In the case of a report submitted by the Commander of the United States Strategic Command, a discussion of the relative merits of other nuclear weapon types (if any), or compensatory measures (if any) that could be taken, that could enable accomplishment of the missions of the nuclear weapon types to which the assessments relate, should such assessments identify any deficiency with respect to such nuclear weapon types.

(5) An identification and discussion of any matter having an adverse effect on the capability of the official submitting the report to accurately determine the matters covered by the assessments.

Deadline.

(e) SUBMITTALS TO THE PRESIDENT AND CONGRESS.—(1) Not later than March 1 of each year, the Secretary of Defense and the Secretary of Energy shall submit to the President—

(A) each report, without change, submitted to either Secretary under subsection (d) during the preceding year;

(B) any comments that the Secretaries individually or jointly consider appropriate with respect to each such report;

(C) the conclusions that the Secretaries individually or jointly reach as to the safety, reliability, performance, and military effectiveness of the nuclear weapons stockpile of the United States; and

(D) any other information that the Secretaries individually or jointly consider appropriate.

(2) Not later than March 15 of each year, the President shall forward to Congress the matters received by the President under paragraph (1) for that year, together with any comments the President considers appropriate.

(f) CLASSIFIED FORM.—Each submittal under subsection (e) shall be in classified form only, with the classification level required for each portion of such submittal marked appropriately.

(g) DEFINITIONS.—In this section:

(1) The term “national security laboratory” has the meaning given such term in section 3281 of the National Nuclear Security Administration Act (50 U.S.C. 2471).

(2) The term “Secretary concerned” means—

(A) the Secretary of Energy, with respect to matters concerning the Department of Energy; and

(B) the Secretary of Defense, with respect to matters concerning the Department of Defense.

(h) FIRST SUBMISSIONS.—(1) The first submissions made under subsection (d) shall be the submissions required to be made in 2003.

(2) The first submissions made under subsection (e) shall be the submissions required to be made in 2004.

SEC. 3142. PLANS FOR ACHIEVING ENHANCED READINESS POSTURE FOR RESUMPTION BY THE UNITED STATES OF UNDERGROUND NUCLEAR WEAPONS TESTS.

(a) PLANS REQUIRED.—The Secretary of Energy, in consultation with the Administrator for Nuclear Security, shall prepare plans for achieving, not later than one year after the date on which the plans are submitted under subsection (c), readiness postures

of six months, 12 months, 18 months, and 24 months for resumption by the United States of underground nuclear weapons tests.

(b) **READINESS POSTURE.**—For purposes of this section, a readiness posture of a specified number of months for resumption by the United States of underground nuclear weapons tests is achieved when the Department of Energy has the capability to resume such tests, if directed by the President to resume such tests, not later than the specified number of months after the date on which the President so directs.

(c) **REPORT.**—The Secretary shall include with the budget justification materials submitted to Congress in support of the Department of Energy budget for fiscal year 2004 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) a report on the plans required by subsection (a). The report shall include—

(1) an assessment of the current readiness posture for resumption by the United States of underground nuclear weapons tests;

(2) the plans required by subsection (a) and, for each such plan, the estimated cost for implementing such plan and an estimate of the annual cost of maintaining the readiness posture to which the plan relates; and

(3) the recommendation of the Secretary, developed in consultation with the Secretary of Defense, as to the optimal readiness posture for resumption by the United States of underground nuclear weapons tests, including the basis for that recommendation.

SEC. 3143. REQUIREMENTS FOR SPECIFIC REQUEST FOR NEW OR MODIFIED NUCLEAR WEAPONS. 42 USC 7271d.

(a) **REQUIREMENT FOR REQUEST FOR FUNDS FOR DEVELOPMENT.**—(1) In any fiscal year after fiscal year 2002 in which the Secretary of Energy plans to carry out activities described in paragraph (2) relating to the development of a new nuclear weapon or modified nuclear weapon, the Secretary shall specifically request funds for such activities in the budget of the President for that fiscal year under section 1105(a) of title 31, United States Code.

(2) The activities described in this paragraph are as follows:

(A) The conduct, or provision for conduct, of research and development which could lead to the production of a new nuclear weapon by the United States.

(B) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a new nuclear weapon by the United States.

(C) The conduct, or provision for conduct, of research and development which could lead to the production of a modified nuclear weapon by the United States.

(D) The conduct, or provision for conduct, of engineering or manufacturing to carry out the production of a modified nuclear weapon by the United States.

(b) **BUDGET REQUEST FORMAT.**—The Secretary shall include in a request for funds under subsection (a) the following:

(1) In the case of funds for activities described in subparagraph (A) or (C) of subsection (a)(2), a single dedicated line item for all such activities for new nuclear weapons or modified nuclear weapons that are in phase 1, 2, or 2A or phase 6.1, 6.2, or 6.2A (as the case may be), or any concept work prior

to phase 1 or 6.1 (as the case may be), of the nuclear weapons acquisition process.

(2) In the case of funds for activities described in subparagraph (B) or (D) of subsection (a)(2), a dedicated line item for each such activity for a new nuclear weapon or modified nuclear weapon that is in phase 3 or higher or phase 6.3 or higher (as the case may be) of the nuclear weapons acquisition process.

(c) EXCEPTION.—Subsection (a) shall not apply to funds for purposes of conducting, or providing for the conduct of, research and development, or manufacturing and engineering, determined by the Secretary to be necessary—

- (1) for the nuclear weapons life extension program;
- (2) to modify an existing nuclear weapon solely to address safety or reliability concerns; or
- (3) to address proliferation concerns.

(d) DEFINITIONS.—In this section:

(1) The term “life extension program” means the program to repair or replace non-nuclear components, or to modify the pit or canned subassembly, of nuclear weapons that are in the nuclear weapons stockpile on the date of the enactment of this Act in order to assure that such nuclear weapons retain the ability to meet the military requirements applicable to such nuclear weapons when first placed in the nuclear weapons stockpile.

(2) The term “modified nuclear weapon” means a nuclear weapon that contains a pit or canned subassembly, either of which—

(A) is in the nuclear weapons stockpile as of the date of the enactment of this Act; and

(B) is being modified in order to meet a military requirement that is other than the military requirements applicable to such nuclear weapon when first placed in the nuclear weapons stockpile.

(3) The term “new nuclear weapon” means a nuclear weapon that contains a pit or canned subassembly, either of which is neither—

(A) in the nuclear weapons stockpile on the date of the enactment of this Act; nor

(B) in production as of that date.

SEC. 3144. DATABASE TO TRACK NOTIFICATION AND RESOLUTION PHASES OF SIGNIFICANT FINDING INVESTIGATIONS.

(a) AVAILABILITY OF FUNDS FOR DATABASE.—Amounts authorized to be appropriated by section 3101(a)(1) for the National Nuclear Security Administration for weapons activities shall be available to the Deputy Administrator for Nuclear Security for Defense Programs for the development and implementation of a database for all national security laboratories to track the notification and resolution phases of Significant Finding Investigations (SFIs). The purpose of the database is to facilitate the monitoring of the progress and accountability of the national security laboratories in Significant Finding Investigations.

(b) IMPLEMENTATION DEADLINE.—The database required by subsection (a) shall be implemented not later than September 30, 2003.

(c) NATIONAL SECURITY LABORATORY DEFINED.—In this section, the term “national security laboratory” has the meaning given that term in section 3281(1) of the National Nuclear Security Administration Act (title XXXII of Public Law 106-65; 113 Stat. 968; 50 U.S.C. 2471(1)).

SEC. 3145. DEFENSE ENVIRONMENTAL MANAGEMENT CLEANUP REFORM PROGRAM.

(a) PROGRAM REQUIRED.—From funds made available pursuant to section 3102(a)(2) for defense environmental management cleanup reform, the Secretary of Energy shall carry out a program to reform DOE environmental management activities. In carrying out the program, the Secretary shall allocate, to each site for which the Secretary has submitted to the congressional defense committees a site performance management plan, the amount of those funds that such plan requires.

(b) TRANSFER AND MERGER OF FUNDS.—(1) Funds so allocated shall, notwithstanding section 3624, be transferred to the account for DOE environmental management activities and, subject to paragraph (2) and subsection (c), shall be merged with and be available for the same purposes and for the same period as the funds available in such account. The authority provided by section 3629 shall apply to funds so transferred.

(2) No funds so allocated may be obligated or expended until 30 days after the Secretary submits to the congressional defense committees a description of the activities to be carried out at each site to which funds are so allocated.

(c) LIMITATION ON USE OF ALL MERGED FUNDS.—Upon a transfer and merger of funds under subsection (b), all funds in the merged account that are available with respect to the site may be used only to carry out the site performance management plan for the site.

(d) SITE PERFORMANCE MANAGEMENT PLAN DEFINED.—For purposes of this section, a site performance management plan for a site is a plan, agreed to by the applicable Federal and State agencies with regulatory jurisdiction with respect to the site, for the performance of activities to accelerate the reduction of environmental risk in connection with, and to accelerate the environmental cleanup of, the site.

(e) DOE ENVIRONMENTAL MANAGEMENT ACTIVITIES DEFINED.—For purposes of this section, the term “DOE environmental management activities” means environmental restoration and waste management activities of the Department of Energy in carrying out programs necessary for national security.

SEC. 3146. LIMITATION ON OBLIGATION OF FUNDS FOR ROBUST NUCLEAR EARTH PENETRATOR PROGRAM PENDING SUBMISSION OF REPORT.

(a) REPORT-AND-WAIT REQUIREMENT.—None of the funds made available to the Secretary of Energy for fiscal year 2003 for the Robust Nuclear Earth Penetrator program may be obligated until—

(1) the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report described in subsection (b); and

(2) a period of 30 days has passed after such report is received by those committees.

(b) REPORT.—A report under subsection (a)(1) is a report on the Robust Nuclear Earth Penetrator program, prepared by the

Secretary of Defense in consultation with the Secretary of Energy, that sets forth the following:

(1) The military requirements for the Robust Nuclear Earth Penetrator.

(2) The nuclear weapons employment policy regarding the Robust Nuclear Earth Penetrator.

(3) A detailed description of the categories or types of targets that the Robust Nuclear Earth Penetrator is designed to hold at risk.

(4) An assessment of the ability of conventional weapons to defeat the same categories and types of targets as are described pursuant to paragraph (3).

Subtitle C—Proliferation Matters

22 USC 5952
note.

SEC. 3151. TRANSFER TO NATIONAL NUCLEAR SECURITY ADMINISTRATION OF DEPARTMENT OF DEFENSE'S COOPERATIVE THREAT REDUCTION PROGRAM RELATING TO ELIMINATION OF WEAPONS GRADE PLUTONIUM PRODUCTION IN RUSSIA.

(a) **TRANSFER OF PROGRAM.**—There are hereby transferred to the Administrator for Nuclear Security the following:

(1) The program, within the Cooperative Threat Reduction program of the Department of Defense, relating to the elimination of weapons grade plutonium production in Russia.

(2) All functions, powers, duties, and activities of that program performed before the date of the enactment of this Act by the Department of Defense.

(b) **TRANSFER OF ASSETS.**—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in paragraph (2), so much of the property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the program transferred by subsection (a) are transferred to the Administrator for use in connection with the program transferred.

(2) The Cooperative Threat Reduction funds specified in this paragraph are the following:

(A) Fiscal year 2002 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1254; 22 U.S.C. 5952 note).

(B) Fiscal year 2001 Cooperative Threat Reduction funds, as specified in section 1301(b) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-339; 22 U.S.C. 5959 note).

(C) Fiscal year 2000 Cooperative Threat Reduction funds, as specified in section 1301(b) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 792; 22 U.S.C. 5952 note).

(c) **AVAILABILITY OF TRANSFERRED FUNDS.**—(1) Notwithstanding any restriction or limitation in law on the availability of Cooperative Threat Reduction funds specified in subsection (b)(2), the Cooperative Threat Reduction funds transferred under subsection (b) for

the program referred to in subsection (a) shall be available for activities as follows:

(A) To design and construct, refurbish, or both, fossil fuel energy plants in Russia that provide alternative sources of energy to the energy plants in Russia that produce weapons grade plutonium.

(B) To carry out limited safety upgrades of not more than three energy plants in Russia that produce weapons grade plutonium, provided that such upgrades do not extend the life of those plants.

(2) Amounts available under paragraph (1) for activities referred to in that paragraph shall remain available for obligation for three fiscal years.

(d) LIMITATION.—(1) Of the amounts authorized to be appropriated by this title or any other Act for the program referred to in subsection (a), the Administrator for Nuclear Security may not obligate any funds for construction, or obligate or expend more than \$100,000,000 for that program, until 30 days after the later of—

(A) the date on which the Administrator submits to the congressional defense committees, the Committee on International Relations of the House of Representatives, and the Committee on Foreign Relations of the Senate, a copy of an agreement or agreements entered into between the United States Government and the Government of the Russian Federation to shut down the three plutonium-producing reactors in Russia as specified under paragraph (2); and

(B) the date on which the Administrator submits to the committees specified in subparagraph (A) a report on a plan to achieve international participation in the program referred to in subsection (a), including cost sharing.

(2) The agreement (or agreements) under paragraph (1)(A) shall contain—

(A) a commitment to shut down the three plutonium-producing reactors;

(B) the date on which each such reactor will be shut down;

(C) a schedule and milestones for each such reactor to complete the shutdown of such reactor by the date specified under subparagraph (B);

(D) a schedule and milestones for refurbishment or construction of fossil fuel energy plants to be undertaken by the Government of the Russian Federation in support of the program;

(E) an arrangement for access to sites and facilities necessary to meet such schedules and milestones;

(F) an arrangement for audit and examination procedures in order to evaluate progress in meeting such schedules and milestones; and

(G) any cost sharing arrangements between the United States Government and the Government of the Russian Federation in undertaking activities under such agreement (or agreements).

SEC. 3152. REPEAL OF REQUIREMENT FOR REPORTS ON OBLIGATION OF FUNDS FOR PROGRAMS ON FISSILE MATERIALS IN RUSSIA.

Section 3131 of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 617; 22 U.S.C. 5952 note) is amended—

- (1) in subsection (a), by striking “(a) AUTHORITY.—”; and
- (2) by striking subsection (b).

SEC. 3153. EXPANSION OF ANNUAL REPORTS ON STATUS OF NUCLEAR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAMS.

(a) COVERED PROGRAMS.—Subsection (a) of section 3171 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-475; 22 U.S.C. 5952 note) is amended by striking “Russia that” and inserting “countries where such materials”.

(b) REPORT CONTENTS.—Subsection (b) of that section is amended—

- (1) in paragraph (1) by inserting “in each country covered by subsection (a)” after “locations,”;
- (2) in paragraph (2), by striking “in Russia” and inserting “in each such country”;
- (3) in paragraph (3), by inserting “in each such country” after “subsection (a)”;
- (4) in paragraph (5), by striking “by total amount and by amount per fiscal year” and inserting “by total amount per country and by amount per fiscal year per country”.

SEC. 3154. TESTING OF PREPAREDNESS FOR EMERGENCIES INVOLVING NUCLEAR, RADIOLOGICAL, CHEMICAL, OR BIOLOGICAL WEAPONS.

(a) EXTENSION OF TESTING.—Section 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of Public Law 104-201; 110 Stat. 2720; 50 U.S.C. 2315) is amended—

- (1) in subsection (a)(2), by striking “of five successive fiscal years beginning with fiscal year 1997” and inserting “of fiscal years 1997 through 2013”; and
- (2) in subsection (b)(2), by striking “of five successive fiscal years beginning with fiscal year 1997” and inserting “of fiscal years 1997 through 2013”.

50 USC 2315
note.

(b) CONSTRUCTION OF EXTENSION WITH DESIGNATION OF ATTORNEY GENERAL AS LEAD OFFICIAL.—The amendments made by subsection (a) may not be construed as modifying the designation of the President titled “Designation of the Attorney General as the Lead Official for the Emergency Response Assistance Program Under Sections 1412 and 1415 of the National Defense Authorization Act for Fiscal Year 1997”, dated April 6, 2000, designating the Attorney General to assume programmatic and funding responsibilities for the Emergency Response Assistance Program under sections 1412 and 1415 of the Defense Against Weapons of Mass Destruction Act of 1996 (title XIV of the National Defense Authorization Act for Fiscal Year 1997).

**SEC. 3155. COOPERATIVE PROGRAM ON RESEARCH, DEVELOPMENT,
AND DEMONSTRATION OF TECHNOLOGY REGARDING
NUCLEAR OR RADIOLOGICAL TERRORISM.**

50 USC 2315
note.

(a) **PROGRAM REQUIRED.**—The Administrator for Nuclear Security shall carry out with the Russian Federation a cooperative program on the research, development, and demonstration of technologies for protection from and response to nuclear or radiological terrorism.

(b) **PROGRAM ELEMENTS.**—In carrying out the program required by subsection (a), the Administrator shall—

(1) conduct research and development of technology for protection from nuclear or radiological terrorism, including technology for the detection, identification, assessment, control, and disposition of radiological materials that could be used for nuclear terrorism; and

(2) provide, where feasible, for the demonstration to other countries of technologies or methodologies on matters relating to nuclear or radiological terrorism, including—

(A) the demonstration of technologies developed under the program to respond to nuclear or radiological terrorism;

(B) the demonstration of technologies developed under the program for the disposal of radioactive materials;

(C) the demonstration of methodologies developed under the program for use in evaluating the radiological threat of radiological sources identified as not under current accounting programs in the audit report of the Inspector General of the Department of Energy titled “Accounting for Sealed Sources of Nuclear Material Provided to Foreign Countries” (DOE/IG-0546);

(D) in coordination with the Nuclear Regulatory Commission, the demonstration of methodologies developed under the program to facilitate the development of a regulatory framework for licensing and controlling radioactive sources; and

(E) in coordination with the Office of Environment, Safety, and Health of the Department of Energy, the demonstration of methodologies developed under the program to facilitate development of consistent criteria for screening international transfers of radiological materials.

(c) **CONSULTATION.**—In carrying out activities in accordance with subsection (b)(2), the Administrator shall consult with—

(1) the Secretary of Defense, Secretary of State, and Secretary of Commerce; and

(2) the International Atomic Energy Agency.

(d) **AMOUNT FOR ACTIVITIES.**—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$15,000,000 may be available for carrying out this section.

**SEC. 3156. MATTERS RELATING TO THE INTERNATIONAL MATERIALS
PROTECTION, CONTROL, AND ACCOUNTING PROGRAM
OF THE DEPARTMENT OF ENERGY.**

50 USC 2343.

(a) **RADIOLOGICAL DISPERSAL DEVICE MATERIALS PROTECTION, CONTROL, AND ACCOUNTING.**—The Secretary of Energy may establish within the International Materials Protection, Control, and Accounting program of the Department of Energy a program on

the protection, control, and accounting of materials usable in radiological dispersal devices. In establishing such program, the Secretary shall—

- (1) identify the sites and radiological materials to be covered by such program;
- (2) carry out a risk assessment of such radiological materials; and
- (3) identify and establish the costs of and schedules for such program.

(b) **REVISED FOCUS FOR MATERIALS PROTECTION, CONTROL, AND ACCOUNTING PROGRAM OF RUSSIAN FEDERATION.**—(1) The Secretary of Energy shall work cooperatively with the Russian Federation to develop, as soon as practicable but not later than January 1, 2013, a sustainable nuclear materials protection, control, and accounting system for the nuclear materials of the Russian Federation that is supported solely by the Russian Federation.

(2) The Secretary shall work with the Russian Federation to identify various alternatives to provide the United States adequate transparency in the nuclear materials protection, control, and accounting program of the Russian Federation to assure that such program is meeting applicable goals for nuclear materials protection, control, and accounting.

(c) **AMOUNT FOR ACTIVITIES.**—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$5,000,000 may be available for carrying out this section.

22 USC 5952
note.

SEC. 3157. ACCELERATED DISPOSITION OF HIGHLY ENRICHED URANIUM.

(a) **PROGRAM ON ACCELERATED DISPOSITION OF HEU AUTHORIZED.**—(1) The Secretary of Energy may carry out a program to pursue with the Russian Federation options for blending highly enriched uranium so that the concentration of U-235 in such uranium is below 20 percent.

(2) The options pursued under paragraph (1) shall include expansion of the Material Consolidation and Conversion program of the Department of Energy to include—

- (A) additional facilities for the blending of highly enriched uranium; and
- (B) additional centralized secure storage facilities for highly enriched uranium designated for blending.

(3) Any site selected for the storage of uranium or blended material under paragraph (2)(B) shall undergo complete materials protection, control, and accounting upgrades before the commencement of the storage of uranium or blended material at such site under the program.

(b) **CONSTRUCTION WITH HEU DISPOSITION AGREEMENT.**—Nothing in this section may be construed as terminating, modifying, or otherwise affecting requirements for the disposition of highly enriched uranium under the Agreement Between the Government of the United States of America and the Government of the Russian Federation Concerning the Disposition of Highly Enriched Uranium Extracted from Nuclear Weapons, signed at Washington on February 18, 1993.

(c) **LIMITATION ON RELEASE FOR SALE OF BLENDED URANIUM.**—Uranium blended under this section may not be released for sale until the earlier of—

(1) January 1, 2014; or

(2) the date on which the Secretary certifies that such uranium can be absorbed into the global market without undue disruption to the uranium mining, conversion, and enrichment industry in the United States.

(d) **AMOUNT FOR ACTIVITIES.**—Of the amount to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$10,000,000 may be available for carrying out this section.

SEC. 3158. STRENGTHENED INTERNATIONAL SECURITY FOR NUCLEAR MATERIALS AND SECURITY OF NUCLEAR OPERATIONS.

50 USC 2344.

(a) **REPORT ON OPTIONS FOR INTERNATIONAL PROGRAM TO STRENGTHEN SECURITY.**—(1) Not later than 270 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on options for an international program to develop strengthened security for nuclear reactors and associated materials outside the United States.

Deadline.

(2) In evaluating options for purposes of the report, the Secretary shall consult with the Nuclear Regulatory Commission and the International Atomic Energy Agency on the feasibility and advisability of actions to reduce the risks associated with terrorist attacks on nuclear reactors outside the United States.

(b) **JOINT PROGRAMS WITH RUSSIA ON PROLIFERATION-RESISTANT NUCLEAR ENERGY TECHNOLOGIES.**—(1) The Secretary shall pursue with the Ministry of Atomic Energy of the Russian Federation joint programs between the United States and the Russian Federation on the development of proliferation-resistant nuclear energy technologies, including advanced fuel cycles.

(2) Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense nuclear nonproliferation, up to \$10,000,000 may be available for carrying out the joint programs referred to in paragraph (1).

(c) **ASSISTANCE REGARDING HOSTILE INSIDERS.**—The Secretary may, utilizing appropriate expertise of the Department of Energy and the Nuclear Regulatory Commission, provide technical assistance to nuclear reactor facilities outside the United States with respect to the interdiction of hostile insiders at such facilities in order to prevent incidents arising from the disablement of the vital systems of such facilities.

SEC. 3159. EXPORT CONTROL PROGRAMS.

50 USC 2345.

(a) **AUTHORITY TO PURSUE OPTIONS FOR STRENGTHENING EXPORT CONTROL PROGRAMS.**—The Secretary of Energy, in coordination with the Secretary of State, may pursue in the region of the former Soviet Union and other regions of concern options for accelerating programs that assist the countries in such regions in improving their domestic export control programs for materials, technologies, and expertise relevant to the construction or use of a nuclear or radiological dispersal device.

(b) **AMOUNT FOR ACTIVITIES.**—Of the amount authorized to be appropriated by section 3101(a)(2) for the Department of Energy for the National Nuclear Security Administration for defense

nuclear nonproliferation, up to \$5,000,000 may be available for carrying out this section.

22 USC 5952
note.

SEC. 3160. PLAN FOR ACCELERATED RETURN OF WEAPONS-USABLE NUCLEAR MATERIALS.

(a) **PLAN FOR ACCELERATED RETURN.**—The Secretary of Energy shall work with the Russian Federation to develop a plan to accelerate the return to Russia of all weapons-usable nuclear materials located in research reactors and other facilities outside Russia that were supplied by the former Soviet Union.

(b) **FUNDING AND SCHEDULES.**—As part of the plan under subsection (a), the Secretary shall identify the funding and schedules required to assist the research reactors and facilities referred to in that subsection in—

- (1) transferring highly enriched uranium to Russia; and
- (2) upgrading the materials protection, control, and accounting procedures at such research reactors and facilities until the weapons-usable nuclear materials in such reactors and facilities are returned in accordance with that subsection.

(c) **COORDINATION.**—The provision of assistance under subsection (b) shall be closely coordinated with the International Atomic Energy Agency.

SEC. 3161. SENSE OF CONGRESS ON AMENDMENT OF CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIALS.

(a) **SENSE OF CONGRESS.**—It is the sense of Congress that the President should encourage amendment of the Convention on the Physical Protection of Nuclear Materials in order to provide that the Convention shall—

- (1) apply to both the domestic and international use and transport of nuclear materials;
- (2) incorporate fundamental practices for the physical protection of such materials; and
- (3) address protection against sabotage involving nuclear materials.

(b) **CONVENTION ON THE PHYSICAL PROTECTION OF NUCLEAR MATERIAL DEFINED.**—In this section, the term “Convention on the Physical Protection of Nuclear Materials” means the Convention on the Physical Protection of Nuclear Materials, With Annex, done at Vienna on October 26, 1979.

SEC. 3162. SENSE OF CONGRESS ON PROGRAM TO SECURE STOCKPILES OF HIGHLY ENRICHED URANIUM AND PLUTONIUM.

It is the sense of Congress that the Secretary of Energy should, in consultation with the Secretary of State and Secretary of Defense, develop a comprehensive program of activities to encourage all countries with nuclear materials to adhere to, or to adopt standards equivalent to, the International Atomic Energy Agency standard on The Physical Protection of Nuclear Material and Nuclear Facilities (INFCIRC/225/Rev.4), relating to the security of stockpiles of highly enriched uranium (HEU) and plutonium (Pu).

Subtitle D—Other Matters

SEC. 3171. INDEMNIFICATION OF DEPARTMENT OF ENERGY CONTRACTORS.

Section 170 d.(1)(A) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)(1)(A)) is amended by striking “until August 1, 2002,” and inserting “until December 31, 2004,”.

SEC. 3172. SUPPORT FOR PUBLIC EDUCATION IN THE VICINITY OF LOS ALAMOS NATIONAL LABORATORY, NEW MEXICO.

(a) **SUPPORT FOR FISCAL YEAR 2003.**—From amounts authorized to be appropriated to the Secretary of Energy by this title, \$6,900,000 shall be available for payment by the Secretary for fiscal year 2003 to the Los Alamos National Laboratory Foundation, a not-for-profit foundation chartered as described in section 3167(a) of the National Defense Authorization Act for Fiscal Year 1998 (Public Law 105–85; 111 Stat. 2052).

(b) **USE OF FUNDS.**—The foundation referred to in subsection (a) shall—

(1) utilize funds provided under this section as a contribution to the endowment fund for the foundation; and

(2) use the income generated from investments in the endowment fund that are attributable to the payment made under this section to fund programs to support the educational needs of children in the public schools in the vicinity of Los Alamos National Laboratory, New Mexico.

(c) **REPEAL OF SUPERSEDED AUTHORITY AND MODIFICATION OF AUTHORITY TO EXTEND CONTRACT.**—(1) Subsection (b) of section 3136 of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1368) is amended to read as follows:

“(b) **SUPPORT FOR FISCAL YEARS 2003 THROUGH 2005.**—Subject to the availability of appropriations, the Secretary may provide for a contract extension through fiscal year 2005 similar to the contract extension referred to in subsection (a)(2).”.

(2) The amendment made by paragraph (1) shall take effect Effective date. on October 1, 2002.

(d) **REPORT.**—(1) The Secretary of Energy, in consultation with the Administrator for Nuclear Security, shall conduct a study of options for funding the contract extension authorized by subsection (b) of such section 3136 (as amended by subsection (c)) other than through annual appropriations. The study should also include options for providing cost of living adjustments to teachers in the public schools in the vicinity of Los Alamos National Laboratory, New Mexico, other than through such contract extension.

(2) Not later than December 31, 2003, the Secretary shall Deadline. submit to the congressional defense committees a report on the study conducted under paragraph (1). The report shall set forth the findings and conclusions of the study, together with any recommendations as a result of the study.

SEC. 3173. WORKER HEALTH AND SAFETY RULES FOR DEPARTMENT OF ENERGY NUCLEAR FACILITIES.

(a) **WORKER HEALTH AND SAFETY RULES.**—The Atomic Energy Act of 1954 is amended by inserting after section 234B (42 U.S.C. 2282b) the following new section:

42 USC 2282c.

“SEC. 234C. WORKER HEALTH AND SAFETY RULES FOR DEPARTMENT OF ENERGY NUCLEAR FACILITIES.**“a. REGULATIONS REQUIRED.—**

“(1) IN GENERAL.—The Secretary shall promulgate regulations for industrial and construction health and safety at Department of Energy facilities that are operated by contractors covered by agreements of indemnification under section 170 d. of the Atomic Energy Act of 1954, after public notice and opportunity for comment under section 553 of title 5, United States Code (commonly known as the ‘Administrative Procedure Act’). Such regulations shall, subject to paragraph (3), provide a level of protection for workers at such facilities that is substantially equivalent to the level of protection currently provided to such workers at such facilities.

“(2) APPLICABILITY.—The regulations promulgated under paragraph (1) shall not apply to any facility that is a component of, or any activity conducted under, the Naval Nuclear Propulsion Program provided for under Executive Order No. 12344, dated February 1, 1982 (42 U.S.C. 7158 note) (as in force pursuant to section 1634 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 42 U.S.C. 7158 note)).

“(3) FLEXIBILITY.—In promulgating the regulations under paragraph (1), the Secretary shall include flexibility—

“(A) to tailor implementation of such regulations to reflect activities and hazards associated with a particular work environment;

“(B) to take into account special circumstances at a facility that is, or is expected to be, permanently closed and that is expected to be demolished, or title to which is expected to be transferred to another entity for reuse; and

“(C) to achieve national security missions of the Department of Energy in an efficient and timely manner.

“(4) NO EFFECT ON HEALTH AND SAFETY ENFORCEMENT.—This subsection does not diminish or otherwise affect the enforcement or the application of any other law, regulation, order, or contractual obligation relating to worker health and safety.

“b. CIVIL PENALTIES.—

“(1) IN GENERAL.—A person (or any subcontractor or supplier of the person) who has entered into an agreement of indemnification under section 170 d. (or any subcontractor or supplier of the person) that violates (or is the employer of a person that violates) any regulation promulgated under subsection a. shall be subject to a civil penalty of not more than \$70,000 for each such violation.

“(2) CONTINUING VIOLATIONS.—If any violation under this subsection is a continuing violation, each day of the violation shall constitute a separate violation for the purpose of computing the civil penalty under paragraph (1).

“c. CONTRACT PENALTIES.—

“(1) IN GENERAL.—The Secretary shall include in each contract with a contractor of the Department who has entered into an agreement of indemnification under section 170 d. provisions that provide an appropriate reduction in the fees or amounts paid to the contractor under the contract in the event

of a violation by the contractor or contractor employee of any regulation promulgated under subsection a.

“(2) CONTENTS.—The provisions shall specify various degrees of violations and the amount of the reduction attributable to each degree of violation.

“d. COORDINATION OF PENALTIES.—

“(1) CHOICE OF PENALTIES.—For any violation by a person of a regulation promulgated under subsection a., the Secretary shall pursue either civil penalties under subsection b. or contract penalties under subsection c., but not both.

“(2) MAXIMUM AMOUNT.—In the case of an entity described in subsection d. of section 234A, the total amount of civil penalties under subsection b. and contract penalties under subsection c. in a fiscal year may not exceed the total amount of fees paid by the Department of Energy to that entity in that fiscal year.

“(3) COORDINATION WITH SECTION 234A.—The Secretary shall ensure that a contractor of the Department is not penalized both under this section and under section 234A for the same violation.”.

(b) PROMULGATION OF INITIAL REGULATIONS.—

(1) DEADLINE FOR PROMULGATING REGULATIONS.—The Secretary of Energy shall promulgate the regulations required by subsection a. of section 234C of the Atomic Energy Act of 1954 (as added by subsection (a)) not later than one year after the date of the enactment of this Act.

(2) EFFECTIVE DATE.—The regulations promulgated under paragraph (1) shall take effect on the date that is one year after the promulgation date of the regulations.

(c) PROHIBITION.—The Secretary of Energy shall not participate in or otherwise support any study or other project relating to a modification in the scope of the regulations enforceable by civil penalties under section 234A or 234C of the Atomic Energy Act of 1954, or the responsibility of the Secretary to implement and enforce such regulations, until after the date on which the regulations for such purposes under such section 234C take effect in accordance with subsection (b).

42 USC 2282c
note.

42 USC 2282c
note.

SEC. 3174. EXTENSION OF AUTHORITY TO APPOINT CERTAIN SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL.

Section 3161(c)(1) of the National Defense Authorization Act for Fiscal Year 1995 (42 U.S.C. 7231 note) is amended by striking “September 30, 2002” and inserting “September 30, 2004”.

SEC. 3175. ONE-YEAR EXTENSION OF PANEL TO ASSESS THE RELIABILITY, SAFETY, AND SECURITY OF THE UNITED STATES NUCLEAR STOCKPILE.

Section 3159 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (42 U.S.C. 2121 note) is amended—

(1) in subsection (f), by striking “atomic energy defense activities” and inserting “the National Nuclear Security Administration”;

(2) in subsection (g), by striking “three years” and all that follows through the period at the end and inserting “April 1, 2003.”; and

(3) by adding at the end the following new subsection:

Deadline.

“(i) FOLLOW-UP REPORT.—Not later than February 1, 2003, the panel shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a follow-up report assessing progress toward meeting the expectations set forth by the panel for the United States stockpile stewardship program, and making recommendations for corrective legislative action where progress has been unsatisfactory.”.

SEC. 3176. REPORT ON STATUS OF ENVIRONMENTAL MANAGEMENT INITIATIVES TO ACCELERATE THE REDUCTION OF ENVIRONMENTAL RISKS AND CHALLENGES POSED BY THE LEGACY OF THE COLD WAR.

(a) REPORT REQUIRED.—The Secretary of Energy shall prepare a report on the status of those environmental management initiatives specified in subsection (c) that are being undertaken to accelerate the reduction of the environmental risks and challenges that, as a result of the legacy of the Cold War, are faced by the Department of Energy, contractors of the Department, and applicable Federal and State agencies with regulatory jurisdiction.

(b) CONTENTS.—The report shall include the following matters:

(1) A discussion of the progress made in reducing such risks and challenges in each of the following areas:

(A) Acquisition strategy and contract management.

(B) Regulatory agreements.

(C) Interim storage and final disposal of high-level waste, spent nuclear fuel, transuranic waste, and low-level waste.

(D) Closure and transfer of environmental remediation sites.

(E) Achievements in innovation by contractors of the Department with respect to accelerated risk reduction and cleanup.

(F) Consolidation of special nuclear materials and improvements in safeguards and security.

(2) An assessment of the progress made in streamlining risk reduction processes of the environmental management program of the Department.

(3) An assessment of the progress made in improving the responsiveness and effectiveness of the environmental management program of the Department.

(4) Any proposals for legislation that the Secretary considers necessary to carry out such initiatives, including the justification for each such proposal.

(c) INITIATIVES COVERED.—The environmental management initiatives referred to in subsection (a) are the initiatives arising out of the report titled “Top-to-Bottom Review of the Environmental Management Program” and dated February 4, 2002, with respect to the environmental restoration and waste management activities of the Department of Energy in carrying out programs necessary for national security.

(d) SUBMISSION OF REPORT.—On the date on which the budget justification materials in support of the Department of Energy budget for fiscal year 2004 (as submitted with the budget of the President under section 1105(a) of title 31, United States Code) are submitted to Congress, the Secretary shall submit to the

congressional defense committees the report required by subsection (a).

Subtitle E—Disposition of Weapons-Usable Plutonium at Savannah River, South Carolina

SEC. 3181. FINDINGS.

Congress makes the following findings:

(1) In September 2000, the United States and the Russian Federation signed a Plutonium Management and Disposition Agreement by which each agreed to dispose of 34 metric tons of weapons-grade plutonium.

(2) The agreement with Russia is a significant step toward safeguarding nuclear materials and preventing their diversion to rogue states and terrorists.

(3) The Department of Energy plans to dispose of 34 metric tons of weapons-grade plutonium in the United States before the end of 2019 by converting the plutonium to a mixed-oxide fuel to be used in commercial nuclear power reactors.

(4) The Department has formulated a plan for implementing the agreement with Russia through construction of a mixed-oxide fuel fabrication facility, the so-called MOX facility, and a pit disassembly and conversion facility at the Savannah River Site, Aiken, South Carolina.

(5) The United States and the State of South Carolina have a compelling interest in the safe, proper, and efficient operation of the plutonium disposition facilities at the Savannah River Site. The MOX facility will also be economically beneficial to the State of South Carolina, and that economic benefit will not be fully realized unless the MOX facility is built.

(6) The State of South Carolina desires to ensure that all plutonium transferred to the State of South Carolina is stored safely; that the full benefits of the MOX facility are realized as soon as possible; and, specifically, that all defense plutonium or defense plutonium materials transferred to the Savannah River Site either be processed or be removed expeditiously.

SEC. 3182. DISPOSITION OF WEAPONS-USABLE PLUTONIUM AT SAVANNAH RIVER SITE.

(a) **PLAN FOR CONSTRUCTION AND OPERATION OF MOX FACILITY.**—(1) Not later than February 1, 2003, the Secretary of Energy shall submit to Congress a plan for the construction and operation of the MOX facility at the Savannah River Site, Aiken, South Carolina.

Deadline.

(2) The plan under paragraph (1) shall include—

(A) a schedule for construction and operations so as to achieve, as of January 1, 2009, and thereafter, the MOX production objective, and to produce 1 metric ton of mixed-oxide fuel by December 31, 2009; and

(B) a schedule of operations of the MOX facility designed so that 34 metric tons of defense plutonium and defense plutonium materials at the Savannah River Site will be processed into mixed-oxide fuel by January 1, 2019.

Deadline.
Reports.

(3)(A) Not later than February 15 each year, beginning in 2004 and continuing for as long as the MOX facility is in use, the Secretary shall submit to Congress a report on the implementation of the plan required by paragraph (1).

(B) Each report under subparagraph (A) for years before 2010 shall include—

(i) an assessment of compliance with the schedules included with the plan under paragraph (2); and

(ii) a certification by the Secretary whether or not the MOX production objective can be met by January 2009.

(C) Each report under subparagraph (A) for years after 2009 shall—

(i) address whether the MOX production objective has been met; and

(ii) assess progress toward meeting the obligations of the United States under the Plutonium Management and Disposition Agreement.

(D) Each report under subparagraph (A) for years after 2017 shall also include an assessment of compliance with the MOX production objective and, if not in compliance, the plan of the Secretary for achieving one of the following:

(i) Compliance with such objective.

(ii) Removal of all remaining defense plutonium and defense plutonium materials from the State of South Carolina.

Deadline.

(b) CORRECTIVE ACTIONS.—(1) If a report under subsection (a)(3) indicates that construction or operation of the MOX facility is behind the applicable schedule under subsection (a)(2) by 12 months or more, the Secretary shall submit to Congress, not later than August 15 of the year in which such report is submitted, a plan for corrective actions to be implemented by the Secretary to ensure that the MOX facility project is capable of meeting the MOX production objective by January 1, 2009.

(2) If a plan is submitted under paragraph (1) in any year after 2008, the plan shall include corrective actions to be implemented by the Secretary to ensure that the MOX production objective is met.

(3) Any plan for corrective actions under paragraph (1) or (2) shall include established milestones under such plan for achieving compliance with the MOX production objective.

(4) If, before January 1, 2009, the Secretary determines that there is a substantial and material risk that the MOX production objective will not be achieved by 2009 because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until such risk is addressed and the Secretary certifies that the MOX production objective can be met by 2009.

(5) If, after January 1, 2009, the Secretary determines that the MOX production objective has not been achieved because of a failure to achieve milestones set forth in the most recent corrective action plan under this subsection, the Secretary shall suspend further transfers of defense plutonium and defense plutonium materials to be processed by the MOX facility until the Secretary certifies that the MOX production objective can be met.

(6)(A) Upon making a determination under paragraph (4) or (5), the Secretary shall submit to Congress a report on the options

for removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the State of South Carolina after April 15, 2002.

(B) Each report under subparagraph (A) shall include an analysis of each option set forth in the report, including the cost and schedule for implementation of such option, and any requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) relating to consideration or selection of such option.

(C) Upon submittal of a report under paragraph (A), the Secretary shall commence any analysis that may be required under the National Environmental Policy Act of 1969 in order to select among the options set forth in the report.

(c) CONTINGENT REQUIREMENT FOR REMOVAL OF PLUTONIUM AND MATERIALS FROM SAVANNAH RIVER SITE.—If the MOX production objective is not achieved as of January 1, 2009, the Secretary shall, consistent with the National Environmental Policy Act of 1969 and other applicable laws, remove from the State of South Carolina, for storage or disposal elsewhere—

Deadlines.

(1) not later than January 1, 2011, not less than 1 metric ton of defense plutonium or defense plutonium materials; and

(2) not later than January 1, 2017, an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002 and January 1, 2017, but not processed by the MOX facility.

(d) ECONOMIC AND IMPACT ASSISTANCE.—(1) If the MOX production objective is not achieved as of January 1, 2011, the Secretary shall, from funds available to the Secretary, pay to the State of South Carolina each year beginning on or after that date through 2016 for economic and impact assistance an amount equal to \$1,000,000 per day, not to exceed \$100,000,000 per year, until the later of—

(A) the date on which the MOX production objective is achieved in such year; or

(B) the date on which the Secretary has removed from the State of South Carolina in such year at least 1 metric ton of defense plutonium or defense plutonium materials.

(2)(A) If, as of January 1, 2017, the MOX facility has not processed mixed-oxide fuel from defense plutonium and defense plutonium materials in the amount of not less than—

(i) one metric ton, in each of any two consecutive calendar years; and

(ii) three metric tons total,

the Secretary shall, from funds available to the Secretary, pay to the State of South Carolina for economic and impact assistance an amount equal to \$1,000,000 per day, not to exceed \$100,000,000 per year, until the removal by the Secretary from the State of South Carolina of an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site between April 15, 2002, and January 1, 2017, but not processed by the MOX facility.

(B) Nothing in this paragraph may be construed to terminate, supersede, or otherwise affect any other requirements of this section.

(3) If the State of South Carolina obtains an injunction that prohibits the Department from taking any action necessary for the Department to meet any deadline specified by this subsection, that deadline shall be extended for a period of time equal to the period of time during which the injunction is in effect.

(e) **FAILURE TO COMPLETE PLANNED DISPOSITION PROGRAM.**—If on July 1 each year beginning in 2020 and continuing for as long as the MOX facility is in use, less than 34 metric tons of defense plutonium or defense plutonium materials have been processed by the MOX facility, the Secretary shall submit to Congress a plan for—

(1) completing the processing of 34 metric tons of defense plutonium and defense plutonium material by the MOX facility; or

(2) removing from the State of South Carolina an amount of defense plutonium or defense plutonium materials equal to the amount of defense plutonium or defense plutonium materials transferred to the Savannah River Site after April 15, 2002, but not processed by the MOX facility.

(f) **REMOVAL OF MIXED-OXIDE FUEL UPON COMPLETION OF OPERATIONS OF MOX FACILITY.**—If, one year after the date on which operation of the MOX facility permanently ceases, any mixed-oxide fuel remains at the Savannah River Site, the Secretary shall submit to Congress—

Reports.

(1) a report on when such fuel will be transferred for use in commercial nuclear reactors; or

(2) a plan for removing such fuel from the State of South Carolina.

(g) **DEFINITIONS.**—In this section:

(1) **MOX PRODUCTION OBJECTIVE.**—The term “MOX production objective” means production at the MOX facility of mixed-oxide fuel from defense plutonium and defense plutonium materials at an average rate equivalent to not less than one metric ton of mixed-oxide fuel per year. The average rate shall be determined by measuring production at the MOX facility from the date the facility is declared operational to the Nuclear Regulatory Commission through the date of assessment.

(2) **MOX FACILITY.**—The term “MOX facility” means the mixed-oxide fuel fabrication facility at the Savannah River Site, Aiken, South Carolina.

(3) **DEFENSE PLUTONIUM; DEFENSE PLUTONIUM MATERIALS.**—The terms “defense plutonium” and “defense plutonium materials” mean weapons-usable plutonium.

SEC. 3183. STUDY OF FACILITIES FOR STORAGE OF PLUTONIUM AND PLUTONIUM MATERIALS AT SAVANNAH RIVER SITE.

(a) **STUDY.**—The Defense Nuclear Facilities Safety Board shall conduct a study of the adequacy of the K-Area Materials Storage facility (KAMS), and related support facilities such as Building 235-F, at the Savannah River Site, Aiken, South Carolina, for the storage of defense plutonium and defense plutonium materials in connection with the disposition program provided in section 3182 and in connection with the amended Record of Decision of the Department of Energy for fissile materials disposition.

Deadline.

(b) **REPORT.**—Not later than one year after the date of the enactment of this Act, the Defense Nuclear Facilities Safety Board

shall submit to Congress and the Secretary of Energy a report on the study conducted under subsection (a).

(c) REPORT ELEMENTS.—The report under subsection (b) shall—

(1) address—

(A) the suitability of KAMS and related support facilities for monitoring and observing any defense plutonium or defense plutonium materials stored in KAMS;

(B) the adequacy of the provisions made by the Department for remote monitoring of such defense plutonium and defense plutonium materials by way of sensors and for handling of retrieval of such defense plutonium and defense plutonium materials; and

(C) the adequacy of KAMS should such defense plutonium and defense plutonium materials continue to be stored at KAMS after 2019; and

(2) include such proposals as the Defense Nuclear Facilities Safety Board considers appropriate to enhance the safety, reliability, and functionality of KAMS.

(d) REPORTS ON ACTIONS ON PROPOSALS.—Not later than 6 months after the date on which the report under subsection (b) is submitted to Congress, and every year thereafter, the Secretary and the Board shall each submit to Congress a report on the actions taken by the Secretary in response to the proposals, if any, included in the report. Deadline.

TITLE XXXII—DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Sec. 3201. Authorization.

SEC. 3201. AUTHORIZATION.

There are authorized to be appropriated for fiscal year 2003, \$19,000,000 for the operation of the Defense Nuclear Facilities Safety Board under chapter 21 of the Atomic Energy Act of 1954 (42 U.S.C. 2286 et seq.).

TITLE XXXIII—NATIONAL DEFENSE STOCKPILE

Sec. 3301. Authorized uses of National Defense Stockpile funds.

SEC. 3301. AUTHORIZED USES OF NATIONAL DEFENSE STOCKPILE FUNDS.

(a) OBLIGATION OF STOCKPILE FUNDS.—During fiscal year 2003, the National Defense Stockpile Manager may obligate up to \$76,400,000 of the funds in the National Defense Stockpile Transaction Fund established under subsection (a) of section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h) for the authorized uses of such funds under subsection (b)(2) of such section, including the disposal of hazardous materials that are environmentally sensitive.

(b) ADDITIONAL OBLIGATIONS.—The National Defense Stockpile Manager may obligate amounts in excess of the amount specified in subsection (a) if the National Defense Stockpile Manager notifies Congress that extraordinary or emergency conditions necessitate

the additional obligations. The National Defense Stockpile Manager may make the additional obligations described in the notification after the end of the 45-day period beginning on the date on which Congress receives the notification.

(c) LIMITATIONS.—The authorities provided by this section shall be subject to such limitations as may be provided in appropriations Acts.

TITLE XXXIV—NAVAL PETROLEUM RESERVES

Sec. 3401. Authorization of appropriations.

SEC. 3401. AUTHORIZATION OF APPROPRIATIONS.

(a) AMOUNT.—There are hereby authorized to be appropriated to the Secretary of Energy \$21,069,000 for fiscal year 2003 for the purpose of carrying out activities under chapter 641 of title 10, United States Code, relating to the naval petroleum reserves.

(b) PERIOD OF AVAILABILITY.—Funds appropriated pursuant to the authorization of appropriations in subsection (a) shall remain available until expended.

TITLE XXXV—MARITIME ADMINISTRATION

Sec. 3501. Authorization of appropriations for fiscal year 2003.

Sec. 3502. Authority to convey vessel USS SPHINX (ARL-24).

Sec. 3503. Independent analysis of title XI insurance guarantee applications.

Sec. 3504. Preparation as artificial reefs and scrapping of obsolete vessels.

SEC. 3501. AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2003.

Funds are hereby authorized to be appropriated for fiscal year 2003, to be available without fiscal year limitation if so provided in appropriations Acts, for the use of the Department of Transportation for the Maritime Administration as follows:

(1) For expenses necessary for operations and training activities, \$93,132,000.

(2) For expenses under the loan guarantee program authorized by title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.), \$54,126,000, of which—

(A) \$50,000,000 is for the cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) of loan guarantees under the program; and

(B) \$4,126,000 is for administrative expenses related to loan guarantee commitments under the program.

(3) For expenses to dispose of obsolete vessels in the National Defense Reserve Fleet, including provision of assistance under section 7 of Public Law 92-402 (as amended by this title), \$20,000,000.

SEC. 3502. AUTHORITY TO CONVEY VESSEL USS SPHINX (ARL-24).

(a) IN GENERAL.—Notwithstanding any other law, the Secretary of Transportation may convey the right, title, and interest of the United States Government in and to the vessel USS SPHINX (ARL-24), to the Dunkirk Historical Lighthouse and Veterans Park

Museum (a not-for-profit corporation, in this section referred to as the “recipient”) for use as a military museum, if—

(1) the recipient agrees to use the vessel as a nonprofit military museum;

(2) the vessel is not used for commercial transportation purposes;

(3) the recipient agrees to make the vessel available to the Government when the Secretary requires use of the vessel by the Government;

(4) the recipient agrees that when the recipient no longer requires the vessel for use as a military museum—

(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State of New York, then—

(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under the provisions of section 501(c)(3) of the Internal Revenue Code, or to the Federal Government or a State or local government for a public purpose; and

(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes;

(5) the recipient agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, or lead paint after conveyance of the vessel, except for claims arising from use by the Government under paragraph (3) or (4); and

(6) the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or a written loan commitment, financial resources of at least \$100,000.

(b) **DELIVERY OF VESSEL.**—If a conveyance is made under this section, the Secretary shall deliver the vessel at the place where the vessel is located on the date of enactment of this Act, in its present condition, and without cost to the Government.

(c) **OTHER UNNEEDED EQUIPMENT.**—The Secretary may also convey any unneeded equipment from other vessels in the National Defense Reserve Fleet in order to restore the USS SPHINX (ARL-24) to museum quality.

(d) **RETENTION OF VESSEL IN NDRF.**—The Secretary shall retain in the National Defense Reserve Fleet the vessel authorized to be conveyed under subsection (a), until the earlier of—

(1) 2 years after the date of the enactment of this Act;

or

(2) the date of conveyance of the vessel under subsection (a).

SEC. 3503. INDEPENDENT ANALYSIS OF TITLE XI INSURANCE GUARANTEE APPLICATIONS.

Section 1104A of the Merchant Marine Act, 1936 (46 App. U.S.C. 1274) is amended—

(1) by adding at the end of subsection (d) the following:
 “(4) The Secretary may obtain independent analysis of an application for a guarantee or commitment to guarantee under this title.”; and

(2) in subsection (f) by inserting “(including for obtaining independent analysis under subsection (d)(4))” after “applications for a guarantee”.

SEC. 3504. PREPARATION AS ARTIFICIAL REEFS AND SCRAPPING OF OBSOLETE VESSELS.

(a) FINANCIAL ASSISTANCE TO STATES FOR PREPARATION OF TRANSFERRED OBSOLETE SHIPS FOR USE AS ARTIFICIAL REEFS.—(1) Public Law 92-402 (16 U.S.C. 1220 et seq.) is amended—

16 USC 1220d.

(A) by redesignating section 7 as section 8; and

(B) by inserting after section 6 the following new section 7:

16 USC 1220c-1.

“SEC. 7. FINANCIAL ASSISTANCE TO STATE TO PREPARE TRANSFERRED SHIP.

“(a) ASSISTANCE AUTHORIZED.—The Secretary, subject to the availability of appropriations, may provide, to any State to which an obsolete ship is transferred under this Act, financial assistance to prepare the ship for use as an artificial reef, including for—

“(1) environmental remediation;

“(2) towing; and

“(3) sinking.

“(b) AMOUNT OF ASSISTANCE.—The Secretary shall determine the amount of assistance under this section with respect to an obsolete ship based on—

“(1) the total amount available for providing assistance under this section;

“(2) the benefit achieved by providing assistance for that ship; and

“(3) the cost effectiveness of disposing of the ship by transfer under this Act and provision of assistance under this section, compared to other disposal options for that ship.

“(c) TERMS AND CONDITIONS.—The Secretary—

“(1) shall require a State seeking assistance under this section to provide cost data and other information determined by the Secretary to be necessary to justify and document the assistance; and

“(2) may require a State receiving such assistance to comply with terms and conditions necessary to protect the environment and the interests of the United States.”.

(2) Section 4(4) of such Act (16 U.S.C. 1220a(4)) is amended by inserting “(except for any financial assistance provided under section 7)” after “at no cost to the Government”.

16 USC 1220
note.
Deadline.

(b) ENVIRONMENTAL BEST MANAGEMENT PRACTICES FOR PREPARING VESSELS FOR USE AS ARTIFICIAL REEFS.—(1) Not later than September 30, 2003, the Secretary of Transportation, acting through the Maritime Administration, and the Administrator of the Environmental Protection Agency shall jointly develop environmental best management practices to be used in the preparation of vessels for use as artificial reefs.

(2) The environmental best management practices under paragraph (1) shall be developed in consultation with the heads of other Federal agencies, and State agencies, having an interest in the use of vessels as artificial reefs.

(3) The environmental best management practices under paragraph (1) shall—

(A) include practices for the preparation of vessels for use as artificial reefs to ensure that vessels so prepared will be environmentally sound in their use as artificial reefs;

(B) ensure that such practices are consistent nationwide;

(C) establish baselines for estimating the costs associated with the preparation of vessels for use as artificial reefs; and

(D) include mechanisms to enhance the utility of the Artificial Reefing Program of the Maritime Administration as an option for the disposal of obsolete vessels.

(4) The environmental best management practices developed under paragraph (1) shall serve as national guidelines to be used by Federal agencies for the preparation of vessels for use as artificial reefs.

(5) The Secretary of Transportation shall submit to Congress a report on the environmental best management practices developed under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 1654A-492). The report shall describe such practices, and may include such other matters as the Secretary considers appropriate.

Reports.

(c) PILOT PROGRAM ON EXPORT OF OBSOLETE VESSELS FOR DISMANTLEMENT AND RECYCLING.—(1)(A) The Secretary of Transportation, Secretary of State, and Administrator of the Environmental Protection Agency shall jointly carry out one or more pilot programs through the Maritime Administration to explore the feasibility and advisability of various alternatives for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

16 USC 5405
note.

(B) The pilot programs shall be carried out in accordance with applicable provisions of law and regulations.

(2)(A) The pilot programs under paragraph (1) shall be carried out during fiscal year 2003.

(B) The pilot programs shall include a total of not more than four vessels.

(C) The authority provided by this subsection is in addition to any other authority available to Maritime Administration for exporting obsolete vessels in the National Defense Reserve Fleet.

(3) Activities under the pilot programs under paragraph (1) shall include the following:

(A) Exploration of the feasibility and advisability of a variety of alternatives (developed for purposes of the pilot programs) for exporting obsolete vessels in the National Defense Reserve Fleet for purposes of the dismantlement and recycling of such vessels.

(B) Response by the Maritime Administration to proposals from the international ship recycling industry for innovative and cost-effective disposal solutions for obsolete vessels in the National Defense Reserve Fleet, including an evaluation of the feasibility and advisability of such proposals.

(C) Demonstration of the extent to which the cost-effective dismantlement or recycling of obsolete vessels in the National Defense Reserve Fleet can be accomplished abroad in manner that appropriately addresses concerns regarding worker health and safety and the environment.

(D) Opportunities to transfer abroad processes, methodologies, and technologies for ship dismantlement and recycling in order to support the pilot programs and to improve international practices and standards for ship dismantlement and recycling.

(E) Exploration of cooperative efforts with foreign governments (under a global action program on ship recycling or other program) in order to foster economically and environmentally sound ship recycling abroad.

(4) The Secretary of Transportation shall submit to Congress a report on the pilot programs under paragraph (1) through the existing ship disposal reporting requirements in section 3502 of Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. The report shall include a description of the activities under the pilot programs, and such recommendations for further legislative or administrative action as the Secretary considers appropriate.

16 USC 5405
note.

(d) CONSTRUCTION.—Nothing in this section shall be construed to establish a preference for the reefing or export of obsolete vessels in the National Defense Reserve Fleet over other alternatives available to the Secretary for the scrapping of such vessels under section 3502(d)(3) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001.

Atomic Energy
Defense Act.

TITLE XXXVI—ATOMIC ENERGY DEFENSE PROVISIONS

Sec. 3601. Short title.

Subtitle A—[Reserved]

**Subtitle B—Department of Energy National Security Authorizations
General Provisions**

Sec. 3620. Definitions.
Sec. 3621. Reprogramming.
Sec. 3622. Minor construction projects.
Sec. 3623. Limits on construction projects.
Sec. 3624. Fund transfer authority.
Sec. 3625. Conceptual and construction design.
Sec. 3626. Authority for emergency planning, design, and construction activities.
Sec. 3627. Scope of authority to carry out plant projects.
Sec. 3628. Availability of funds.
Sec. 3629. Transfer of defense environmental management funds.
Sec. 3630. Transfer of weapons activities funds.
Sec. 3631. Funds available for all national security programs of the Department of Energy.

42 USC 7101
note.

SEC. 3601. SHORT TITLE.

This title may be cited as the “Atomic Energy Defense Act”.

Subtitle A—[Reserved]

**Subtitle B—Department of Energy Na-
tional Security Authorizations General
Provisions**

42 USC 7386.

SEC. 3620. DEFINITIONS.

In this subtitle:

(1) The term “DOE national security authorization” means an authorization of appropriations for activities of the Department of Energy in carrying out programs necessary for national security.

(2) The term “congressional defense committees” means—

(A) the Committee on Armed Services and the Committee on Appropriations of the Senate; and

(B) the Committee on Armed Services and the Committee on Appropriations of the House of Representatives.

(3) The term “minor construction threshold” means \$5,000,000.

SEC. 3621. REPROGRAMMING.

42 USC 7386a.

(a) IN GENERAL.—Except as provided in subsection (b) and in sections 3629 and 3630, the Secretary of Energy may not use amounts appropriated pursuant to a DOE national security authorization for a program—

(1) in amounts that exceed, in a fiscal year—

(A) 115 percent of the amount authorized for that program by that authorization for that fiscal year; or

(B) \$5,000,000 more than the amount authorized for that program by that authorization for that fiscal year; or

(2) which has not been presented to, or requested of, Congress.

(b) EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.—An action described in subsection (a) may be taken if—

(1) the Secretary submits to the congressional defense committees a report referred to in subsection (c) with respect to such action; and

(2) a period of 30 days has elapsed after the date on which such committees receive the report.

(c) REPORT.—The report referred to in subsection (a) is a report containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of the proposed action.

(d) COMPUTATION OF DAYS.—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(e) LIMITATIONS.—

(1) TOTAL AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to a DOE national security authorization for a fiscal year exceed the total amount authorized to be appropriated by that authorization for that fiscal year.

(2) PROHIBITED ITEMS.—Funds appropriated pursuant to a DOE national security authorization may not be used for an item for which Congress has specifically denied funds.

SEC. 3622. MINOR CONSTRUCTION PROJECTS.

42 USC 7386b.

(a) AUTHORITY.—Using operation and maintenance funds or facilities and infrastructure funds authorized by a DOE national security authorization, the Secretary of Energy may carry out minor construction projects.

(b) ANNUAL REPORT.—The Secretary shall submit to the congressional defense committees on an annual basis a report on each exercise of the authority in subsection (a) during the preceding

fiscal year. Each report shall provide a brief description of each minor construction project covered by the report.

(c) **COST VARIATION REPORTS TO CONGRESSIONAL COMMITTEES.**—If, at any time during the construction of any minor construction project authorized by a DOE national security authorization, the estimated cost of the project is revised and the revised cost of the project exceeds the minor construction threshold, the Secretary shall immediately submit to the congressional defense committees a report explaining the reasons for the cost variation.

(d) **MINOR CONSTRUCTION PROJECT DEFINED.**—In this section, the term “minor construction project” means any plant project not specifically authorized by law for which the approved total estimated cost does not exceed the minor construction threshold.

42 USC 7386c.

SEC. 3623. LIMITS ON CONSTRUCTION PROJECTS.

(a) **CONSTRUCTION COST CEILING.**—Except as provided in subsection (b), construction on a construction project which is in support of national security programs of the Department of Energy and was authorized by a DOE national security authorization may not be started, and additional obligations in connection with the project above the total estimated cost may not be incurred, whenever the current estimated cost of the construction project exceeds by more than 25 percent the higher of—

(1) the amount authorized for the project; or

(2) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(b) **EXCEPTION WHERE NOTICE-AND-WAIT GIVEN.**—An action described in subsection (a) may be taken if—

(1) the Secretary of Energy has submitted to the congressional defense committees a report on the actions and the circumstances making such action necessary; and

(2) a period of 30 days has elapsed after the date on which the report is received by the committees.

(c) **COMPUTATION OF DAYS.**—In the computation of the 30-day period under subsection (b), there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than three days to a day certain.

(d) **EXCEPTION FOR MINOR PROJECTS.**—Subsection (a) does not apply to a construction project with a current estimated cost of less than the minor construction threshold.

42 USC 7386d.

SEC. 3624. FUND TRANSFER AUTHORITY.

(a) **TRANSFER TO OTHER FEDERAL AGENCIES.**—The Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to other Federal agencies for the performance of work for which the funds were authorized. Funds so transferred may be merged with and be available for the same purposes and for the same time period as the authorizations of the Federal agency to which the amounts are transferred.

(b) **TRANSFER WITHIN DEPARTMENT OF ENERGY.**—

(1) **TRANSFERS PERMITTED.**—Subject to paragraph (2), the Secretary of Energy may transfer funds authorized to be appropriated to the Department of Energy pursuant to a DOE national security authorization to any other DOE national security authorization. Amounts of authorizations so transferred may be merged with and be available for the same purposes

and for the same period as the authorization to which the amounts are transferred.

(2) **MAXIMUM AMOUNTS.**—Not more than 5 percent of any such authorization may be transferred to another authorization under paragraph (1). No such authorization may be increased or decreased by more than 5 percent by a transfer under such paragraph.

(c) **LIMITATIONS.**—The authority provided by this subsection to transfer authorizations—

(1) may be used only to provide funds for items relating to activities necessary for national security programs that have a higher priority than the items from which the funds are transferred; and

(2) may not be used to provide funds for an item for which Congress has specifically denied funds.

(d) **NOTICE TO CONGRESS.**—The Secretary of Energy shall promptly notify the congressional defense committees of any transfer of funds to or from any DOE national security authorization.

SEC. 3625. CONCEPTUAL AND CONSTRUCTION DESIGN.

42 USC 7386e.

(a) **CONCEPTUAL DESIGN.**—

(1) **REQUIREMENT.**—Subject to paragraph (2) and except as provided in paragraph (3), before submitting to Congress a request for funds for a construction project that is in support of a national security program of the Department of Energy, the Secretary of Energy shall complete a conceptual design for that project.

(2) **REQUESTS FOR CONCEPTUAL DESIGN FUNDS.**—If the estimated cost of completing a conceptual design for a construction project exceeds \$3,000,000, the Secretary shall submit to Congress a request for funds for the conceptual design before submitting a request for funds for the construction project.

(3) **EXCEPTIONS.**—The requirement in paragraph (1) does not apply to a request for funds—

(A) for a construction project the total estimated cost of which is less than the minor construction threshold; or

(B) for emergency planning, design, and construction activities under section 3626.

(b) **CONSTRUCTION DESIGN.**—

(1) **AUTHORITY.**—Within the amounts authorized by a DOE national security authorization, the Secretary may carry out construction design (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such design does not exceed \$600,000.

(2) **LIMITATION ON AVAILABILITY OF FUNDS FOR CERTAIN PROJECTS.**—If the total estimated cost for construction design in connection with any construction project exceeds \$600,000, funds for that design must be specifically authorized by law.

SEC. 3626. AUTHORITY FOR EMERGENCY PLANNING, DESIGN, AND CONSTRUCTION ACTIVITIES.

42 USC 7386f.

(a) **AUTHORITY.**—The Secretary of Energy may use any funds available to the Department of Energy pursuant to a DOE national security authorization, including funds authorized to be appropriated for advance planning, engineering, and construction design,

and for plant projects, to perform planning, design, and construction activities for any Department of Energy national security program construction project that, as determined by the Secretary, must proceed expeditiously in order to protect public health and safety, to meet the needs of national defense, or to protect property.

(b) **LIMITATION.**—The Secretary may not exercise the authority under subsection (a) in the case of a construction project until the Secretary has submitted to the congressional defense committees a report on the activities that the Secretary intends to carry out under this section and the circumstances making those activities necessary.

(c) **SPECIFIC AUTHORITY.**—The requirement of section 3625(b)(2) does not apply to emergency planning, design, and construction activities conducted under this section.

42 USC 7386g.

SEC. 3627. SCOPE OF AUTHORITY TO CARRY OUT PLANT PROJECTS.

In carrying out programs necessary for national security, the authority of the Secretary of Energy to carry out plant projects includes authority for maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, and land acquisition related thereto.

42 USC 7386h.

SEC. 3628. AVAILABILITY OF FUNDS.

(a) **IN GENERAL.**—Except as provided in subsection (b), amounts appropriated pursuant to a DOE national security authorization for operation and maintenance or for plant projects may, when so specified in an appropriations Act, remain available until expended.

(b) **EXCEPTION FOR PROGRAM DIRECTION FUNDS.**—Amounts appropriated for program direction pursuant to a DOE national security authorization for a fiscal year shall remain available to be obligated only until the end of that fiscal year.

42 USC 7386i.

SEC. 3629. TRANSFER OF DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.

(a) **TRANSFER AUTHORITY FOR DEFENSE ENVIRONMENTAL MANAGEMENT FUNDS.**—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer defense environmental management funds from a program or project under the jurisdiction of that office to another such program or project.

(b) **LIMITATIONS.**—

(1) **NUMBER OF TRANSFERS.**—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) **AMOUNTS TRANSFERRED.**—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed \$5,000,000.

(3) **DETERMINATION REQUIRED.**—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer is necessary—

(A) to address a risk to health, safety, or the environment; or

(B) to assure the most efficient use of defense environmental management funds at the field office.

(4) **IMPERMISSIBLE USES.**—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress

has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3621 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Assistant Secretary of Energy for Environmental Management, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term “program or project” means, with respect to a field office of the Department of Energy, a program or project that is for environmental restoration or waste management activities necessary for national security programs of the Department, that is being carried out by that office, and for which defense environmental management funds have been authorized and appropriated.

(2) The term “defense environmental management funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out environmental restoration and waste management activities necessary for national security programs.

SEC. 3630. TRANSFER OF WEAPONS ACTIVITIES FUNDS.

42 USC 7386j.

(a) TRANSFER AUTHORITY FOR WEAPONS ACTIVITIES FUNDS.—The Secretary of Energy shall provide the manager of each field office of the Department of Energy with the authority to transfer weapons activities funds from a program or project under the jurisdiction of that office to another such program or project.

(b) LIMITATIONS.—

(1) NUMBER OF TRANSFERS.—Not more than one transfer may be made to or from any program or project under subsection (a) in a fiscal year.

(2) AMOUNTS TRANSFERRED.—The amount transferred to or from a program or project in any one transfer under subsection (a) may not exceed \$5,000,000.

(3) DETERMINATION REQUIRED.—A transfer may not be carried out by a manager of a field office under subsection (a) unless the manager determines that the transfer—

(A) is necessary to address a risk to health, safety, or the environment; or

(B) will result in cost savings and efficiencies.

(4) LIMITATION.—A transfer may not be carried out by a manager of a field office under subsection (a) to cover a cost overrun or scheduling delay for any program or project.

(5) IMPERMISSIBLE USES.—Funds transferred pursuant to subsection (a) may not be used for an item for which Congress has specifically denied funds or for a new program or project that has not been authorized by Congress.

(c) EXEMPTION FROM REPROGRAMMING REQUIREMENTS.—The requirements of section 3621 shall not apply to transfers of funds pursuant to subsection (a).

(d) NOTIFICATION.—The Secretary, acting through the Administrator for Nuclear Security, shall notify Congress of any transfer of funds pursuant to subsection (a) not later than 30 days after such transfer occurs.

(e) DEFINITIONS.—In this section:

(1) The term “program or project” means, with respect to a field office of the Department of Energy, a program or project that is for weapons activities necessary for national security programs of the Department, that is being carried out by that office, and for which weapons activities funds have been authorized and appropriated.

(2) The term “weapons activities funds” means funds appropriated to the Department of Energy pursuant to an authorization for carrying out weapons activities necessary for national security programs.

42 USC 7386k.

SEC. 3631. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY.

Subject to the provisions of appropriation Acts and section 3621, amounts appropriated pursuant to a DOE national security authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.R. 4546 (S. 2514) (S. 2515):

HOUSE REPORTS: Nos. 107–436, Pts. 1 and 2 (Comm. on Armed Services) and 107–772 (Comm. of Conference).

SENATE REPORTS: No. 107–151 accompanying S. 2514 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 9, considered and passed House.

June 27, considered and passed Senate, amended, in lieu of S. 2514.

July 25, House concurred in Senate amendment with an amendment.

Nov. 12, House agreed to conference report.

Nov. 13, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Dec. 2, Presidential remarks and statement.



Public Law 107–315
107th Congress

Joint Resolution

Approving the location of the commemorative work in the District of Columbia
honoring former President John Adams.

Dec. 2, 2002
[H.J. Res. 117]

Whereas section 8908 of title 40, United States Code, provides that the location of a commemorative work in the area described as Area I shall be deemed disapproved unless approved by law not later than 150 days after notification to Congress that the commemorative work should be located in Area I;

Whereas Public Law 107–62 (115 Stat. 411) authorized the Adams Memorial Foundation to establish a commemorative work on Federal land in the District of Columbia to honor former President John Adams and his legacy; and

Whereas the Secretary of the Interior has notified Congress of her determination that a memorial to former President John Adams should be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. APPROVAL OF COMMEMORATIVE WORK.

Congress approves the location for the commemorative work to honor former President John Adams and his legacy, as authorized by Public Law 107–62 (115 Stat. 411), within Area I as described in section 8908 of title 40, United States Code, subject to the limitation in section 2.

SEC. 2. LIMITATION.

The commemorative work approved in section 1 shall not be located within the Reserve.

SEC. 3. DEFINITION OF RESERVE.

In this resolution the term “Reserve” means the area of The National Mall extending from the United States Capitol to the Lincoln Memorial, and from the White House to the Jefferson Memorial, as depicted on the map entitled “Commemorative Areas Washington, DC and Environs,” numbered 869/86501A and dated May 1, 2002.

Approved December 2, 2002.

LEGISLATIVE HISTORY—H.J. Res. 117:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 20, considered and passed Senate.



Public Law 107-316
107th Congress

An Act

Dec. 2, 2002
[S. 3156]

Paul and Sheila
Wellstone Center
for Community
Building Act.

To provide a grant for the construction of a new community center in St. Paul, Minnesota, in honor of the late Senator Paul Wellstone and his beloved wife, Sheila.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Paul and Sheila Wellstone Center for Community Building Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Senator Paul Wellstone was a tireless advocate for the people of Minnesota, particularly for new immigrants and the economically disadvantaged.

(2) Paul and Sheila Wellstone loved St. Paul, Minnesota, and often walked the neighborhoods of St. Paul to better understand the needs of the people.

(3) Neighborhood House was founded in the late 1800’s in St. Paul, Minnesota, by the women of Mount Zion Temple as a settlement house to help newly arrived Eastern European Jewish immigrants establish a new life and thrive in their new community.

(4) Paul and Sheila Wellstone were very committed to Neighborhood House and its mission to improve the lives of its residents.

(5) When Senator Wellstone became aware that the Neighborhood House Community Center was no longer adequate to meet the needs of the St. Paul community, he suggested that Neighborhood House request Federal funding to construct a new facility.

(6) As an honor to Paul and Sheila Wellstone, a Federal grant shall be awarded to Neighborhood House to be used for the design and construction of a new community center in St. Paul, Minnesota, to be known as “The Paul and Sheila Wellstone Center for Community Building”.

SEC. 3. CONSTRUCTION GRANT.

(a) GRANT AUTHORIZED.—The Secretary of Housing and Urban Development shall award a grant to Neighborhood House of St. Paul, Minnesota, to finance the construction of a new community center in St. Paul, Minnesota, to be known as “The Paul and Sheila Wellstone Center for Community Building”.

(b) MAXIMUM AMOUNT.—The grant awarded under this section shall be \$10,000,000.

(c) USE OF FUNDS.—Funds awarded under this section shall only be used for the design and construction of the Paul and Sheila Wellstone Center for Community Building.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$10,000,000 for fiscal year 2003, which shall remain available until expended, to carry out this Act.

Approved December 2, 2002.

LEGISLATIVE HISTORY—S. 3156:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed Senate and House.



Public Law 107–317
107th Congress

An Act

Dec. 4, 2002
[H.R. 3833]

To facilitate the creation of a new, second-level Internet domain within the United States country code domain that will be a haven for material that promotes positive experiences for children and families using the Internet, provides a safe online environment for children, and helps to prevent children from being exposed to harmful material on the Internet, and for other purposes.

Dot Kids
Implementation
and Efficiency
Act of 2002.
47 USC 901 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Dot Kids Implementation and Efficiency Act of 2002”.

47 USC 941 note.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the World Wide Web presents a stimulating and entertaining opportunity for children to learn, grow, and develop educationally and intellectually;

(2) Internet technology also makes available an extensive amount of information that is harmful to children, as studies indicate that a significant portion of all material available on the Internet is related to pornography;

(3) young children, when trying to use the World Wide Web for positive purposes, are often presented—either mistakenly or intentionally—with material that is inappropriate for their age, which can be extremely frustrating for children, parents, and educators;

(4) exposure of children to material that is inappropriate for them, including pornography, can distort the education and development of the Nation’s youth and represents a serious harm to American families that can lead to a host of other problems for children, including inappropriate use of chat rooms, physical molestation, harassment, and legal and financial difficulties;

(5) young boys and girls, older teens, troubled youth, frequent Internet users, chat room participants, online risk takers, and those who communicate online with strangers are at greater risk for receiving unwanted sexual solicitation on the Internet;

(6) studies have shown that 19 percent of youth (ages 10 to 17) who used the Internet regularly were the targets of unwanted sexual solicitation, but less than 10 percent of the solicitations were reported to the police;

(7) children who come across illegal content should report it to the congressionally authorized CyberTipline, an online

mechanism developed by the National Center for Missing and Exploited Children, for citizens to report sexual crimes against children;

(8) the CyberTipline has received more than 64,400 reports, including reports of child pornography, online enticement for sexual acts, child molestation (outside the family), and child prostitution;

(9) although the computer software and hardware industries, and other related industries, have developed innovative ways to help parents and educators restrict material that is harmful to minors through parental control protections and self-regulation, to date such efforts have not provided a national solution to the problem of minors accessing harmful material on the World Wide Web;

(10) the creation of a “green-light” area within the United States country code Internet domain, that will contain only content that is appropriate for children under the age of 13, is analogous to the creation of a children’s section within a library and will promote the positive experiences of children and families in the United States; and

(11) while custody, care, and nurture of the child reside first with the parent, the protection of the physical and psychological well-being of minors by shielding them from material that is harmful to them is a compelling governmental interest.

(b) PURPOSES.—The purposes of this Act are—

(1) to facilitate the creation of a second-level domain within the United States country code Internet domain for the location of material that is suitable for minors and not harmful to minors; and

(2) to ensure that the National Telecommunications and Information Administration oversees the creation of such a second-level domain and ensures the effective and efficient establishment and operation of the new domain.

SEC. 3. NTIA AUTHORITY.

Section 103(b)(3) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 902(b)(3)) is amended—

(1) in subparagraph (A), by striking “and” at the end;

(2) in subparagraph (B), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following new subparagraph:

“(C) shall assign to the NTIA responsibility for providing for the establishment, and overseeing operation, of a second-level Internet domain within the United States country code domain in accordance with section 157.”.

SEC. 4. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

The National Telecommunications and Information Administration Organization Act (47 U.S.C. 901 et seq.) is amended in part C by adding at the end the following new section:

“SEC. 157. CHILD-FRIENDLY SECOND-LEVEL INTERNET DOMAIN.

47 USC 941.

“(a) RESPONSIBILITIES.—The NTIA shall require the registry selected to operate and maintain the United States country code Internet domain to establish, operate, and maintain a second-level domain within the United States country code domain that provides

access only to material that is suitable for minors and not harmful to minors (in this section referred to as the ‘new domain’).

“(b) CONDITIONS OF CONTRACTS.—

“(1) INITIAL REGISTRY.—The NTIA shall not exercise any option periods under any contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain unless the initial registry agrees, during the 90-day period beginning upon the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002, to carry out, and to operate the new domain in accordance with, the requirements under subsection (c). Nothing in this subsection shall be construed to prevent the initial registry of the United States country code Internet domain from participating in the NTIA’s process for selecting a successor registry or to prevent the NTIA from awarding, to the initial registry, the contract to be successor registry subject to the requirements of paragraph (2).

“(2) SUCCESSOR REGISTRIES.—The NTIA shall not enter into any contract for operating and maintaining the United States country code Internet domain with any successor registry unless such registry enters into an agreement with the NTIA, during the 90-day period after selection of such registry, that provides for the registry to carry out, and the new domain to operate in accordance with, the requirements under subsection (c).

“(c) REQUIREMENTS OF NEW DOMAIN.—The registry and new domain shall be subject to the following requirements:

“(1) Written content standards for the new domain, except that the NTIA shall not have any authority to establish such standards.

“(2) Written agreements with each registrar for the new domain that require that use of the new domain is in accordance with the standards and requirements of the registry.

“(3) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to use the new domain in accordance with the standards and requirements of the registry.

“(4) Rules and procedures for enforcement and oversight that minimize the possibility that the new domain provides access to content that is not in accordance with the standards and requirements of the registry.

“(5) A process for removing from the new domain any content that is not in accordance with the standards and requirements of the registry.

“(6) A process to provide registrants to the new domain with an opportunity for a prompt, expeditious, and impartial dispute resolution process regarding any material of the registrant excluded from the new domain.

“(7) Continuous and uninterrupted service for the new domain during any transition to a new registry selected to operate and maintain new domain or the United States country code domain.

“(8) Procedures and mechanisms to promote the accuracy of contact information submitted by registrants and retained by registrars in the new domain.

“(9) Operationality of the new domain not later than one year after the date of the enactment of the Dot Kids Implementation and Efficiency Act of 2002.

“(10) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit two-way and multiuser interactive services in the new domain, unless the registrant certifies to the registrar that such service will be offered in compliance with the content standards established pursuant to paragraph (1) and is designed to reduce the risk of exploitation of minors using such two-way and multiuser interactive services.

“(11) Written agreements with registrars, which shall require registrars to enter into written agreements with registrants, to prohibit hyperlinks in the new domain that take new domain users outside of the new domain.

“(12) Any other action that the NTIA considers necessary to establish, operate, or maintain the new domain in accordance with the purposes of this section.

“(d) OPTION PERIODS FOR INITIAL REGISTRY.—The NTIA shall grant the initial registry the option periods available under the contract between the NTIA and the initial registry to operate and maintain the United States country code Internet domain if, and may not grant such option periods unless, the NTIA finds that the initial registry has satisfactorily performed its obligations under this Act and under the contract. Nothing in this section shall preempt or alter the NTIA’s authority to terminate such contract for the operation of the United States country code Internet domain for cause or for convenience.

“(e) TREATMENT OF REGISTRY AND OTHER ENTITIES.—

“(1) IN GENERAL.—Only to the extent that such entities carry out functions under this section, the following entities are deemed to be interactive computer services for purposes of section 230(c) of the Communications Act of 1934 (47 U.S.C. 230(c)):

“(A) The registry that operates and maintains the new domain.

“(B) Any entity that contracts with such registry to carry out functions to ensure that content accessed through the new domain complies with the limitations applicable to the new domain.

“(C) Any registrar for the registry of the new domain that is operating in compliance with its agreement with the registry.

“(2) SAVINGS PROVISION.—Nothing in paragraph (1) shall be construed to affect the applicability of any other provision of title II of the Communications Act of 1934 to the entities covered by subparagraph (A), (B), or (C) of paragraph (1).

“(f) EDUCATION.—The NTIA shall carry out a program to publicize the availability of the new domain and to educate the parents of minors regarding the process for utilizing the new domain in combination and coordination with hardware and software technologies that provide for filtering or blocking. The program under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

Deadline.

“(g) COORDINATION WITH FEDERAL GOVERNMENT.—The registry selected to operate and maintain the new domain shall—

“(1) consult with appropriate agencies of the Federal Government regarding procedures and actions to prevent minors and families who use the new domain from being targeted by adults and other children for predatory behavior, exploitation, or illegal actions; and

Deadline. “(2) based upon the consultations conducted pursuant to paragraph (1), establish such procedures and take such actions as the registry may deem necessary to prevent such targeting. The consultations, procedures, and actions required under this subsection shall be commenced not later than 30 days after the date that the new domain first becomes operational and accessible by the public.

Deadline. “(h) COMPLIANCE REPORT.—The registry shall prepare, on an annual basis, a report on the registry’s monitoring and enforcement procedures for the new domain. The registry shall submit each such report, setting forth the results of the review of its monitoring and enforcement procedures for the new domain, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(i) SUSPENSION OF NEW DOMAIN.—If the NTIA finds, pursuant to its own review or upon a good faith petition by the registry, that the new domain is not serving its intended purpose, the NTIA shall instruct the registry to suspend operation of the new domain until such time as the NTIA determines that the new domain can be operated as intended.

“(j) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(1) HARMFUL TO MINORS.—The term ‘harmful to minors’ means, with respect to material, that—

“(A) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, that it is designed to appeal to, or is designed to pander to, the prurient interest;

“(B) the material depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

“(C) taken as a whole, the material lacks serious, literary, artistic, political, or scientific value for minors.

“(2) MINOR.—The term ‘minor’ means any person under 13 years of age.

“(3) REGISTRY.—The term ‘registry’ means the registry selected to operate and maintain the United States country code Internet domain.

“(4) SUCCESSOR REGISTRY.—The term ‘successor registry’ means any entity that enters into a contract with the NTIA to operate and maintain the United States country code Internet domain that covers any period after the termination or expiration of the contract to operate and maintain the United States country code Internet domain, and any option periods under such contract, that was signed on October 26, 2001.

“(5) SUITABLE FOR MINORS.—The term ‘suitable for minors’ means, with respect to material, that it—

“(A) is not psychologically or intellectually inappropriate for minors; and

“(B) serves—

“(i) the educational, informational, intellectual, or cognitive needs of minors; or

“(ii) the social, emotional, or entertainment needs of minors.”.

Approved December 4, 2002.

LEGISLATIVE HISTORY—H.R. 3833:

HOUSE REPORTS: No. 107–449 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 21, considered and passed House.

Nov. 13, considered and passed Senate, amended.

Nov. 14, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Dec. 4, Presidential remarks.



Public Law 107–318
107th Congress

An Act

Dec. 4, 2002
[H.R. 5504]

To provide for the improvement of the safety of child restraints in passenger motor vehicles, and for other purposes.

Anton's Law.
49 USC 30127
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as “Anton’s Law”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) It is the policy of the Department of Transportation that all child occupants of motor vehicles, regardless of seating position, be appropriately restrained in order to reduce the incidence of injuries and fatalities resulting from motor vehicle crashes on the streets, roads, and highways.

(2) Research has shown that very few children between the ages of 4 to 8 years old are in the appropriate restraint for their age when riding in passenger motor vehicles.

(3) Children who have outgrown their child safety seats should ride in a belt-positioning booster seat until an adult seat belt fits properly.

(4) Children who were properly restrained when riding in passenger motor vehicles suffered less severe injuries from accidents than children not properly restrained.

SEC. 3. IMPROVEMENT OF SAFETY OF CHILD RESTRAINTS IN PASSENGER MOTOR VEHICLES.

Regulations.

(a) **IN GENERAL.**—The Secretary of Transportation (hereafter referred to as the “Secretary”) shall initiate a rulemaking proceeding to establish performance requirements for child restraints, including booster seats, for the restraint of children weighing more than 50 pounds.

(b) **ELEMENTS FOR CONSIDERATION.**—In the rulemaking proceeding required by subsection (a), the Secretary shall—

(1) consider whether to include injury performance criteria for child restraints, including booster seats and other products for use in passenger motor vehicles for the restraint of children weighing more than 50 pounds, under the requirements established in the rulemaking proceeding;

(2) consider whether to establish performance requirements for seat belt fit when used with booster seats and other belt guidance devices;

(3) consider whether to address situations where children weighing more than 50 pounds only have access to seating

positions with lap belts, such as allowing tethered child restraints for such children; and

(4) review the definition of the term “booster seat” in Federal motor vehicle safety standard No. 213 under section 571.213 of title 49, Code of Federal Regulations, to determine if it is sufficiently comprehensive.

(c) **COMPLETION.**—The Secretary shall complete the rulemaking proceeding required by subsection (a) not later than 30 months after the date of the enactment of this Act. Deadline.

SEC. 4. DEVELOPMENT OF ANTHROPOMORPHIC TEST DEVICE SIMULATING A 10-YEAR OLD CHILD. Deadlines.

(a) **DEVELOPMENT AND EVALUATION.**—Not later than 24 months after the date of the enactment of this Act, the Secretary shall develop and evaluate an anthropomorphic test device that simulates a 10-year old child for use in testing child restraints used in passenger motor vehicles.

(b) **ADOPTION BY RULEMAKING.**—Within 1 year following the development and evaluation carried out under subsection (a), the Secretary shall initiate a rulemaking proceeding for the adoption of an anthropomorphic test device as developed under subsection (a).

SEC. 5. REQUIREMENTS FOR INSTALLATION OF LAP AND SHOULDER BELTS. Deadlines.

(a) **IN GENERAL.**—Not later than 24 months after the date of the enactment of this Act, the Secretary shall complete a rulemaking proceeding to amend Federal motor vehicle safety standard No. 208 under section 571.208 of title 49, Code of Federal Regulations, relating to occupant crash protection, in order to—

(1) require a lap and shoulder belt assembly for each rear designated seating position in a passenger motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, except that if the Secretary determines that installation of a lap and shoulder belt assembly is not practicable for a particular designated seating position in a particular type of passenger motor vehicle, the Secretary may exclude the designated seating position from the requirement; and

(2) apply that requirement to passenger motor vehicles in phases in accordance with subsection (b).

(b) **IMPLEMENTATION SCHEDULE.**—The requirement prescribed under subsection (a)(1) shall be implemented in phases on a production year basis beginning with the production year that begins not later than 12 months after the end of the year in which the regulations are prescribed under subsection (a). The final rule shall apply to all passenger motor vehicles with a gross vehicle weight rating of 10,000 pounds or less that are manufactured in the third production year of the implementation phase-in under the schedule. Applicability.

SEC. 6. EVALUATION OF INTEGRATED CHILD SAFETY SYSTEMS. Deadlines.

(a) **EVALUATION.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall initiate an evaluation of integrated or built-in child restraints and booster seats. The evaluation should include—

(1) the safety of the child restraint and correctness of fit for the child;

(2) the availability of testing data on the system and vehicle in which the child restraint will be used;

(3) the compatibility of the child restraint with different makes and models;

(4) the cost-effectiveness of mass production of the child restraint for consumers;

(5) the ease of use and relative availability of the child restraint to children riding in motor vehicles; and

(6) the benefits of built-in seats for improving compliance with State child occupant restraint laws.

(b) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary shall transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report of this evaluation.

SEC. 7. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) CHILD RESTRAINT.—The term “child restraint” means any product designed to provide restraint to a child (including booster seats and other products used with a lap and shoulder belt assembly) that meets applicable Federal motor vehicle safety standards prescribed by the National Highway Traffic Safety Administration.

(2) PRODUCTION YEAR.—The term “production year” means the 12-month period between September 1 of a year and August 31 of the following year.

(3) PASSENGER MOTOR VEHICLE.—The term “passenger motor vehicle” has the meaning given that term in section 405(f)(5) of title 23, United States Code.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated \$5,000,000 to the Secretary of Transportation for—

(1) the evaluation required by section 6 of this Act; and

(2) research of the nature and causes of injury to children involved in motor vehicle crashes.

(b) **LIMITATION.**—Funds appropriated under subsection (a) shall not be available for the general administrative expenses of the Secretary.

Approved December 4, 2002.

LEGISLATIVE HISTORY—H.R. 5504 (S. 980):

HOUSE REPORTS: No. 107-726 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 107-137 accompanying S. 980 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 18, considered and passed Senate.



Public Law 107–319
107th Congress

An Act

Dec. 4, 2002
[H.R. 727]

To amend the Consumer Product Safety Act to provide that low-speed electric bicycles are consumer products subject to such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSUMER PRODUCT SAFETY ACT.

The Consumer Product Safety Act (15 U.S.C. 2051 et seq.) is amended by adding at the end the following:

“LOW-SPEED ELECTRIC BICYCLES

15 USC 2085.

“SEC. 38. (a) Notwithstanding any other provision of law, low-speed electric bicycles are consumer products within the meaning of section 3(a)(1) and shall be subject to the Commission regulations published at section 1500.18(a)(12) and part 1512 of title 16, Code of Federal Regulations.

“(b) For the purpose of this section, the term ‘low-speed electric bicycle’ means a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph.

“(c) To further protect the safety of consumers who ride low-speed electric bicycles, the Commission may promulgate new or amended requirements applicable to such vehicles as necessary and appropriate.

“(d) This section shall supersede any State law or requirement with respect to low-speed electric bicycles to the extent that such State law or requirement is more stringent than the Federal law or requirements referred to in subsection (a).”.

49 USC 30102
note.

SEC. 2. MOTOR VEHICLE SAFETY STANDARDS.

For purposes of motor vehicle safety standards issued and enforced pursuant to chapter 301 of title 49, United States Code,

a low-speed electric bicycle (as defined in section 38(b) of the Consumer Product Safety Act) shall not be considered a motor vehicle as defined by section 30102(6) of title 49, United States Code.

Approved December 4, 2002.

LEGISLATIVE HISTORY—H.R. 727:

HOUSE REPORTS: No. 107–5 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Mar. 6, considered and passed House.

Vol. 148 (2002): Nov. 18, considered and passed Senate.



Public Law 107–320
107th Congress

An Act

Dec. 4, 2002
[H.R. 2595]

To direct the Secretary of the Army to convey a parcel of land to Chatham County, Georgia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE TO CHATHAM COUNTY, GEORGIA.

(a) IN GENERAL.—The Secretary of the Army shall convey, by quitclaim deed and without consideration, to the Commissioners of Chatham County, Georgia, all right, title, and interest of the United States in and to the approximately 12-acre parcel of land located on Hutchinson Island, Georgia, adjacent to the Savannah Harbor Tide Gate structure.

(b) SURVEY TO OBTAIN LEGAL DESCRIPTION.—The exact acreage and the legal description of the parcel to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(c) USE OF LAND.—

(1) IN GENERAL.—The parcel conveyed under this section shall remain in public ownership and shall be managed in perpetuity for public recreational purposes or, in the alternative, the parcel may be exchanged for another parcel of equal appraised value that shall remain in public ownership and shall be managed in perpetuity for public recreational purposes.

(2) REVERSION.—If the Secretary determines that the parcel conveyed under this section is being used for purposes other than public recreational purposes, title to the parcel shall revert to the United States or, in the case of an exchange of parcels under paragraph (1), if the Secretary determines that the parcel received in the exchange is being used for purposes other than public recreational purposes title to that parcel shall revert to the United States.

SEC. 2. GENERAL PROVISIONS.

(a) APPLICABILITY OF PROPERTY SCREENING PROVISIONS.—Section 2696 of title 10, United States Code, shall not apply to the conveyance under section 1.

(b) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require that the conveyance under section 1 be subject to such additional terms and conditions as the Secretary considers appropriate and necessary to protect the interests of the United States.

(c) COSTS OF CONVEYANCE.—The County shall be responsible for all reasonable and necessary costs, including real estate transaction and environmental compliance costs, associated with the conveyance.

(d) LIABILITY.—The County shall hold the United States harmless from any liability with respect to activities carried out, on or after the date of the conveyance, on the real property conveyed. The United States shall remain responsible for any liability with respect to activities carried out, before such date, on the real property conveyed.

(e) EASEMENTS.—The County shall provide to the Secretary all required rights of entry or easements necessary for utilities and for access to the Savannah Harbor Tide Gate structure and the dock located adjacent to the structure.

Approved December 4, 2002.

LEGISLATIVE HISTORY—H.R. 2595:

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 11, considered and passed House.

Vol. 148 (2002): Nov. 18, considered and passed Senate.



Public Law 107–321
107th Congress

An Act

Dec. 4, 2002
[H.R. 5469]

To amend title 17, United States Code, with respect to the statutory license for webcasting, and for other purposes.

Small Webcaster
Settlement Act of
2002.
17 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Webcaster Settlement Act of 2002”.

17 USC 114 note.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Some small webcasters who did not participate in the copyright arbitration royalty panel proceeding leading to the July 8, 2002 order of the Librarian of Congress establishing rates and terms for certain digital performances and ephemeral reproductions of sound recordings, as provided in part 261 of the Code of Federal Regulations (published in the Federal Register on July 8, 2002) (referred to in this section as “small webcasters”), have expressed reservations about the fee structure set forth in such order, and have expressed their desire for a fee based on a percentage of revenue.

(2) Congress has strongly encouraged representatives of copyright owners of sound recordings and representatives of the small webcasters to engage in negotiations to arrive at an agreement that would include a fee based on a percentage of revenue.

(3) The representatives have arrived at an agreement that they can accept in the extraordinary and unique circumstances here presented, specifically as to the small webcasters, their belief in their inability to pay the fees due pursuant to the July 8 order, and as to the copyright owners of sound recordings and performers, the strong encouragement of Congress to reach an accommodation with the small webcasters on an expedited basis.

(4) The representatives have indicated that they do not believe the agreement provides for or in any way approximates fair or reasonable royalty rates and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(5) Congress has made no determination as to whether the agreement provides for or in any way approximates fair or reasonable fees and terms, or rates and terms that would have been negotiated in the marketplace between a willing buyer and a willing seller.

(6) Congress likewise has made no determination as to whether the July 8 order is reasonable or arbitrary, and nothing in this Act shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of such order.

(7) It is, nevertheless, in the public interest for the parties to be able to enter into such an agreement without fear of liability for deviating from the fees and terms of the July 8 order, if it is clear that the agreement will not be admissible as evidence or otherwise taken into account in any government proceeding involving the setting or adjustment of the royalties payable to copyright owners of sound recordings for the public performance or reproduction in ephemeral phonorecords or copies of such works, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements.

SEC. 3. SUSPENSION OF CERTAIN PAYMENTS.

17 USC 114 note.

(a) NONCOMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The payments to be made by noncommercial webcasters for the digital performance of sound recordings under section 114 of title 17, United States Code, and the making of ephemeral phonorecords under section 112 of title 17, United States Code, during the period beginning on October 28, 1998, and ending on May 31, 2003, which have not already been paid, shall not be due until June 20, 2003.

Deadline.

(2) DEFINITION.—In this subsection, the term “noncommercial webcaster” has the meaning given that term in section 114(f)(5)(E)(i) of title 17, United States Code, as added by section 4 of this Act.

(b) SMALL COMMERCIAL WEBCASTERS.—

(1) IN GENERAL.—The receiving agent may, in a writing signed by an authorized representative thereof, delay the obligation of any 1 or more small commercial webcasters to make payments pursuant to sections 112 and 114 of title 17, United States Code, for a period determined by such entity to allow negotiations as permitted in section 4 of this Act, except that any such period shall end no later than December 15, 2002. The duration and terms of any such delay shall be as set forth in such writing.

Expiration date.

(2) DEFINITIONS.—In this subsection—

(A) the term “webcaster” has the meaning given that term in section 114(f)(5)(E)(iii) of title 17, United States Code, as added by section 4 of this Act; and

(B) the term “receiving agent” shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002.

SEC. 4. AUTHORIZATION FOR SETTLEMENTS.

Section 114(f) of title 17, United States Code, is amended by adding after paragraph (4) the following:

“(5)(A) Notwithstanding section 112(e) and the other provisions of this subsection, the receiving agent may enter into agreements for the reproduction and performance of sound recordings under section 112(e) and this section by any 1 or more small commercial webcasters or noncommercial webcasters during the period beginning on October 28, 1998,

and ending on December 31, 2004, that, once published in the Federal Register pursuant to subparagraph (B), shall be binding on all copyright owners of sound recordings and other persons entitled to payment under this section, in lieu of any determination by a copyright arbitration royalty panel or decision by the Librarian of Congress. Any such agreement for small commercial webcasters shall include provisions for payment of royalties on the basis of a percentage of revenue or expenses, or both, and include a minimum fee. Any such agreement may include other terms and conditions, including requirements by which copyright owners may receive notice of the use of their sound recordings and under which records of such use shall be kept and made available by small commercial webcasters or noncommercial webcasters. The receiving agent shall be under no obligation to negotiate any such agreement. The receiving agent shall have no obligation to any copyright owner of sound recordings or any other person entitled to payment under this section in negotiating any such agreement, and no liability to any copyright owner of sound recordings or any other person entitled to payment under this section for having entered into such agreement.

Federal Register,
publication.

“(B) The Copyright Office shall cause to be published in the Federal Register any agreement entered into pursuant to subparagraph (A). Such publication shall include a statement containing the substance of subparagraph (C). Such agreements shall not be included in the Code of Federal Regulations. Thereafter, the terms of such agreement shall be available, as an option, to any small commercial webcaster or noncommercial webcaster meeting the eligibility conditions of such agreement.

“(C) Neither subparagraph (A) nor any provisions of any agreement entered into pursuant to subparagraph (A), including any rate structure, fees, terms, conditions, or notice and recordkeeping requirements set forth therein, shall be admissible as evidence or otherwise taken into account in any administrative, judicial, or other government proceeding involving the setting or adjustment of the royalties payable for the public performance or reproduction in ephemeral phonorecords or copies of sound recordings, the determination of terms or conditions related thereto, or the establishment of notice or recordkeeping requirements by the Librarian of Congress under paragraph (4) or section 112(e)(4). It is the intent of Congress that any royalty rates, rate structure, definitions, terms, conditions, or notice and recordkeeping requirements, included in such agreements shall be considered as a compromise motivated by the unique business, economic and political circumstances of small webcasters, copyright owners, and performers rather than as matters that would have been negotiated in the marketplace between a willing buyer and a willing seller, or otherwise meet the objectives set forth in section 801(b).

“(D) Nothing in the Small Webcaster Settlement Act of 2002 or any agreement entered into pursuant to subparagraph (A) shall be taken into account by the United States Court of Appeals for the District of Columbia Circuit in its review of the determination by the Librarian of Congress of July 8, 2002, of rates and terms for the digital performance of

sound recordings and ephemeral recordings, pursuant to sections 112 and 114.

“(E) As used in this paragraph—

“(i) the term ‘noncommercial webcaster’ means a webcaster that—

“(I) is exempt from taxation under section 501 of the Internal Revenue Code of 1986 (26 U.S.C. 501);

“(II) has applied in good faith to the Internal Revenue Service for exemption from taxation under section 501 of the Internal Revenue Code and has a commercially reasonable expectation that such exemption shall be granted; or

“(III) is operated by a State or possession or any governmental entity or subordinate thereof, or by the United States or District of Columbia, for exclusively public purposes;

“(ii) the term ‘receiving agent’ shall have the meaning given that term in section 261.2 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002; and

“(iii) the term ‘webcaster’ means a person or entity that has obtained a compulsory license under section 112 or 114 and the implementing regulations therefor to make eligible nonsubscription transmissions and ephemeral recordings.

“(F) The authority to make settlements pursuant to subparagraph (A) shall expire December 15, 2002, except with respect to noncommercial webcasters for whom the authority shall expire May 31, 2003.”.

Expiration date.

SEC. 5. DEDUCTIBILITY OF COSTS AND EXPENSES OF AGENTS AND DIRECT PAYMENT TO ARTISTS OF ROYALTIES FOR DIGITAL PERFORMANCES OF SOUND RECORDINGS.

(a) FINDINGS.—Congress finds that—

17 USC 114 note.

(1) in the case of royalty payments from the licensing of digital transmissions of sound recordings under subsection (f) of section 114 of title 17, United States Code, the parties have voluntarily negotiated arrangements under which payments shall be made directly to featured recording artists and the administrators of the accounts provided in subsection (g)(2) of that section;

(2) such voluntarily negotiated payment arrangements have been codified in regulations issued by the Librarian of Congress, currently found in section 261.4 of title 37, Code of Federal Regulations, as published in the Federal Register on July 8, 2002;

(3) other regulations issued by the Librarian of Congress were inconsistent with the voluntarily negotiated arrangements by such parties concerning the deductibility of certain costs incurred for licensing and arbitration, and Congress is therefore restoring those terms as originally negotiated among the parties; and

(4) in light of the special circumstances described in this subsection, the uncertainty created by the regulations issued by the Librarian of Congress, and the fact that all of the interested parties have reached agreement, the voluntarily

negotiated arrangements agreed to among the parties are being codified.

(b) DEDUCTIBILITY.—Section 114(g) of title 17, United States Code, is amended by adding after paragraph (2) the following:

“(3) A nonprofit agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts to any person or entity entitled thereto other than copyright owners and performers who have elected to receive royalties from another designated agent and have notified such nonprofit agent in writing of such election, the reasonable costs of such agent incurred after November 1, 1995, in—

“(A) the administration of the collection, distribution, and calculation of the royalties;

“(B) the settlement of disputes relating to the collection and calculation of the royalties; and

“(C) the licensing and enforcement of rights with respect to the making of ephemeral recordings and performances subject to licensing under section 112 and this section, including those incurred in participating in negotiations or arbitration proceedings under section 112 and this section, except that all costs incurred relating to the section 112 ephemeral recordings right may only be deducted from the royalties received pursuant to section 112.

“(4) Notwithstanding paragraph (3), any designated agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) may deduct from any of its receipts, prior to the distribution of such receipts, the reasonable costs identified in paragraph (3) of such agent incurred after November 1, 1995, with respect to such copyright owners and performers who have entered with such agent a contractual relationship that specifies that such costs may be deducted from such royalty receipts.”.

(c) DIRECT PAYMENT TO ARTISTS.—Section 114(g)(2) of title 17, United States Code, is amended to read as follows:

“(2) An agent designated to distribute receipts from the licensing of transmissions in accordance with subsection (f) shall distribute such receipts as follows:

“(A) 50 percent of the receipts shall be paid to the copyright owner of the exclusive right under section 106(6) of this title to publicly perform a sound recording by means of a digital audio transmission.

“(B) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Musicians (or any successor entity) to be distributed to nonfeatured musicians (whether or not members of the American Federation of Musicians) who have performed on sound recordings.

“(C) 2½ percent of the receipts shall be deposited in an escrow account managed by an independent administrator jointly appointed by copyright owners of sound recordings and the American Federation of Television and Radio Artists (or any successor entity) to be distributed to nonfeatured vocalists (whether or not members of the

American Federation of Television and Radio Artists) who have performed on sound recordings.

“(D) 45 percent of the receipts shall be paid, on a per sound recording basis, to the recording artist or artists featured on such sound recording (or the persons conveying rights in the artists’ performance in the sound recordings).”.

SEC. 6. REPORT TO CONGRESS.

By not later than June 1, 2004, the Comptroller General of the United States, in consultation with the Register of Copyrights, shall conduct and submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a study concerning the economic arrangements among small commercial webcasters covered by agreements entered into pursuant to section 114(f)(5)(A) of title 17, United States Code, as added by section 4 of this Act, and third parties, and the effect of those arrangements on royalty fees payable on a percentage of revenue or expense basis.

Deadline.
17 USC 114 note.

Approved December 4, 2002.

LEGISLATIVE HISTORY—H.R. 5469:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 7, considered and passed House.

Nov. 14, considered and passed Senate, amended. House concurred in Senate amendment.



Public Law 107–322
107th Congress

An Act

Dec. 4, 2002
[S. 1010]

To extend the deadline for commencement of construction of a hydroelectric project in the State of North Carolina.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project number 11437, the Commission may, at the request of the licensee for the project, and after reasonable notice, in accordance with the requirements of that section and the Commission's procedures under that section, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission before the date of the enactment of this Act under section 13 of the Federal Power Act (16 U.S.C. 806).

Approved December 4, 2002.

LEGISLATIVE HISTORY—S. 1010:

SENATE REPORTS: No. 107–192 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Aug. 1, considered and passed Senate.

Nov. 14, considered and passed House.



Public Law 107–323
107th Congress

An Act

To require the display of the POW/MIA flag at the World War II Memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial.

Dec. 4, 2002
[S. 1226]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “POW/MIA Memorial Flag Act of 2002”.

POW/MIA
Memorial Flag
Act of 2002.
36 USC 101 note.

SEC. 2. DISPLAY OF POW/MIA FLAG AT WORLD WAR II MEMORIAL, KOREAN WAR MEMORIAL, AND VIETNAM VETERANS MEMORIAL.

(a) **REQUIREMENT FOR DISPLAY.**—Subsection (d)(3) of section 902 of title 36, United States Code, is amended by striking “The Korean War Veterans Memorial and the Vietnam Veterans Memorial” and inserting “The World War II Memorial, the Korean War Veterans Memorial, and the Vietnam Veterans Memorial”.

(b) **DAYS FOR DISPLAY.**—Subsection (c)(2) of that section is amended—

(1) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(2) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

“(A) in the case of display at the World War II Memorial, Korean War Veterans Memorial, and Vietnam Veterans Memorial (required by subsection (d)(3) of this section), any day on which the United States flag is displayed;”.

36 USC 902 note.

(c) **DISPLAY ON EXISTING FLAGPOLE.**—No element of the United States Government may construe the amendments made by this section as requiring the acquisition of erection of a new or additional flagpole for purposes of the display of the POW/MIA flag.

Approved December 4, 2002.

LEGISLATIVE HISTORY—S. 1226:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 2, considered and passed Senate.

Nov. 14, considered and passed House.



Public Law 107–324
107th Congress

An Act

To direct the Secretary of the Interior to convey certain land to the city of Haines,
Oregon.

Dec. 4, 2002
[S. 1907]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. CONVEYANCE TO THE CITY OF HAINES, OREGON.

(a) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall convey, without consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b) to the city of Haines, Oregon.

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (a) is the parcel of Bureau of Land Management land consisting of approximately 40 acres, as indicated on the map entitled “S. 1907: Conveyance to the City of Haines, Oregon” and dated May 9, 2002.

Approved December 4, 2002.

LEGISLATIVE HISTORY—S. 1907:

HOUSE REPORTS: No. 107–680 (Comm. on Resources).

SENATE REPORTS: No. 107–197 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Aug. 1, considered and passed Senate.

Nov. 14, considered and passed House.



Public Law 107–325
107th Congress

An Act

Dec. 4, 2002
[S. 1946]

To amend the National Trails System Act to designate the Old Spanish Trail
as a National Historic Trail.

Old Spanish
Trail Recognition
Act of 2002.
New Mexico.
California.
16 USC 1241
note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Old Spanish Trail Recognition
Act of 2002”.

SEC. 2. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C.
1244(a)) is amended—

(1) by redesignating the second paragraph (21) as para-
graph (22); and

(2) by adding at the end the following:

“(23) OLD SPANISH NATIONAL HISTORIC TRAIL.—

“(A) IN GENERAL.—The Old Spanish National Historic Trail,
an approximately 2,700 mile long trail extending from Santa
Fe, New Mexico, to Los Angeles, California, that served as
a major trade route between 1829 and 1848, as generally
depicted on the maps numbered 1 through 9, as contained
in the report entitled ‘Old Spanish Trail National Historic
Trail Feasibility Study’, dated July 2001, including the Armijo
Route, Northern Route, North Branch, and Mojave Road.

“(B) MAP.—A map generally depicting the trail shall be
on file and available for public inspection in the appropriate
offices of the Department of the Interior.

“(C) ADMINISTRATION.—The trail shall be administered by
the Secretary of the Interior (referred to in this paragraph
as the ‘Secretary’).

“(D) LAND ACQUISITION.—The United States shall not
acquire for the trail any land or interest in land outside the
exterior boundary of any federally-managed area without the
consent of the owner of the land or interest in land.

“(E) CONSULTATION.—The Secretary shall consult with
other Federal, State, local, and tribal agencies in the adminis-
tration of the trail.

“(F) ADDITIONAL ROUTES.—The Secretary may designate
additional routes to the trail if—

“(i) the additional routes were included in the Old
Spanish Trail National Historic Trail Feasibility Study,
but were not recommended for designation as a national
historic trail; and

“(ii) the Secretary determines that the additional routes were used for trade and commerce between 1829 and 1848.”.

Approved December 4, 2002.

LEGISLATIVE HISTORY—S. 1946:

HOUSE REPORTS: No. 107-670 (Comm. on Resources).

SENATE REPORTS: No. 107-203 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Aug. 1, considered and passed Senate.

Nov. 14, considered and passed House.



Public Law 107-326
107th Congress

An Act

Dec. 4, 2002
[S. 2239]

To amend the National Housing Act to simplify the downpayment requirements for FHA mortgage insurance for single family homebuyers.

FHA
Downpayment
Simplification
Act of 2002.
12 USC 1701
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “FHA Downpayment Simplification Act of 2002”.

SEC. 2. DOWNPAYMENT SIMPLIFICATION.

Section 203 of the National Housing Act (12 U.S.C. 1709) is amended—

(1) in subsection (b)—

(A) by striking “shall—” and inserting “shall comply with the following:”;

(B) in paragraph (2)—

(i) in subparagraph (A), in the matter that precedes clause (ii), by moving the margin 2 ems to the right;

(ii) in the undesignated matter immediately following subparagraph (B)(iii)—

(I) by striking the second and third sentences of such matter;

(II) by striking the seventh sentence (relating to principal obligation) and all that follows through the end of the ninth sentence (relating to charges and fees); and

(III) by striking the eleventh sentence (relating to disclosure notice) and all that follows through the end of the last undesignated paragraph (relating to disclosure notice requirements); and

(iii) by striking subparagraph (B) and inserting the following:

“(B) not to exceed an amount equal to the sum of—

“(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

“(ii) in the case of—

“(I) a mortgage for a property with an appraised value equal to or less than \$50,000, 98.75 percent of the appraised value of the property;

“(II) a mortgage for a property with an appraised value in excess of \$50,000 but not in excess of \$125,000, 97.65 percent of the appraised value of the property;

“(III) a mortgage for a property with an appraised value in excess of \$125,000, 97.15 percent of the appraised value of the property; or

“(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of \$50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.”;

(C) by transferring and inserting the text of paragraph (10)(B) after the period at the end of the first sentence of the undesignated paragraph that immediately follows paragraph (2)(B) (relating to the definition of “area”); and

(D) by striking paragraph (10); and

(2) by inserting after subsection (e), the following:

“(f) DISCLOSURE OF OTHER MORTGAGE PRODUCTS.—

“(1) IN GENERAL.—In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

“(2) NOTICE.—The notice required under paragraph (1) shall include—

“(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

“(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.”.

SEC. 3. CONFORMING AMENDMENTS.

Section 245 of the National Housing Act (12 U.S.C. 1715z-10) is amended—

(1) in subsection (a), by striking “, or if the mortgagor” and all that follows through “case of veterans”; and

(2) in subsection (b)(3), by striking “, or, if the” and all that follows through “for veterans,”.

SEC. 4. REPEAL OF GNMA GUARANTEE FEE INCREASE.

Section 972 of the Higher Education Amendments of 1998 (Public Law 105-244; 112 Stat. 1837) is hereby repealed.

12 USC 1721 and
note.

SEC. 5. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

(a) The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 206 the following new section 206A (12 U.S.C. 1712A):

12 USC 1712a.

“SEC. 206A. INDEXING OF FHA MULTIFAMILY HOUSING LOAN LIMITS.

“(a) METHOD OF INDEXING.—The dollar amounts set forth in—

“(1) section 207(c)(3)(A) (12 U.S.C. 1713(c)(3)(A));

“(2) section 213(b)(2)(A) (12 U.S.C. 1715e(b)(2)(A));

“(3) section 220(d)(3)(B)(iii)(I) (12 U.S.C. 1715k(d)(3)(B)(iii)(I));

“(4) section 221(d)(3)(ii)(I) (12 U.S.C. 1715l(d)(3)(ii)(I));

“(5) section 221(d)(4)(ii)(I) (12 U.S.C. 1715l(d)(4)(ii)(I));

“(6) section 231(c)(2)(A) (12 U.S.C. 1715v(c)(2)(A)); and

“(7) section 234(e)(3)(A) (12 U.S.C. 1715y(e)(3)(A));

(collectively hereinafter referred to as the “Dollar Amounts”) shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board’s adjustment of the \$400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

Federal Register,
publication.

“(b) NOTIFICATION.—The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.”.

(b) TECHNICAL AND CONFORMING CHANGES.—(1) Section 207(c)(3) of the National Housing Act (12 U.S.C. 1713(c)(3)) is amended—

(A) by inserting “(A)” after “(3)”;

(B) by striking “and accept that the Secretary” through and including “in this paragraph” and inserting in lieu thereof:

“(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

(2) Section 213(b)(2) of the National Housing Act (12 U.S.C. 1715e(b)(2)) is amended—

(A) by inserting “(A)” following “(2)”;

(B) by striking “: *Provided further*, That” the first time that it occurs, through and including “contained in this paragraph” and inserting in lieu thereof: “; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)”;

(C) by striking “: *Provided further*, That” the second time it occurs and inserting in lieu thereof: “; and (ii)”;

(D) by striking “: *And provided further*, That” and inserting in lieu thereof: “; and (iii)”;

(E) by striking “with this subsection without regard to the preceding proviso” at the end of that subsection and inserting in lieu thereof: “with this subparagraph (B)(i).”.

(3) Section 220(d)(3)(B)(iii) of the National Housing Act (12 U.S.C. 1715k(d)(3)(B)(iii)) is amended—

(A) by inserting “(I)” following “(iii)”;

(B) by striking “design; and except that” and inserting in lieu thereof: “design; and (II)”;

(C) by striking “any of the foregoing dollar amount limitations contained in this clause” and inserting in lieu thereof: “any of the dollar amount limitations in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act)”;

(D) by striking “: *Provided, That*” through and including “proviso” and inserting in lieu thereof: “with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II), the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 206A of this Act)”;

(E) by striking “: *Provided further,*” and inserting in lieu thereof: “; (III)”;

(F) by striking “subparagraph” in the second proviso and inserting in lieu thereof “subparagraph (B)(iii)(I)”;

(G) in the last proviso, by striking “: *And provided further, That*” and all that follows through and including “this clause” and inserting in lieu thereof: “; (IV) with respect to rehabilitation projects involving not more than five family units, the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects”.

(4) Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(3)(ii)) is amended—

(A) by inserting “(I)” following “(ii)”;

(B) by striking “; and except that” and all that follows through and including “in this clause” and inserting in lieu thereof: “; (II) the Secretary may, by regulation, increase any of the dollar amount limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

(5) Section 221(d)(4)(ii) of the National Housing Act (12 U.S.C. 1715l(d)(4)(ii)) is amended—

(A) by inserting “(I)” following “(ii)”;

(B) by striking “; and except that” and all that follows through and including “in this clause” and inserting in lieu thereof: “; (II) the Secretary may, by regulation, increase any of the dollar limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

(6) Section 231(c)(2) of the National Housing Act (12 U.S.C. 1715v(c)(2)) is amended—

(A) by inserting “(A)” following “(2)”;

(B) by striking “; and except that” and all that follows through and including “in this paragraph” and inserting in lieu thereof: “; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)”;

(C) by striking “: *Provided, That*” and all that follows through and including “of this section” and inserting in lieu thereof: “; (C) the Secretary may, by regulation, increase any

of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

(7) Section 234(e)(3) of the National Housing Act (12 U.S.C. 1715y(e)(3)) is amended—

(A) by inserting “(A)” following “(3)”;

(B) by replacing “\$38,025” with “\$42,048”; “\$42,120” with “\$48,481”; “\$50,310” with “\$58,469”; “\$62,010” with “\$74,840”; “\$70,200” with “\$83,375”; “\$43,875” with “\$44,250”; “\$49,140” with “\$50,724”; “\$60,255” with “\$61,680”; “\$75,465” with “\$79,793”; and “\$85,328” with “\$87,588”;

(C) by striking “; except that each” and all that follows through and including “contained in this paragraph” and inserting in lieu thereof: “; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 206A of this Act)”.

Approved December 4, 2002.

LEGISLATIVE HISTORY—S. 2239:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 17, considered and passed Senate.

Nov. 14, considered and passed House.



Public Law 107–327
107th Congress

An Act

To authorize economic and democratic development assistance for Afghanistan and to authorize military assistance for Afghanistan and certain other foreign countries.

Dec. 4, 2002
[S. 2712]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Afghanistan
Freedom Support
Act of 2002.
22 USC 7501
note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; DEFINITION.

(a) **SHORT TITLE.**—This Act may be cited as the “Afghanistan Freedom Support Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents; definition.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AFGHANISTAN

Sec. 101. Declaration of policy.

Sec. 102. Purposes of assistance.

Sec. 103. Authorization of assistance.

Sec. 104. Coordination of assistance.

Sec. 105. Sense of Congress regarding promoting cooperation in opium producing areas.

Sec. 106. Administrative provisions.

Sec. 107. Relationship to other authority.

Sec. 108. Authorization of appropriations.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTERNATIONAL ORGANIZATIONS

Sec. 201. Support for security during transition in Afghanistan.

Sec. 202. Authorization of assistance.

Sec. 203. Eligible foreign countries and eligible international organizations.

Sec. 204. Reimbursement for assistance.

Sec. 205. Congressional notification requirements.

Sec. 206. Promoting secure delivery of humanitarian and other assistance in Afghanistan and expansion of the International Security Assistance Force.

Sec. 207. Relationship to other authority.

Sec. 208. Sunset.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Requirement to comply with procedures relating to the prohibition on assistance to drug traffickers.

Sec. 302. Sense of Congress regarding protecting Afghanistan’s President.

Sec. 303. Donor contributions to Afghanistan and reports.

(c) **DEFINITION.**—In this Act, the term “Government of Afghanistan” includes—

(1) the government of any political subdivision of Afghanistan; and

(2) any agency or instrumentality of the Government of Afghanistan.

22 USC 7501.

TITLE I—ECONOMIC AND DEMOCRATIC DEVELOPMENT ASSISTANCE FOR AF- GHANISTAN

22 USC 7511.

SEC. 101. DECLARATION OF POLICY.

Congress makes the following declarations:

(1) The United States and the international community should support efforts that advance the development of democratic civil authorities and institutions in Afghanistan and the establishment of a new broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan.

(2) The United States, in particular, should provide its expertise to meet immediate humanitarian and refugee needs, fight the production and flow of illicit narcotics, and aid in the reconstruction of Afghanistan.

(3) By promoting peace and security in Afghanistan and preventing a return to conflict, the United States and the international community can help ensure that Afghanistan does not again become a source for international terrorism.

(4) The United States should support the objectives agreed to on December 5, 2001, in Bonn, Germany, regarding the provisional arrangement for Afghanistan as it moves toward the establishment of permanent institutions and, in particular, should work intensively toward ensuring the future neutrality of Afghanistan, establishing the principle that neighboring countries and other countries in the region do not threaten or interfere in one another's sovereignty, territorial integrity, or political independence, including supporting diplomatic initiatives to support this goal.

(5) The special emergency situation in Afghanistan, which from the perspective of the American people combines security, humanitarian, political, law enforcement, and development imperatives, requires that the President should receive maximum flexibility in designing, coordinating, and administering efforts with respect to assistance for Afghanistan and that a temporary special program of such assistance should be established for this purpose.

(6) To foster stability and democratization and to effectively eliminate the causes of terrorism, the United States and the international community should also support efforts that advance the development of democratic civil authorities and institutions in the broader Central Asia region.

22 USC 7512.

SEC. 102. PURPOSES OF ASSISTANCE.

The purposes of assistance authorized by this title are—

(1) to help assure the security of the United States and the world by reducing or eliminating the likelihood of violence against United States or allied forces in Afghanistan and to reduce the chance that Afghanistan will again be a source of international terrorism;

(2) to support the continued efforts of the United States and the international community to address the humanitarian crisis in Afghanistan and among Afghan refugees in neighboring countries;

(3) to fight the production and flow of illicit narcotics, to control the flow of precursor chemicals used in the production of heroin, and to enhance and bolster the capacities of Afghan governmental authorities to control poppy cultivation and related activities;

(4) to help achieve a broad-based, multi-ethnic, gender-sensitive, and fully representative government in Afghanistan that is freely chosen by the people of Afghanistan and that respects the human rights of all Afghans, particularly women, including authorizing assistance for the rehabilitation and reconstruction of Afghanistan with a particular emphasis on meeting the educational, health, and sustenance needs of women and children to better enable their full participation in Afghan society;

(5) to support the Government of Afghanistan in its development of the capacity to facilitate, organize, develop, and implement projects and activities that meet the needs of the Afghan people;

(6) to foster the participation of civil society in the establishment of the new Afghan government in order to achieve a broad-based, multi-ethnic, gender-sensitive, fully representative government freely chosen by the Afghan people, without prejudice to any decisions which may be freely taken by the Afghan people about the precise form in which their government is to be organized in the future;

(7) to support the reconstruction of Afghanistan through, among other things, programs that create jobs, facilitate clearance of landmines, and rebuild the agriculture sector, the health care system, and the educational system of Afghanistan;

(8) to provide resources to the Ministry for Women's Affairs of Afghanistan to carry out its responsibilities for legal advocacy, education, vocational training, and women's health programs; and

(9) to foster the growth of a pluralistic society that promotes and respects religious freedom.

SEC. 103. AUTHORIZATION OF ASSISTANCE.

22 USC 7513.

(a) IN GENERAL.—Notwithstanding section 512 of Public Law 107-115 or any other similar provision of law, the President is authorized to provide assistance for Afghanistan for the following activities:

(1) URGENT HUMANITARIAN NEEDS.—To assist in meeting the urgent humanitarian needs of the people of Afghanistan, including assistance such as—

(A) emergency food, shelter, and medical assistance;

(B) clean drinking water and sanitation;

(C) preventative health care, including childhood vaccination, therapeutic feeding, maternal child health services, and infectious diseases surveillance and treatment;

(D) family tracing and reunification services; and

(E) clearance of landmines and other unexploded ordnance.

(2) REPATRIATION AND RESETTLEMENT OF REFUGEES AND INTERNALLY DISPLACED PERSONS.—To assist refugees and internally displaced persons as they return to their home communities in Afghanistan and to support their reintegration into those communities, including assistance such as—

(A) assistance identified in paragraph (1);

(B) assistance to communities, including those in neighboring countries, that have taken in large numbers of refugees in order to rehabilitate or expand social, health, and educational services that may have suffered as a result of the influx of large numbers of refugees;

(C) assistance to international organizations and host governments in maintaining security by screening refugees to ensure the exclusion of armed combatants, members of foreign terrorist organizations, and other individuals not eligible for economic assistance from the United States; and

(D) assistance for voluntary refugee repatriation and reintegration inside Afghanistan and continued assistance to those refugees who are unable or unwilling to return, and humanitarian assistance to internally displaced persons, including those persons who need assistance to return to their homes, through the United Nations High Commissioner for Refugees and other organizations charged with providing such assistance.

(3) COUNTERNARCOTICS EFFORTS.—(A) To assist in the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan and the region, with particular emphasis on assistance to—

(i) eradicate opium poppy, establish crop substitution programs, purchase nonopium products from farmers in opium-growing areas, quick-impact public works programs to divert labor from narcotics production, develop projects directed specifically at narcotics production, processing, or trafficking areas to provide incentives to cooperation in narcotics suppression activities, and related programs;

(ii) establish or provide assistance to one or more entities within the Government of Afghanistan, including the Afghan State High Commission for Drug Control, and to provide training and equipment for the entities, to help enforce counternarcotics laws in Afghanistan and limit illicit narcotics growth, production, and trafficking in Afghanistan;

(iii) train and provide equipment for customs, police, and other border control entities in Afghanistan and the region relating to illicit narcotics interdiction and relating to precursor chemical controls and interdiction to help disrupt heroin production in Afghanistan and the region;

(iv) continue the annual opium crop survey and strategic studies on opium crop planting and farming in Afghanistan; and

(v) reduce demand for illicit narcotics among the people of Afghanistan, including refugees returning to Afghanistan.

(B) For each of the fiscal years 2003 through 2006, \$15,000,000 is authorized to be appropriated to the President to be made available for a contribution to the United Nations Drug Control Program for the purpose of carrying out activities described in clauses (i) through (v) of subparagraph (A). Amounts made available under the preceding sentence are in addition to amounts otherwise available for such purposes.

(4) REESTABLISHMENT OF FOOD SECURITY, REHABILITATION OF THE AGRICULTURE SECTOR, IMPROVEMENT IN HEALTH CONDITIONS, AND THE RECONSTRUCTION OF BASIC INFRASTRUCTURE.—To assist in expanding access to markets in Afghanistan, to increase the availability of food in markets in Afghanistan, to rehabilitate the agriculture sector in Afghanistan by creating jobs for former combatants, returning refugees, and internally displaced persons, to improve health conditions, and assist in the rebuilding of basic infrastructure in Afghanistan, including assistance such as—

(A) rehabilitation of the agricultural infrastructure, including irrigation systems and rural roads;

(B) extension of credit;

(C) provision of critical agricultural inputs, such as seeds, tools, and fertilizer, and strengthening of seed multiplication, certification, and distribution systems;

(D) improvement in the quantity and quality of water available through, among other things, rehabilitation of existing irrigation systems and the development of local capacity to manage irrigation systems;

(E) livestock rehabilitation through market development and other mechanisms to distribute stocks to replace those stocks lost as a result of conflict or drought;

(F) mine awareness and demining programs and programs to assist mine victims, war orphans, and widows;

(G) programs relating to infant and young child feeding, immunizations, vitamin A supplementation, and prevention and treatment of diarrheal diseases and respiratory infections;

(H) programs to improve maternal and child health and reduce maternal and child mortality;

(I) programs to improve hygienic and sanitation practices and for the prevention and treatment of infectious diseases, such as tuberculosis and malaria;

(J) programs to reconstitute the delivery of health care, including the reconstruction of health clinics or other basic health infrastructure, with particular emphasis on health care for children who are orphans;

(K) programs for housing (including repairing homes damaged during military operations), rebuilding urban infrastructure, and supporting basic urban services; and

(L) disarmament, demobilization, and reintegration of armed combatants into society, particularly child soldiers.

(5) REESTABLISHMENT OF AFGHANISTAN AS A VIABLE NATION-STATE.—(A) To assist in the development of the capacity of the Government of Afghanistan to meet the needs of the people of Afghanistan through, among other things, support for the development and expansion of democratic and market-based institutions, including assistance such as—

(i) support for international organizations that provide civil advisers to the Government of Afghanistan;

(ii) support for an educated citizenry through improved access to basic education, with particular emphasis on basic education for children who are orphans, with particular emphasis on basic education for children;

(iii) programs to enable the Government of Afghanistan to recruit and train teachers, with special focus on the recruitment and training of female teachers;

(iv) programs to enable the Government of Afghanistan to develop school curriculum that incorporates relevant information such as landmine awareness, food security and agricultural education, human rights awareness, including religious freedom, and civic education;

(v) support for the activities of the Government of Afghanistan to draft a new constitution, other legal frameworks, and other initiatives to promote the rule of law in Afghanistan, including the recognition of religious freedom in the constitution and other legal frameworks;

(vi) support to increase the transparency, accountability, and participatory nature of governmental institutions, including programs designed to combat corruption and other programs for the promotion of good governance;

(vii) support for an independent media;

(viii) programs that support the expanded participation of women and members of all ethnic groups in government at national, regional, and local levels;

(ix) programs to strengthen civil society organizations that promote human rights, including religious freedom, freedom of expression, and freedom of association, and support human rights monitoring;

(x) support for Afghan and international efforts to investigate human rights atrocities committed in Afghanistan by the Taliban regime, opponents of such regime, and terrorist groups operating in Afghanistan, including the collection of forensic evidence relating to such atrocities;

(xi) support for national, regional, and local elections and political party development;

(xii) support for the effective administration of justice at the national, regional, and local levels, including the establishment of a responsible and community-based police force;

(xiii) support for establishment of a central bank and central budgeting authority; and

(xiv) assistance in identifying and surveying key road and rail routes essential for economic renewal in Afghanistan and the region, support in reconstructing those routes, and support for the establishment of a customs service and training for customs officers.

(B) For each of the fiscal years 2003 through 2005, \$10,000,000 is authorized to be appropriated to the President to be made available for the purposes of carrying out a traditional Afghan assembly or “Loya Jirga” and for support for national, regional, and local elections and political party development under subparagraph (A)(xi).

(6) MARKET ECONOMY.—To support the establishment of a market economy, the establishment of private financial institutions, the adoption of policies to promote foreign direct investment, the development of a basic telecommunication infrastructure, and the development of trade and other commercial links with countries in the region and with the United States, including policies to—

(A) encourage the return of Afghanistan citizens or nationals living abroad who have marketable and business-related skills;

(B) establish financial institutions, including credit unions, cooperatives, and other entities providing micro-enterprise credits and other income-generation programs for the poor, with particular emphasis on women;

(C) facilitate expanded trade with countries in the region;

(D) promote and foster respect for basic workers' rights and protections against exploitation of child labor;

(E) develop handicraft and other small-scale industries; and

(F) provide financing programs for the reconstruction of Kabul and other major cities in Afghanistan.

(7) ASSISTANCE TO WOMEN AND GIRLS.—

(A) ASSISTANCE OBJECTIVES.—To assist women and girls in Afghanistan in the areas of political and human rights, health care, education, training, security, and shelter, with particular emphasis on assistance—

(i) to support construction of, provide equipment and medical supplies to, and otherwise facilitate the establishment and rehabilitation of, health care facilities in order to improve the health care of women, children, and infants;

(ii) to expand immunization programs for women and children;

(iii) to establish, maintain, and expand primary and secondary schools for girls that include mathematics, science, and languages in their primary curriculum;

(iv) to develop and expand technical and vocational training programs and income-generation projects for women;

(v) to provide special educational opportunities for girls whose schooling was ended by the Taliban, and to support the ability of women to have access to higher education;

(vi) to develop and implement programs to protect women and girls against sexual and physical abuse, abduction, trafficking, exploitation, and sex discrimination in the delivery of humanitarian supplies and services;

(vii) to provide emergency shelters for women and girls who face danger from violence;

(viii) to direct humanitarian assistance to widows, who make up a very large and needy population in war-torn Afghanistan;

(ix) to support the work of women-led and local nongovernmental organizations with demonstrated experience in delivering services to Afghan women and children;

(x) to disseminate information throughout Afghanistan on the rights of women and on international standards of human rights, including the rights of religious freedom, freedom of expression, and freedom of association;

(xi) to provide women's rights and human rights training for military, police, and legal personnel; and

(xii) to support the National Human Rights Commission in programs to promote women's rights and human rights, including the rights of religious freedom, freedom of expression, and freedom of association, and in the investigation and monitoring of women's rights and human rights abuses.

(B) AVAILABILITY OF FUNDS.—For each of the fiscal years 2003 through 2006—

(i) \$15,000,000 is authorized to be appropriated to the President to be made available to the Afghan Ministry of Women's Affairs; and

(ii) \$5,000,000 is authorized to be appropriated to the President to be made available to the National Human Rights Commission of Afghanistan.

(C) RELATION TO OTHER AVAILABLE FUNDS.—Amounts made available under subparagraph (B) are in addition to amounts otherwise available for such purposes.

(b) LIMITATION.—

(1) IN GENERAL.—Amounts made available to carry out this title (except amounts made available for assistance under paragraphs (1) through (3) and subparagraphs (F) through (I) of paragraph (4) of subsection (a)) may be provided only if the President first determines and certifies to Congress with respect to the fiscal year involved that progress is being made toward adopting a constitution and establishing a democratically elected government for Afghanistan that respects human rights.

(2) WAIVER.—

(A) IN GENERAL.—The President may waive the application of paragraph (1) if the President first determines and certifies to Congress that it is important to the national interest of the United States to do so.

(B) CONTENTS OF CERTIFICATION.—A certification transmitted to Congress under subparagraph (A) shall include a written explanation of the basis for the determination of the President to waive the application of paragraph (1).

(c) ENTERPRISE FUND.—

(1) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds otherwise available for such purpose, there are authorized to be appropriated to the President for an enterprise fund for Afghanistan \$300,000,000. The provisions contained in section 201 of the Support for East European Democracy (SEED) Act of 1989 (excluding the authorizations of appropriations provided in subsection (b) of that section) shall apply with respect to such enterprise fund and to funds made available to such enterprise fund under this subsection.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to paragraph (1) are authorized to remain available until expended.

SEC. 104. COORDINATION OF ASSISTANCE.

(a) IN GENERAL.—The President is strongly urged to designate, within the Department of State, a coordinator who shall be responsible for—

(1) designing an overall strategy to advance United States interests in Afghanistan;

(2) ensuring program and policy coordination among agencies of the United States Government in carrying out the policies set forth in this title;

(3) pursuing coordination with other countries and international organizations with respect to assistance to Afghanistan;

(4) ensuring that United States assistance programs for Afghanistan are consistent with this title;

(5) ensuring proper management, implementation, and oversight by agencies responsible for assistance programs for Afghanistan; and

(6) resolving policy and program disputes among United States Government agencies with respect to United States assistance for Afghanistan.

(b) RANK AND STATUS OF THE COORDINATOR.—The coordinator designated under subsection (a) shall have the rank and status of ambassador.

SEC. 105. SENSE OF CONGRESS REGARDING PROMOTING COOPERATION IN OPIUM PRODUCING AREAS. 22 USC 7515.

It is the sense of Congress that the President should—

(1) to the extent practicable, under such procedures as the President may prescribe, withhold United States bilateral assistance from, and oppose multilateral assistance to, opium-producing areas of Afghanistan if, within such areas, appropriate cooperation is not provided to the United States, the Government of Afghanistan, and international organizations with respect to the suppression of narcotics cultivation and trafficking, and if withholding such assistance would promote such cooperation;

(2) redistribute any United States bilateral assistance (and to promote the redistribution of any multilateral assistance) withheld from an opium-producing area to other areas with respect to which assistance has not been withheld as a consequence of this section; and

(3) define or redefine the boundaries of opium producing areas of Afghanistan for the purposes of this section.

SEC. 106. ADMINISTRATIVE PROVISIONS.

22 USC 7516.

(a) APPLICABLE ADMINISTRATIVE AUTHORITIES.—Except to the extent inconsistent with the provisions of this title, the administrative authorities under chapters 1 and 2 of part III of the Foreign Assistance Act of 1961 shall apply to the provision of assistance under this title to the same extent and in the same manner as such authorities apply to the provision of economic assistance under part I of such Act.

(b) USE OF THE EXPERTISE OF AFGHAN-AMERICANS.—In providing assistance authorized by this title, the President should—

(1) maximize the use, to the extent feasible, of the services of Afghan-Americans who have expertise in the areas for which assistance is authorized by this title; and

(2) in the awarding of contracts and grants to implement activities authorized under this title, encourage the participation of such Afghan-Americans (including organizations employing a significant number of such Afghan-Americans).

(c) **DONATIONS OF MANUFACTURING EQUIPMENT; USE OF COLLEGES AND UNIVERSITIES.**—In providing assistance authorized by this title, the President, to the maximum extent practicable, should—

(1) encourage the donation of appropriate excess or obsolete manufacturing and related equipment by United States businesses (including small businesses) for the reconstruction of Afghanistan; and

(2) utilize research conducted by United States colleges and universities and the technical expertise of professionals within those institutions, particularly in the areas of agriculture and rural development.

(d) **ADMINISTRATIVE EXPENSES.**—Of the funds made available to carry out the purposes of assistance authorized by this title in any fiscal year, up to 7 percent may be used for administrative expenses of Federal departments and agencies in connection with the provision of such assistance.

(e) **MONITORING.**—

(1) **COMPTROLLER GENERAL.**—The Comptroller General shall monitor the provision of assistance under this title.

(2) **INSPECTOR GENERAL OF USAID.**—The Inspector General of the United States Agency for International Development shall conduct audits, inspections, and other activities, as appropriate, associated with the expenditure of the funds to carry out this title.

(f) **PRIORITY FOR DIRECT ASSISTANCE TO THE GOVERNMENT OF AFGHANISTAN.**—To the maximum extent practicable, assistance authorized under this title should be provided directly to the Government of Afghanistan (including any appropriate ministry thereof).

22 USC 7517.

SEC. 107. RELATIONSHIP TO OTHER AUTHORITY.

The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

22 USC 7518.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There is authorized to be appropriated to the President to carry out this title (other than section 103(c)) \$425,000,000 for each of the fiscal years 2003 through 2006.

(b) **AVAILABILITY.**—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are—

(1) authorized to remain available until expended; and

(2) in addition to funds otherwise available for such purposes, including, with respect to food assistance under section 103(a)(1), funds available under title II of the Agricultural Trade Development and Assistance Act of 1954, the Food for Progress Act of 1985, and section 416(b) of the Agricultural Act of 1949.

TITLE II—MILITARY ASSISTANCE FOR AFGHANISTAN AND CERTAIN OTHER FOREIGN COUNTRIES AND INTER- NATIONAL ORGANIZATIONS

SEC. 201. SUPPORT FOR SECURITY DURING TRANSITION IN AFGHANISTAN. 22 USC 7531.

It is the sense of Congress that, during the transition to a broad-based, multi-ethnic, gender-sensitive, fully representative government in Afghanistan, the United States should support—

(1) the development of a civilian-controlled and centrally-governed standing Afghanistan army that respects human rights and prohibits the use of children as soldiers or combatants;

(2) the creation and training of a professional civilian police force that respects human rights; and

(3) a multinational security force in Afghanistan.

SEC. 202. AUTHORIZATION OF ASSISTANCE. 22 USC 7532.

(a) **DRAWDOWN AUTHORITY.**—

(1) **IN GENERAL.**—The President is authorized to exercise his authorities under section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318) to direct the drawdown of defense articles, defense services, and military education and training—

(A) for the Government of Afghanistan, in accordance with this section; and

(B) for eligible foreign countries, and eligible international organizations, in accordance with this section and sections 203 and 205.

(2) **AUTHORITY TO ACQUIRE BY CONTRACT OR OTHERWISE.**—The assistance authorized under paragraph (1) may include the supply of defense articles, defense services, counter-narcotics, crime control and police training services, other support, and military education and training that are acquired by contract or otherwise.

(b) **AMOUNT OF ASSISTANCE.**—The aggregate value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of assistance provided under subsection (a) may not exceed \$300,000,000, except that such limitation shall be increased by any amounts appropriated pursuant to the authorization of appropriations in section 204(b)(1) and shall not count toward any limitation contained in section 506 of the Foreign Assistance Act of 1961 (22 U.S.C. 2318).

SEC. 203. ELIGIBLE FOREIGN COUNTRIES AND ELIGIBLE INTERNATIONAL ORGANIZATIONS. 22 USC 7533.

(a) **IN GENERAL.**—Except as provided in subsection (b), a foreign country or international organization shall be eligible to receive assistance under section 202 if—

(1) such country or organization is participating in military, peacekeeping, or policing operations in Afghanistan aimed at restoring or maintaining peace and security in that country; and

(2) such assistance is provided specifically for such operations in Afghanistan.

(b) EXCEPTION.—No country the government of which has been determined by the Secretary of State to have repeatedly engaged in gross violations of human rights, or provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)) shall be eligible to receive assistance under section 202.

22 USC 7534.

SEC. 204. REIMBURSEMENT FOR ASSISTANCE.

(a) IN GENERAL.—Defense articles, defense services, and military education and training provided under section 202(a)(2) shall be made available without reimbursement to the Department of Defense except to the extent that funds are appropriated pursuant to the authorization of appropriations in subsection (b)(1).

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for the value (as defined in section 644(m) of the Foreign Assistance Act of 1961) of defense articles, defense services, or military education and training provided under section 202(a)(2).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are in addition to amounts otherwise available for the purposes described in this title.

22 USC 7535.

SEC. 205. CONGRESSIONAL NOTIFICATION REQUIREMENTS.

(a) AUTHORITY.—The President may provide assistance under this title to any eligible foreign country or eligible international organization if the President determines that such assistance is important to the national security interest of the United States and notifies the Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate of such determination at least 15 days in advance of providing such assistance.

Reports.

(b) NOTIFICATION.—The report described in subsection (a) shall be submitted in classified and unclassified form and shall include information relating to the type and amount of assistance proposed to be provided and the actions that the proposed recipient of such assistance has taken or has committed to take.

22 USC 7536.

SEC. 206. PROMOTING SECURE DELIVERY OF HUMANITARIAN AND OTHER ASSISTANCE IN AFGHANISTAN AND EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.

(a) FINDINGS.—Congress finds the following:

(1) The President has declared his view that the United States should provide significant assistance to Afghanistan so that it is no longer a haven for terrorism.

(2) The delivery of humanitarian and reconstruction assistance from the international community is necessary for the safe return of refugees and is critical to the future stability of Afghanistan.

(3) Enhanced stability in Afghanistan through an improved security environment is critical to the functioning of the Government of Afghanistan and the traditional Afghan assembly or “Loya Jirga” process, which is intended to lead to a permanent

national government in Afghanistan, and also is essential for the participation of women in Afghan society.

(4) Incidents of violence between armed factions and local and regional commanders, and serious abuses of human rights, including attacks on women and ethnic minorities throughout Afghanistan, create an insecure, volatile, and unsafe environment in parts of Afghanistan, displacing thousands of Afghan civilians from their local communities.

(5)(A) On July 6, Vice President Haji Abdul Qadir was assassinated in Kabul by unknown assailants.

(B) On September 5, 2002, a car bomb exploded in Kabul killing 32 and injuring 150 and on the same day a member of Kandahar Governor Sherzai's security team attempted to assassinate President Karzai.

(6) The violence and lawlessness may jeopardize the "Loya Jirga" process, undermine efforts to build a strong central government, severely impede reconstruction and the delivery of humanitarian assistance, and increase the likelihood that parts of Afghanistan will once again become safe havens for al-Qaida, Taliban forces, and drug traffickers.

(7) The lack of security and lawlessness may also perpetuate the need for United States Armed Forces in Afghanistan and threaten the ability of the United States to meet its military objectives.

(8) The International Security Assistance Force in Afghanistan, currently led by Turkey, and composed of forces from other willing countries without the participation of United States Armed Forces, is deployed only in Kabul and currently does not have the mandate or the capacity to provide security to other parts of Afghanistan.

(9) Due to the ongoing military campaign in Afghanistan, the United States does not contribute troops to the International Security Assistance Force but has provided support to other countries that are doing so.

(10) The United States is providing political, financial, training, and other assistance to the Afghan Interim Authority as it begins to build a national army and police force to help provide security throughout Afghanistan, but this effort is not meeting the immediate security needs of Afghanistan.

(11) Because of these immediate security needs, the Government of Afghanistan, its President, Hamid Karzai, and many Afghan regional leaders have called for the International Security Assistance Force, which has successfully brought stability to Kabul, to be expanded and deployed throughout the country, and this request has been strongly supported by a wide range of international humanitarian organizations, including the International Committee of the Red Cross, Catholic Relief Services, and Refugees International.

(b) STATEMENT OF POLICY.—It should be the policy of the United States to support measures to help meet the immediate security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government.

(c) IMPLEMENTATION OF STRATEGY.—

(1) INITIAL REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall provide the

Deadlines.
President.

Committee on International Relations and the Committee on Appropriations of the House of Representatives and the Committee on Foreign Relations and the Committee on Appropriations of the Senate with—

(A) a strategy for meeting the immediate and long-term security needs of Afghanistan in order to promote safe and effective delivery of humanitarian and other assistance throughout Afghanistan, further the rule of law and civil order, and support the formation of a functioning, representative Afghan national government, including an update to the strategies submitted pursuant to Public Law 107-206; and

(B) a description of the progress of the Government of Afghanistan toward the eradication of poppy cultivation, the disruption of heroin production, and the reduction of the overall supply and demand for illicit narcotics in Afghanistan in accordance with the provisions of this Act.

Reports.

(2) IMPLEMENTATION OF STRATEGY.—Every 6 months after the enactment of this Act through January 1, 2007, the President shall submit to the congressional committees specified in paragraph (1) a report on the implementation of the strategies for meeting the immediate and long-term security needs of Afghanistan, which shall include the following elements—

(A) since the previous report, the progress in recruiting, training, and deploying an Afghan National Army and police force, including the numbers and ethnic composition of recruits; the number of graduates from military and police training; the numbers of graduates retained by the Afghan National Army and police forces since the previous report; the numbers of graduates operationally deployed and to which areas of the country; the degree to which these graduates are assuming security responsibilities; whether Afghan army and police units are establishing effective central governmental authority over areas of the country, and which areas; and the numbers of instances of armed attacks against Afghan central governmental officials, United States or international officials, troops or aid workers, or between the armed forces of regional leaders;

(B) the degree to which armed regional leaders are cooperating and integrating with the central government, providing security and order within their regions of influence, engaging in armed conflict or other forms of competition that are deleterious to peace, security, and the integration of a unified Afghanistan under the central government;

(C) the amount of humanitarian relief provided since the previous report to returnees, isolated populations and other vulnerable groups, as well as demining assistance and landmine survivors rehabilitation; and the numbers of such persons not assisted since the previous report;

(D) the steps taken since the previous report toward national reconstruction, including establishment of the ministries and other institutions of the Government of Afghanistan;

(E) the numbers of Civil Affairs Teams working with regional leaders, as well as the quick impact infrastructure

projects undertaken by such teams since the previous report;

(F) efforts undertaken since the previous report to rebuild the justice sector, including the establishment of a functioning judiciary, a competent bar, reintegration of women legal professionals and a reliable penal system, and the respect for human rights; and

(G) a description of the progress of the Government of Afghanistan with respect to the matters described in paragraph (1)(B).

(d) EXPANSION OF THE INTERNATIONAL SECURITY ASSISTANCE FORCE.—

(1) **SENSE OF CONGRESS.**—Congress urges the President, in order to fulfill the objective of establishing security in Afghanistan, to take all appropriate measures to assist Afghanistan in establishing a secure environment throughout the country, including by—

(A) sponsoring in the United Nations Security Council a resolution authorizing an expansion of the International Security Assistance Force, or the establishment of a similar security force; and

(B) enlisting the European and other allies of the United States to provide forces for an expansion of the International Security Assistance Force in Afghanistan, or the establishment of a similar security force.

(2) **AUTHORIZATION OF APPROPRIATIONS.**—(A) There is authorized to be appropriated to the President \$500,000,000 for each of fiscal years 2003 and 2004 to support the International Security Assistance Force or the establishment of a similar security force.

(B) Amounts made available under subparagraph (A) may be appropriated pursuant to chapter 4 of part II of the Foreign Assistance Act of 1961, section 551 of such Act, or section 23 of the Arms Export Control Act.

(C) Funds appropriated pursuant to subparagraph (A) shall be subject to the notification requirements under section 634A of the Foreign Assistance Act of 1961.

SEC. 207. RELATIONSHIP TO OTHER AUTHORITY.

22 USC 7537.

(a) **ADDITIONAL AUTHORITY.**—The authority to provide assistance under this title is in addition to any other authority to provide assistance to the Government of Afghanistan.

(b) **LAWS RESTRICTING AUTHORITY.**—Assistance under this title to the Government of Afghanistan may be provided notwithstanding section 512 of Public Law 107-115 or any similar provision of law.

SEC. 208. SUNSET.

Expiration date.
22 USC 7538.

The authority of this title shall expire after September 30, 2006.

TITLE III—MISCELLANEOUS PROVISIONS

22 USC 7551. **SEC. 301. REQUIREMENT TO COMPLY WITH PROCEDURES RELATING
TO THE PROHIBITION ON ASSISTANCE TO DRUG TRAF-
FICKERS.**

Assistance provided under this Act shall be subject to the same provisions as are applicable to assistance under the Foreign Assistance Act of 1961 and the Arms Export Control Act under section 487 of the Foreign Assistance Act of 1961 (relating to the prohibition on assistance to drug traffickers; 22 U.S.C. 2291f), and the applicable regulations issued under that section.

22 USC 7552. **SEC. 302. SENSE OF CONGRESS REGARDING PROTECTING AFGHANI-
STAN'S PRESIDENT.**

It is the sense of Congress that—

(1) any United States physical protection force provided for the personal security of the President of Afghanistan should be composed of United States diplomatic security, law-enforcement, or military personnel, and should not utilize private contracted personnel to provide actual physical protection services;

(2) United States allies should be invited to volunteer active-duty military or law enforcement personnel to participate in such a protection force; and

(3) such a protection force should be limited in duration and should be succeeded by qualified Afghan security forces as soon as practicable.

22 USC 7553. **SEC. 303. DONOR CONTRIBUTIONS TO AFGHANISTAN AND REPORTS.**

(a) **FINDINGS.**—The Congress finds that inadequate amounts of international assistance promised by donor states at the Tokyo donors conference and elsewhere have been delivered to Afghanistan, imperiling the rebuilding and development of civil society and infrastructure, and endangering peace and security in that war-torn country.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the United States should use all appropriate diplomatic means to encourage all states that have pledged assistance to Afghanistan to deliver as soon as possible the total amount of assistance pledged.

(c) **REPORTS.**—

(1) **IN GENERAL.**—The Secretary of State shall submit reports to the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives, in accordance with this paragraph, on the status of contributions of assistance from donor states to Afghanistan. The first report shall be submitted not later than 60 days after the date of enactment of this Act, the second report shall be submitted 90 days thereafter, and subsequent reports shall be submitted every 180 days thereafter through December 31, 2004.

Deadlines.

(2) FURTHER REQUIREMENTS.—Each report, which shall be unclassified and posted upon the Department of State’s Internet website, shall include, by donor country, the total amount pledged, the amount delivered within the previous 60 days, the total amount of assistance delivered, the type of assistance and type of projects supported by the assistance.

Approved December 4, 2002.

LEGISLATIVE HISTORY—S. 2712 (H.R. 3994):

HOUSE REPORTS: No. 107–420 accompanying H.R. 3994 (Comm. on International Relations).

SENATE REPORTS: No. 107–278 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed Senate and House.



Public Law 107–328
107th Congress

Joint Resolution

Dec. 4, 2002
[S.J. Res. 53]

Relative to the convening of the first session of the One Hundred Eighth Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first regular session of the One Hundred Eighth Congress shall begin at noon on Tuesday, January 7, 2003.

Approved December 4, 2002.

LEGISLATIVE HISTORY—S.J. Res. 53:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed Senate and House.



Public Law 107–329
107th Congress

An Act

To provide for the acquisition of land and construction of an interagency administrative and visitor facility at the entrance to American Fork Canyon, Utah, and for other purposes.

Dec. 6, 2002
[S. 1240]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

**TITLE I—TIMPANOGOS INTERAGENCY
LAND EXCHANGE**

16 USC 431 note.

SEC. 101. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the facility that houses the administrative office of the Pleasant Grove Ranger District of the Uinta National Forest can no longer properly serve the purpose of the facility;

(2) a fire destroyed the Timpanogos Cave National Monument Visitor Center and administrative office in 1991, and the temporary structure that is used for a visitor center cannot adequately serve the public; and

(3) combining the administrative office of the Pleasant Grove Ranger District with a new Timpanogos Cave National Monument visitor center and administrative office in one facility would—

(A) facilitate interagency coordination;

(B) serve the public better; and

(C) improve cost effectiveness.

(b) PURPOSES.—The purposes of this title are—

(1) to authorize the Secretary of Agriculture to acquire by exchange non-Federal land located in Highland, Utah as the site for an interagency administrative and visitor facility;

(2) to direct the Secretary of the Interior to construct an administrative and visitor facility on the non-Federal land acquired by the Secretary of Agriculture; and

(3) to direct the Secretary of Agriculture and the Secretary of the Interior to cooperate in the development, construction, operation, and maintenance of the facility.

SEC. 102. DEFINITIONS.

In this title:

(1) FACILITY.—The term “facility” means the facility constructed under section 106 to house—

(A) the administrative office of the Pleasant Grove Ranger District of the Uinta National Forest; and

(B) the visitor center and administrative office of the Timpanogos Cave National Monument.

(2) **FEDERAL LAND.**—The term “Federal land” means the parcels of land and improvements to the land in the Salt Lake Meridian comprising—

(A) approximately 237 acres located in T. 5 S., R. 3 E., sec. 13, lot 1, SW $\frac{1}{4}$, NE $\frac{1}{4}$, E $\frac{1}{2}$, NW $\frac{1}{4}$ and E $\frac{1}{2}$, SW $\frac{1}{4}$, as depicted on the map entitled “Long Hollow-Provo Canyon Parcel”, dated March 12, 2001;

(B) approximately 0.18 acre located in T. 7 S., R. 2 E., sec. 12, NW $\frac{1}{4}$, as depicted on the map entitled “Provo Sign and Radio Shop”, dated March 12, 2001;

(C) approximately 20 acres located in T. 3 S., R. 1 E., sec. 33, SE $\frac{1}{4}$, as depicted on the map entitled “Corner Canyon Parcel”, dated March 12, 2001;

(D) approximately 0.18 acre located in T. 29 S., R. 7 W., sec. 15, S $\frac{1}{2}$, as depicted on the map entitled “Beaver Administrative Site”, dated March 12, 2001;

(E) approximately 7.37 acres located in T. 7 S., R. 3 E., sec. 28, NE $\frac{1}{4}$, SW $\frac{1}{4}$, NE $\frac{1}{4}$, as depicted on the map entitled “Springville Parcel”, dated March 12, 2001; and

(F) approximately 0.83 acre located in T. 5 S., R. 2 E., sec. 20, as depicted on the map entitled “Pleasant Grove Ranger District Parcel”, dated March 12, 2001.

(3) **NON-FEDERAL LAND.**—The term “non-Federal land” means the parcel of land in the Salt Lake Meridian comprising approximately 37.42 acres located at approximately 4,400 West, 11,000 North (SR-92), Highland, Utah in T. 4 S., R. 2 E., sec. 31, NW $\frac{1}{4}$, as depicted on the map entitled “The Highland Property”, dated March 12, 2001.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

SEC. 103. MAPS AND LEGAL DESCRIPTIONS.

(a) **AVAILABILITY OF MAPS.**—The maps described in paragraphs (2) and (3) of section 102 shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the date on which the land depicted on the maps is exchanged under this title.

(b) **TECHNICAL CORRECTIONS TO LEGAL DESCRIPTIONS.**—The Secretary may correct minor errors in the legal descriptions in paragraphs (2) and (3) of section 102.

SEC. 104. EXCHANGE OF LAND FOR FACILITY SITE.

(a) **IN GENERAL.**—Subject to subsection (b), the Secretary may, under such terms and conditions as the Secretary may prescribe, convey by quitclaim deed all right, title, and interest of the United States in and to the Federal land in exchange for the conveyance of the non-Federal land.

(b) **TITLE TO NON-FEDERAL LAND.**—Before the land exchange takes place under subsection (a), the Secretary shall determine that title to the non-Federal land is acceptable based on the approval standards applicable to Federal land acquisitions.

(c) **VALUATION OF NON-FEDERAL LAND.**—

(1) **DETERMINATION.**—The fair market value of the land and the improvements on the land exchanged under this title shall be determined by an appraisal that—

(A) is approved by the Secretary; and

(B) conforms with the Federal appraisal standards, as defined in the publication entitled “Uniform Appraisal Standards for Federal Land Acquisitions”.

(2) SEPARATE APPRAISALS.—

(A) IN GENERAL.—Each parcel of Federal land described in subparagraphs (A) through (F) of section 102(2) shall be appraised separately.

(B) INDIVIDUAL PROPERTY VALUES.—The property values of each parcel shall not be affected by the unit rule described in the Uniform Appraisal Standards for Federal Land Acquisitions.

(d) CASH EQUALIZATION.—Notwithstanding section 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)), the Secretary may, as the circumstances require, either make or accept a cash equalization payment in excess of 25 percent of the total value of the lands or interests transferred out of Federal ownership.

(e) ADMINISTRATION OF LAND ACQUISITION BY UNITED STATES.—

(1) BOUNDARY ADJUSTMENT.—

(A) IN GENERAL.—On acceptance of title by the Secretary—

(i) the non-Federal land conveyed to the United States shall become part of the Uinta National Forest; and

(ii) the boundaries of the national forest shall be adjusted to include the land.

(B) ALLOCATION OF LAND AND WATER CONSERVATION FUND MONEYS.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601–099), the boundaries of the national forest, as adjusted under this section, shall be considered to be boundaries of the national forest as of January 1, 1965.

(2) APPLICABLE LAW.—Subject to valid existing rights, the Secretary shall manage any land acquired under this section in accordance with—

(A) the Act of March 1, 1911 (16 U.S.C. 480 et seq.) (commonly known as the “Weeks Act”); and

(B) other laws (including regulations) that apply to National Forest System land.

SEC. 105. DISPOSITION OF FUNDS.

(a) DEPOSIT.—The Secretary shall deposit any cash equalization funds received in the land exchange in the fund established under Public Law 90-171 (16 U.S.C. 484a) (commonly known as the “Sisk Act”).

(b) USE OF FUNDS.—Funds deposited under subsection (a) shall be available to the Secretary, without further appropriation, for the acquisition of land and interests in land for administrative sites in the State of Utah and land for the National Forest System.

SEC. 106. CONSTRUCTION AND OPERATION OF FACILITY.

(a) CONSTRUCTION.—

(1) IN GENERAL.—Subject to paragraph (2), as soon as practicable after funds are made available to carry out this title, the Secretary of the Interior shall construct, and bear responsibility for all costs of construction of, a facility and all necessary infrastructure on non-Federal land acquired under section 104.

(2) DESIGN AND SPECIFICATIONS.—Prior to construction, the design and specifications of the facility shall be approved by the Secretary and the Secretary of the Interior.

(b) OPERATION AND MAINTENANCE OF FACILITY.—The facility shall be occupied, operated, and maintained jointly by the Secretary (acting through the Chief of the Forest Service) and the Secretary of the Interior (acting through the Director of the National Park Service) under terms and conditions agreed to by the Secretary and the Secretary of the Interior.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title.

TITLE II—UTAH PUBLIC LANDS ARTIFACT PRESERVATION

SEC. 201. FINDINGS.

Congress finds that—

(1) the collection of the Utah Museum of Natural History in Salt Lake City, Utah, includes more than 1,000,000 archaeological, paleontological, zoological, geological, and botanical artifacts;

(2) the collection of items housed by the Museum contains artifacts from land managed by—

(A) the Bureau of Land Management;

(B) the Bureau of Reclamation;

(C) the National Park Service;

(D) the United States Fish and Wildlife Service; and

(E) the Forest Service;

(3) more than 75 percent of the Museum's collection was recovered from federally managed public land; and

(4) the Museum has been designated by the legislature of the State of Utah as the State museum of natural history.

SEC. 202. DEFINITIONS.

In this title:

(1) MUSEUM.—The term “Museum” means the University of Utah Museum of Natural History in Salt Lake City, Utah.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 203. ASSISTANCE FOR UNIVERSITY OF UTAH MUSEUM OF NATURAL HISTORY.

Grants.

(a) ASSISTANCE FOR MUSEUM.—The Secretary shall make a grant to the University of Utah in Salt Lake City, Utah, to pay the Federal share of the costs of construction of a new facility for the Museum, including the design, planning, furnishing, and equipping of the Museum.

(b) GRANT REQUIREMENTS.—

(1) IN GENERAL.—To receive a grant under subsection (b), the Museum shall submit to the Secretary a proposal for the use of the grant.

(2) FEDERAL SHARE.—The Federal share of the costs described in subsection (a) shall not exceed 25 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$15,000,000, to remain available until expended.

TITLE III—SALT RIVER BAY NATIONAL HISTORICAL PARK AND ECOLOGICAL PRESERVE BOUNDARY ADJUSTMENT

SEC. 301. BOUNDARY ADJUSTMENT.

The first sentence of section 103(b) of the Salt River Bay National Historical Park and Ecological Preserve at St. Croix, Virgin Islands, Act of 1992 (16 U.S.C. 410tt–1(b)) is amended to read as follows: “The park shall consist of approximately 1015 acres of lands, waters, and interests in lands as generally depicted on the map entitled ‘Salt River Bay National Historical Park and Ecological Preserve, St. Croix, U.S.V.I.’, numbered 141/80002, and dated May 2, 2002.”.

Approved December 6, 2002.

LEGISLATIVE HISTORY—S. 1240 (H.R. 3928):

HOUSE REPORTS: No. 107–669 (Comm. on Resources).

SENATE REPORTS: No. 107–178 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Aug. 1, considered and passed Senate.

Sept. 24, considered and passed House, amended.

Nov. 19, Senate concurred in House amendment.



Public Law 107–330
107th Congress

An Act

Dec. 6, 2002
[S. 2237]

To amend title 38, United States Code, to improve authorities of the Department of Veterans Affairs relating to veterans' compensation, dependency and indemnity compensation, and pension benefits, education benefits, housing benefits, memorial affairs benefits, life insurance benefits, and certain other benefits for veterans, to improve the administration of benefits for veterans, to make improvements in procedures relating to judicial review of veterans' claims for benefits, and for other purposes.

Veterans
Benefits Act of
2002.

38 USC 101 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Veterans Benefits Act of 2002”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. References to title 38, United States Code.

TITLE I—COMPENSATION AND BENEFITS IMPROVEMENTS

Sec. 101. Retention of CHAMPVA for surviving spouses remarrying after age 55.

Sec. 102. Clarification of entitlement to special monthly compensation for women veterans who have service-connected loss of breast tissue.

Sec. 103. Specification of hearing loss required for compensation for hearing loss in paired organs.

Sec. 104. Assessment of acoustic trauma associated with military service from World War II to present.

TITLE II—MEMORIAL AFFAIRS

Sec. 201. Prohibition on certain additional benefits for persons committing capital crimes.

Sec. 202. Procedures for disqualification of persons committing capital crimes for interment or memorialization in national cemeteries.

Sec. 203. Application of Department of Veterans Affairs benefit for Government markers for marked graves of veterans at private cemeteries to veterans dying on or after September 11, 2001.

Sec. 204. Authorization of placement of a memorial in Arlington National Cemetery honoring World War II veterans who fought in the Battle of the Bulge.

TITLE III—OTHER MATTERS

Sec. 301. Increase in aggregate annual amount available for State approving agencies for administrative expenses for fiscal years 2003 through 2007.

Sec. 302. Authority for Veterans' Mortgage Life Insurance to be carried beyond age 70.

Sec. 303. Authority to guarantee hybrid adjustable rate mortgages.

Sec. 304. Increase in amount payable as Medal of Honor special pension.

Sec. 305. Extension of protections under the Soldiers' and Sailors' Civil Relief Act of 1940 to National Guard members called to active duty under title 32, United States Code.

Sec. 306. Extension of income verification authority.

Sec. 307. Fee for loan assumption.

Sec. 308. Technical and clarifying amendments.

Sec. 309. Codification of cost-of-living adjustment provided in Public Law 107–247.

TITLE IV—JUDICIAL MATTERS

Sec. 401. Standard for reversal by Court of Appeals for Veterans Claims of erroneous finding of fact by Board of Veterans' Appeals.

Sec. 402. Review by Court of Appeals for the Federal Circuit of decisions of law of Court of Appeals for Veterans Claims.

Sec. 403. Authority of Court of Appeals for Veterans Claims to award fees under Equal Access to Justice Act for non-attorney practitioners.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

**TITLE I—COMPENSATION AND
BENEFITS IMPROVEMENTS**

**SEC. 101. RETENTION OF CHAMPVA FOR SURVIVING SPOUSES
REMARRYING AFTER AGE 55.**

(a) EXCEPTION TO TERMINATION OF BENEFITS UPON REMARRIAGE.—Paragraph (2) of section 103(d) is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following:

“(B) The remarriage after age 55 of the surviving spouse of a veteran shall not bar the furnishing of benefits under section 1781 of this title to such person as the surviving spouse of the veteran.”.

(b) APPLICATION FOR BENEFITS.—In the case of an individual who but for having remarried would be eligible for medical care under section 1781 of title 38, United States Code, and whose remarriage was before the date of the enactment of this Act and after the individual had attained age 55, the individual shall be eligible for such medical care by reason of the amendments made by subsection (a) only if an application for such medical care is received by the Secretary of Veterans Affairs during the 1-year period ending on the effective date specified in subsection (c).

38 USC 103 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date that is 60 days after the date of the enactment of this Act.

38 USC 103 note.

**SEC. 102. CLARIFICATION OF ENTITLEMENT TO SPECIAL MONTHLY
COMPENSATION FOR WOMEN VETERANS WHO HAVE
SERVICE-CONNECTED LOSS OF BREAST TISSUE.**

Section 1114(k) is amended by striking “one or both breasts (including loss by mastectomy)” and inserting “25 percent or more of tissue from a single breast or both breasts in combination (including loss by mastectomy or partial mastectomy) or has received radiation treatment of breast tissue”.

**SEC. 103. SPECIFICATION OF HEARING LOSS REQUIRED FOR COM-
PENSATION FOR HEARING LOSS IN PAIRED ORGANS.**

Section 1160(a)(3) is amended—

(1) by striking “total deafness” the first place it appears and inserting “deafness compensable to a degree of 10 percent or more”; and

(2) by striking “total deafness” the second place it appears and inserting “deafness”.

Deadlines.

SEC. 104. ASSESSMENT OF ACOUSTIC TRAUMA ASSOCIATED WITH MILITARY SERVICE FROM WORLD WAR II TO PRESENT.

Contracts.

(a) **ASSESSMENT BY NATIONAL ACADEMY OF SCIENCES.**—The Secretary of Veterans Affairs shall seek to enter into an agreement with the National Academy of Sciences for the Academy to perform the activities specified in this section. The Secretary shall seek to enter into the agreement not later than 60 days after the date of the enactment of this Act.

(b) **DUTIES UNDER AGREEMENT.**—Under the agreement under subsection (a), the National Academy of Sciences shall do the following:

(1) Review and assess available data on hearing loss that could reasonably be expected to have been incurred by members of the Armed Forces during the period from the beginning of World War II to the date of the enactment of this Act.

(2) Identify the different sources of acoustic trauma that members of the Armed Forces could reasonably be expected to have been exposed to during the period from the beginning of World War II to the date of the enactment of this Act

(3) Determine how much exposure to each source of acoustic trauma identified under paragraph (2) is required to cause or contribute to hearing loss, hearing threshold shift, or tinnitus, as the case may be, and at what noise level.

(4) Determine whether or not such hearing loss, hearing threshold shift, or tinnitus, as the case may be, is—

(A) immediate or delayed onset;

(B) cumulative;

(C) progressive; or

(D) any combination of subparagraph (A), (B), and

(C).

(5) Identify age, occupational history, and other factors which contribute to an individual’s noise-induced hearing loss.

(6) Identify—

(A) the period of time at which audiometric measures used by the Armed Forces became adequate to evaluate individual hearing threshold shift; and

(B) the period of time at which hearing conservation measures to prevent individual hearing threshold shift were available to members of the Armed Forces, shown separately for each of the Army, Navy, Air Force, Marine Corps, and Coast Guard, and, for each such service, shown separately for members exposed to different sources of acoustic trauma identified under paragraph (2).

(c) **REPORT.**—Not later than 180 days after the date of the entry into the agreement referred to in subsection (a), the National Academy of Sciences shall submit to the Secretary a report on the activities of the National Academy of Sciences under the agreement, including the results of the activities required by subsection (b).

(d) **REPORT ON ADMINISTRATION OF BENEFITS FOR HEARING LOSS AND TINNITUS.**—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and the House of Representatives a report on the claims submitted

to the Secretary for disability compensation or health care for hearing loss or tinnitus.

(2) The report under paragraph (1) shall include the following:

(A) The number of decisions issued by the Secretary in each of fiscal years 2000, 2001, and 2002 on claims for disability compensation for hearing loss, tinnitus, or both.

(B) Of the decisions referred to in subparagraph (A)—

(i) the number in which compensation was awarded, and the number in which compensation was denied, set forth by fiscal year; and

(ii) the total amount of disability compensation paid on such claims during each such fiscal year.

(C) The total cost to the Department of Veterans Affairs of adjudicating the claims referred to in subparagraph (A), set forth in terms of full-time employee equivalents (FTEEs).

(D) The total number of veterans who sought treatment in Department of Veterans Affairs health care facilities during fiscal years specified in subparagraph (A) for hearing-related disorders, set forth by the number of veterans per year.

(E) The health care furnished to veterans referred to in subparagraph (D) for hearing-related disorders, including the number of veterans furnished hearing aids and the cost of furnishing such hearing aids.

TITLE II—MEMORIAL AFFAIRS

SEC. 201. PROHIBITION ON CERTAIN ADDITIONAL BENEFITS FOR PERSONS COMMITTING CAPITAL CRIMES.

(a) PRESIDENTIAL MEMORIAL CERTIFICATE.—Section 112 is amended by adding at the end the following new subsection:

“(c) A certificate may not be furnished under the program under subsection (a) on behalf of a deceased person described in section 2411(b) of this title.”.

(b) FLAG TO DRAPE CASKET.—Section 2301 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following new subsection (g):

“(g) A flag may not be furnished under this section in the case of a person described in section 2411(b) of this title.”.

(c) HEADSTONE OR MARKER FOR GRAVE.—Section 2306 is amended by adding at the end the following new subsection:

“(g)(1) A headstone or marker may not be furnished under subsection (a) for the unmarked grave of a person described in section 2411(b) of this title.

“(2) A memorial headstone or marker may not be furnished under subsection (b) for the purpose of commemorating a person described in section 2411(b) of this title.

“(3) A marker may not be furnished under subsection (d) for the grave of a person described in section 2411(b) of this title.”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to deaths occurring on or after the date of the enactment of this Act.

Applicability.
38 USC 112 note.

SEC. 202. PROCEDURES FOR DISQUALIFICATION OF PERSONS COMMITTING CAPITAL CRIMES FOR INTERMENT OR MEMORIALIZATION IN NATIONAL CEMETERIES.

Section 2411(a)(2) is amended—

(1) by striking “The prohibition” and inserting “In the case of a person described in subsection (b)(1) or (b)(2), the prohibition”; and

(2) by striking “or finding under subsection (b)” and inserting “referred to in subsection (b)(1) or (b)(2), as the case may be,”.

SEC. 203. APPLICATION OF DEPARTMENT OF VETERANS AFFAIRS BENEFIT FOR GOVERNMENT MARKERS FOR MARKED GRAVES OF VETERANS AT PRIVATE CEMETERIES TO VETERANS DYING ON OR AFTER SEPTEMBER 11, 2001.

(a) IN GENERAL.—Subsection (d) of section 502 of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107-103; 115 Stat. 995; 38 U.S.C. 2306 note) is amended by striking “the date of the enactment of this Act” and inserting “September 11, 2001”

38 USC 2306
note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of such section 502.

38 USC 2409
note.

SEC. 204. AUTHORIZATION OF PLACEMENT OF A MEMORIAL IN ARLINGTON NATIONAL CEMETERY HONORING WORLD WAR II VETERANS WHO FOUGHT IN THE BATTLE OF THE BULGE.

The Secretary of the Army is authorized to place in Arlington National Cemetery a memorial marker honoring veterans who fought in the battle in the European theater of operations during World War II known as the Battle of the Bulge.

TITLE III—OTHER MATTERS

SEC. 301. INCREASE IN AGGREGATE ANNUAL AMOUNT AVAILABLE FOR STATE APPROVING AGENCIES FOR ADMINISTRATIVE EXPENSES FOR FISCAL YEARS 2003 THROUGH 2007.

The first sentence of section 3674(a)(4) is amended by inserting before the period at the end the following: “, for fiscal year 2003, \$14,000,000, for fiscal year 2004, \$18,000,000, for fiscal year 2005, \$18,000,000, for fiscal year 2006, \$19,000,000, and for fiscal year 2007, \$19,000,000”.

SEC. 302. AUTHORITY FOR VETERANS’ MORTGAGE LIFE INSURANCE TO BE CARRIED BEYOND AGE 70.

Section 2106 is amended—

(1) in subsection (a), by inserting “age 69 or younger” after “any eligible veteran”; and

(2) in subsection (i), by striking paragraph (2) and redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

SEC. 303. AUTHORITY TO GUARANTEE HYBRID ADJUSTABLE RATE MORTGAGES.

(a) TWO-YEAR DEMONSTRATION PROJECT TO GUARANTEE CERTAIN ADJUSTABLE RATE MORTGAGES.—Chapter 37 is amended by inserting after section 3707 the following new section:

“§ 3707A. Hybrid adjustable rate mortgages

“(a) The Secretary shall carry out a demonstration project under this section during fiscal years 2004 and 2005 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act in accordance with the provisions of this section with respect to hybrid adjustable rate mortgages described in subsection (b).

“(b) Adjustable rate mortgages that are guaranteed under this section shall be adjustable rate mortgages (commonly referred to as ‘hybrid adjustable rate mortgages’) having interest rate adjustment provisions that—

“(1) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

“(2) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (1); and

“(3) comply in such initial adjustment, and any subsequent adjustment, with subsection (c).

“(c) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

“(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

“(2) be made by adjusting the monthly payment on an annual basis;

“(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

“(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

“(d) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account— Standards.

“(1) the status of the interest rate index referred to in subsection (c)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

“(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

“(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

“(4) such other factors as the Secretary finds appropriate.

“(e) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage,

including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 is amended by inserting after the item relating to section 3707 the following new item:

“3707A. Hybrid adjustable rate mortgages.”.

SEC. 304. INCREASE IN AMOUNT PAYABLE AS MEDAL OF HONOR SPECIAL PENSION.

(a) INCREASE IN AMOUNT.—Subsection (a) of section 1562 is amended by striking “\$600” and inserting “\$1,000, as adjusted from time to time under subsection (e)”.

(b) ANNUAL ADJUSTMENT.—That section is further amended by adding at the end the following new subsection:

Effective date.

“(e) Effective as of December 1 each year, the Secretary shall increase the amount of monthly special pension payable under subsection (a) as of November 30 of such year by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased effective December 1 of such year as a result of a determination under section 215(i) of that Act (42 U.S.C. 415(i)).”.

(c) PAYMENT OF LUMP SUM FOR PERIOD BETWEEN ACT OF VALOR AND COMMENCEMENT OF SPECIAL PENSION.—That section is further amended by adding after subsection (e), as added by subsection (b) of this section, the following new subsection:

“(f)(1) The Secretary shall pay, in a lump sum, to each person who is in receipt of special pension payable under this section an amount equal to the total amount of special pension that the person would have received during the period beginning on the first day of the first month beginning after the date of the act for which the person was awarded the Medal of Honor and ending on the last day of the month preceding the month in which the person’s special pension in fact commenced.

“(2) For each month of a period referred to in paragraph (1), the amount of special pension payable to a person shall be determined using the rate of special pension that was in effect for such month, and shall be payable only if the person would have been entitled to payment of special pension for such month under laws for eligibility for special pension (with the exception of the eligibility law requiring a person to have been awarded a Medal of Honor) in effect at the beginning of such month.”.

38 USC 1562
note.

(d) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall take effect on September 1, 2003. No payment may be made pursuant to subsection (f) of section 1562 of title 38, United States Code, as added by subsection (c) of this section, before October 1, 2003.

(2) The Secretary of Veterans Affairs shall not make any adjustment under subsection (e) of section 1562 of title 38, United States Code, as added by subsection (b) of this section, in 2003.

SEC. 305. EXTENSION OF PROTECTIONS UNDER THE SOLDIERS’ AND SAILORS’ CIVIL RELIEF ACT OF 1940 TO NATIONAL GUARD MEMBERS CALLED TO ACTIVE DUTY UNDER TITLE 32, UNITED STATES CODE.

Section 101(1) of the Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 U.S.C. App. 511(1)) is amended—

(1) in the first sentence—

(A) by striking “and all” and inserting “all”; and

(B) by inserting before the period the following: “, and all members of the National Guard on service described in the following sentence”; and

(2) in the second sentence, by inserting before the period the following: “, and, in the case of a member of the National Guard, shall include service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 502(f) of title 32, United States Code, for purposes of responding to a national emergency declared by the President and supported by Federal funds”.

SEC. 306. EXTENSION OF INCOME VERIFICATION AUTHORITY.

Section 6103(l)(7)(D) of the Internal Revenue Code of 1986 is amended by striking “September 30, 2003” in the second sentence after clause (ix) and inserting “September 30, 2008”. 26 USC 6103.

SEC. 307. FEE FOR LOAN ASSUMPTION.

(a) IN GENERAL.—For the period described in subsection (b), the Secretary of Veterans Affairs shall apply section 3729(b)(2)(I) of title 38, United States Code, by substituting “1.00” for “0.50” each place it appears.

38 USC 3729
note.
Applicability.

(b) PERIOD DESCRIBED.—The period referred to in subsection (a) is the period that begins on the date that is 7 days after the date of the enactment of this Act and ends on September 30, 2003.

SEC. 308. TECHNICAL AND CLARIFYING AMENDMENTS.

(a) ELIGIBILITY OF CERTAIN ADDITIONAL VIETNAM ERA VETERANS FOR EDUCATION BENEFITS.—Section 3011(a)(1)(C)(ii) is amended by striking “on or”.

(b) ACCELERATED PAYMENT OF ASSISTANCE FOR EDUCATION LEADING TO EMPLOYMENT IN HIGH TECHNOLOGY INDUSTRY.—(1) Subsection (b)(1) of section 3014A is amended by striking “employment in a high technology industry” and inserting “employment in a high technology occupation in a high technology industry”.

(2)(A) The heading for section 3014A is amended to read as follows:

“§ 3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry”.

(B) The table of sections at the beginning of chapter 30 is amended by striking the item relating to section 3014A and inserting the following new item:

“3014A. Accelerated payment of basic educational assistance for education leading to employment in high technology occupation in high technology industry.”.

(c) SOURCE OF FUNDS FOR INCREASED USAGE OF MONTGOMERY GI BILL ENTITLEMENT UNDER ENTITLEMENT TRANSFER AUTHORITY.—(1) Section 3035(b) is amended—

(A) in paragraph (1), by striking “paragraphs (2) and (3) of this subsection,” and inserting “paragraphs (2), (3), and (4),”; and

(B) by adding at the end the following new paragraph:

“(4) Payments attributable to the increased usage of benefits as a result of transfers of entitlement to basic educational assistance under section 3020 of this title shall be made from the Department of Defense Education Benefits Fund established under section 2006 of title 10 or from appropriations made to the Department of Transportation, as appropriate.”.

Effective date.
38 USC 3035
note.

(2) The amendments made by this subsection shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107), to which such amendments relate.

(d) LICENSING OR CERTIFICATION TESTS.—Section 3689(c)(1)(B) is amended by striking “the test” and inserting “such test, or a test to certify or license in a similar or related occupation,”.

(e) PERIOD OF ELIGIBILITY FOR SURVIVORS’ AND DEPENDENTS’ ASSISTANCE EDUCATION BENEFITS.—(1) Section 3512(a) is amended—

(A) in paragraph (3)—

(i) by striking “paragraph (4)” in the matter preceding subparagraph (A) and inserting “paragraph (4) or (5)”; and

(ii) by striking “subsection (d)” in subparagraph (C)(i) and inserting “subsection (d), or any date between the two dates described in subsection (d)”;

(B) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (5), (6), (7), and (8), respectively;

(C) by inserting after paragraph (3) the following new paragraph (4):

“(4) if the person otherwise eligible under paragraph (3) fails to elect a beginning date of entitlement in accordance with that paragraph, the beginning date of the person’s entitlement shall be the date of the Secretary’s decision that the parent has a service-connected total disability permanent in nature, or that the parent’s death was service-connected, whichever is applicable;”;

(D) in paragraph (6), as so redesignated, by striking “paragraph (4)” and inserting “paragraph (5)”.

Effective date.
38 USC 3512
note.

(2) The amendments made by this subsection shall take effect November 1, 2000.

(f) LOAN FEES.—(1) Section 3703(e)(2)(A) is amended by striking “3729(b)” and inserting “3729(b)(2)(I)”.

Effective date.
38 USC 3703
note.

(2) The amendment made by paragraph (1) shall take effect as if included in the enactment of section 402 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106-419; 114 Stat. 1861).

(g) ADDITIONAL MISCELLANEOUS TECHNICAL AMENDMENTS TO TITLE 38, UNITED STATES CODE.—(1)(A) The tables of chapters preceding part I and at the beginning of part IV are each amended by striking “5101” in the item relating to chapter 51 and inserting “5100”.

(B) The table of parts preceding part I is amended by striking “5101” in the item relating to part IV and inserting “5100”.

(2) Section 107(d)(2) is amended by striking “the date of the enactment of this subsection” and inserting “November 1, 2000,”.

(3) Section 1701(10)(A) is amended by striking “the date of the enactment of the Veterans’ Millennium Health Care and Benefits Act” and inserting “November 30, 1999,”.

(4) Section 1705(c)(1) is amended by striking “Effective on October 1, 1998, the Secretary” and inserting “The Secretary”.

(5) Section 1707(a) is amended by inserting “(42 U.S.C. 14401 et seq.)” before the period at the end.

(6) Section 1710(e)(1)(D) is amended by striking “the date of the enactment of this subparagraph” and inserting “November 11, 1998”.

(7) Section 1729B(b) is amended by striking “the date of the enactment of this section” and inserting “November 30, 1999,”.

(8) Section 1781(d) is amended—

(A) in paragraph (1)(B)(i), by striking “as of the date” and all that follows through “of 2001” and inserting “as of June 5, 2001”; and

(B) in paragraph (4), by striking “paragraph” and inserting “subsection”.

(9) Section 3018C(e)(2)(B) is amended by striking the comma after “April”.

(10) Section 3031(a)(3) is amended by striking “the date of the enactment of this paragraph” and inserting “December 27, 2001”.

(11) Section 3485(a)(4) is amended in subparagraphs (A), (C), and (F), by striking “the five-year period beginning on the date of the enactment of the Veterans Education and Benefits Expansion Act of 2001” and inserting “the period preceding December 27, 2006”.

(12) Section 3734(b)(2) is amended—

(A) by striking subparagraph (B); and

(B) by redesignating subparagraphs (C), (D), (E), and (F) as subparagraphs (B), (C), (D), and (E), respectively.

(13) Section 7315(a) is amended by inserting “Veterans Health” in the first sentence after “in the”.

(h) PUBLIC LAW 107–103.—Effective as of December 27, 2001, and as if included therein as originally enacted, section 103(c) of the Veterans Education and Benefits Expansion Act of 2001 (Public Law 107–103; 115 Stat. 979) is amended by inserting closing quotation marks at the end of the text inserted by the amendment made by paragraph (2).

Effective date.

38 USC 3103.

(i) PUBLIC LAW 102–86.—Section 403(e) of the Veterans’ Benefits Programs Improvement Act of 1991 (Public Law 102–86; 105 Stat. 424) is amended by striking “section 321” and all that follows through “and 484” and inserting “subchapter II of chapter 5 of title 40, United States Code, sections 541 through 555 and 1302 of title 40, United States Code”.

38 USC 2400
note.

SEC. 309. CODIFICATION OF COST-OF-LIVING ADJUSTMENT PROVIDED IN PUBLIC LAW 107–247.

(a) VETERANS’ DISABILITY COMPENSATION.—Section 1114 is amended—

(1) by striking “\$103” in subsection (a) and inserting “\$104”;

(2) by striking “\$199” in subsection (b) and inserting “\$201”;

(3) by striking “\$306” in subsection (c) and inserting “\$310”;

(4) by striking “\$439” in subsection (d) and inserting “\$445”;

(5) by striking “\$625” in subsection (e) and inserting “\$633”;

(6) by striking “\$790” in subsection (f) and inserting “\$801”;

(7) by striking “\$995” in subsection (g) and inserting “\$1,008”;

(8) by striking “\$1,155” in subsection (h) and inserting “\$1,171”;

(9) by striking “\$1,299” in subsection (i) and inserting “\$1,317”;

(10) by striking “\$2,163” in subsection (j) and inserting “\$2,193”;

(11) in subsection (k)—

(A) by striking “\$80” both places it appears and inserting “\$81”; and

(B) by striking “\$2,691” and “\$3,775” and inserting “\$2,728” and “\$3,827”, respectively;

(12) by striking “\$2,691” in subsection (l) and inserting “\$2,728”;

(13) by striking “\$2,969” in subsection (m) and inserting “\$3,010”;

(14) by striking “\$3,378” in subsection (n) and inserting “\$3,425”;

(15) by striking “\$3,775” each place it appears in subsections (o) and (p) and inserting “\$3,827”;

(16) by striking “\$1,621” and “\$2,413” in subsection (r) and inserting “\$1,643” and “\$2,446”, respectively; and

(17) by striking “\$2,422” in subsection (s) and inserting “\$2,455”.

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) is amended—

(1) by striking “\$124” in subparagraph (A) and inserting “\$125”;

(2) by striking “\$213” in subparagraph (B) and inserting “\$215”;

(3) by striking “\$84” in subparagraph (C) and inserting “\$85”;

(4) by striking “\$100” in subparagraph (D) and inserting “\$101”;

(5) by striking “\$234” in subparagraph (E) and inserting “\$237”; and

(6) by striking “\$196” in subparagraph (F) and inserting “\$198”.

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 is amended by striking “\$580” and inserting “\$588”.

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—(1) Section 1311(a) is amended—

(A) by striking “\$935” in paragraph (1) and inserting “\$948”; and

(B) by striking “\$202” in paragraph (2) and inserting “\$204”.

(2) The table in section 1311(a)(3) is amended to read as follows:

“Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	\$948	W-4	\$1,134
E-2	948	O-1	1,001
E-3	948	O-2	1,035
E-4	948	O-3	1,107
E-5	948	O-4	1,171
E-6	948	O-5	1,289
E-7	980	O-6	1,453
E-8	1,035	O-7	1,570
E-9	¹ 1,080	O-8	1,722
W-1	1,001	O-9	1,843
W-2	1,042	O-10	² 2,021
W-3	1,072		

¹If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$1,165.

²If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse’s rate shall be \$2,168.”.

(3) Section 1311(b) is amended by striking “\$234” and inserting “\$237”.

(4) Section 1311(c) is amended by striking “\$234” and inserting “\$237”.

(5) Section 1311(d) is amended by striking “\$112” and inserting “\$113”.

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—(1) Section 1313(a) is amended—

(A) by striking “\$397” in paragraph (1) and inserting “\$402”;

(B) by striking “\$571” in paragraph (2) and inserting “\$578”;

(C) by striking “\$742” in paragraph (3) and inserting “\$752”; and

(D) by striking “\$742” and “\$143” in paragraph (4) and inserting “\$752” and “\$145”, respectively.

(2) Section 1314 is amended—

(A) by striking “\$234” in subsection (a) and inserting “\$237”;

(B) by striking “\$397” in subsection (b) and inserting “\$402”; and

(C) by striking “\$199” in subsection (c) and inserting “\$201”.

TITLE IV—JUDICIAL MATTERS**SEC. 401. STANDARD FOR REVERSAL BY COURT OF APPEALS FOR VETERANS CLAIMS OF ERRONEOUS FINDING OF FACT BY BOARD OF VETERANS' APPEALS.**

38 USC 7261. (a) STANDARD FOR REVERSAL.—Paragraph (4) of subsection (a) of section 7261 is amended—

(1) by inserting “adverse to the claimant” after “material fact”; and

(2) by inserting “or reverse” after “and set aside”.

(b) REQUIREMENTS FOR REVIEW.—Subsection (b) of that section is amended to read as follows:

“(b) In making the determinations under subsection (a), the Court shall review the record of proceedings before the Secretary and the Board of Veterans’ Appeals pursuant to section 7252(b) of this title and shall—

“(1) take due account of the Secretary’s application of section 5107(b) of this title; and

“(2) take due account of the rule of prejudicial error.”.

Effective date.
38 USC 7261
note.

(c) APPLICABILITY.—(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by this section shall apply with respect to any case pending for decision before the United States Court of Appeals for Veterans Claims other than a case in which a decision has been entered before the date of the enactment of this Act.

SEC. 402. REVIEW BY COURT OF APPEALS FOR THE FEDERAL CIRCUIT OF DECISIONS OF LAW OF COURT OF APPEALS FOR VETERANS CLAIMS.

(a) REVIEW.—Section 7292(a) is amended by inserting “a decision of the Court on a rule of law or of” in the first sentence after “the validity of”.

38 USC 7292
note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to any appeal—

(1) filed with the United States Court of Appeals for the Federal Circuit on or after the date of the enactment of this Act; or

(2) pending with the United States Court of Appeals for the Federal Circuit as of the date of the enactment of this Act in which a decision has not been rendered as of that date.

SEC. 403. AUTHORITY OF COURT OF APPEALS FOR VETERANS CLAIMS 28 USC 2412
TO AWARD FEES UNDER EQUAL ACCESS TO JUSTICE ACT note.
FOR NON-ATTORNEY PRACTITIONERS.

The authority of the United States Court of Appeals for Veterans Claims to award reasonable fees and expenses of attorneys under section 2412(d) of title 28, United States Code, shall include authority to award fees and expenses, in an amount determined appropriate by the United States Court of Appeals for Veterans Claims, of individuals admitted to practice before the Court as non-attorney practitioners under subsection (b) or (c) of Rule 46 of the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

Approved December 6, 2002.

LEGISLATIVE HISTORY—S. 2237:

SENATE REPORTS: No. 107–234 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 26, considered and passed Senate.

Nov. 14, considered and passed House, amended.

Nov. 15, Senate concurred in House amendments.



Public Law 107–331
107th Congress

An Act

Dec. 13, 2002
[S. 2017]

To amend the Indian Financing Act of 1974 to improve the effectiveness of the
Indian loan guarantee and insurance program.

Indian Financing
Amendments Act
of 2002.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. TABLE OF CONTENTS.

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Sec. 1. Table of contents.

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Sec. 102. Findings and purpose.

Sec. 103. Amendments to Indian Financing Act.

**TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE
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Sec. 202. Findings.

Sec. 203. Definitions.

Sec. 204. Yankton Sioux Tribe Development Trust Fund.

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Sec. 206. Tribal plans.

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Sec. 208. Statutory construction.

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**TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND
MUSEUM**

Sec. 301. Oklahoma Native American Cultural Center and Museum.

TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA

Sec. 401. Transmission of power from Indian lands in Oklahoma.

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Sec. 601. Short title.

Sec. 602. Findings.

Sec. 603. Purposes.

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Sec. 605. Settlement and claims; appropriations; allocation of funds.

Sec. 606. Tribal trust funds.

Sec. 607. Attorney fees.

Sec. 608. Release of other tribal claims and filing of claims.

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TITLE VII—SEMINOLE TRIBE

Sec. 701. Approval not required to validate certain land transactions.

TITLE VIII—JICARILLA APACHE RESERVATION RURAL WATER SYSTEM

- Sec. 801. Short title.
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- Sec. 803. Definitions.
- Sec. 804. Jicarilla Apache Reservation rural water system.
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- Sec. 901. Short title.
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- Sec. 914. Authorizations of appropriations.

TITLE X—MISCELLANEOUS

- Sec. 1001. Santee Sioux Tribe, Nebraska, water system study.
- Sec. 1002. Yurok Tribe and Hopland Band included in long-term leasing.

TITLE I—INDIAN FINANCING ACT AMENDMENTS

SEC. 101. SHORT TITLE.

This Act may be cited as the “Indian Financing Amendments Act of 2002”.

25 USC 1451
note.

SEC. 102. FINDINGS AND PURPOSE.

25 USC 1485
note.

(a) FINDINGS.—Congress finds that—

(1) the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) was intended to provide Native American borrowers with access to commercial sources of capital that otherwise would not be available through the guarantee or insurance of loans by the Secretary of the Interior;

(2) although the Secretary of the Interior has made loan guarantees and insurance available, use of those guarantees and that insurance by lenders to benefit Native American business borrowers has been limited;

(3) twenty-seven years after the date of enactment of the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.), the promotion and development of Native American-owned business remains an essential foundation for growth of economic and social stability of Native Americans;

(4) use by commercial lenders of the available loan insurance and guarantees may be limited by liquidity and other capital market-driven concerns; and

(5) it is in the best interest of the insured and guaranteed loan program of the Department of the Interior—

(A) to encourage the orderly development and expansion of a secondary market for loans guaranteed or insured by the Secretary of the Interior; and

(B) to expand the number of lenders originating loans under the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.).

(b) PURPOSE.—The purpose of this Act is to reform and clarify the Indian Financing Act of 1974 (25 U.S.C. 1451 et seq.) in order to—

(1) stimulate the use by lenders of secondary market investors for loans guaranteed or insured under a program administered by the Secretary of the Interior;

(2) preserve the authority of the Secretary to administer the program and regulate lenders;

(3) clarify that a good faith investor in loans insured or guaranteed by the Secretary will receive appropriate payments;

(4) provide for the appointment by the Secretary of a qualified fiscal transfer agent to establish and administer a system for the orderly transfer of those loans; and

(5)(A) authorize the Secretary to promulgate regulations to encourage and expand a secondary market program for loans guaranteed or insured by the Secretary; and

(B) allow the pooling of those loans as the secondary market develops.

SEC. 103. AMENDMENTS TO INDIAN FINANCING ACT.

(a) LIMITATION ON LOAN AMOUNTS WITHOUT PRIOR APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended in the last sentence by striking “\$100,000” and inserting “\$250,000”.

(b) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking “Any loan guaranteed” and inserting the following:

“(a) IN GENERAL.—Any loan guaranteed or insured”; and

(2) by adding at the end the following:

“(b) INITIAL TRANSFERS.—

“(1) IN GENERAL.—The lender of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

“(A) all rights and obligations of the lender in the loan or in the unguaranteed or uninsured portion of the loan; and

“(B) any security given for the loan.

“(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

“(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

“(B) the lender shall give notice of the transfer to the Secretary.

“(3) RESPONSIBILITIES OF TRANSFEREE.—On any transfer under paragraph (1), the transferee shall—

“(A) be deemed to be the lender for the purpose of this title;

“(B) become the secured party of record; and

“(C) be responsible for—

“(i) performing the duties of the lender; and

“(ii) servicing the loan in accordance with the terms of the guarantee by the Secretary of the loan.

“(c) SECONDARY TRANSFERS.—

“(1) IN GENERAL.—Any transferee under subsection (b) of a loan guaranteed or insured under this title may transfer to any individual or legal entity—

“(A) all rights and obligations of the transferee in the loan or in the unguaranteed or uninsured portion of the loan; and

“(B) any security given for the loan.

“(2) ADDITIONAL REQUIREMENTS.—With respect to a transfer described in paragraph (1)—

“(A) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (i); and

“(B) the transferor shall give notice of the transfer to the Secretary.

“(3) ACKNOWLEDGMENT BY SECRETARY.—On receipt of a notice of a transfer under paragraph (2)(B), the Secretary shall issue to the transferee an acknowledgment by the Secretary of—

“(A) the transfer; and

“(B) the interest of the transferee in the guaranteed or insured portion of the loan.

“(4) RESPONSIBILITIES OF LENDER.—Notwithstanding any transfer permitted by this subsection, the lender shall—

“(A) remain obligated on the guarantee agreement or insurance agreement between the lender and the Secretary;

“(B) continue to be responsible for servicing the loan in a manner consistent with that guarantee agreement or insurance agreement; and

“(C) remain the secured creditor of record.

“(d) FULL FAITH AND CREDIT.—

“(1) IN GENERAL.—The full faith and credit of the United States is pledged to the payment of all loan guarantees and loan insurance made under this title after the date of enactment of this subsection.

“(2) VALIDITY.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the validity of a guarantee or insurance of a loan under this title shall be incontestable if the obligations of the guarantee or insurance held by a transferee have been acknowledged under subsection (c)(3).

“(B) EXCEPTION FOR FRAUD OR MISREPRESENTATION.—Subparagraph (A) shall not apply in a case in which a transferee has actual knowledge of fraud or misrepresentation, or participates in or condones fraud or misrepresentation, in connection with a loan.

“(e) DAMAGES.—Notwithstanding section 3302 of title 31, United States Code, the Secretary may recover from a lender of a loan under this title any damages suffered by the Secretary as a result of a material breach of the obligations of the lender with respect to a guarantee or insurance by the Secretary of the loan.

“(f) FEES.—The Secretary may collect a fee for any loan or guaranteed or insured portion of a loan that is transferred in accordance with this section.

“(g) CENTRAL REGISTRATION OF LOANS.—On promulgation of final regulations under subsection (i), the Secretary shall—

“(1) provide for a central registration of all guaranteed or insured loans transferred under this section; and

“(2) enter into 1 or more contracts with a fiscal transfer agent—

“(A) to act as the designee of the Secretary under this section; and

“(B) to carry out on behalf of the Secretary the central registration and fiscal transfer agent functions, and issuance of acknowledgments, under this section.

“(h) POOLING OF LOANS.—

“(1) IN GENERAL.—Nothing in this title prohibits the pooling of whole loans or interests in loans transferred under this section.

“(2) REGULATIONS.—In promulgating regulations under subsection (i), the Secretary may include such regulations to effect orderly and efficient pooling procedures as the Secretary determines to be necessary.

Deadline.

“(i) REGULATIONS.—Not later than 180 days after the date of enactment of this subsection, the Secretary shall develop such procedures and promulgate such regulations as are necessary to facilitate, administer, and promote transfers of loans and guaranteed and insured portions of loans under this section.”.

Yankton Sioux
Tribe and Santee
Sioux Tribe
Equitable
Compensation
Act.

TITLE II—YANKTON SIOUX AND SANTEE SIOUX TRIBES EQUITABLE COM- PENSATION

SEC. 201. SHORT TITLE.

This title may be cited as the “Yankton Sioux Tribe and Santee Sioux Tribe Equitable Compensation Act”.

SEC. 202. FINDINGS.

Congress finds that—

(1) by enacting the Act of December 22, 1944, commonly known as the “Flood Control Act of 1944” (58 Stat. 887, chapter 665; 33 U.S.C. 701–1 et seq.) Congress approved the Pick-Sloan Missouri River Basin program (referred to in this section as the “Pick-Sloan program”)—

(A) to promote the general economic development of the United States;

(B) to provide for irrigation above Sioux City, Iowa;

(C) to protect urban and rural areas from devastating floods of the Missouri River; and

(D) for other purposes;

(2) the waters impounded for the Fort Randall and Gavins Point projects of the Pick-Sloan program have inundated the fertile, wooded bottom lands along the Missouri River that constituted the most productive agricultural and pastoral lands of, and the homeland of, the members of the Yankton Sioux Tribe and the Santee Sioux Tribe;

(3) the Fort Randall project (including the Fort Randall Dam and Reservoir) overlies the western boundary of the Yankton Sioux Tribe Indian Reservation;

(4) the Gavins Point project (including the Gavins Point Dam and Reservoir) overlies the eastern boundary of the Santee Sioux Tribe;

(5) although the Fort Randall and Gavins Point projects are major components of the Pick-Sloan program, and contribute to the economy of the United States by generating a substantial amount of hydropower and impounding a substantial quantity of water, the reservations of the Yankton Sioux Tribe and the Santee Sioux Tribe remain undeveloped;

(6) the United States Army Corps of Engineers took the Indian lands used for the Fort Randall and Gavins Point projects by condemnation proceedings;

(7) the Federal Government did not give the Yankton Sioux Tribe and the Santee Sioux Tribe an opportunity to receive compensation for direct damages from the Pick-Sloan program, even though the Federal Government gave 5 Indian reservations upstream from the reservations of those Indian tribes such an opportunity;

(8) the Yankton Sioux Tribe and the Santee Sioux Tribe did not receive just compensation for the taking of productive agricultural Indian lands through the condemnation referred to in paragraph (6);

(9) the settlement agreement that the United States entered into with the Yankton Sioux Tribe and the Santee Sioux Tribe to provide compensation for the taking by condemnation referred to in paragraph (6) did not take into account the increase in property values over the years between the date of taking and the date of settlement; and

(10) in addition to the financial compensation provided under the settlement agreements referred to in paragraph (9)—

(A) the Yankton Sioux Tribe should receive an aggregate amount equal to \$23,023,743 for the loss value of 2,851.40 acres of Indian land taken for the Fort Randall Dam and Reservoir of the Pick-Sloan program; and

(B) the Santee Sioux Tribe should receive an aggregate amount equal to \$4,789,010 for the loss value of 593.10 acres of Indian land located near the Santee village.

SEC. 203. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term “Indian tribe” has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)).

(2) SANTEE SIOUX TRIBE.—The term “Santee Sioux Tribe” means the Santee Sioux Tribe of Nebraska.

(3) YANKTON SIOUX TRIBE.—The term “Yankton Sioux Tribe” means the Yankton Sioux Tribe of South Dakota.

SEC. 204. YANKTON SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the “Yankton Sioux Tribe Development Trust Fund” (referred to in this section as the “Fund”). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) \$23,023,743; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph (1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of the Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO YANKTON SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Yankton Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Yankton Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY YANKTON SIOUX TRIBE.—The Yankton Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 205. SANTEE SIOUX TRIBE DEVELOPMENT TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States a fund to be known as the "Santee Sioux Tribe Development Trust Fund" (referred to in this section as the "Fund"). The Fund shall consist of any amounts deposited in the Fund under this title.

(b) FUNDING.—On the first day of the 11th fiscal year that begins after the date of enactment of this Act, the Secretary of the Treasury shall, from the General Fund of the Treasury, deposit into the Fund established under subsection (a)—

(1) \$4,789,010; and

(2) an additional amount that equals the amount of interest that would have accrued on the amount described in paragraph

(1) if such amount had been invested in interest-bearing obligations of the United States, or in obligations guaranteed as to both principal and interest by the United States, on the first day of the first fiscal year that begins after the date of enactment of this Act and compounded annually thereafter.

(c) INVESTMENT OF TRUST FUND.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in the Secretary of the Treasury's judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. The Secretary of the Treasury shall deposit interest resulting from such investments into the Fund.

(d) PAYMENT OF INTEREST TO TRIBE.—

(1) WITHDRAWAL OF INTEREST.—Beginning on the first day of the 11th fiscal year after the date of enactment of this Act and, on the first day of each fiscal year thereafter, the Secretary of the Treasury shall withdraw the aggregate amount of interest deposited into the Fund for that fiscal year and transfer that amount to the Secretary of the Interior for use in accordance with paragraph (2). Each amount so transferred shall be available without fiscal year limitation.

(2) PAYMENTS TO SANTEE SIOUX TRIBE.—

(A) IN GENERAL.—The Secretary of the Interior shall use the amounts transferred under paragraph (1) only for the purpose of making payments to the Santee Sioux Tribe, as such payments are requested by that Indian tribe pursuant to tribal resolution.

(B) LIMITATION.—Payments may be made by the Secretary of the Interior under subparagraph (A) only after the Santee Sioux Tribe has adopted a tribal plan under section 206.

(C) USE OF PAYMENTS BY SANTEE SIOUX TRIBE.—The Santee Sioux Tribe shall use the payments made under subparagraph (A) only for carrying out projects and programs under the tribal plan prepared under section 206.

(e) TRANSFERS AND WITHDRAWALS.—Except as provided in subsections (c) and (d)(1), the Secretary of the Treasury may not transfer or withdraw any amount deposited under subsection (b).

SEC. 206. TRIBAL PLANS.

(a) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the tribal council of each of the Yankton Sioux and Santee Sioux Tribes shall prepare a plan for the use of the payments to the tribe under section 204(d) or 205(d) (referred to in this subsection as a "tribal plan").

Deadline.

(b) CONTENTS OF TRIBAL PLAN.—Each tribal plan shall provide for the manner in which the tribe covered under the tribal plan shall expend payments to the tribe under section 204(d) or 205(d) to promote—

- (1) economic development;
- (2) infrastructure development;
- (3) the educational, health, recreational, and social welfare objectives of the tribe and its members; or
- (4) any combination of the activities described in paragraphs (1), (2), and (3).

(c) TRIBAL PLAN REVIEW AND REVISION.—

(1) **IN GENERAL.**—Each tribal council referred to in subsection (a) shall make available for review and comment by the members of the tribe a copy of the tribal plan for the Indian tribe before the tribal plan becomes final, in accordance with procedures established by the tribal council.

(2) **UPDATING OF TRIBAL PLAN.**—Each tribal council referred to in subsection (a) may, on an annual basis, revise the tribal plan prepared by that tribal council to update the tribal plan. In revising the tribal plan under this paragraph, the tribal council shall provide the members of the tribe opportunity to review and comment on any proposed revision to the tribal plan.

(3) **CONSULTATION.**—In preparing the tribal plan and any revisions to update the plan, each tribal council shall consult with the Secretary of the Interior and the Secretary of Health and Human Services.

(4) **ANNUAL REPORTS.**—Each tribe shall submit an annual report to the Secretary describing any expenditures of funds withdrawn by that tribe under this title.

(d) **PROHIBITION ON PER CAPITA PAYMENTS.**—No portion of any payment made under this title may be distributed to any member of the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska on a per capita basis.

SEC. 207. ELIGIBILITY OF TRIBE FOR CERTAIN PROGRAMS AND SERVICES.

(a) **IN GENERAL.**—No payment made to the Yankton Sioux Tribe or Santee Sioux Tribe pursuant to this title shall result in the reduction or denial of any service or program to which, pursuant to Federal law—

(1) the Yankton Sioux Tribe or Santee Sioux Tribe is otherwise entitled because of the status of the tribe as a federally recognized Indian tribe; or

(2) any individual who is a member of a tribe under paragraph (1) is entitled because of the status of the individual as a member of the tribe.

(b) **EXEMPTIONS FROM TAXATION.**—No payment made pursuant to this title shall be subject to any Federal or State income tax.

(c) **POWER RATES.**—No payment made pursuant to this title shall affect Pick-Sloan Missouri River Basin power rates.

SEC. 208. STATUTORY CONSTRUCTION.

Nothing in this title may be construed as diminishing or affecting any water right of an Indian tribe, except as specifically provided in another provision of this title, any treaty right that is in effect on the date of enactment of this Act, or any authority of the Secretary of the Interior or the head of any other Federal agency under a law in effect on the date of enactment of this Act.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, including such sums as may be necessary for the administration of the Yankton Sioux Tribe Development Trust Fund under section 204 and the Santee Sioux Tribe Development Trust Fund under section 205.

SEC. 210. EXTINGUISHMENT OF CLAIMS.

Upon the deposit of funds under sections 204(b) and 205(b), all monetary claims that the Yankton Sioux Tribe or the Santee Sioux Tribe of Nebraska has or may have against the United States for loss of value or use of land related to lands described in section 202(a)(10) resulting from the Fort Randall and Gavins Point projects of the Pick-Sloan Missouri River Basin program shall be extinguished.

TITLE III—OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM

SEC. 301. OKLAHOMA NATIVE AMERICAN CULTURAL CENTER AND MUSEUM.

(a) FINDINGS.—Congress makes the following findings:

(1) In order to promote better understanding between Indian and non-Indian citizens of the United States, and in light of the Federal Government's continuing trust responsibilities to Indian tribes, it is appropriate, desirable, and a proper function of the Federal Government to provide grants for the development of a museum designated to display the heritage and culture of Indian tribes.

(2) In recognition of the unique status and history of Indian tribes in the State of Oklahoma and the role of the Federal Government in such history, it is appropriate and proper for the museum referred to in paragraph (1) to be located in the State of Oklahoma.

(b) GRANT.—

(1) IN GENERAL.—The Secretary shall offer to award financial assistance equaling not more than \$33,000,000 and technical assistance to the Authority to be used for the development and construction of a Native American Cultural Center and Museum in Oklahoma City, Oklahoma.

(2) AGREEMENT.—To be eligible to receive a grant under paragraph (1), the appropriate official of the Authority shall—

(A) enter into a grant agreement with the Secretary which shall specify the duties of the Authority under this section, including provisions for continual maintenance of the Center by the Authority without the use of Federal funds; and

(B) demonstrate, to the satisfaction of the Secretary, that the Authority has raised, or has commitments from private persons or State or local government agencies for, an amount that is equal to not less than 66 percent of the cost to the Authority of the activities to be carried out under the grant.

(3) LIMITATION.—The amount of any grant awarded under paragraph (1) shall not exceed 33 percent of the cost of the activities to be funded under the grant.

(4) IN-KIND CONTRIBUTION.—When calculating the cost share of the Authority under this title, the Secretary shall reduce such cost share obligation by the fair market value of the approximately 300 acres of land donated by Oklahoma City for the Center, if such land is used for the Center.

(c) DEFINITIONS.—For the purposes of this title:

(1) AUTHORITY.—The term “Authority” means the Native American Cultural and Educational Authority of Oklahoma, an agency of the State of Oklahoma.

(2) CENTER.—The term “Center” means the Native American Cultural Center and Museum authorized pursuant to this section.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to grant assistance under subsection (b)(1), \$8,250,000 for each of fiscal years 2003 through 2006.

TITLE IV—TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA

SEC. 401. TRANSMISSION OF POWER FROM INDIAN LANDS IN OKLAHOMA.

To the extent the Southwestern Power Administration makes transmission capacity available without replacing the present capacity of existing users of the Administration’s transmission system, the Administrator of the Southwestern Power Administration shall take such actions as may be necessary, in accordance with all applicable Federal law, to make the transmission services of the Administration available for the transmission of electric power generated at facilities located on land within the jurisdictional area of any Oklahoma Indian tribe (as determined by the Secretary of the Interior) recognized by the Secretary as eligible for trust land status under part 151 of title 25, Code of Federal Regulations. The owner or operator of the generation facilities concerned shall reimburse the Administrator for all costs of such actions in accordance with standards applicable to payment of such costs by other users of the Southwestern Power Administration transmission system.

TITLE V—PECHANGA TRIBE

SEC. 501. LAND OF PECHANGA BAND OF LUISENO MISSION INDIANS.

(a) LIMITATION ON CONVEYANCE.—Land described in subsection (b) (or any interest in that land) shall not be voluntarily or involuntarily transferred or otherwise made available for condemnation until the date on which—

(1)(A) the Secretary of the Interior renders a final decision on the fee to trust application pending on the date of the enactment of this title concerning the land; and

(B) final decisions have been rendered regarding all appeals relating to that application decision; or

(2) the fee to trust application described in paragraph (1)(A) is withdrawn.

(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) is land located in Riverside County, California, that is held in fee by the Pechanga Band of Luiseno Mission Indians, as described in Document No. 211130 of the Office of the Recorder, Riverside County, California, and recorded on May 15, 2001.

(c) **RULE OF CONSTRUCTION.**—Nothing in this section designates, or shall be used to construe, any land described in subsection (b) (or any interest in that land) as an Indian reservation, Indian country, Indian land, or reservation land (as those terms are defined under any Federal law (including a regulation)) for any purpose under any Federal law.

TITLE VI—CHEROKEE, CHOCTAW, AND CHICKASAW NATIONS CLAIMS SET- TLEMENT ACT

Cherokee,
Choctaw, and
Chickasaw
Nations Claims
Settlement Act.

SEC. 601. SHORT TITLE.

This title may be cited as the “Cherokee, Choctaw, and Chickasaw Nations Claims Settlement Act”.

25 USC 1779
note.

SEC. 602. FINDINGS.

25 USC 1779.

The Congress finds the following:

(1) It is the policy of the United States to promote tribal self-determination and economic self-sufficiency and to encourage the resolution of disputes over historical claims through mutually agreed-to settlements between Indian Nations and the United States.

(2) There are pending before the United States Court of Federal Claims certain lawsuits against the United States brought by the Cherokee, Choctaw, and Chickasaw Nations seeking monetary damages for the alleged use and mismanagement of tribal resources along the Arkansas River in eastern Oklahoma.

(3) The Cherokee Nation, a federally recognized Indian tribe with its present tribal headquarters south of Tahlequah, Oklahoma, having adopted its most recent constitution on June 26, 1976, and having entered into various treaties with the United States, including but not limited to the Treaty at Hopewell, executed on November 28, 1785 (7 Stat. 18), and the Treaty at Washington, D.C., executed on July 19, 1866 (14 Stat. 799), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(4) The Choctaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Durant, Oklahoma, having adopted its most recent constitution on July 9, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 3, 1786 (7 Stat. 21), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21), has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(5) The Chickasaw Nation, a federally recognized Indian tribe with its present tribal headquarters in Ada, Oklahoma, having adopted its most recent constitution on August 27, 1983, and having entered into various treaties with the United States of America, including but not limited to the Treaty at Hopewell, executed on January 10, 1786 (7 Stat. 24), and the Treaty at Washington, D.C., executed on April 28, 1866 (7 Stat. 21),

has maintained a continuous government-to-government relationship with the United States since the earliest years of the Union.

(6) In the first half of the 19th century, the Cherokee, Choctaw, and Chickasaw Nations were forcibly removed from their homelands in the southeastern United States to lands west of the Mississippi in the Indian Territory that were ceded to them by the United States. From the “Three Forks” area near present day Muskogee, Oklahoma, downstream to the point of confluence with the Canadian River, the Arkansas River flowed entirely within the territory of the Cherokee Nation. From that point of confluence downstream to the Arkansas territorial line, the Arkansas River formed the boundary between the Cherokee Nation on the left side of the thread of the river and the Choctaw and Chickasaw Nations on the right.

(7) Pursuant to the Act of April 30, 1906 (34 Stat. 137), tribal property not allotted to individuals or otherwise disposed of, including the bed and banks of the Arkansas River, passed to the United States in trust for the use and benefit of the respective Indian Nations in accordance with their respective interests therein.

(8) For more than 60 years after Oklahoma statehood, the Bureau of Indian Affairs believed that Oklahoma owned the Riverbed from the Arkansas State line to Three Forks, and therefore took no action to protect the Indian Nations’ Riverbed resources such as oil, gas, and Drybed Lands suitable for grazing and agriculture.

(9) Third parties with property near the Arkansas River began to occupy the Indian Nations’ Drybed Lands—lands that were under water at the time of statehood but that are now dry due to changes in the course of the river.

(10) In 1966, the Indian Nations sued the State of Oklahoma to recover their lands. In 1970, the Supreme Court of the United States decided in the case of Choctaw Nation vs. Oklahoma (396 U.S. 620), that the Indian Nations retained title to their respective portions of the Riverbed along the navigable reach of the river.

(11) In 1987, the Supreme Court of the United States in the case of United States vs. Cherokee Nation (480 U.S. 700) decided that the riverbed lands did not gain an exemption from the Federal Government’s navigational servitude and that the Cherokee Nation had no right to compensation for damage to its interest by exercise of the Government’s servitude.

(12) In 1989, the Indian Nations filed lawsuits against the United States in the United States Court of Federal Claims (Case Nos. 218-89L and 630-89L), seeking damages for the United States’ use and mismanagement of tribal trust resources along the Arkansas River. Those actions are still pending.

(13) In 1997, the United States filed quiet title litigation against individuals occupying some of the Indian Nations’ Drybed Lands. That action, filed in the United States District Court for the Eastern District of Oklahoma, was dismissed without prejudice on technical grounds.

(14) Much of the Indian Nations’ Drybed Lands have been occupied by a large number of adjacent landowners in Oklahoma. Without Federal legislation, further litigation against

thousands of such landowners would be likely and any final resolution of disputes would take many years and entail great expense to the United States, the Indian Nations, and the individuals and entities occupying the Drybed Lands and would seriously impair long-term economic planning and development for all parties.

(15) The Councils of the Cherokee and Choctaw Nations and the Legislature of the Chickasaw Nation have each enacted tribal resolutions which would, contingent upon the passage of this title and the satisfaction of its terms and in exchange for the moneys appropriated hereunder—

(A) settle and forever release their respective claims against the United States asserted by them in United States Court of Federal Claims Case Nos. 218-89L and 630-89L; and

(B) forever disclaim any and all right, title, and interest in and to the Disclaimed Drybed Lands, as set forth in those enactments of the respective councils of the Indian Nations.

(16) The resolutions adopted by the respective Councils of the Cherokee, Choctaw, and Chickasaw Nations each provide that, contingent upon the passage of the settlement legislation and satisfaction of its terms, each Indian Nation agrees to dismiss, release, and forever discharge its claims asserted against the United States in the United States Court of Federal Claims, Case Nos. 218-89L and 630-89L, and to forever disclaim any right, title, or interest of the Indian Nation in the Disclaimed Drybed Lands, in exchange for the funds appropriated and allocated to the Indian Nation under the provisions of the settlement legislation, which funds the Indian Nation agrees to accept in full satisfaction and settlement of all claims against the United States for the damages sought in the aforementioned claims asserted in the United States Court of Federal Claims, and as full and fair compensation for disclaiming its right, title, and interest in the Disclaimed Drybed Lands.

(17) In those resolutions, each Indian Nation expressly reserved all of its beneficial interest and title to all other Riverbed lands, including minerals, as determined by the Supreme Court in *Choctaw Nation v. Oklahoma*, 397 U.S. 620 (1970), and further reserved any and all right, title, or interest that each Nation may have in and to the water flowing in the Arkansas River and its tributaries.

SEC. 603. PURPOSES.

25 USC 1779a.

The purposes of this title are to resolve all claims that have been or could have been brought by the Cherokee, Choctaw, and Chickasaw Nations against the United States, and to confirm that the Indian Nations are forever disclaiming any right, title, or interest in the Disclaimed Drybed Lands, which are contiguous to the channel of the Arkansas River as of the date of the enactment of this title in certain townships in eastern Oklahoma.

SEC. 604. DEFINITIONS.

25 USC 1779b.

For the purposes of this title, the following definitions apply:

(1) **DISCLAIMED DRYBED LANDS.**—The term “Disclaimed Drybed Lands” means all Drybed Lands along the Arkansas River that are located in Township 10 North in Range 24 East, Townships 9 and 10 North in Range 25 East, Township

10 North in Range 26 East, and Townships 10 and 11 North in Range 27 East, in the State of Oklahoma.

(2) DRYBED LANDS.—The term “Drybed Lands” means those lands which, on the date of enactment of this title, lie above and contiguous to the mean high water mark of the Arkansas River in the State of Oklahoma. The term “Drybed Lands” is intended to have the same meaning as the term “Upland Claim Area” as used by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River. The term “Drybed Lands” includes any lands so identified in the “Holway study.”

(3) INDIAN NATION; INDIAN NATIONS.—The term “Indian Nation” means the Cherokee Nation, Choctaw Nation, or Chickasaw Nation, and the term “Indian Nations” means all 3 tribes collectively.

(4) RIVERBED.—The term “Riverbed” means the Drybed Lands and the Wetbed Lands and includes all minerals therein.

(5) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(6) WETBED LANDS.—The term “Wetbed Lands” means those Riverbed lands which lie below the mean high water mark of the Arkansas River in the State of Oklahoma as of the date of the enactment of this title, exclusive of the Drybed Lands. The term “Wetbed Lands” is intended to have the same meaning as the term “Present Channel Claim Areas” as utilized by the Bureau of Land Management Cadastral Survey Geographic Team in its preliminary survey of the Arkansas River.

25 USC 1779c.

SEC. 605. SETTLEMENT AND CLAIMS; APPROPRIATIONS; ALLOCATION OF FUNDS.

(a) EXTINGUISHMENT OF CLAIMS.—Pursuant to their respective tribal resolutions, and in exchange for the benefits conferred under this title, the Indian Nations shall, on the date of enactment of this title, enter into a consent decree with the United States that waives, releases, and dismisses all the claims they have asserted or could have asserted in their cases numbered 218-89L and 630-89L pending in the United States Court of Federal Claims against the United States, including but not limited to claims arising out of any and all of the Indian Nations’ interests in the Disclaimed Drybed Lands and arising out of construction, maintenance and operation of the McClellan-Kerr Navigation Way. The Indian Nations and the United States shall lodge the consent decree with the Court of Federal Claims within 30 days of the enactment of this title, and shall move for entry of the consent decree at such time as all appropriations by Congress pursuant to the authority of this title have been made and deposited into the appropriate tribal trust fund account of the Indian Nations as described in section 606. Upon entry of the consent decree, all the Indian Nations’ claims and all their past, present, and future right, title, and interest to the Disclaimed Drybed Lands, shall be deemed extinguished. No claims may be asserted in the future against the United States pursuant to sections 1491, 1346(a)(2), or 1505 of title 28, United States Code, for actions taken or failed to have been taken by the United States for events occurring prior to the date of the extinguishment of claims with respect to the Riverbed.

(b) RELEASE OF TRIBAL CLAIMS TO CERTAIN DRYBED LANDS.—

(1) IN GENERAL.—Upon the deposit of all funds authorized for appropriation under subsection (c) for an Indian Nation into the appropriate trust fund account described in section 606—

(A) all claims now existing or which may arise in the future with respect to the Disclaimed Drybed Lands and all right, title, and interest that the Indian Nations and the United States as trustee on behalf of the Indian Nation may have to the Disclaimed Drybed Lands, shall be deemed extinguished;

(B) any interest of the Indian Nations or the United States as trustee on their behalf in the Disclaimed Drybed Lands shall further be extinguished pursuant to the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, 1 Stat. 137), and all subsequent amendments thereto (as codified at 25 U.S.C. 177);

(C) to the extent parties other than the Indian Nations have transferred interests in the Disclaimed Drybed Lands in violation of the Trade and Intercourse Act, Congress does hereby approve and ratify such transfers of interests in the Disclaimed Drybed Lands to the extent that such transfers otherwise are valid under law; and

(D) the Secretary is authorized to execute an appropriate document citing this title, suitable for filing with the county clerks, or such other county official as appropriate, of those counties wherein the foregoing described lands are located, disclaiming any tribal or Federal interest on behalf of the Indian Nations in such Disclaimed Drybed Lands. The Secretary is authorized to file with the counties a plat or map of the disclaimed lands should the Secretary determine that such filing will clarify the extent of lands disclaimed. Such a plat or map may be filed regardless of whether the map or plat has been previously approved for filing, whether or not the map or plat has been filed, and regardless of whether the map or plat constitutes a final determination by the Secretary of the extent of the Indian Nations' original claim to the Disclaimed Drybed Lands. The disclaimer filed by the United States shall constitute a disclaimer of the Disclaimed Drybed Lands for purposes of the Trade and Intercourse Act (25 U.S.C. 177).

(2) SPECIAL PROVISIONS.—Notwithstanding any provision of this title—

(A) the Indian Nations do not relinquish any right, title, or interest in any lands which constitute the Wetbed Lands subject to the navigational servitude exercised by the United States on the Wetbed Lands. By virtue of the exercise of the navigational servitude, the United States shall not be liable to the Indian Nations for any loss they may have related to the minerals in the Wetbed Lands;

(B) no provision of this title shall be construed to extinguish or convey any water rights of the Indian Nations in the Arkansas River or any other stream or the beneficial interests or title of any of the Indian Nations in and to lands held in trust by the United States on the date of

enactment of this title which lie above or below the mean high water mark of the Arkansas River, except for the Disclaimed Drybed Lands; and

(C) the Indian Nations do not relinquish any right, title, or interest in any lands or minerals of certain unallotted tracts which are identified in the official records of the Eastern Oklahoma Regional Office, Bureau of Indian Affairs. The disclaimer to be filed by the Secretary of the Interior under section 605(b)(1) of this title shall reflect the legal description of the unallotted tracts retained by the Nations.

(3) SETOFF.—In the event the Court of Federal Claims does not enter the consent decree as set forth in subsection (a), the United States shall be entitled to setoff against any claims of the Indian Nations as set forth in subsection (a), any funds transferred to the Indian Nations pursuant to section 606, and any interest accrued thereon up to the date of setoff.

(4) QUIET TITLE ACTIONS.—Notwithstanding any other provision of law, neither the United States nor any department of the United States nor the Indian Nations shall be made parties to any quiet title lawsuit or other lawsuit to determine ownership of or an interest in the Disclaimed Drybed Lands initiated by any private person or private entity after execution of the disclaimer set out in section 605(b)(1). The United States will have no obligation to undertake any future quiet title actions or actions for the recovery of lands or funds relating to any Drybed Lands retained by the Indian Nation or Indian Nations under this title, including any lands which are Wetbed Lands on the date of enactment of this title, but which subsequently lie above the mean high water mark of the Arkansas River and the failure or declination to initiate any quiet title action or to manage any such Drybed Lands shall not constitute a breach of trust by the United States or be compensable to the Indian Nation or Indian Nations in any manner.

(5) LAND TO BE CONVEYED IN FEE.—To the extent that the United States determines that it is able to effectively maintain the McClellan-Kerr Navigation Way without retaining title to lands above the high water mark of the Arkansas River as of the date of enactment of this title, said lands, after being declared surplus, shall be conveyed in fee to the Indian Nation within whose boundary the land is located. The United States shall not be obligated to accept such property in trust.

(c) AUTHORIZATION FOR SETTLEMENT APPROPRIATIONS.—There is authorized to be appropriated an aggregate sum of \$40,000,000 as follows:

- (1) \$10,000,000 for fiscal year 2004.
- (2) \$10,000,000 for fiscal year 2005.
- (3) \$10,000,000 for fiscal year 2006.
- (4) \$10,000,000 for fiscal year 2007.

(d) ALLOCATION AND DEPOSIT OF FUNDS.—After payment pursuant to section 607, the remaining funds authorized for appropriation under subsection (c) shall be allocated among the Indian Nations as follows:

- (1) 50 percent to be deposited into the trust fund account established under section 606 for the Cherokee Nation.
- (2) 37.5 percent to be deposited into the trust fund account established under section 606 for the Choctaw Nation.

(3) 12.5 percent to be deposited into the trust fund account established under section 606 for the Chickasaw Nation.

SEC. 606. TRIBAL TRUST FUNDS.

25 USC 1779d.

(a) ESTABLISHMENT, PURPOSE, AND MANAGEMENT OF TRUST FUNDS.—

(1) **ESTABLISHMENT.**—There are hereby established in the United States Treasury 3 separate tribal trust fund accounts for the benefit of each of the Indian Nations, respectively, for the purpose of receiving all appropriations made pursuant to section 605(c), and allocated pursuant to section 605(d).

(2) **AVAILABILITY OF AMOUNTS IN TRUST FUND ACCOUNTS.**—Amounts in the tribal trust fund accounts established by this section shall be available to the Secretary for management and investment on behalf of the Indian Nations and distribution to the Indian Nations in accordance with this title. Funds made available from the tribal trust funds under this section shall be available without fiscal year limitation.

(b) MANAGEMENT OF FUNDS.—

(1) LAND ACQUISITION.—

(A) TRUST LAND STATUS PURSUANT TO REGULATIONS.—

The funds appropriated and allocated to the Indian Nations pursuant to sections 205 (c) and (d), and deposited into trust fund accounts pursuant to section 606(a), together with any interest earned thereon, may be used for the acquisition of land by the Indian Nations. The Secretary may accept such lands into trust for the beneficiary Indian Nation pursuant to the authority provided in section 5 of the Act of June 18, 1934 (25 U.S.C. 465) and in accordance with the Secretary's trust land acquisition regulations at part 151 of title 25, Code of Federal Regulations, in effect at the time of the acquisition, except for those acquisitions covered by paragraph (1)(B).

(B) REQUIRED TRUST LAND STATUS.—Any such trust land acquisitions on behalf of the Cherokee Nation shall be mandatory if the land proposed to be acquired is located within Township 12 North, Range 21 East, in Sequoyah County, Township 11 North, Range 18 East, in McIntosh County, Townships 11 and 12 North, Range 19 East, or Township 12 North, Range 20 East, in Muskogee County, Oklahoma, and not within the limits of any incorporated municipality as of January 1, 2002, if—

(i) the land proposed to be acquired meets the Department of the Interior's minimum environmental standards and requirements for real estate acquisitions set forth in 602 DM 2.6, or any similar successor standards or requirements for real estate acquisitions in effect on the date of acquisition; and

(ii) the title to such land meets applicable Federal title standards in effect on the date of the acquisition.

(C) OTHER EXPENDITURE OF FUNDS.—The Indian Nations may elect to expend all or a portion of the funds deposited into its trust account for any other purposes authorized under paragraph (2).

(2) INVESTMENT OF TRUST FUNDS; NO PER CAPITA PAYMENT.—

(A) NO PER CAPITA PAYMENTS.—No money received by the Indian Nations hereunder may be used for any per capita payment.

(B) INVESTMENT BY SECRETARY.—Except as provided in this section and section 607, the principal of such funds deposited into the accounts established hereunder and any interest earned thereon shall be invested by the Secretary in accordance with current laws and regulations for the investing of tribal trust funds.

(C) USE OF PRINCIPAL FUNDS.—The principal amounts of said funds and any amounts earned thereon shall be made available to the Indian Nation for which the account was established for expenditure for purposes which may include construction or repair of health care facilities, law enforcement, cultural or other educational activities, economic development, social services, and land acquisition. Land acquisition using such funds shall be subject to the provisions of subsections (b) and (d).

(3) DISBURSEMENT OF FUNDS.—The Secretary shall disburse the funds from a trust account established under this section pursuant to a budget adopted by the Council or Legislature of the Indian Nation setting forth the amount and an intended use of such funds.

(4) ADDITIONAL RESTRICTION ON USE OF FUNDS.—None of the funds made available under this title may be allocated or otherwise assigned to authorized purposes of the Arkansas River Multipurpose Project as authorized by the River and Harbor Act of 1946, as amended by the Flood Control Act of 1948 and the Flood Control Act of 1950.

25 USC 1779e.

SEC. 607. ATTORNEY FEES.

(a) PAYMENT.—At the time the funds are paid to the Indian Nations, from funds authorized to be appropriated pursuant to section 605(c), the Secretary shall pay to the Indian Nations' attorneys those fees provided for in the individual tribal attorney fee contracts as approved by the respective Indian Nations.

(b) LIMITATIONS.—Notwithstanding subsection (a), the total fees payable to attorneys under such contracts with an Indian Nation shall not exceed 10 percent of that Indian Nation's allocation of funds appropriated under section 605(c).

25 USC 1779f.

SEC. 608. RELEASE OF OTHER TRIBAL CLAIMS AND FILING OF CLAIMS.

(a) EXTINGUISHMENT OF OTHER TRIBAL CLAIMS.—

(1) IN GENERAL.—As of the date of enactment of this title—

(A) all right, title, and interest of any Indian nation or tribe other than any Indian Nation defined in section 604 (referred to in this section and section 609 as a "claimant tribe") in or to the Disclaimed Drybed Lands, and any such right, title, or interest held by the United States on behalf of such a claimant tribe, shall be considered to be extinguished in accordance with section 177 of title 25, United States Code (section 2116 of the Revised Statutes);

(B) if any party other than a claimant tribe holds transferred interests in or to the Disclaimed Drybed Lands in violation of section 177 of title 25, United States Code (section 2116 of the Revised Statutes), Congress approves and ratifies those transfers of interests to the extent that

the transfers are in accordance with other applicable law; and

(C) the documents described in section 605(b)(1)(D) shall serve to identify the geographic scope of the interests extinguished by subparagraph (A).

(2) QUIET TITLE ACTIONS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, after the date of enactment of this title, neither the United States (or any department or agency of the United States) nor any Indian Nation shall be included as a party to any civil action brought by any private person or private entity to quiet title to, or determine ownership of an interest in or to, the Disclaimed Drybed Lands.

(B) FUTURE ACTIONS.—As of the date of enactment of this title, the United States shall have no obligation to bring any civil action to quiet title to, or to recover any land or funds relating to, the Drybed Lands (including any lands that are Wetbed Lands as of the date of enactment of this title but that are located at any time after that date above the mean high water mark of the Arkansas River).

(C) NO BREACH OF TRUST.—The failure or declination by the United States to initiate any civil action to quiet title to or manage any Drybed Lands under this paragraph shall not—

- (i) constitute a breach of trust by the United States; or
- (ii) be compensable to a claimant tribe in any manner.

(b) CLAIMS OF OTHER INDIAN TRIBES.—

(1) LIMITED PERIOD FOR FILING CLAIMS.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this title, any claimant tribe that claims that any title, interest, or entitlement held by the claimant tribe has been extinguished by operation of section 605(a) or section 608(a) may file a claim against the United States relating to the extinguishment in the United States Court of Federal Claims. Deadline.

(B) FAILURE TO FILE.—After the date described in subparagraph (A), a claimant tribe described in that subparagraph shall be barred from filing any claim described in that subparagraph.

(2) SPECIAL HOLDING ACCOUNT.—

(A) ESTABLISHMENT.—There is established in the Treasury, in addition to the accounts established by section 606(a), an interest-bearing special holding account for the benefit of the Indian Nations.

(B) DEPOSITS.—Notwithstanding any other provision of this title or any other law, of any funds that would otherwise be deposited in a tribal trust account established by section 606(a), 10 percent shall—

- (i) be deposited in the special holding account established by subparagraph (A); and
- (ii) be held in that account for distribution under paragraph (3).

(3) DISTRIBUTION OF FUNDS.—

(A) IN GENERAL.—Funds deposited in the special holding account established by paragraph (2)(A) shall be distributed in accordance with subparagraphs (B) through (D).

(B) CLAIM FILED.—If a claim under paragraph (1)(A) is filed by the deadline specified in that paragraph, on final adjudication of that claim—

(i) if the final judgment awards to a claimant an amount that does not exceed the amount of funds in the special holding account under paragraph (2) attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) that amount shall be distributed from the special holding account to the claimant tribe that filed the claim; and

(II) any remaining amount in the special holding account attributable to the claim shall be transferred to the appropriate tribal trust account for the Indian Nation established by section 606(a); and

(ii) if the final judgment awards to a claimant an amount that exceeds the amount of funds in the special holding account attributable to the Indian Nation from the allocation of which under section 605(d) the funds in the special holding account are derived—

(I) the balance of funds in the special holding account attributable to the Indian Nation shall be distributed to the claimant tribe that filed the claim; and

(II) payment of the remainder of the judgment amount awarded to the claimant tribe shall be made from the permanent judgment appropriation established pursuant to section 1304 of title 31, United States Code.

(C) NO CLAIMS FILED.—If no claims under paragraph (1)(A) are filed by the deadline specified in that paragraph—

(i) any funds held in the special holding account under paragraph (2) and attributed to that Indian Nation shall be deposited in the appropriate tribal trust account established by section 6(a); and

(ii) after the date that is 180 days after the date of enactment of this title, paragraph (2)(B) shall not apply to appropriations attributed to that Indian Nation.

(c) DECLARATION WITH RESPECT TO SCOPE OF RIGHTS, TITLE, AND INTERESTS.—Congress declares that—

(1) subsection (b) is intended only to establish a process by which alleged claims may be resolved; and

(2) nothing in this section acknowledges, enhances, or establishes any prior right, title, or interest of any claimant tribe in or to the Arkansas Riverbed.

SEC. 609. EFFECT ON CLAIMS.

25 USC 1779g.

This title shall not be construed to resolve any right, title, or interest of any Indian nation or of any claimant tribe, except their past, present, or future claims relating to right, title, or interest in or to the Riverbed and the obligations and liabilities of the United States thereto.

TITLE VII—SEMINOLE TRIBE**SEC. 701. APPROVAL NOT REQUIRED TO VALIDATE CERTAIN LAND TRANSACTIONS.**

(a) **TRANSACTIONS.**—The Seminole Tribe of Florida may mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of any interest in any real property that—

(1) was held by the Tribe on September 1, 2002; and

(2) is not held in trust by the United States for the benefit of the Tribe.

(b) **NO FURTHER APPROVAL REQUIRED.**—Transactions under subsection (a) shall be valid without further approval, ratification, or authorization by the United States.

(c) **TRUST LAND NOT AFFECTED.**—Nothing in this section is intended or shall be construed to—

(1) authorize the Seminole Tribe of Florida to mortgage, lease, sell, convey, warrant, or otherwise transfer all or any part of an interest in any real property that is held in trust by the United States for the benefit of the Tribe; or

(2) affect the operation of any law governing mortgaging, leasing, selling, conveying, warranting, or otherwise transferring any interest in such trust land.

**TITLE VIII—JICARILLA APACHE
RESERVATION RURAL WATER SYSTEM**

Jicarilla Apache
Reservation
Rural Water
System Act.
New Mexico.

SEC. 801. SHORT TITLE.

This title may be cited as the “Jicarilla Apache Reservation Rural Water System Act”.

SEC. 802. PURPOSES.

The purposes of this title are as follows:

(1) To ensure a safe and adequate rural, municipal, and water supply and wastewater systems for the residents of the Jicarilla Apache Reservation in the State of New Mexico in accordance with Public Law 106-243.

(2) To authorize the Secretary of the Interior, through the Bureau of Reclamation, in consultation and collaboration with the Jicarilla Apache Nation—

(A) to plan, design, and construct the water supply, delivery, and wastewater collection systems on the Jicarilla Apache Reservation in the State of New Mexico; and

(B) to include service connections to facilities within the town of Dulce and the surrounding area, and to individuals as part of the construction.

(3) To require the Secretary, at the request of the Jicarilla Apache Nation, to enter into a self-determination contract with the Jicarilla Apache Nation under title I of the Indian Self-

Determination and Education Assistance Act (25 U.S.C. 450f et seq.) under which—

(A) the Jicarilla Apache Nation shall plan, design, and construct the water supply, delivery, and wastewater collection systems, including service connections to communities and individuals; and

(B) the Bureau of Reclamation shall provide technical assistance and oversight responsibility for such project.

(4) To establish a process in which the Jicarilla Apache Nation shall assume title and responsibility for the ownership, operation, maintenance, and replacement of the system.

SEC. 803. DEFINITIONS.

As used in this title:

(1) BIA.—The term “BIA” means the Bureau of Indian Affairs, an agency within the Department of the Interior.

(2) IRRIGATION.—The term “irrigation” means the commercial application of water to land for the purpose of establishing or maintaining commercial agriculture in order to produce field crops and vegetables for sale.

(3) RECLAMATION.—The term “Reclamation” means the Bureau of Reclamation, an agency within the Department of the Interior.

(4) REPORT.—The term “Report” means the report entitled “Planning Report/Environmental Assessment, Water and Wastewater Improvements, Jicarilla Apache Nation, Dulce, New Mexico”, dated September 2001, which was completed pursuant to Public Law 106-243.

(5) RESERVATION.—The term “Reservation” means the Jicarilla Apache Reservation in the State of New Mexico, including all lands and interests in land that are held in trust by the United States for the Tribe.

(6) RURAL WATER SUPPLY PROJECT.—The term “Rural Water Supply Project” means a municipal, domestic, rural, and industrial water supply and wastewater facility area and project identified to serve a group of towns, communities, cities, tribal reservations, or dispersed farmsteads with access to clean, safe domestic and industrial water, to include the use of livestock.

(7) STATE.—The term “State” means the State of New Mexico.

(8) SECRETARY.—The term “Secretary” means the Secretary of the Interior, acting through the Bureau of Reclamation.

(9) TRIBE.—The term “Tribe” means the Jicarilla Apache Nation.

SEC. 804. JICARILLA APACHE RESERVATION RURAL WATER SYSTEM.

(a) CONSTRUCTION.—The Secretary, in consultation and collaboration with the Tribe, shall plan, design, and construct the Rural Water Supply Project to improve the water supply, delivery, and wastewater facilities to the town of Dulce, New Mexico, and surrounding communities for the purpose of providing the benefits of clean, safe, and reliable water supply, delivery, and wastewater facilities.

(b) SCOPE OF PROJECT.—The Rural Water Supply Project shall consist of the following:

(1) Facilities to provide water supply, delivery, and wastewater services for the community of Dulce, the Mundo Ranch Development, and surrounding areas on the Reservation.

(2) Pumping and treatment facilities located on the Reservation.

(3) Distribution, collection, and treatment facilities to serve the needs of the Reservation, including, but not limited to, construction, replacement, improvement, and repair of existing water and wastewater systems, including systems owned by individual tribal members and other residents on the Reservation.

(4) Appurtenant buildings and access roads.

(5) Necessary property and property rights.

(6) Such other electrical power transmission and distribution facilities, pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the Reservation, including, but not limited to, water storage tanks, water lines, maintenance equipment, and other facilities for the Tribe on the Reservation.

(c) COST SHARING.—

(1) TRIBAL SHARE.—Subject to paragraph (3) and subsection (d), the tribal share of the cost of the Rural Water Supply Project is comprised of the costs to design and initiate construction of the wastewater treatment plant, to replace the diversion structure on the Navajo River, and to construct raw water settling ponds, a water treatment plant, water storage plants, a water transmission pipeline, and distribution pipelines, and has been satisfied.

(2) FEDERAL SHARE.—Subject to paragraph (3) and subsection (d), the Federal share of the cost of the Rural Water Supply Project shall be all remaining costs of the project identified in the Report.

(3) OPERATION AND MAINTENANCE.—The Federal share of the cost of operation and maintenance of the Rural Water Supply Project shall continue to be available for operation and maintenance in accordance with the Indian Self-Determination Act, as set forth in this title.

(d) OPERATION, MAINTENANCE, AND REPLACEMENT AFTER COMPLETION.—Upon determination by the Secretary that the Rural Water Supply Project is substantially complete, the Tribe shall assume responsibility for and liability related to the annual operation, maintenance, and replacement cost of the project in accordance with this title and the Operation, Maintenance, and Replacement Plan under chapter IV of the Report.

SEC. 805. GENERAL AUTHORITY.

The Secretary is authorized to enter into contracts, grants, cooperative agreements, and other such agreements and to promulgate such regulations as may be necessary to carry out the purposes and provisions of this title and the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450 et seq.).

SEC. 806. PROJECT REQUIREMENTS.

(a) PLANS.—

(1) PROJECT PLAN.—Not later than 60 days after funds are made available for this purpose, the Secretary shall prepare a recommended project plan, which shall include a general map showing the location of the proposed physical facilities, conceptual engineering drawings of structures, and general standards for design for the Rural Water Supply Project.

Deadline.

(2) OM&R PLAN.—The Tribe shall develop an operation, maintenance, and replacement plan, which shall provide the necessary framework to assist the Tribe in establishing rates and fees for customers of the Rural Water Supply Project.

(b) CONSTRUCTION MANAGER.—The Secretary, through Reclamation and in consultation with the Tribe, shall select a project construction manager to work with the Tribe in the planning, design, and construction of the Rural Water Supply Project.

(c) MEMORANDUM OF AGREEMENT.—The Secretary shall enter into a memorandum of agreement with the Tribe that commits Reclamation and BIA to a transition plan that addresses operations and maintenance of the Rural Water Supply Project while the facilities are under construction and after completion of construction.

(d) OVERSIGHT.—The Secretary shall have oversight responsibility with the Tribe and its constructing entity and shall incorporate value engineering analysis as appropriate to the Rural Water Supply Project.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide such technical assistance as may be necessary to the Tribe to plan, develop, and construct the Rural Water Supply Project, including, but not limited to, operation and management training.

(f) SERVICE AREA.—The service area of the Rural Water Supply Project shall be within the boundaries of the Reservation.

(g) OTHER LAW.—The planning, design, construction, operation, and maintenance of the Rural Water Supply Project shall be subject to the provisions of the Indian Self-Determination Act (25 U.S.C. 450 et seq.).

(h) REPORT.—During the year that construction of the Rural Water Supply Project begins and annually until such construction is completed, the Secretary, through Reclamation and in consultation with the Tribe, shall report to Congress on the status of the planning, design, and construction of the Rural Water Supply Project.

(i) TITLE.—Title to the Rural Water Supply Project shall be held in trust for the Tribe by the United States and shall not be transferred or encumbered without a subsequent Act of Congress.

SEC. 807. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title \$45,000,000 (January 2002 dollars) plus or minus such amounts, if any, as may be justified by reason of changes in construction costs as indicated by engineering cost indexes applicable to the types of construction involved for the planning, design, and construction of the Rural Water Supply Project as generally described in the Report dated September 2001.

(b) CONDITIONS.—Funds may not be appropriated for the construction of any project authorized under this title until after—

(1) an appraisal investigation and a feasibility study have been completed by the Secretary and the Tribe; and

(2) the Secretary has determined that the plan required by section 806(a)(2) is completed.

(c) NEPA.—The Secretary shall not obligate funds for construction until after the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the Rural Water Supply Project.

SEC. 808. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Rural Water Supply Project may be used to plan or construct facilities used to supply water for the purposes of irrigation.

SEC. 809. WATER RIGHTS.

The water rights of the Tribe are part of and included in the Jicarilla Apache Tribe Water Rights Settlement Act (Public Law 102-441). These rights are adjudicated under New Mexico State law as a partial final judgment and decree entered in the Eleventh Judicial District Court of New Mexico. That Act and decree provide for sufficient water rights under “historic and existing uses” to supply water for the municipal water system. These water rights are recognized depletions within the San Juan River basin and no new depletions are associated with the Rural Water Supply Project. In consultation with the United States Fish and Wildlife Service, Reclamation has determined that there shall be no significant impact to endangered species as a result of water depletions associated with this project. No other water rights of the Tribe shall be impacted by the Rural Water Supply Project.

TITLE IX—ROCKY BOY’S RURAL WATER SYSTEM

Rocky Boy’s/
North Central
Montana
Regional Water
System Act of
2002.

SEC. 901. SHORT TITLE.

This title may be cited as the “Rocky Boy’s/North Central Montana Regional Water System Act of 2002”.

SEC. 902. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the water systems serving residents of the Rocky Boy’s Reservation in the State of Montana—

(A) do not meet minimum health and safety standards;

(B) pose a threat to public health and safety; and

(C) are inadequate to supply the water needs of the Chippewa Cree Tribe;

(2) the United States has a responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Reservation;

(3) the entities administering the rural and municipal water systems in North Central Montana are having difficulty complying with regulations promulgated under the Safe Drinking Water Act (42 U.S.C. 300f et seq.); and

(4) the study, defined in section 903(k), identifies Lake Elwell, near Chester, Montana, as an available, reliable, and safe rural and municipal water supply for serving the needs of the Reservation and North Central Montana.

(b) PURPOSES.—The purposes of this title are—

(1) to ensure a safe and adequate rural, municipal, and industrial water supply for the residents of the Rocky Boy’s Reservation in the State of Montana;

(2) to assist the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana,

but outside the Reservation, in developing safe and adequate rural, municipal, and industrial water supplies;

(3) to authorize the Secretary of the Interior—

(A) acting through the Commissioner of Reclamation to plan, design, and construct the core and noncore systems of the Rocky Boy's/North Central Montana Regional Water System in the State of Montana; and

(B) acting through the Bureau of Indian Affairs to operate, maintain, and replace the core system and the on-Reservation water distribution systems, including service connections to communities and individuals; and

(4) to authorize the Secretary, at the request of the Chippewa Cree Tribe, to enter into self-governance agreements with the Tribe under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.), under which the Tribe—

(A) through the Bureau of Reclamation, will plan, design, and construct the core system of the Rocky Boy's/North Central Montana Regional Water System, and

(B) through the Bureau of Indian Affairs, will operate, maintain, and replace (including service connections to communities and individuals) the core system and the on-Reservation water distribution systems.

SEC. 903. DEFINITIONS.

In this title:

(1) **AUTHORITY.**—The term “Authority” means the North Central Montana Regional Water Authority established under State law, Mont. Code Ann. Sec. 75-6-301, et. seq. (2001), to allow public agencies to join together to secure and provide water for resale.

(2) **CORE SYSTEM.**—The term “core system” means a component of the water system as described in section 904(d) and the final engineering report.

(3) **FINAL ENGINEERING REPORT.**—The term “final engineering report” means the final engineering report prepared for the Rocky Boy's/North Central Montana Regional Water System, as approved by the Secretary of the Interior.

(4) **FUND.**—The term “fund” means the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund.

(5) **ON-RESERVATION WATER DISTRIBUTION SYSTEMS.**—The term “on-reservation water distribution systems” means that portion of the Rocky Boy's/North Central Montana Regional Water system served by the core system and within the boundaries of the Rocky Boy's Reservation. The on-reservation water distribution systems are described in section 904(f) and the final engineering report.

(6) **NONCORE SYSTEM.**—The term “noncore system” means the rural water system for Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, described in section 905(c) and the final engineering report.

(7) **RESERVATION.**—

(A) **IN GENERAL.**—The term “Reservation” means the Rocky Boy's Reservation in the State of Montana.

(B) **INCLUSIONS.**—The term “Reservation” includes all land and interests in land that are held in trust by the

United States for the Tribe at the time of the enactment of this title.

(8) ROCKY BOY'S/NORTH CENTRAL MONTANA REGIONAL WATER SYSTEM.—The term “Rocky Boy's/North Central Montana Regional Water System” means—

- (A) the core system;
- (B) the on-reservation water distribution systems; and
- (C) the non-core system.

(9) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(10) STATE.—The term “State” means the State of Montana.

(11) STUDY.—The term “study” means the study entitled “North Central Montana Regional Water System Planning/Environmental Report” dated May 2000.

(12) TRIBE.—The term “Tribe” means—

- (A) the Chippewa Cree Tribe of the Rocky Boy's Reservation; and
- (B) all officers, agents, and departments of the Tribe.

SEC. 904. ROCKY BOY'S RURAL WATER SYSTEM.

(a) FINAL ENGINEERING REPORT.—The following reports will serve as the basis for the final engineering report for the Rocky Boy's/North Central Montana Regional Water System—

(1) pursuant to Public Law 104-204, a study, described in section 903(k), that was conducted to study the water and related resources in North Central Montana and to evaluate alternatives for providing a municipal, rural and industrial supply of water to the citizens residing in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, residing both on and off the Reservation; and

(2) pursuant to section 202 of Public Law 106-163, the Tribe has conducted, through a self-governance agreements with the Secretary of the Interior, acting through the Bureau of Reclamation, a feasibility study to evaluate alternatives for providing a municipal, rural and industrial supply of water to the Reservation.

The Secretary of the Interior may require, through the agreements described in subsection (g) and section 905(d), that the final engineering report include appropriate additional study and analyses.

(b) CORE SYSTEM.—

(1) IN GENERAL.—The Secretary is authorized to plan, design, construct, operate, maintain, and replace the core system.

(2) FEDERAL SHARE.—

(A) The Federal share of the cost of planning, design, and construction of the core system shall be—

- (i) 100 percent of the Tribal share of costs as identified in section 914;
- (ii) 80 percent of the authority's share of the total cost for the core system as identified in section 914; and
- (iii) funded through annual appropriations to the Bureau of Reclamation.

(3) AGREEMENTS.—Federal funds made available to carry out this subsection may be obligated and expended only in

accordance with the Agreements entered into under subsection (g).

(c) **Operation, Maintenance, and Replacement (OM&R) CORE SYSTEM.**—The cost of operation, maintenance, and replacement of the core system shall be allocated as follows—

(1) 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913;

(2) 100 percent of the Authority's share of the OM&R costs, as negotiated in the Cooperative Agreements, shall be funded by the Authority and fully reimbursable to the Secretary.

Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g) and section 905(d).

(d) **CORE SYSTEM COMPONENTS.**—As described in the final engineering report, the core system shall consist of—

(1) intake, pumping, water storage, and treatment facilities;

(2) transmission pipelines, pumping stations, and storage facilities;

(3) appurtenant buildings, maintenance equipment, and access roads;

(4) all property and property rights necessary for the facilities described in this subsection;

(5) all interconnection facilities at the core pipeline to the noncore system; and

(6) electrical power transmission and distribution facilities necessary for services to core system facilities.

(e) **AUTHORITY TO ACQUIRE PROPERTY.**—Where, in carrying out the provisions of this title for construction of the core system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75-6-313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

(f) **ON-RESERVATION WATER DISTRIBUTION SYSTEMS.**—

(1) **IN GENERAL.**—The Secretary is authorized to operate, maintain, and replace the water distribution systems of the Reservation.

(2) **OPERATION, MAINTENANCE, AND REPLACEMENT.**—The cost of operation, maintenance, and replacement of the on-reservation water distribution systems shall be allocated as follows: Up to 100 percent of the Tribe's share of the OM&R costs, as negotiated in the Agreements, shall be funded through the Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund established in section 913.

(3) **AGREEMENTS.**—Federal funds made available to carry out this subsection may be obligated and expended only in accordance with the Agreements entered into under subsection (g).

(4) **COMPONENTS.**—As described in the final engineering report, the on-reservation water distribution systems shall consist of—

(A) water systems in existence on the date of enactment of this title that may be purchased, improved, and repaired

in accordance with the Agreements entered into under subsection (g);

(B) water systems owned by individual members of the Tribe and other residents of the Reservation;

(C) any water distribution system that is upgraded to current standards, disconnected from low-quality wells; and

(D) connections.

(5) CONSTRUCTION OF NEW FACILITIES, OR EXPANSION OR REHABILITATION OF CURRENT FACILITIES.—The Tribe shall use \$10,000,000 of the \$15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163), plus accrued interest, in the purchase, construction, expansion, or rehabilitation of the on-reservation water distribution systems.

(g) AGREEMENTS.—Federal funds made available to carry out subsections (b), (c), and (f) may be obligated and expended only in accordance with the agreements entered into under this subsection.

(1) IN GENERAL.—At the request of the Tribe, the Secretary shall enter into self-governance agreements under title IV of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 458aa et seq.) with the Tribe, in accordance with this title—

(A) through the Bureau of Reclamation, to plan, design, and construct the core system; and

(B) through the Bureau of Indian Affairs, to operate, maintain, and replace the core system and the on-Reservation water distribution systems.

(2) PROJECT OVERSIGHT ADMINISTRATION.—The amount of Federal funds that may be used to provide technical assistance and conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1)(A) shall be negotiated with the Tribe and shall be an allowable project cost.

(h) SERVICE AREA.—The service area of the Rocky Boy's Rural Water System shall be the core system and the Reservation.

(i) TITLE TO CORE SYSTEM.—Title to the core system—

(1) shall be held in trust by the United States for the Tribe; and

(2) shall not be transferred unless a transfer is authorized by an Act of Congress enacted after the date of enactment of this title.

(j) TECHNICAL ASSISTANCE.—The Secretary is authorized to provide such technical assistance as is necessary to enable the Tribe to—

(1) plan, design, and construct the core system, including management training. Such technical assistance shall be deemed as a core system project construction cost; and

(2) operate, maintain, and replace the core system and the on-reservation water distribution systems. Such technical assistance shall be deemed as a core system and an on-reservation water distribution systems operation, maintenance, and replacement cost, as appropriate.

SEC. 905. NONCORE SYSTEM.

(a) **IN GENERAL.**—The Secretary is authorized to enter into Cooperative Agreements with the Authority to provide Federal funds for the planning, design, and construction of the noncore system in Chouteau, Glacier, Hill, Liberty, Pondera, Teton, and Toole Counties, Montana, outside the Reservation.

(b) **FEDERAL SHARE.**—

(1) **PLANNING, DESIGN, AND CONSTRUCTION.**—The Federal share of the cost of planning, design, and construction of the noncore system shall be 80 percent and will be funded through annual appropriations to the Bureau of Reclamation.

(2) **OPERATION, MAINTENANCE, AND REPLACEMENT OF NON-CORE SYSTEM COMPONENTS.**—The cost of operation, maintenance, and replacement associated with water deliveries to the noncore system shall not be a Federal responsibility and shall be borne by the Authority.

(3) **COOPERATIVE AGREEMENTS.**—Federal funds made available to carry out this section may be obligated and expended only in accordance with the Cooperative Agreements entered into under subsection (d).

(c) **COMPONENTS.**—As described in the final engineering report, the components of the noncore system on which Federal funds may be obligated and expended under this section shall include—

(1) storage, pumping, and pipeline facilities;

(2) appurtenant buildings, maintenance equipment, and access roads;

(3) all property and property rights necessary for the facilities described in this subsection;

(4) electrical power transmission and distribution facilities necessary for service to noncore system facilities; and

(5) other facilities and services customary to the development of a rural water distribution system in the State.

(d) **COOPERATIVE AGREEMENTS.**—

(1) **IN GENERAL.**—The Secretary is authorized to enter into the Cooperative Agreements with the Authority to provide Federal funds and necessary assistance for the planning, design, and construction of the noncore system. The Secretary is further authorized to enter into a tri-partite Cooperative Agreement with the Authority and the Tribe addressing the allocation of operation, maintenance and replacement costs for the core system and action that can be undertaken to keep those costs within reasonable levels.

(2) **MANDATORY PROVISIONS.**—The Cooperative Agreements under paragraph (1) shall specify, in a manner that is acceptable to the Secretary and the Authority—

(A) the responsibilities of each party to the agreements for—

(i) the final engineering report;

(ii) engineering and design;

(iii) construction;

(iv) water conservation measures;

(v) environmental and cultural resource compliance activities; and

(vi) administration of contracts relating to performance of the activities described in clauses (i) through (v);

(B) the procedures and requirements for approval and acceptance of the design and construction and for carrying out other activities described in subparagraph (A); and

(C) the rights, responsibilities, and liabilities of each party to the agreements.

(3) **PROJECT OVERSIGHT ADMINISTRATION.**—The amount of Federal funds that may be used to provide technical assistance and to conduct the necessary construction oversight, inspection, and administration of activities in paragraph (1) shall be negotiated with the Authority, and shall be an allowable project cost.

(e) **SERVICE AREA.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the service area of the noncore system shall be generally defined as the area—

(A) north of the Missouri River and Dutton, Montana;

(B) south of the border between the United States and Canada;

(C) west of Havre, Montana;

(D) east of Cut Bank Creek in Glacier County, Montana; and

(E) as further defined in the final engineering report, referenced in section 904(a).

(2) **EXCLUSIONS FROM SERVICE AREA.**—The service area of the noncore system shall not include the area inside the Reservation.

(f) **LIMITATION ON USE OF FEDERAL FUNDS.**—The operation, maintenance, and replacement expenses for the noncore system—

(1) shall not be a Federal responsibility;

(2) shall be borne by the Authority; and

(3) the Secretary may not obligate or expend any Federal funds for the OM&R of the noncore system.

(g) **TITLE TO NONCORE SYSTEM.**—Title to the noncore system shall be held by the Authority.

(h) **AUTHORITY TO ACQUIRE PROPERTY.**—Where, in carrying out the provisions of this title for construction of the noncore system, it becomes necessary to acquire any rights or property, the Authority, acting pursuant to State law, Mont. Code Ann. Sec. 75-6-313 (2001), is hereby authorized to acquire the same by condemnation under judicial process, and to pay such sums which may be needed for that purpose. Nothing in this section shall apply to land held in trust by the United States.

SEC. 906. LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.

The Secretary shall not obligate funds for construction of the core system or the noncore system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the core system and the noncore system;

(2) the date that is 90 days after the date of submission to Congress of a final engineering report approved and transmitted by the Secretary; and

(3) the Secretary publishes a written finding that the water conservation plan developed under section 911(a) includes prudent and reasonable water conservation measures for the operation of the Rocky Boy's/North Central Montana Regional Water

Deadline.
Reports.

Publication.

System that have been shown to be economically and financially feasible.

SEC. 907. CONNECTION CHARGES.

The cost of connection of nontribal community water distribution systems and individual service systems to transmission lines of the core system and noncore system shall be the responsibility of the entities receiving water from the transmission lines.

SEC. 908. AUTHORIZATION OF CONTRACTS.

The Secretary is authorized to enter into contracts with the Authority for water from Lake Elwell providing for the repayment of its respective share of the construction, operation, maintenance and replacement costs of Tiber dam and reservoir, as determined by the Secretary, in accordance with Federal Reclamation Law (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof and supplemental thereto).

SEC. 909. TIBER RESERVOIR ALLOCATION TO THE TRIBE.

(a) NO DIMINISHMENT OF STORAGE.—In providing for the delivery of water to the noncore system, the Secretary shall not diminish the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana.

(b) DRAW OF SUPPLY; PURCHASE OF ADDITIONAL WATER.—In providing for delivery of water to Rocky Boy's Indian Reservation for the purposes of this title, the Tribe shall draw its supply from the 10,000 acre-feet per year of water stored for the Tribe pursuant to section 201 of the Chippewa Cree Tribe of The Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Act of 1999 (Public Law 106-163) in Lake Elwell, Lower Marias Unit, Upper Missouri Division, Pick-Sloan Missouri Basin Program, Montana. Nothing in this title shall prevent the Tribe from entering into contracts with the Secretary for the purchase of additional water from Lake Elwell.

SEC. 910. USE OF PICK-SLOAN POWER.

The Secretary of the Interior, in cooperation with the Secretary of Energy, is directed to make Pick-Sloan Missouri Basin Program preference power available, for the purposes of this title. Power shall be made available when pumps are energized and/or upon completion of the Project.

SEC. 911. WATER CONSERVATION PLAN.

(a) IN GENERAL.—The Tribe and the Authority shall develop and incorporate into the final engineering report a water conservation plan that contains—

- (1) a description of water conservation objectives;
- (2) a description of appropriate water conservation measures; and
- (3) a time schedule for implementing the water conservation measures to meet the water conservation objectives.

(b) PURPOSE.—The water conservation plan under subsection (a) shall be designed to ensure that users of water from the core system, on-reservation water distribution systems, and the noncore

system will use the best practicable technology and management techniques to conserve water.

(c) COORDINATION OF PROGRAMS.—Section 210 (a) and (c) of the Reclamation Reform Act of 1982 (43 U.S.C. 390jj (a) and (c)) shall apply to activities under section 911 of this title. Applicability.

SEC. 912. WATER RIGHTS.

This title does not—

(1) impair the validity of or preempt any provision of State water law or any interstate compact governing water;

(2) alter the right of any State to any appropriated share of the water of any body of surface or ground water, whether determined by any past or future interstate compact or by any past or future legislative or final judicial allocation;

(3) preempt or modify any Federal or State law or interstate compact concerning water quality or disposal;

(4) confer on any non-Federal entity the authority to exercise any Federal right to the water of any stream or to any ground water resource; or

(5) affect any right of the Tribe to water, located within or outside the external boundaries of the Reservation, based on a treaty, compact, Executive Order, Agreements, Act of Congress, aboriginal title, the decision in *Winters v. United States*, 207 U.S. 564 (1908) (commonly known as the “Winters Doctrine”), or other law.

SEC. 913. CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.

(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the “Chippewa Cree Water System Operation, Maintenance, and Replacement Trust Fund”, to be managed and invested by the Secretary.

(b) CONTENTS OF FUND.—The Fund shall consist of—

(1) the amount of \$15,000,000 as the Federal share, as authorized to be appropriated in section 914(c);

(2) the Tribe shall deposit into the Fund \$5,000,000 of the \$15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy’s Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163); and

(3) such interest as may accrue, until expended according to subsections (d) and (f).

(c) MANAGEMENT OF THE FUND.—The Secretary shall manage the Fund, make investments from the Fund, and make monies available from the Fund for distribution to the Tribe consistent with the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.) (referred to in this section as the “Trust Fund Reform Act”), and this title.

(d) USE OF FUND.—The Tribe shall use accrued interest, only, from the Fund for operation, maintenance, and replacement of the core system and the on-reservation distribution, only, pursuant to an operation, maintenance and replacement plan approved by the Secretary.

(e) INVESTMENT OF FUND.—The Secretary shall, after consulting with the Tribe on the investment of the Fund, invest amounts in the Fund in accordance with—

(1) the Act of April 1, 1880 (21 Stat. 70, chapter 41; 25 U.S.C. 161);

(2) the first section of the Act of February 12, 1929 (25 U.S.C. 161a);

(3) the first section of the Act of June 24, 1938 (25 U.S.C. 162a); and

(4) subsection (b).

(f) EXPENDITURES AND WITHDRAWAL.—

(1) TRIBAL MANAGEMENT PLAN.—

(A) WITHDRAWAL BY TRIBE.—The Tribe may withdraw all or part of the Fund on approval by the Secretary of a tribal management plan as described in the Trust Fund Reform Act.

(B) REQUIREMENTS.—In addition to the requirements under the Trust Fund Reform Act, the tribal management plan shall require that the Tribe spend any funds only in accordance with the purposes described in subsections 913 (d) and (f).

(2) ENFORCEMENT.—The Secretary may take judicial or administrative action to enforce the provisions of any tribal management plan to ensure that any monies withdrawn from the Fund under the plan are used in accordance with this title.

(3) LIABILITY.—If the Tribe exercises the right to withdraw monies from the Fund pursuant to the Trust Fund Reform Act, neither the Secretary nor the Secretary of the Treasury shall retain any liability for the expenditure or investment of the monies withdrawn.

(4) OPERATION, MAINTENANCE, AND REPLACEMENT PLAN.—Expenditures of accrued interest, only, from the Fund may be made for operation, maintenance, and replacement plan approved by the Secretary.

(A) IN GENERAL.—The Tribe shall submit to the Secretary for approval an operation, maintenance, and replacement plan for any funds made available to it under this section.

(B) DESCRIPTION.—The plan shall describe the manner in which, and the purposes for which, funds made available to the Tribe will be used.

(C) APPROVAL.—On receipt of an expenditure plan under subparagraph (A), the Secretary shall, in a timely manner, approve the plan if the Secretary determines that the plan is reasonable and consistent with this title.

(5) AVAILABILITY.—Funds made available from the fund under this section shall be available without fiscal year limitation.

(6) ANNUAL REPORT.—The Tribe shall submit to the Secretary an annual report that describes all expenditures from the Fund during the year covered by the report.

(g) NO PER CAPITA DISTRIBUTIONS.—No part of the Fund shall be distributed on a per capita basis to members of the Tribe.

SEC. 914. AUTHORIZATION OF APPROPRIATIONS.

(a) CORE SYSTEM.—There is authorized to be appropriated \$129,280,000 to the Bureau of Reclamation for the planning, design, and construction of the core system. The Tribal portion of the

costs shall be 76 percent. The Authority's portion of the costs shall be 24 percent.

(b) **ON-RESERVATION WATER DISTRIBUTION SYSTEMS.**—The Tribe shall use \$10,000,000 of the \$15,000,000 appropriated pursuant to the Chippewa Cree Tribe of the Rocky Boy's Reservation Indian Reserved Water Rights Settlement and Water Supply Enhancement Act of 1999 (Public Law 106-163), plus accrued interest, in the purchase, construction, expansion or rehabilitation of the on-reservation water distribution systems.

(c) **CHIPPEWA CREE WATER SYSTEM OPERATION, MAINTENANCE, AND REPLACEMENT TRUST FUND.**—For the Federal contribution to the Fund, established in section 913, there is authorized to be appropriated to the Bureau of Indian Affairs the sum of \$7,500,000 each year for fiscal year 2005 and 2006.

(d) **NONCORE SYSTEM.**—There is authorized to be appropriated \$73,600,000 to the Bureau of Reclamation for the planning, design, and construction of the noncore system.

(e) **COST INDEXING.**—The sums authorized to be appropriated under this section may be increased or decreased by such amounts as are justified by reason of ordinary fluctuations in development costs incurred after the date of enactment of this title, as indicated by engineering cost indices applicable for the type of construction involved.

TITLE X—MISCELLANEOUS

SEC. 1001. SANTEE SIOUX TRIBE, NEBRASKA, WATER SYSTEM STUDY.

(a) **STUDY.**—Pursuant to reclamation laws, the Secretary of the Interior (hereafter in this section referred to as the "Secretary"), through the Bureau of Reclamation and in consultation with the Santee Sioux Tribe of Nebraska (hereafter in this section referred to as the "Tribe"), shall conduct a feasibility study to determine the most feasible method of developing a safe and adequate municipal, rural, and industrial water treatment and distribution system for the Santee Sioux Tribe of Nebraska that could serve the tribal community and adjacent communities and incorporate population growth and economic development activities for a period of 40 years.

(b) **COOPERATIVE AGREEMENT.**—At the request of the Tribe, the Secretary shall enter into a cooperative agreement with the Tribe for activities necessary to conduct the study required by subsection (a) regarding which the Tribe has unique expertise or knowledge.

(c) **REPORT.**—Not later than 1 year after funds are made available to carry out this section, the Secretary shall transmit to Congress a report containing the results of the study required by subsection (a).

Deadline.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary \$500,000 to carry out this section.

SEC. 1002. YUOK TRIBE AND HOPLAND BAND INCLUDED IN LONG-TERM LEASING.

(a) **IN GENERAL.**—The first section of the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other

purposes requiring the grant of long-term leases”, approved August 9, 1955 (25 U.S.C. 415(a)) is amended by inserting “lands held in trust for the Yurok Tribe, lands held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria,” after “Pueblo of Santa Clara,”.

Applicability.
25 USC 415 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any lease entered into or renewed after the date of the enactment of this title.

Approved December 13, 2002.

LEGISLATIVE HISTORY—S. 2017 (H.R. 3407):

HOUSE REPORTS: No. 107-630 accompanying H.R. 3407 (Comm. on Resources).

SENATE REPORTS: No. 107-249 (Comm. on Indian Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 17, considered and passed Senate.

Nov. 14, considered and passed House, amended.

Nov. 20, Senate concurred in House amendment.



Public Law 107–332
107th Congress

An Act

To provide for additional lands to be included within the boundaries of the Homestead National Monument of America in the State of Nebraska, and for other purposes.

Dec. 16, 2002
[H.R. 38]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Homestead National Monument of America Additions Act”.

Homestead
National
Monument of
America
Additions Act.
16 USC 450u
note.

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term “map” means the map entitled “Proposed Boundary Adjustment, Homestead National Monument of America, Gage County, Nebraska”, numbered 368/80036 and dated March 2000.

(2) MONUMENT.—The term “Monument” means the Homestead National Monument of America, Nebraska.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 3. ADDITIONS TO HOMESTEAD NATIONAL MONUMENT OF AMERICA.

(a) IN GENERAL.—The Secretary may acquire, by donation or by purchase with appropriated or donated funds, from willing sellers only, the privately-owned property described in paragraphs (1) and (2) of subsection (b). The Secretary may acquire, by donation only, the State-owned property described in paragraphs (3) and (4) of subsection (b).

(b) PARCELS.—The parcels referred to in subsection (a) are the following:

(1) GRAFF PROPERTY.—The parcel consisting of approximately 15.98 acres of privately-owned land, as depicted on the map.

(2) PIONEER ACRES GREEN.—The parcel consisting of approximately 3 acres of privately-owned land, as depicted on the map.

(3) SEGMENT OF STATE HIGHWAY 4.—The parcel consisting of approximately 5.6 acres of State-owned land including Nebraska State Highway 4, as depicted on the map.

(4) STATE TRIANGLE.—The parcel consisting of approximately 8.3 acres of State-owned land, as depicted on the map.

(c) BOUNDARY ADJUSTMENT.—Upon acquisition of a parcel described in subsection (b), the Secretary shall modify the boundary of the Monument to include the parcel. Any parcel included within

the boundary shall be administered by the Secretary as part of the Monument.

(d) **DEADLINE FOR ACQUISITION OF CERTAIN PROPERTY.**—If the property described in subsection (b)(1) is not acquired by the Secretary from a willing seller within 5 years after the date of the enactment of this Act, the Secretary shall no longer be authorized to acquire such property pursuant to this Act and such property shall not become part of the Monument pursuant to this Act.

(e) **AVAILABILITY OF MAP.**—The map shall be on file in the appropriate offices of the National Park Service.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this Act \$400,000.

SEC. 4. COOPERATIVE AGREEMENTS.

The Secretary may enter into cooperative agreements with the State of Nebraska, Gage County, local units of government, private groups, and individuals for operation, maintenance, interpretation, recreation, and other purposes related to the proposed Homestead Heritage Highway to be located in the general vicinity of the Monument.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 38:

HOUSE REPORTS: No. 107-325 (Comm. on Resources).

SENATE REPORTS: No. 107-260 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 11, considered and passed House.

Vol. 148 (2002): Nov. 19, considered and passed Senate.



Public Law 107–333
107th Congress

An Act

To establish the Guam War Claims Review Commission.

Dec. 16, 2002

[H.R. 308]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Guam War Claims Review Commission Act”.

Guam War
Claims Review
Commission Act.
50 app. 2061
note.

SEC. 2. ESTABLISHMENT OF COMMISSION.

(a) **ESTABLISHMENT.**—There is hereby established a commission to be known as the “Guam War Claims Review Commission” (in this Act referred to as the “Commission”).

(b) **MEMBERS.**—The Commission shall be composed of five members who by virtue of their background and experience are particularly suited to contribute to the achievement of the purposes of the Commission. The members shall be appointed by the Secretary of the Interior not later than 60 days after funds are made available for this Act. Two of the members shall be selected as follows:

Deadline.

(1) One member appointed from a list of three names submitted by the Governor of Guam.

(2) One member appointed from a list of three names submitted by the Guam Delegate to the United States House of Representatives.

(c) **CHAIRPERSON.**—The Commission shall select a Chairman from among its members. The term of office shall be for the life of the Commission.

(d) **COMPENSATION.**—Notwithstanding section 3, members of the Commission shall not be paid for their service as members, but in the performance of their duties, shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(e) **VACANCY.**—Any vacancy in the Commission shall be filled in the same manner as the original appointment.

SEC. 3. EMPLOYEES.

The Commission may appoint an executive director and other employees as it may require. The executive director and other employees of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Section 3161 of title 5, United States Code, shall apply to the executive director and other employees of the Commission.

SEC. 4. ADMINISTRATIVE.

The Secretary of the Interior shall provide the Commission, on a reimbursable basis, such administrative support services as the Commission may request.

SEC. 5. DUTIES OF COMMISSION.

The Commission shall—

(1) review the facts and circumstances surrounding the implementation and administration of the Guam Meritorious Claims Act and the effectiveness of such Act in addressing the war claims of American nationals residing on Guam between December 8, 1941, and July 21, 1944;

(2) review all relevant Federal and Guam territorial laws, records of oral testimony previously taken, and documents in Guam and the Archives of the Federal Government regarding Federal payments of war claims in Guam;

(3) receive oral testimony of persons who personally experienced the taking and occupation of Guam by Japanese military forces, noting especially the effects of infliction of death, personal injury, forced labor, forced march, and internment;

(4) determine whether there was parity of war claims paid to the residents of Guam under the Guam Meritorious Claims Act as compared with awards made to other similarly affected United States citizens or nationals in territory occupied by the Imperial Japanese military forces during World War II;

(5) advise on any additional compensation that may be necessary to compensate the people of Guam for death, personal injury, forced labor, forced march, and internment; and

(6) not later than 9 months after the Commission is established submit a report, including any comments or recommendations for action, to the Secretary of the Interior, the Committee on Resources and the Committee on the Judiciary of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on the Judiciary of the Senate.

Deadline.
Reports.

SEC. 6. POWERS OF THE COMMISSION.

(a) **AUTHORITY OF CHAIRMAN.**—Subject to general policies that the Commission may adopt, the Chairman of the Commission—

(1) shall exercise the executive and administrative powers of the Commission; and

(2) may delegate such powers to the staff of the Commission.

(b) **HEARINGS AND SESSIONS.**—For the purpose of carrying out its duties under section 5, the Commission may hold hearings, sit and act at times and places, take testimony, and receive evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) **EXPERTS AND CONSULTANTS.**—The Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-15 of the General Schedule. The services of an expert or consultant may be procured without compensation if the expert or consultant agrees to such an arrangement, in writing, in advance.

(d) **SUPPORT OF FEDERAL AGENCIES.**—Upon request of the Commission, the head of any Federal department or agency may

provide support to the Commission to assist it in carrying out its duties under section 5.

SEC. 7. TERMINATION OF COMMISSION.

The Commission shall terminate 30 days after submission of its report under section 5(6).

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated \$500,000 to carry out this Act.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 308:

SENATE REPORTS: No. 107-172 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Mar. 13, considered and passed House.

Vol. 148 (2002): Nov. 19, considered and passed Senate.



Public Law 107-334
107th Congress

An Act

Dec. 16, 2002
[H.R. 451]

To make certain adjustments to the boundaries of the Mount Nebo Wilderness Area, and for other purposes.

Mount Nebo
Wilderness
Boundary
Adjustment Act.
16 USC 1132
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Mount Nebo Wilderness Boundary Adjustment Act”.

SEC. 2. BOUNDARY ADJUSTMENTS.

(a) **LANDS REMOVED.**—The boundary of the Mount Nebo Wilderness is adjusted to exclude the following:

(1) **MONUMENT SPRINGS.**—The approximately 8.4 acres of land depicted on the Map as “Monument Springs”.

(2) **GARDNER CANYON.**—The approximately 177.8 acres of land depicted on the Map as “Gardner Canyon”.

(3) **BIRCH CREEK.**—The approximately 5.0 acres of land depicted on the Map as “Birch Creek”.

(4) **INGRAM CANYON.**—The approximately 15.4 acres of land depicted on the Map as “Ingram Canyon”.

(5) **WILLOW NORTH A.**—The approximately 3.4 acres of land depicted on the Map as “Willow North A”.

(6) **WILLOW NORTH B.**—The approximately 6.6 acres of land depicted on the Map as “Willow North B”.

(7) **WILLOW SOUTH.**—The approximately 21.5 acres of land depicted on the Map as “Willow South”.

(8) **MENDENHALL CANYON.**—The approximately 9.8 acres of land depicted on the Map as “Mendenhall Canyon”.

(9) **WASH CANYON.**—The approximately 31.4 acres of land depicted on the Map as “Wash Canyon”.

(b) **LANDS ADDED.**—Subject to valid existing rights, the boundary of the Mount Nebo Wilderness is adjusted to include the approximately 293.2 acres of land depicted on the Map for addition to the Mount Nebo Wilderness. The Utah Wilderness Act of 1984 (Public Law 94-428) shall apply to the land added to the Mount Nebo Wilderness pursuant to this subsection.

SEC. 3. MAP.

(a) **DEFINITION.**—For the purpose of this Act, the term “Map” shall mean the map entitled “Mt. Nebo Wilderness Boundary Adjustment”, numbered 531, and dated May 29, 2001.

(b) **MAP ON FILE.**—The Map and the final document entitled “Mount Nebo, Proposed Boundary Adjustments, Parcel Descriptions (See Map #531)” and dated June 4, 2001, shall be on file and

available for inspection in the office of the Chief of the Forest Service, Department of Agriculture.

(c) CORRECTIONS.—The Secretary of Agriculture may make technical corrections to the Map.

SEC. 4. TECHNICAL BOUNDARY ADJUSTMENT.

The boundary of the Mount Nebo Wilderness is adjusted to exclude the approximately 21.26 acres of private property located in Andrews Canyon, Utah, and depicted on the Map as “Dale”.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 451 (S. 1894):

HOUSE REPORTS: No. 107-150 (Comm. on Resources).

SENATE REPORTS: No. 107-196 accompanying S. 1894 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): July 23, considered and passed House.

Vol. 148 (2002): Nov. 19, considered and passed Senate.



Public Law 107–335
107th Congress

An Act

Dec. 16, 2002
[H.R. 706]

To direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, New Mexico.

Lease Lot
Conveyance Act
of 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lease Lot Conveyance Act of 2002”.

SEC. 2. FINDINGS.

The Congress finds that the conveyance of the Properties to the Lessees for fair market value would have the beneficial results of—

(1) eliminating Federal payments in lieu of taxes and associated management expenditures in connection with the Government’s ownership of the Properties, while increasing local tax revenues from the new owners;

(2) sustaining existing economic conditions in the vicinity of the Properties, while providing the new owners of the Properties the security to invest in permanent structures and improvements; and

(3) adding needed jobs to the county in which the Properties are located and increasing revenue to the county and surrounding communities through property and gross receipt taxes, thereby increasing economic stability and a sustainable economy in one of the poorest counties in New Mexico.

SEC. 3. DEFINITIONS.

In this Act:

(1) **FAIR MARKET VALUE.**—The term “fair market value” means, with respect to a parcel of property, the value of the property determined—

(A) without regard to improvements constructed by the Lessee of the property;

(B) by an appraisal in accordance with the Uniform Standards for Federal Land Acquisitions; and

(C) by an appraiser approved by the Secretary and the purchaser.

(2) **IRRIGATION DISTRICTS.**—The term “Irrigation Districts” means the Elephant Butte Irrigation District and the El Paso County Water Improvement District No. 1.

(3) **LESSEE.**—The term “Lessee” means the leaseholder of a Property on the date of enactment of this Act, and any

heir, executor, or assign of the leaseholder with respect to that leasehold interest.

(4) **PROPERTY.**—The term “Property” means any of the cabin sites comprising the Properties.

(5) **PROPERTIES.**—The term “Properties” means all the real property comprising 403 cabin sites under the administrative jurisdiction of the Bureau of Reclamation that are located along the western portion of the reservoirs in Elephant Butte State Park and Caballo State Park, New Mexico, including easements, roads, and other appurtenances. The exact acreage and legal description of such real property shall be determined by the Secretary after consulting with the Purchaser.

(6) **PURCHASER.**—The term “Purchaser” means the Elephant Butte/Caballo Leaseholders Association, Inc., a nonprofit corporation established under the laws of New Mexico.

(7) **RESERVOIRS.**—The term “reservoirs” means the Elephant Butte Reservoir and the Caballo Reservoir in the State of New Mexico.

(8) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 4. CONVEYANCE OF PROPERTIES.

(a) **IN GENERAL.**—The Secretary shall convey to the Purchaser in accordance with this Act, subject to valid existing rights, all right, title, and interest of the United States in and to the Properties and all appurtenances thereto, including specifically easements for—

(1) vehicular access to each Property;

(2) drainage; and

(3) access to and the use of all ramps, retaining walls, and other improvements for which access is provided under the leases that apply to the Properties as of the date of the enactment of this Act.

(b) **CONSIDERATION.**—As consideration for any conveyance under this section, the Secretary shall require the Purchaser to pay to the United States fair market value of the Properties.

SEC. 5. TERMS OF CONVEYANCE.

(a) **SPECIFIC CONDITIONS.**—As conditions of any conveyance to the Purchaser under this Act, the Secretary shall require the following:

(1) **LEASEHOLDERS’ OPTION.**—The Purchaser shall grant to each Lessee of a Property an option—

(A) to purchase the Property at fair market value;

or

(B) to continue leasing the Property on terms to be negotiated with the Purchaser.

(2) **ADMINISTRATIVE COSTS.**—Any reasonable administrative cost incurred by the Secretary incident to the conveyance under section 6 shall be reimbursed by the Purchaser.

(b) **RESTRICTIVE USE COVENANT.**—

(1) **IN GENERAL.**—To maintain the unique character of the area in the vicinity of the Reservoirs, the Secretary shall establish, by the terms of conveyance, use restrictions to carry out paragraph (2) that—

(A) are appurtenant to, and run with, each Property; and

(B) are binding upon each subsequent owner of each Property.

(2) ACCESS TO RESERVOIRS.—The use restrictions required by paragraph (1) shall ensure that—

(A) public access to and along the shoreline of the Reservoirs in existence on the date of enactment of this Act is not obstructed;

(B) adequate public access to and along the shoreline of the Reservoirs is maintained; and

(C) the operation of the Reservoirs by the Secretary or the Irrigation Districts shall not result in liability of the United States or the Irrigation Districts for damages incurred, as a direct or indirect result of such operation, by the owner of any Property conveyed under this Act, including—

(i) damages for any loss of use or enjoyment of a Property; and

(ii) damages resulting from any modifications or construction of any reservoir dam.

(c) TIMING.—

(1) IN GENERAL.—The Secretary shall convey the Properties under this Act as soon as practicable after the date of enactment of this Act and in accordance with all applicable law.

Deadline.

(2) REPORT.—If the Secretary has not completed conveyance of the Properties to the Purchaser by the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary shall, before the end of that period, submit a report to the Congress explaining the reasons that conveyance has not been completed and stating the date by which the conveyance will be completed.

(d) REIMBURSEMENT OF PURCHASER'S COSTS.—The terms of conveyance shall authorize the Purchaser to require each Lessee to reimburse the Purchaser for a proportionate share of the costs incurred by the Purchaser in completing the transactions pursuant to this Act, including any interest charges.

SEC. 6. RESOLUTION OF CLAIMS AND DISPUTES.

Notification.

After conveyance of the Properties to the Purchaser, if any Lessee has a dispute with or claim against the Purchaser or any of its officers, directors, or members arising from the Properties, the Lessee shall promptly give written notice of the dispute or claim to the Purchaser. If such notice is not provided to the Purchaser within 20 days after the date the Lessee knew or should have known of such dispute or claim, then any right of the Lessee for relief based on such dispute or claim shall be waived. If the Lessee and the Purchaser are unable to resolve the dispute or claim by mediation, the dispute or claim shall be resolved by binding arbitration.

SEC. 7. FEDERAL RECLAMATION LAW.

No conveyance under this Act shall restrict or limit the authority or ability of the Secretary to fulfill the duties of the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter

1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 706:

HOUSE REPORTS: No. 107-368 (Comm. on Resources).

SENATE REPORTS: No. 107-287 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 19, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–336
107th Congress

An Act

Dec. 16, 2002
[H.R. 1712]

To authorize the Secretary of the Interior to make adjustments to the boundary of the National Park of American Samoa to include certain portions of the islands of Ofu and Olosega within the park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY ADJUSTMENT OF THE NATIONAL PARK OF AMERICAN SAMOA.

Section 2(b) of the Act entitled “An Act to establish the National Park of American Samoa” (16 U.S.C. 410qq–1(b)), approved October 31, 1988, is amended—

(1) by striking “(1)”, “(2)”, and “(3)” and inserting “(A)”, “(B)”, and “(C)”, respectively;

(2) by inserting “(1)” after “INCLUDED.—”; and

(3) by adding at the end the following new paragraph:

“(2) The Secretary may make adjustments to the boundary of the park to include within the park certain portions of the islands of Ofu and Olosega, as depicted on the map entitled ‘National Park of American Samoa, Proposed Boundary Adjustment’, numbered 82,035 and dated February 2002, pursuant to an agreement with the Governor of American Samoa and contingent upon the lease to the Secretary of the newly added lands. As soon as practicable after a boundary adjustment under this paragraph, the Secretary shall modify the maps referred to in paragraph (1) accordingly.”.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 1712:

HOUSE REPORTS: No. 107–372 (Comm. on Resources).

SENATE REPORTS: No. 107–270 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 19, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–337
107th Congress

An Act

To authorize the Secretary of the Interior to study the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in west Houston, Texas.

Dec. 16, 2002

[H.R. 1776]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Buffalo Bayou National Heritage Area Study Act”.

Buffalo Bayou
National
Heritage Area
Study Act.

SEC. 2. NATIONAL PARK SERVICE STUDY REGARDING BUFFALO BAYOU, TEXAS.

(a) FINDINGS.—The Congress finds the following:

(1) The area beginning at Shepherd Drive in west Houston, Texas, and extending to the Turning Basin, commonly referred to as the “Buffalo Bayou”, made a unique contribution to the cultural, political, and industrial development of the United States.

(2) The Buffalo Bayou is distinctive as the first spine of modern industrial development in Texas and one of the first along the Gulf of Mexico coast.

(3) The Buffalo Bayou played a significant role in the struggle for Texas independence.

(4) The Buffalo Bayou developed a prosperous and productive shipping industry that survives today.

(5) The Buffalo Bayou led in the development of Texas’ petrochemical industry that made Houston the center of the early oil boom in America.

(6) The Buffalo Bayou developed a sophisticated shipping system, leading to the formation of the modern day Houston Ship Channel.

(7) The Buffalo Bayou developed a significant industrial base, and served as the focal point for the new city of Houston.

(8) There is a longstanding commitment by the Buffalo Bayou Partnership, Inc., to complete the Buffalo Bayou Trail along the 12-mile segment of the Buffalo Bayou.

(9) There is a need for assistance for the preservation and promotion of the significance of the Buffalo Bayou as a system for transportation, industry, commerce, and immigration.

(10) The Department of the Interior is responsible for protecting the Nation’s cultural and historical resources. There are significant examples of such resources within the Buffalo

Bayou region to merit the involvement of the Federal Government in the development of programs and projects, in cooperation with the Buffalo Bayou Partnership, Inc., the State of Texas, and other local and governmental entities, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization.

(b) STUDY.—

(1) IN GENERAL.—The Secretary shall, in consultation with the State of Texas, the City of Houston, and other appropriate organizations, carry out a study regarding the suitability and feasibility of establishing the Buffalo Bayou National Heritage Area in Houston, Texas.

(2) CONTENTS.—The study shall include analysis and documentation regarding whether the Study Area—

(A) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(C) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(D) provides outstanding recreational and educational opportunities;

(E) contains resources important to the identified theme or themes of the Study Area that retain a degree of integrity capable of supporting interpretation;

(F) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles for all participants, including the Federal Government, and have demonstrated support for the concept of a national heritage area;

(G) has a potential management entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(H) has a conceptual boundary map that is supported by the public.

(c) BOUNDARIES OF THE STUDY AREA.—The Study Area shall be comprised of sites in Houston, Texas, in an area roughly bounded by Shepherd Drive and extending to the Turning Basin, commonly referred to as the “Buffalo Bayou”.

(d) SUBMISSION OF STUDY RESULTS.—Not later than 3 years after funds are first made available for this section, the Secretary

Deadline.
Reports.

shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 1776:

HOUSE REPORTS: No. 107-256 (Comm. on Resources).

SENATE REPORTS: No. 107-262 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 30, considered and passed House.

Vol. 148 (2002): Nov. 19, considered and passed Senate.



Public Law 107–338
107th Congress

An Act

Dec. 16, 2002
[H.R. 1814]

To amend the National Trails System Act to designate the Metacomet-Monadnock-Mattabesett Trail extending through western Massachusetts and central Connecticut for study for potential addition to the National Trails System.

Metacomet-Monadnock-Mattabesett Trail Study Act of 2002.
16 USC 1241 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Metacomet-Monadnock-Mattabesett Trail Study Act of 2002”.

SEC. 2. DESIGNATION OF METACOMET-MONADNOCK-MATTABESETT TRAIL FOR STUDY FOR POTENTIAL ADDITION TO THE NATIONAL TRAILS SYSTEM.

Section 5(c) of the National Trails System Act (16 U.S.C. 1244(c)) is amended by adding at the end the following new paragraph:

“() METACOMET-MONADNOCK-MATTABESETT TRAIL.—The Metacomet-Monadnock-Mattabesett Trail, a system of trails and potential trails extending southward approximately 180 miles through western Massachusetts on the Metacomet-Monadnock Trail, across central Connecticut on the Metacomet Trail and the Mattabesett Trail, and ending at Long Island Sound.”.

Deadline.
16 USC 1244 note.

SEC. 3. EXPEDITED REPORT TO CONGRESS.

Notwithstanding the fourth sentence of section 5(b) of the National Trails System Act (16 U.S.C. 1244(b)), the Secretary of the Interior shall submit the study required by the amendment made by section 2 to Congress not later than 2 years after the date of the enactment of this Act.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 1814:

HOUSE REPORTS: No. 107–224 (Comm. on Resources).

SENATE REPORTS: No. 107–263 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 23, considered and passed House.

Vol. 148 (2002): Nov. 19, considered and passed Senate.



Public Law 107–339
107th Congress

An Act

To provide for the sale of certain real property within the Newlands Project in Nevada, to the city of Fallon, Nevada.

Dec. 16, 2002
[H.R. 1870]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fallon Rail Freight Loading Facility Transfer Act”.

Fallon Rail
Freight Loading
Facility Transfer
Act.

SEC. 2. CONVEYANCE TO THE CITY OF FALLON, NEVADA.

(a) CONVEYANCE.—

(1) IN GENERAL.—Subject to subsections (b) and (c), the Secretary of the Interior shall convey to the city of Fallon, Nevada, all right, title, and interest of the United States in and to approximately 6.3 acres of real property in the Newlands Reclamation Project, Nevada, generally known as “380 North Taylor Street, Fallon, Nevada”, and identified for disposition on the map entitled “Fallon Rail Freight Loading Facility”.

(2) MAP.—The map referred to in paragraph (1) shall be on file and available for public inspection in—

(A) the offices of the Commissioner of the Bureau of Reclamation; and

(B) the offices of the Area Manager of the Bureau of Reclamation, Carson City, Nevada.

(b) CONSIDERATION.—

(1) IN GENERAL.—The Secretary shall require that, as consideration for the conveyance under subsection (a), the city of Fallon, Nevada, shall pay to the United States an amount equal to the fair market value of the real property, as determined—

(A) by an appraisal of the real property, conducted not later than 60 days after the date of enactment of this Act by an independent appraiser approved by the Commissioner of Reclamation and paid for by the city of Fallon, Nevada; and

(B) without taking into consideration the value of any structures or improvements on the property.

(2) CREDIT OF PROCEEDS.—The amount paid to the United States under paragraph (1) shall be credited, in accordance with section 204(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(c)), to the appropriate fund in the Treasury relating to the Newlands Reclamation Project, Nevada.

Deadline.

(c) **LIABILITY.**—The conveyance under subsection (a) shall not occur until such date as the Commissioner of Reclamation certifies that all liability issues relating to the property (including issues of environmental liability) have been resolved.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 1870:

HOUSE REPORTS: No. 107-366 (Comm. on Resources).

SENATE REPORTS: No. 107-271 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Mar. 6, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–340
107th Congress

An Act

To amend the Act that established the Pu‘uhonua o Hōnaunau National Historical Park to expand the boundaries of that park.

Dec. 16, 2002

[H.R. 1906]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Pu‘uhonua o Hōnaunau National Historical Park Addition Act of 2002”.

SEC. 2. ADDITIONS TO PU‘UHONUA O HŌNAUNAU NATIONAL HISTORICAL PARK.

The first section of the Act of July 26, 1955 (69 Stat. 376, ch. 385; 16 U.S.C. 397), is amended—

(1) by striking “That, when” and inserting the following: “SECTION 1. (a) When”; and

(2) by adding at the end thereof the following new subsections:

“(b) The boundaries of Pu‘uhonua o Hōnaunau National Historical Park are hereby modified to include approximately 238 acres of lands and interests therein within the area identified as ‘Parcel A’ on the map entitled ‘Pu‘uhonua o Hōnaunau National Historical Park Proposed Boundary Additions, Ki‘ilae Village’, numbered PUHO–P 415/82,013 and dated May, 2001.

“(c) The Secretary of the Interior is authorized to acquire approximately 159 acres of lands and interests therein within the area identified as ‘Parcel B’ on the map referenced in subsection (b). Upon the acquisition of such lands or interests therein, the Secretary shall modify the boundaries of Pu‘uhonua o Hōnaunau National Historical Park to include such lands or interests therein.”.

SEC. 3. AUTHORIZATIONS OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 1906 (S. 1057):

HOUSE REPORTS: Nos. 107–435 and 107–614, accompanying S. 1057, (both from Comm. on Resources).

SENATE REPORTS: Nos. 107–272 and 107–71, accompanying S. 1057, (both from Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 17, considered and passed House.

Nov. 19, considered and passed Senate.

Pu‘uhonua o
Hōnaunau
National
Historical Park
Addition Act of
2002
16 USC 397 note.



Public Law 107-341
107th Congress

An Act

Dec. 16, 2002
[H.R. 1925]

To direct the Secretary of the Interior to study the suitability and feasibility of designating the Waco Mammoth Site Area in Waco, Texas, as a unit of the National Park System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY AND REPORT REGARDING WACO MAMMOTH SITE AREA.

(a) **STUDY.**—The Secretary of the Interior, in consultation with the State of Texas, the city of Waco, and other appropriate organizations, shall carry out a special resource study regarding the national significance, suitability, and feasibility of designating the Waco Mammoth Site Area located in the city of Waco, Texas, as a unit of the National Park System.

Applicability.

(b) **STUDY PROCESS AND COMPLETION.**—Section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) shall apply to the conduct and completion of the study required by this section.

Deadline.

SEC. 2. SUBMISSION OF STUDY RESULTS.

Not later than 3 years after funds are first made available for this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study.

Approved December 16, 2002.

LEGISLATIVE HISTORY—H.R. 1925:

HOUSE REPORTS: No. 107-317 (Comm. on Resources).

SENATE REPORTS: No. 107-264 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 14, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–342
107th Congress

An Act

To amend the Omnibus Parks and Public Lands Management Act of 1996 to provide adequate funding authorization for the Vancouver National Historic Reserve.

Dec. 17, 2002
[H.R. 2099]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN AUTHORIZATION FOR RESERVE.

Section 502(d) of division I of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 461 note; 110 Stat. 4154) is amended by striking “\$5,000,000” and all that follows through the period and inserting “\$15,000,000 for development costs associated with capital projects consistent with the cooperative management plan, except that the Federal share of such development costs shall not exceed 50 percent of the total costs.”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2099 (S. 1649):

HOUSE REPORTS: No. 107–627 (Comm. on Resources).

SENATE REPORTS: No. 107–193 accompanying S. 1649 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 24, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107-343
107th Congress

An Act

Dec. 17, 2002
[H.R. 2109]

To authorize the Secretary of the Interior to conduct a special resource study of Virginia Key Beach Park in Biscayne Bay, Florida, for possible inclusion in the National Park System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STUDY AND CRITERIA.

(a) **STUDY.**—The Secretary of the Interior (in this Act referred to as “the Secretary”) shall conduct a study of Virginia Key Beach Park in Biscayne Bay, Florida, which was used for recreation by African Americans at a time when public beaches were racially segregated by law. The study shall evaluate the national significance of the site and the suitability and feasibility of establishing the site as a unit of the National Park System.

(b) **CRITERIA.**—In conducting the study required by subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91-383 (16 U.S.C. 1a-5; popularly known as the National Park System General Authorities Act).

SEC. 2. REPORT.

Upon completion of the study, the Secretary shall transmit to the Congress a report on the findings of the study and the conclusions and recommendations of the Secretary.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2109:

HOUSE REPORTS: No. 107-390 (Comm. on Resources).

SENATE REPORTS: No. 107-273 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 30, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–344
107th Congress

An Act

To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of a project to reclaim and reuse wastewater within and outside of the service area of the Lakehaven Utility District, Washington.

Dec. 17, 2002
[H.R. 2115]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF LAKEHAVEN, WASHINGTON, WASTE-WATER RECLAMATION AND REUSE PROJECT.

The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following:

“SEC. 1635. LAKEHAVEN, WASHINGTON, WATER RECLAMATION AND REUSE PROJECT. 43 USC 390h–17.

“(a) **AUTHORIZATION.**—The Secretary, in cooperation with the Lakehaven Utility District, Washington, is authorized to participate in the design, planning, and construction of, and land acquisition for, a project to reclaim and reuse wastewater, including degraded groundwaters, within and outside of the service area of the Lakehaven Utility District.

“(b) **COST SHARE.**—The Federal share of the cost of the project authorized by this section shall not exceed 25 percent of the total cost of the project.

“(c) **LIMITATION.**—The Secretary shall not provide funds for the operation and maintenance of the project authorized by this section.”.

SEC. 2. CLERICAL AMENDMENT.

The table of sections in section 2 of such Act is amended by inserting after the item relating to section 1634 the following:

“Sec. 1635. Lakehaven, Washington, Water Reclamation and Reuse Project.”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2115:

HOUSE REPORTS: No. 107–302 (Comm. on Resources).

SENATE REPORTS: No. 107–288 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 5, considered and passed House.

Vol. 148 (2002): Nov. 19, considered and passed Senate.



Public Law 107-345
107th Congress

An Act

Dec. 17, 2002
[H.R. 2187]

To amend title 10, United States Code, to make receipts collected from mineral leasing activities on certain naval oil shale reserves available to cover environmental restoration, waste management, and environmental compliance costs incurred by the United States with respect to the reserves.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF RECEIPTS FROM MINERAL LEASING ACTIVITIES ON CERTAIN NAVAL OIL SHALE RESERVES.

Section 7439 of title 10, United States Code, is amended—

(1) in subsection (f)(1), by striking the second sentence; and

(2) by adding at the end the following new subsection:

“(g) USE OF RECEIPTS.—(1) The Secretary of the Interior may use, without further appropriation, not more than \$1,500,000 of the moneys covered into the Treasury under subsection (f)(1) to cover the cost of any additional analysis, site characterization, and geotechnical studies deemed necessary by the Secretary to support environmental restoration, waste management, or environmental compliance with respect to Oil Shale Reserve Numbered 3. Upon the completion of such studies, the Secretary of the Interior shall submit to Congress a report containing—

“(A) the results and conclusions of such studies; and

“(B) an estimate of the total cost of the Secretary’s preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3.

“(2) If the cost estimate required by paragraph (1)(B) does not exceed the total of the moneys covered into the Treasury under subsection (f)(1) and remaining available for obligation as of the date of submission of the report under paragraph (1), the Secretary of the Interior may access such moneys, beginning 60 days after submission of the report and without further appropriation, to cover the costs of implementing the preferred alternative to address environmental restoration, waste management, and environmental compliance needs at Oil Shale Reserve Numbered 3. If the cost estimate exceeds such available moneys, the Secretary of the

Reports.

Interior may only access such moneys as authorized by subsequent Act of Congress.”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2187:

HOUSE REPORTS: No. 107-202, Pt. 1 (Comm. on Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Dec. 18, considered and passed House.

Vol. 148 (2002): Nov. 20, considered and passed Senate.



Public Law 107–346
107th Congress

An Act

Dec. 17, 2002
[H.R. 2385]

To convey certain property to the city of St. George, Utah, in order to provide for the protection and preservation of certain rare paleontological resources on that property, and for other purposes.

Virgin River
Dinosaur
Footprint
Preserve Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Virgin River Dinosaur Footprint Preserve Act”.

SEC. 2. VIRGIN RIVER DINOSAUR FOOTPRINT PRESERVE.

(a) **AUTHORIZATION FOR GRANT TO PURCHASE FOOTPRINT PRESERVE.**—As soon as is practicable after the date of the enactment of this Act, if the City agrees to the conditions set forth in subsection (b), the Secretary of the Interior may award to the City a grant equal to the lesser of \$500,000 or the fair market value of up to 10 acres of land (and all related facilities and other appurtenances thereon) generally depicted on the map entitled “Proposed Virgin River Dinosaur Footprint Preserve”, numbered 09/06/2001–A, for purchase of that property.

(b) **CONDITIONS OF GRANT.**—The grant under subsection (a) shall be made only after the City agrees to the following conditions:

(1) **USE OF LAND.**—The City shall use the Virgin River Dinosaur Footprint Preserve in a manner that accomplishes the following:

(A) Preserves and protects the paleontological resources located within the exterior boundaries of the Virgin River Dinosaur Footprint Preserve.

(B) Provides opportunities for scientific research in a manner compatible with subparagraph (A).

(C) Provides the public with opportunities for educational activities in a manner compatible with subparagraph (A).

(2) **REVERTER.**—If at any time after the City acquires the Virgin River Dinosaur Footprint Preserve, the Secretary determines that the City is not substantially in compliance with the conditions described in paragraph (1), all right, title, and interest in and to the Virgin River Dinosaur Footprint Preserve shall immediately revert to the United States, with no further consideration on the part of the United States, and such property shall then be under the administrative jurisdiction of the Secretary of the Interior.

(3) **CONDITIONS TO BE CONTAINED IN DEED.**—If the City attempts to transfer title to the Virgin River Dinosaur Footprint

Preserve (in whole or in part), the conditions set forth in this subsection shall transfer with such title and shall be enforceable against any subsequent owner of the Virgin River Dinosaur Footprint Preserve (in whole or in part).

(c) COOPERATIVE AGREEMENT AND ASSISTANCE.—

(1) COOPERATIVE AGREEMENT.—The Secretary shall enter into a cooperative agreement with the City for the management of the Virgin River Dinosaur Footprint Preserve by the City.

(2) ASSISTANCE.—The Secretary may provide to the City—

(A) financial assistance, if the Secretary determines that such assistance is necessary for protection of the paleontological resources located within the exterior boundaries of the Virgin River Dinosaur Footprint Preserve; and

(B) technical assistance to assist the City in complying with subparagraphs (A) through (C) of subsection (b)(1).

(3) ADDITIONAL GRANTS.—

(A) IN GENERAL.—In addition to funds made available under subsection (a) and paragraph (2) of this subsection, the Secretary may provide grants to the City to carry out its duties under the cooperative agreement entered into under paragraph (1).

(B) LIMITATION ON AMOUNT; REQUIRED NON-FEDERAL MATCH.—Grants under subparagraph (A) shall not exceed \$500,000 and shall be provided only to the extent that the City matches the amount of such grants with non-Federal contributions (including in-kind contributions).

(d) MAP ON FILE.—The map shall be on file and available for public inspection in the appropriate offices of the Department of the Interior.

(e) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) CITY.—The term “City” means the city of St. George, Utah.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(3) VIRGIN RIVER DINOSAUR FOOTPRINT PRESERVE.—The term “Virgin River Dinosaur Footprint Preserve” means the

property (and all facilities and other appurtenances thereon)
described in subsection (a).

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2385:

HOUSE REPORTS: No. 107-215 (Comm. on Resources).

SENATE REPORTS: No. 107-274 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Oct. 2, considered and passed House.

Vol. 148 (2002): Nov. 19, considered and passed Senate.



Public Law 107–347
107th Congress

An Act

To enhance the management and promotion of electronic Government services and processes by establishing a Federal Chief Information Officer within the Office of Management and Budget, and by establishing a broad framework of measures that require using Internet-based information technology to enhance citizen access to Government information and services, and for other purposes.

Dec. 17, 2002
[H.R. 2458]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

E-Government
Act of 2002.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “E-Government Act of 2002”.

44 USC 101 note.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

- Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.

**TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC
GOVERNMENT SERVICES**

- Sec. 101. Management and promotion of electronic government services.
Sec. 102. Conforming amendments.

**TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC
GOVERNMENT SERVICES**

- Sec. 201. Definitions.
Sec. 202. Federal agency responsibilities.
Sec. 203. Compatibility of executive agency methods for use and acceptance of electronic signatures.
Sec. 204. Federal Internet portal.
Sec. 205. Federal courts.
Sec. 206. Regulatory agencies.
Sec. 207. Accessibility, usability, and preservation of government information.
Sec. 208. Privacy provisions.
Sec. 209. Federal information technology workforce development.
Sec. 210. Share-in-savings initiatives.
Sec. 211. Authorization for acquisition of information technology by State and local governments through Federal supply schedules.
Sec. 212. Integrated reporting study and pilot projects.
Sec. 213. Community technology centers.
Sec. 214. Enhancing crisis management through advanced information technology.
Sec. 215. Disparities in access to the Internet.
Sec. 216. Common protocols for geographic information systems.

TITLE III—INFORMATION SECURITY

- Sec. 301. Information security.
Sec. 302. Management of information technology.
Sec. 303. National Institute of Standards and Technology.
Sec. 304. Information Security and Privacy Advisory Board.
Sec. 305. Technical and conforming amendments.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

- Sec. 401. Authorization of appropriations.

Sec. 402. Effective dates.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL
EFFICIENCY

Sec. 501. Short title.

Sec. 502. Definitions.

Sec. 503. Coordination and oversight of policies.

Sec. 504. Effect on other laws.

Subtitle A—Confidential Information Protection

Sec. 511. Findings and purposes.

Sec. 512. Limitations on use and disclosure of data and information.

Sec. 513. Fines and penalties.

Subtitle B—Statistical Efficiency

Sec. 521. Findings and purposes.

Sec. 522. Designation of statistical agencies.

Sec. 523. Responsibilities of designated statistical agencies.

Sec. 524. Sharing of business data among designated statistical agencies.

Sec. 525. Limitations on use of business data provided by designated statistical agencies.

Sec. 526. Conforming amendments.

44 USC 3601
note.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private businesses, and the Government.

(2) The Federal Government has had uneven success in applying advances in information technology to enhance governmental functions and services, achieve more efficient performance, increase access to Government information, and increase citizen participation in Government.

(3) Most Internet-based services of the Federal Government are developed and presented separately, according to the jurisdictional boundaries of an individual department or agency, rather than being integrated cooperatively according to function or topic.

(4) Internet-based Government services involving interagency cooperation are especially difficult to develop and promote, in part because of a lack of sufficient funding mechanisms to support such interagency cooperation.

(5) Electronic Government has its impact through improved Government performance and outcomes within and across agencies.

(6) Electronic Government is a critical element in the management of Government, to be implemented as part of a management framework that also addresses finance, procurement, human capital, and other challenges to improve the performance of Government.

(7) To take full advantage of the improved Government performance that can be achieved through the use of Internet-based technology requires strong leadership, better organization, improved interagency collaboration, and more focused oversight of agency compliance with statutes related to information resource management.

(b) PURPOSES.—The purposes of this Act are the following:

(1) To provide effective leadership of Federal Government efforts to develop and promote electronic Government services and processes by establishing an Administrator of a new Office of Electronic Government within the Office of Management and Budget.

(2) To promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government.

(3) To promote interagency collaboration in providing electronic Government services, where this collaboration would improve the service to citizens by integrating related functions, and in the use of internal electronic Government processes, where this collaboration would improve the efficiency and effectiveness of the processes.

(4) To improve the ability of the Government to achieve agency missions and program performance goals.

(5) To promote the use of the Internet and emerging technologies within and across Government agencies to provide citizen-centric Government information and services.

(6) To reduce costs and burdens for businesses and other Government entities.

(7) To promote better informed decisionmaking by policy makers.

(8) To promote access to high quality Government information and services across multiple channels.

(9) To make the Federal Government more transparent and accountable.

(10) To transform agency operations by utilizing, where appropriate, best practices from public and private sector organizations.

(11) To provide enhanced access to Government information and services in a manner consistent with laws regarding protection of personal privacy, national security, records retention, access for persons with disabilities, and other relevant laws.

TITLE I—OFFICE OF MANAGEMENT AND BUDGET ELECTRONIC GOVERNMENT SERVICES

SEC. 101. MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES.

(a) IN GENERAL.—Title 44, United States Code, is amended by inserting after chapter 35 the following:

“CHAPTER 36—MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

“Sec.

“3601. Definitions.

“3602. Office of Electronic Government.

“3603. Chief Information Officers Council.

“3604. E-Government Fund.

“3605. Program to encourage innovative solutions to enhance electronic Government services and processes.

“3606. E-Government report.

“§ 3601. Definitions

“In this chapter, the definitions under section 3502 shall apply, and the term—

“(1) ‘Administrator’ means the Administrator of the Office of Electronic Government established under section 3602;

“(2) ‘Council’ means the Chief Information Officers Council established under section 3603;

“(3) ‘electronic Government’ means the use by the Government of web-based Internet applications and other information technologies, combined with processes that implement these technologies, to—

“(A) enhance the access to and delivery of Government information and services to the public, other agencies, and other Government entities; or

“(B) bring about improvements in Government operations that may include effectiveness, efficiency, service quality, or transformation;

“(4) ‘enterprise architecture’—

“(A) means—

“(i) a strategic information asset base, which defines the mission;

“(ii) the information necessary to perform the mission;

“(iii) the technologies necessary to perform the mission; and

“(iv) the transitional processes for implementing new technologies in response to changing mission needs; and

“(B) includes—

“(i) a baseline architecture;

“(ii) a target architecture; and

“(iii) a sequencing plan;

“(5) ‘Fund’ means the E-Government Fund established under section 3604;

“(6) ‘interoperability’ means the ability of different operating and software systems, applications, and services to communicate and exchange data in an accurate, effective, and consistent manner;

“(7) ‘integrated service delivery’ means the provision of Internet-based Federal Government information or services integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction; and

“(8) ‘tribal government’ means—

“(A) the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

“(B) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“§ 3602. Office of Electronic Government

Establishment.
Government
organization.
President.

“(a) There is established in the Office of Management and Budget an Office of Electronic Government.

“(b) There shall be at the head of the Office an Administrator who shall be appointed by the President.

“(c) The Administrator shall assist the Director in carrying out—

“(1) all functions under this chapter;

“(2) all of the functions assigned to the Director under title II of the E-Government Act of 2002; and

“(3) other electronic government initiatives, consistent with other statutes.

“(d) The Administrator shall assist the Director and the Deputy Director for Management and work with the Administrator of the Office of Information and Regulatory Affairs in setting strategic direction for implementing electronic Government, under relevant statutes, including—

“(1) chapter 35;

“(2) subtitle III of title 40, United States Code;

“(3) section 552a of title 5 (commonly referred to as the ‘Privacy Act’);

“(4) the Government Paperwork Elimination Act (44 U.S.C. 3504 note); and

“(5) the Federal Information Security Management Act of 2002.

“(e) The Administrator shall work with the Administrator of the Office of Information and Regulatory Affairs and with other offices within the Office of Management and Budget to oversee implementation of electronic Government under this chapter, chapter 35, the E-Government Act of 2002, and other relevant statutes, in a manner consistent with law, relating to—

“(1) capital planning and investment control for information technology;

“(2) the development of enterprise architectures;

“(3) information security;

“(4) privacy;

“(5) access to, dissemination of, and preservation of Government information;

“(6) accessibility of information technology for persons with disabilities; and

“(7) other areas of electronic Government.

“(f) Subject to requirements of this chapter, the Administrator shall assist the Director by performing electronic Government functions as follows:

“(1) Advise the Director on the resources required to develop and effectively administer electronic Government initiatives.

“(2) Recommend to the Director changes relating to Governmentwide strategies and priorities for electronic Government.

“(3) Provide overall leadership and direction to the executive branch on electronic Government.

“(4) Promote innovative uses of information technology by agencies, particularly initiatives involving multiagency collaboration, through support of pilot projects, research, experimentation, and the use of innovative technologies.

“(5) Oversee the distribution of funds from, and ensure appropriate administration and coordination of, the E-Government Fund established under section 3604.

“(6) Coordinate with the Administrator of General Services regarding programs undertaken by the General Services Administration to promote electronic government and the efficient use of information technologies by agencies.

“(7) Lead the activities of the Chief Information Officers Council established under section 3603 on behalf of the Deputy Director for Management, who shall chair the council.

“(8) Assist the Director in establishing policies which shall set the framework for information technology standards for the Federal Government developed by the National Institute of Standards and Technology and promulgated by the Secretary of Commerce under section 11331 of title 40, taking into account, if appropriate, recommendations of the Chief Information Officers Council, experts, and interested parties from the private and nonprofit sectors and State, local, and tribal governments, and maximizing the use of commercial standards as appropriate, including the following:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(9) Sponsor ongoing dialogue that—

“(A) shall be conducted among Federal, State, local, and tribal government leaders on electronic Government in the executive, legislative, and judicial branches, as well as leaders in the private and nonprofit sectors, to encourage collaboration and enhance understanding of best practices and innovative approaches in acquiring, using, and managing information resources;

“(B) is intended to improve the performance of governments in collaborating on the use of information technology to improve the delivery of Government information and services; and

“(C) may include—

“(i) development of innovative models—

“(I) for electronic Government management and Government information technology contracts; and

“(II) that may be developed through focused discussions or using separately sponsored research;

“(ii) identification of opportunities for public-private collaboration in using Internet-based technology to increase the efficiency of Government-to-business transactions;

“(iii) identification of mechanisms for providing incentives to program managers and other Government employees to develop and implement innovative uses of information technologies; and

“(iv) identification of opportunities for public, private, and intergovernmental collaboration in addressing the disparities in access to the Internet and information technology.

“(10) Sponsor activities to engage the general public in the development and implementation of policies and programs, particularly activities aimed at fulfilling the goal of using the most effective citizen-centered strategies and those activities

which engage multiple agencies providing similar or related information and services.

“(11) Oversee the work of the General Services Administration and other agencies in developing the integrated Internet-based system under section 204 of the E-Government Act of 2002.

“(12) Coordinate with the Administrator for Federal Procurement Policy to ensure effective implementation of electronic procurement initiatives.

“(13) Assist Federal agencies, including the General Services Administration, the Department of Justice, and the United States Access Board in—

“(A) implementing accessibility standards under section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d); and

“(B) ensuring compliance with those standards through the budget review process and other means.

“(14) Oversee the development of enterprise architectures within and across agencies.

“(15) Assist the Director and the Deputy Director for Management in overseeing agency efforts to ensure that electronic Government activities incorporate adequate, risk-based, and cost-effective security compatible with business processes.

“(16) Administer the Office of Electronic Government established under this section.

“(17) Assist the Director in preparing the E-Government report established under section 3606.

“(g) The Director shall ensure that the Office of Management and Budget, including the Office of Electronic Government, the Office of Information and Regulatory Affairs, and other relevant offices, have adequate staff and resources to properly fulfill all functions under the E-Government Act of 2002.

“§ 3603. Chief Information Officers Council

“(a) There is established in the executive branch a Chief Information Officers Council. Establishment.

“(b) The members of the Council shall be as follows:

“(1) The Deputy Director for Management of the Office of Management and Budget, who shall act as chairperson of the Council.

“(2) The Administrator of the Office of Electronic Government.

“(3) The Administrator of the Office of Information and Regulatory Affairs.

“(4) The chief information officer of each agency described under section 901(b) of title 31.

“(5) The chief information officer of the Central Intelligence Agency.

“(6) The chief information officer of the Department of the Army, the Department of the Navy, and the Department of the Air Force, if chief information officers have been designated for such departments under section 3506(a)(2)(B).

“(7) Any other officer or employee of the United States designated by the chairperson.

“(c)(1) The Administrator of the Office of Electronic Government shall lead the activities of the Council on behalf of the Deputy Director for Management.

“(2)(A) The Vice Chairman of the Council shall be selected by the Council from among its members.

“(B) The Vice Chairman shall serve a 1-year term, and may serve multiple terms.

“(3) The Administrator of General Services shall provide administrative and other support for the Council.

“(d) The Council is designated the principal interagency forum for improving agency practices related to the design, acquisition, development, modernization, use, operation, sharing, and performance of Federal Government information resources.

“(e) In performing its duties, the Council shall consult regularly with representatives of State, local, and tribal governments.

“(f) The Council shall perform functions that include the following:

“(1) Develop recommendations for the Director on Government information resources management policies and requirements.

“(2) Share experiences, ideas, best practices, and innovative approaches related to information resources management.

“(3) Assist the Administrator in the identification, development, and coordination of multiagency projects and other innovative initiatives to improve Government performance through the use of information technology.

“(4) Promote the development and use of common performance measures for agency information resources management under this chapter and title II of the E-Government Act of 2002.

“(5) Work as appropriate with the National Institute of Standards and Technology and the Administrator to develop recommendations on information technology standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40, and maximize the use of commercial standards as appropriate, including the following:

“(A) Standards and guidelines for interconnectivity and interoperability as described under section 3504.

“(B) Consistent with the process under section 207(d) of the E-Government Act of 2002, standards and guidelines for categorizing Federal Government electronic information to enable efficient use of technologies, such as through the use of extensible markup language.

“(C) Standards and guidelines for Federal Government computer system efficiency and security.

“(6) Work with the Office of Personnel Management to assess and address the hiring, training, classification, and professional development needs of the Government related to information resources management.

“(7) Work with the Archivist of the United States to assess how the Federal Records Act can be addressed effectively by Federal information resources management activities.

“§ 3604. E-Government Fund

“(a)(1) There is established in the Treasury of the United States the E-Government Fund.

“(2) The Fund shall be administered by the Administrator of the General Services Administration to support projects approved by the Director, assisted by the Administrator of the Office of

Electronic Government, that enable the Federal Government to expand its ability, through the development and implementation of innovative uses of the Internet or other electronic methods, to conduct activities electronically.

“(3) Projects under this subsection may include efforts to—

“(A) make Federal Government information and services more readily available to members of the public (including individuals, businesses, grantees, and State and local governments);

“(B) make it easier for the public to apply for benefits, receive services, pursue business opportunities, submit information, and otherwise conduct transactions with the Federal Government; and

“(C) enable Federal agencies to take advantage of information technology in sharing information and conducting transactions with each other and with State and local governments.

“(b)(1) The Administrator shall—

“(A) establish procedures for accepting and reviewing proposals for funding;

Procedures.

“(B) consult with interagency councils, including the Chief Information Officers Council, the Chief Financial Officers Council, and other interagency management councils, in establishing procedures and reviewing proposals; and

“(C) assist the Director in coordinating resources that agencies receive from the Fund with other resources available to agencies for similar purposes.

“(2) When reviewing proposals and managing the Fund, the Administrator shall observe and incorporate the following procedures:

“(A) A project requiring substantial involvement or funding from an agency shall be approved by a senior official with agencywide authority on behalf of the head of the agency, who shall report directly to the head of the agency.

“(B) Projects shall adhere to fundamental capital planning and investment control processes.

“(C) Agencies shall identify in their proposals resource commitments from the agencies involved and how these resources would be coordinated with support from the Fund, and include plans for potential continuation of projects after all funds made available from the Fund are expended.

“(D) After considering the recommendations of the interagency councils, the Director, assisted by the Administrator, shall have final authority to determine which of the candidate projects shall be funded from the Fund.

“(E) Agencies shall assess the results of funded projects.

“(c) In determining which proposals to recommend for funding, the Administrator—

“(1) shall consider criteria that include whether a proposal—

“(A) identifies the group to be served, including citizens, businesses, the Federal Government, or other governments;

“(B) indicates what service or information the project will provide that meets needs of groups identified under subparagraph (A);

“(C) ensures proper security and protects privacy;

“(D) is interagency in scope, including projects implemented by a primary or single agency that—

“(i) could confer benefits on multiple agencies; and

“(ii) have the support of other agencies; and

“(E) has performance objectives that tie to agency missions and strategic goals, and interim results that relate to the objectives; and

“(2) may also rank proposals based on criteria that include whether a proposal—

“(A) has Governmentwide application or implications;

“(B) has demonstrated support by the public to be served;

“(C) integrates Federal with State, local, or tribal approaches to service delivery;

“(D) identifies resource commitments from nongovernmental sectors;

“(E) identifies resource commitments from the agencies involved;

“(F) uses web-based technologies to achieve objectives;

“(G) identifies records management and records access strategies;

“(H) supports more effective citizen participation in and interaction with agency activities that further progress toward a more citizen-centered Government;

“(I) directly delivers Government information and services to the public or provides the infrastructure for delivery;

“(J) supports integrated service delivery;

“(K) describes how business processes across agencies will reflect appropriate transformation simultaneous to technology implementation; and

“(L) is new or innovative and does not supplant existing funding streams within agencies.

“(d) The Fund may be used to fund the integrated Internet-based system under section 204 of the E-Government Act of 2002.

Notification.

“(e) None of the funds provided from the Fund may be transferred to any agency until 15 days after the Administrator of the General Services Administration has submitted to the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the appropriate authorizing committees of the Senate and the House of Representatives, a notification and description of how the funds are to be allocated and how the expenditure will further the purposes of this chapter.

Reports.

“(f)(1) The Director shall report annually to Congress on the operation of the Fund, through the report established under section 3606.

“(2) The report under paragraph (1) shall describe—

“(A) all projects which the Director has approved for funding from the Fund; and

“(B) the results that have been achieved to date for these funded projects.

“(g)(1) There are authorized to be appropriated to the Fund—

“(A) \$45,000,000 for fiscal year 2003;

“(B) \$50,000,000 for fiscal year 2004;

“(C) \$100,000,000 for fiscal year 2005;

“(D) \$150,000,000 for fiscal year 2006; and

“(E) such sums as are necessary for fiscal year 2007.

“(2) Funds appropriated under this subsection shall remain available until expended.

“§ 3605. Program to encourage innovative solutions to enhance electronic Government services and processes

“(a) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish and promote a Governmentwide program to encourage contractor innovation and excellence in facilitating the development and enhancement of electronic Government services and processes.

“(b) ISSUANCE OF ANNOUNCEMENTS SEEKING INNOVATIVE SOLUTIONS.—Under the program, the Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall issue announcements seeking unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes.

“(c) MULTIAGENCY TECHNICAL ASSISTANCE TEAM.—(1) The Administrator, in consultation with the Council and the Administrator for Federal Procurement Policy, shall convene a multiagency technical assistance team to assist in screening proposals submitted to the Administrator to provide unique and innovative solutions to facilitate the development and enhancement of electronic Government services and processes. The team shall be composed of employees of the agencies represented on the Council who have expertise in scientific and technical disciplines that would facilitate the assessment of the feasibility of the proposals.

“(2) The technical assistance team shall—

“(A) assess the feasibility, scientific and technical merits, and estimated cost of each proposal; and

“(B) submit each proposal, and the assessment of the proposal, to the Administrator.

“(3) The technical assistance team shall not consider or evaluate proposals submitted in response to a solicitation for offers for a pending procurement or for a specific agency requirement.

“(4) After receiving proposals and assessments from the technical assistance team, the Administrator shall consider recommending appropriate proposals for funding under the E-Government Fund established under section 3604 or, if appropriate, forward the proposal and the assessment of it to the executive agency whose mission most coincides with the subject matter of the proposal.

“§ 3606. E-Government report

“(a) Not later than March 1 of each year, the Director shall submit an E-Government status report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

Deadline.

“(b) The report under subsection (a) shall contain—

“(1) a summary of the information reported by agencies under section 202(f) of the E-Government Act of 2002;

“(2) the information required to be reported by section 3604(f); and

“(3) a description of compliance by the Federal Government with other goals and provisions of the E-Government Act of 2002.”.

(b) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of chapters for title 44, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“36. Management and Promotion of Electronic Government Services 3601”.

SEC. 102. CONFORMING AMENDMENTS.

(a) **ELECTRONIC GOVERNMENT AND INFORMATION TECHNOLOGIES.**—

(1) **IN GENERAL.**—Chapter 3 of title 40, United States Code, is amended by inserting after section 304 the following new section:

“§ 305. Electronic Government and information technologies

“The Administrator of General Services shall consult with the Administrator of the Office of Electronic Government on programs undertaken by the General Services Administration to promote electronic Government and the efficient use of information technologies by Federal agencies.”.

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 3 of such title is amended by inserting after the item relating to section 304 the following:

“305. Electronic Government and information technologies.”.

(b) **MODIFICATION OF DEPUTY DIRECTOR FOR MANAGEMENT FUNCTIONS.**—Section 503(b) of title 31, United States Code, is amended—

(1) by redesignating paragraphs (5), (6), (7), (8), and (9), as paragraphs (6), (7), (8), (9), and (10), respectively; and

(2) by inserting after paragraph (4) the following:

“(5) Chair the Chief Information Officers Council established under section 3603 of title 44.”.

(c) **OFFICE OF ELECTRONIC GOVERNMENT.**—

(1) **IN GENERAL.**—Chapter 5 of title 31, United States Code, is amended by inserting after section 506 the following:

“§ 507. Office of Electronic Government

“The Office of Electronic Government, established under section 3602 of title 44, is an office in the Office of Management and Budget.”.

(2) **TECHNICAL AND CONFORMING AMENDMENT.**—The table of sections for chapter 5 of title 31, United States Code, is amended by inserting after the item relating to section 506 the following:

“507. Office of Electronic Government.”.

TITLE II—FEDERAL MANAGEMENT AND PROMOTION OF ELECTRONIC GOVERNMENT SERVICES

44 USC 3501
note.

SEC. 201. DEFINITIONS.

Except as otherwise provided, in this title the definitions under sections 3502 and 3601 of title 44, United States Code, shall apply.

SEC. 202. FEDERAL AGENCY RESPONSIBILITIES.44 USC 3501
note.

(a) **IN GENERAL.**—The head of each agency shall be responsible for—

(1) complying with the requirements of this Act (including the amendments made by this Act), the related information resource management policies and guidance established by the Director of the Office of Management and Budget, and the related information technology standards promulgated by the Secretary of Commerce;

(2) ensuring that the information resource management policies and guidance established under this Act by the Director, and the related information technology standards promulgated by the Secretary of Commerce are communicated promptly and effectively to all relevant officials within their agency; and

(3) supporting the efforts of the Director and the Administrator of the General Services Administration to develop, maintain, and promote an integrated Internet-based system of delivering Federal Government information and services to the public under section 204.

(b) **PERFORMANCE INTEGRATION.**—

(1) Agencies shall develop performance measures that demonstrate how electronic government enables progress toward agency objectives, strategic goals, and statutory mandates.

(2) In measuring performance under this section, agencies shall rely on existing data collections to the extent practicable.

(3) Areas of performance measurement that agencies should consider include—

(A) customer service;

(B) agency productivity; and

(C) adoption of innovative information technology, including the appropriate use of commercial best practices.

(4) Agencies shall link their performance goals, as appropriate, to key groups, including citizens, businesses, and other governments, and to internal Federal Government operations.

(5) As appropriate, agencies shall work collectively in linking their performance goals to groups identified under paragraph (4) and shall use information technology in delivering Government information and services to those groups.

(c) **AVOIDING DIMINISHED ACCESS.**—When promulgating policies and implementing programs regarding the provision of Government information and services over the Internet, agency heads shall consider the impact on persons without access to the Internet, and shall, to the extent practicable—

(1) ensure that the availability of Government information and services has not been diminished for individuals who lack access to the Internet; and

(2) pursue alternate modes of delivery that make Government information and services more accessible to individuals who do not own computers or lack access to the Internet.

(d) **ACCESSIBILITY TO PEOPLE WITH DISABILITIES.**—All actions taken by Federal departments and agencies under this Act shall be in compliance with section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

(e) **SPONSORED ACTIVITIES.**—Agencies shall sponsor activities that use information technology to engage the public in the development and implementation of policies and programs.

(f) **CHIEF INFORMATION OFFICERS.**—The Chief Information Officer of each of the agencies designated under chapter 36 of title 44, United States Code (as added by this Act) shall be responsible for—

(1) participating in the functions of the Chief Information Officers Council; and

(2) monitoring the implementation, within their respective agencies, of information technology standards promulgated by the Secretary of Commerce, including common standards for interconnectivity and interoperability, categorization of Federal Government electronic information, and computer system efficiency and security.

(g) **E-GOVERNMENT STATUS REPORT.**—

(1) **IN GENERAL.**—Each agency shall compile and submit to the Director an annual E-Government Status Report on—

(A) the status of the implementation by the agency of electronic government initiatives;

(B) compliance by the agency with this Act; and

(C) how electronic Government initiatives of the agency improve performance in delivering programs to constituencies.

(2) **SUBMISSION.**—Each agency shall submit an annual report under this subsection—

(A) to the Director at such time and in such manner as the Director requires;

(B) consistent with related reporting requirements; and

(C) which addresses any section in this title relevant to that agency.

(h) **USE OF TECHNOLOGY.**—Nothing in this Act supersedes the responsibility of an agency to use or manage information technology to deliver Government information and services that fulfill the statutory mission and programs of the agency.

(i) **NATIONAL SECURITY SYSTEMS.**—

(1) **INAPPLICABILITY.**—Except as provided under paragraph (2), this title does not apply to national security systems as defined in section 11103 of title 40, United States Code.

(2) **APPLICABILITY.**—This section, section 203, and section 214 do apply to national security systems to the extent practicable and consistent with law.

44 USC 3501
note.

SEC. 203. COMPATIBILITY OF EXECUTIVE AGENCY METHODS FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

(a) **PURPOSE.**—The purpose of this section is to achieve interoperable implementation of electronic signatures for appropriately secure electronic transactions with Government.

(b) **ELECTRONIC SIGNATURES.**—In order to fulfill the objectives of the Government Paperwork Elimination Act (Public Law 105-277; 112 Stat. 2681-749 through 2681-751), each Executive agency (as defined under section 105 of title 5, United States Code) shall ensure that its methods for use and acceptance of electronic signatures are compatible with the relevant policies and procedures issued by the Director.

(c) **AUTHORITY FOR ELECTRONIC SIGNATURES.**—The Administrator of General Services shall support the Director by establishing a framework to allow efficient interoperability among Executive agencies when using electronic signatures, including processing of digital signatures.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration, to ensure the development and operation of a Federal bridge certification authority for digital signature compatibility, and for other activities consistent with this section, \$8,000,000 or such sums as are necessary in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

SEC. 204. FEDERAL INTERNET PORTAL.

44 USC 3501
note.

(a) **IN GENERAL.**—

(1) **PUBLIC ACCESS.**—The Director shall work with the Administrator of the General Services Administration and other agencies to maintain and promote an integrated Internet-based system of providing the public with access to Government information and services.

(2) **CRITERIA.**—To the extent practicable, the integrated system shall be designed and operated according to the following criteria:

(A) The provision of Internet-based Government information and services directed to key groups, including citizens, business, and other governments, and integrated according to function or topic rather than separated according to the boundaries of agency jurisdiction.

(B) An ongoing effort to ensure that Internet-based Government services relevant to a given citizen activity are available from a single point.

(C) Access to Federal Government information and services consolidated, as appropriate, with Internet-based information and services provided by State, local, and tribal governments.

(D) Access to Federal Government information held by 1 or more agencies shall be made available in a manner that protects privacy, consistent with law.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the General Services Administration \$15,000,000 for the maintenance, improvement, and promotion of the integrated Internet-based system for fiscal year 2003, and such sums as are necessary for fiscal years 2004 through 2007.

SEC. 205. FEDERAL COURTS.

44 USC 3501
note.

(a) **INDIVIDUAL COURT WEBSITES.**—The Chief Justice of the United States, the chief judge of each circuit and district and of the Court of Federal Claims, and the chief bankruptcy judge of each district shall cause to be established and maintained, for the court of which the judge is chief justice or judge, a website that contains the following information or links to websites with the following information:

(1) Location and contact information for the courthouse, including the telephone numbers and contact names for the clerk's office and justices' or judges' chambers.

(2) Local rules and standing or general orders of the court.

(3) Individual rules, if in existence, of each justice or judge in that court.

(4) Access to docket information for each case.

(5) Access to the substance of all written opinions issued by the court, regardless of whether such opinions are to be published in the official court reporter, in a text searchable format.

(6) Access to documents filed with the courthouse in electronic form, to the extent provided under subsection (c).

(7) Any other information (including forms in a format that can be downloaded) that the court determines useful to the public.

(b) MAINTENANCE OF DATA ONLINE.—

(1) UPDATE OF INFORMATION.—The information and rules on each website shall be updated regularly and kept reasonably current.

(2) CLOSED CASES.—Electronic files and docket information for cases closed for more than 1 year are not required to be made available online, except all written opinions with a date of issuance after the effective date of this section shall remain available online.

(c) ELECTRONIC FILINGS.—

Public
information.

(1) IN GENERAL.—Except as provided under paragraph (2) or in the rules prescribed under paragraph (3), each court shall make any document that is filed electronically publicly available online. A court may convert any document that is filed in paper form to electronic form. To the extent such conversions are made, all such electronic versions of the document shall be made available online.

(2) EXCEPTIONS.—Documents that are filed that are not otherwise available to the public, such as documents filed under seal, shall not be made available online.

Regulations.

(3) PRIVACY AND SECURITY CONCERNS.—(A)(i) The Supreme Court shall prescribe rules, in accordance with sections 2072 and 2075 of title 28, United States Code, to protect privacy and security concerns relating to electronic filing of documents and the public availability under this subsection of documents filed electronically.

(ii) Such rules shall provide to the extent practicable for uniform treatment of privacy and security issues throughout the Federal courts.

(iii) Such rules shall take into consideration best practices in Federal and State courts to protect private information or otherwise maintain necessary information security.

(iv) To the extent that such rules provide for the redaction of certain categories of information in order to protect privacy and security concerns, such rules shall provide that a party that wishes to file an otherwise proper document containing such information may file an unredacted document under seal, which shall be retained by the court as part of the record, and which, at the discretion of the court and subject to any applicable rules issued in accordance with chapter 131 of title 28, United States Code, shall be either in lieu of, or in addition, to, a redacted copy in the public file.

(B)(i) Subject to clause (ii), the Judicial Conference of the United States may issue interim rules, and interpretive statements relating to the application of such rules, which conform to the requirements of this paragraph and which shall cease to have effect upon the effective date of the rules required under subparagraph (A).

(ii) Pending issuance of the rules required under subparagraph (A), any rule or order of any court, or of the Judicial Conference, providing for the redaction of certain categories of information in order to protect privacy and security concerns

arising from electronic filing shall comply with, and be construed in conformity with, subparagraph (A)(iv).

(C) Not later than 1 year after the rules prescribed under subparagraph (A) take effect, and every 2 years thereafter, the Judicial Conference shall submit to Congress a report on the adequacy of those rules to protect privacy and security.

Deadlines.
Reports.

(d) **DOCKETS WITH LINKS TO DOCUMENTS.**—The Judicial Conference of the United States shall explore the feasibility of technology to post online dockets with links allowing all filings, decisions, and rulings in each case to be obtained from the docket sheet of that case.

(e) **COST OF PROVIDING ELECTRONIC DOCKETING INFORMATION.**—Section 303(a) of the Judiciary Appropriations Act, 1992 (28 U.S.C. 1913 note) is amended in the first sentence by striking “shall hereafter” and inserting “may, only to the extent necessary,”.

(f) **TIME REQUIREMENTS.**—Not later than 2 years after the effective date of this title, the websites under subsection (a) shall be established, except that access to documents filed in electronic form shall be established not later than 4 years after that effective date.

Deadlines.

(g) **DEFERRAL.**—

(1) **IN GENERAL.**—

(A) **ELECTION.**—

(i) **NOTIFICATION.**—The Chief Justice of the United States, a chief judge, or chief bankruptcy judge may submit a notification to the Administrative Office of the United States Courts to defer compliance with any requirement of this section with respect to the Supreme Court, a court of appeals, district, or the bankruptcy court of a district.

(ii) **CONTENTS.**—A notification submitted under this subparagraph shall state—

(I) the reasons for the deferral; and

(II) the online methods, if any, or any alternative methods, such court or district is using to provide greater public access to information.

(B) **EXCEPTION.**—To the extent that the Supreme Court, a court of appeals, district, or bankruptcy court of a district maintains a website under subsection (a), the Supreme Court or that court of appeals or district shall comply with subsection (b)(1).

(2) **REPORT.**—Not later than 1 year after the effective date of this title, and every year thereafter, the Judicial Conference of the United States shall submit a report to the Committees on Governmental Affairs and the Judiciary of the Senate and the Committees on Government Reform and the Judiciary of the House of Representatives that—

Deadline.

(A) contains all notifications submitted to the Administrative Office of the United States Courts under this subsection; and

(B) summarizes and evaluates all notifications.

SEC. 206. REGULATORY AGENCIES.

(a) **PURPOSES.**—The purposes of this section are to—

(1) improve performance in the development and issuance of agency regulations by using information technology to increase access, accountability, and transparency; and

44 USC 3501
note.

(2) enhance public participation in Government by electronic means, consistent with requirements under subchapter II of chapter 5 of title 5, United States Code, (commonly referred to as the “Administrative Procedures Act”).

(b) INFORMATION PROVIDED BY AGENCIES ONLINE.—To the extent practicable as determined by the agency in consultation with the Director, each agency (as defined under section 551 of title 5, United States Code) shall ensure that a publicly accessible Federal Government website includes all information about that agency required to be published in the Federal Register under paragraphs (1) and (2) of section 552(a) of title 5, United States Code.

(c) SUBMISSIONS BY ELECTRONIC MEANS.—To the extent practicable, agencies shall accept submissions under section 553(c) of title 5, United States Code, by electronic means.

(d) ELECTRONIC DOCKETING.—

(1) IN GENERAL.—To the extent practicable, as determined by the agency in consultation with the Director, agencies shall ensure that a publicly accessible Federal Government website contains electronic dockets for rulemakings under section 553 of title 5, United States Code.

(2) INFORMATION AVAILABLE.—Agency electronic dockets shall make publicly available online to the extent practicable, as determined by the agency in consultation with the Director—

(A) all submissions under section 553(c) of title 5, United States Code; and

(B) other materials that by agency rule or practice are included in the rulemaking docket under section 553(c) of title 5, United States Code, whether or not submitted electronically.

(e) TIME LIMITATION.—Agencies shall implement the requirements of this section consistent with a timetable established by the Director and reported to Congress in the first annual report under section 3606 of title 44 (as added by this Act).

44 USC 3501
note.

SEC. 207. ACCESSIBILITY, USABILITY, AND PRESERVATION OF GOVERNMENT INFORMATION.

(a) PURPOSE.—The purpose of this section is to improve the methods by which Government information, including information on the Internet, is organized, preserved, and made accessible to the public.

(b) DEFINITIONS.—In this section, the term—

(1) “Committee” means the Interagency Committee on Government Information established under subsection (c); and

(2) “directory” means a taxonomy of subjects linked to websites that—

(A) organizes Government information on the Internet according to subject matter; and

(B) may be created with the participation of human editors.

(c) INTERAGENCY COMMITTEE.—

(1) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this title, the Director shall establish the Interagency Committee on Government Information.

(2) MEMBERSHIP.—The Committee shall be chaired by the Director or the designee of the Director and—

(A) shall include representatives from—

Deadline.

(i) the National Archives and Records Administration;

(ii) the offices of the Chief Information Officers from Federal agencies; and

(iii) other relevant officers from the executive branch; and

(B) may include representatives from the Federal legislative and judicial branches.

(3) FUNCTIONS.—The Committee shall—

(A) engage in public consultation to the maximum extent feasible, including consultation with interested communities such as public advocacy organizations;

(B) conduct studies and submit recommendations, as provided under this section, to the Director and Congress; and

(C) share effective practices for access to, dissemination of, and retention of Federal information.

(4) TERMINATION.—The Committee may be terminated on a date determined by the Director, except the Committee may not terminate before the Committee submits all recommendations required under this section.

(d) CATEGORIZING OF INFORMATION.—

(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director on— Deadline.

(A) the adoption of standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers; and

(ii) in ways that are interoperable across agencies;

(B) the definition of categories of Government information which should be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(2) FUNCTIONS OF THE DIRECTOR.—Not later than 1 year after the submission of recommendations under paragraph (1), the Director shall issue policies— Deadline.
Policies.

(A) requiring that agencies use standards, which are open to the maximum extent feasible, to enable the organization and categorization of Government information—

(i) in a way that is searchable electronically, including by searchable identifiers;

(ii) in ways that are interoperable across agencies; and

(iii) that are, as appropriate, consistent with the provisions under section 3602(f)(8) of title 44, United States Code;

(B) defining categories of Government information which shall be required to be classified under the standards; and

(C) determining priorities and developing schedules for the initial implementation of the standards by agencies.

(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Director shall modify

	the policies, as needed, in consultation with the Committee and interested parties.
Reports.	(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).
	(e) PUBLIC ACCESS TO ELECTRONIC INFORMATION.—
Deadline.	(1) COMMITTEE FUNCTIONS.—Not later than 2 years after the date of enactment of this Act, the Committee shall submit recommendations to the Director and the Archivist of the United States on—
	(A) the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and
	(B) the imposition of timetables for the implementation of the policies and procedures by agencies.
Deadline.	(2) FUNCTIONS OF THE ARCHIVIST.—Not later than 1 year
Policies.	after the submission of recommendations by the Committee under paragraph (1), the Archivist of the United States shall issue policies—
	(A) requiring the adoption by agencies of policies and procedures to ensure that chapters 21, 25, 27, 29, and 31 of title 44, United States Code, are applied effectively and comprehensively to Government information on the Internet and to other electronic records; and
	(B) imposing timetables for the implementation of the policies, procedures, and technologies by agencies.
	(3) MODIFICATION OF POLICIES.—After the submission of agency reports under paragraph (4), the Archivist of the United States shall modify the policies, as needed, in consultation with the Committee and interested parties.
Reports.	(4) AGENCY FUNCTIONS.—Each agency shall report annually to the Director, in the report established under section 202(g), on compliance of that agency with the policies issued under paragraph (2)(A).
	(f) AGENCY WEBSITES.—
Deadline.	(1) STANDARDS FOR AGENCY WEBSITES.—Not later than 2
Guidelines.	years after the effective date of this title, the Director shall promulgate guidance for agency websites that includes—
	(A) requirements that websites include direct links to—
	(i) descriptions of the mission and statutory authority of the agency;
	(ii) information made available to the public under subsections (a)(1) and (b) of section 552 of title 5, United States Code (commonly referred to as the “Freedom of Information Act”);
	(iii) information about the organizational structure of the agency; and
	(iv) the strategic plan of the agency developed under section 306 of title 5, United States Code; and
	(B) minimum agency goals to assist public users to navigate agency websites, including—
	(i) speed of retrieval of search results;
	(ii) the relevance of the results;

- (iii) tools to aggregate and disaggregate data; and
- (iv) security protocols to protect information.

(2) AGENCY REQUIREMENTS.—(A) Not later than 2 years after the date of enactment of this Act, each agency shall— Deadline.

(i) consult with the Committee and solicit public comment;

(ii) establish a process for determining which Government information the agency intends to make available and accessible to the public on the Internet and by other means;

(iii) develop priorities and schedules for making Government information available and accessible;

(iv) make such final determinations, priorities, and schedules available for public comment;

(v) post such final determinations, priorities, and schedules on the Internet; and

(vi) submit such final determinations, priorities, and schedules to the Director, in the report established under section 202(g).

(B) Each agency shall update determinations, priorities, and schedules of the agency, as needed, after consulting with the Committee and soliciting public comment, if appropriate.

(3) PUBLIC DOMAIN DIRECTORY OF PUBLIC FEDERAL GOVERNMENT WEBSITES.—

(A) ESTABLISHMENT.—Not later than 2 years after the effective date of this title, the Director and each agency shall— Deadline.

(i) develop and establish a public domain directory of public Federal Government websites; and

(ii) post the directory on the Internet with a link to the integrated Internet-based system established under section 204.

(B) DEVELOPMENT.—With the assistance of each agency, the Director shall—

(i) direct the development of the directory through a collaborative effort, including input from—

- (I) agency librarians;
- (II) information technology managers;
- (III) program managers;
- (IV) records managers;
- (V) Federal depository librarians; and
- (VI) other interested parties; and

(ii) develop a public domain taxonomy of subjects used to review and categorize public Federal Government websites.

(C) UPDATE.—With the assistance of each agency, the Administrator of the Office of Electronic Government shall—

(i) update the directory as necessary, but not less than every 6 months; and Deadline.

(ii) solicit interested persons for improvements to the directory.

(g) ACCESS TO FEDERALLY FUNDED RESEARCH AND DEVELOPMENT.—

(1) DEVELOPMENT AND MAINTENANCE OF GOVERNMENTWIDE REPOSITORY AND WEBSITE.—

(A) REPOSITORY AND WEBSITE.—The Director of the Office of Management and Budget (or the Director's delegate), in consultation with the Director of the Office of Science and Technology Policy and other relevant agencies, shall ensure the development and maintenance of—

(i) a repository that fully integrates, to the maximum extent feasible, information about research and development funded by the Federal Government, and the repository shall—

(I) include information about research and development funded by the Federal Government, consistent with any relevant protections for the information under section 552 of title 5, United States Code, and performed by—

(aa) institutions not a part of the Federal Government, including State, local, and foreign governments; industrial firms; educational institutions; not-for-profit organizations; federally funded research and development centers; and private individuals; and

(bb) entities of the Federal Government, including research and development laboratories, centers, and offices; and

(II) integrate information about each separate research and development task or award, including—

(aa) the dates upon which the task or award is expected to start and end;

(bb) a brief summary describing the objective and the scientific and technical focus of the task or award;

(cc) the entity or institution performing the task or award and its contact information;

(dd) the total amount of Federal funds expected to be provided to the task or award over its lifetime and the amount of funds expected to be provided in each fiscal year in which the work of the task or award is ongoing;

(ee) any restrictions attached to the task or award that would prevent the sharing with the general public of any or all of the information required by this subsection, and the reasons for such restrictions; and

(ff) such other information as may be determined to be appropriate; and

(ii) 1 or more websites upon which all or part of the repository of Federal research and development shall be made available to and searchable by Federal agencies and non-Federal entities, including the general public, to facilitate—

(I) the coordination of Federal research and development activities;

(II) collaboration among those conducting Federal research and development;

Public
information.

(III) the transfer of technology among Federal agencies and between Federal agencies and non-Federal entities; and

(IV) access by policymakers and the public to information concerning Federal research and development activities.

(B) OVERSIGHT.—The Director of the Office of Management and Budget shall issue any guidance determined necessary to ensure that agencies provide all information requested under this subsection.

Guidelines.

(2) AGENCY FUNCTIONS.—Any agency that funds Federal research and development under this subsection shall provide the information required to populate the repository in the manner prescribed by the Director of the Office of Management and Budget.

(3) COMMITTEE FUNCTIONS.—Not later than 18 months after the date of enactment of this Act, working with the Director of the Office of Science and Technology Policy, and after consultation with interested parties, the Committee shall submit recommendations to the Director on—

Deadline.

(A) policies to improve agency reporting of information for the repository established under this subsection; and

(B) policies to improve dissemination of the results of research performed by Federal agencies and federally funded research and development centers.

(4) FUNCTIONS OF THE DIRECTOR.—After submission of recommendations by the Committee under paragraph (3), the Director shall report on the recommendations of the Committee and Director to Congress, in the E-Government report under section 3606 of title 44 (as added by this Act).

Reports.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the development, maintenance, and operation of the Governmentwide repository and website under this subsection—

(A) \$2,000,000 in each of the fiscal years 2003 through 2005; and

(B) such sums as are necessary in each of the fiscal years 2006 and 2007.

SEC. 208. PRIVACY PROVISIONS.

44 USC 3501
note.

(a) PURPOSE.—The purpose of this section is to ensure sufficient protections for the privacy of personal information as agencies implement citizen-centered electronic Government.

(b) PRIVACY IMPACT ASSESSMENTS.—

(1) RESPONSIBILITIES OF AGENCIES.—

(A) IN GENERAL.—An agency shall take actions described under subparagraph (B) before—

(i) developing or procuring information technology that collects, maintains, or disseminates information that is in an identifiable form; or

(ii) initiating a new collection of information that—

(I) will be collected, maintained, or disseminated using information technology; and

(II) includes any information in an identifiable form permitting the physical or online contacting of a specific individual, if identical questions have been posed to, or identical reporting requirements

imposed on, 10 or more persons, other than agencies, instrumentalities, or employees of the Federal Government.

(B) AGENCY ACTIVITIES.—To the extent required under subparagraph (A), each agency shall—

- (i) conduct a privacy impact assessment;
- (ii) ensure the review of the privacy impact assessment by the Chief Information Officer, or equivalent official, as determined by the head of the agency; and
- (iii) if practicable, after completion of the review under clause (ii), make the privacy impact assessment publicly available through the website of the agency, publication in the Federal Register, or other means.

(C) SENSITIVE INFORMATION.—Subparagraph (B)(iii) may be modified or waived for security reasons, or to protect classified, sensitive, or private information contained in an assessment.

(D) COPY TO DIRECTOR.—Agencies shall provide the Director with a copy of the privacy impact assessment for each system for which funding is requested.

(2) CONTENTS OF A PRIVACY IMPACT ASSESSMENT.—

(A) IN GENERAL.—The Director shall issue guidance to agencies specifying the required contents of a privacy impact assessment.

(B) GUIDANCE.—The guidance shall—

(i) ensure that a privacy impact assessment is commensurate with the size of the information system being assessed, the sensitivity of information that is in an identifiable form in that system, and the risk of harm from unauthorized release of that information; and

(ii) require that a privacy impact assessment address—

- (I) what information is to be collected;
- (II) why the information is being collected;
- (III) the intended use of the agency of the information;
- (IV) with whom the information will be shared;
- (V) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;
- (VI) how the information will be secured; and
- (VII) whether a system of records is being created under section 552a of title 5, United States Code, (commonly referred to as the “Privacy Act”).

(3) RESPONSIBILITIES OF THE DIRECTOR.—The Director shall—

(A) develop policies and guidelines for agencies on the conduct of privacy impact assessments;

(B) oversee the implementation of the privacy impact assessment process throughout the Government; and

(C) require agencies to conduct privacy impact assessments of existing information systems or ongoing collections of information that is in an identifiable form as the Director determines appropriate.

(c) PRIVACY PROTECTIONS ON AGENCY WEBSITES.—

Public
information.
Federal Register,
publication.

Guidelines.

(1) PRIVACY POLICIES ON WEBSITES.—

(A) GUIDELINES FOR NOTICES.—The Director shall develop guidance for privacy notices on agency websites used by the public.

(B) CONTENTS.—The guidance shall require that a privacy notice address, consistent with section 552a of title 5, United States Code—

- (i) what information is to be collected;
- (ii) why the information is being collected;
- (iii) the intended use of the agency of the information;
- (iv) with whom the information will be shared;
- (v) what notice or opportunities for consent would be provided to individuals regarding what information is collected and how that information is shared;
- (vi) how the information will be secured; and
- (vii) the rights of the individual under section 552a of title 5, United States Code (commonly referred to as the “Privacy Act”), and other laws relevant to the protection of the privacy of an individual.

(2) PRIVACY POLICIES IN MACHINE-READABLE FORMATS.—The Director shall issue guidance requiring agencies to translate privacy policies into a standardized machine-readable format.

Guidelines.

(d) DEFINITION.—In this section, the term “identifiable form” means any representation of information that permits the identity of an individual to whom the information applies to be reasonably inferred by either direct or indirect means.

SEC. 209. FEDERAL INFORMATION TECHNOLOGY WORKFORCE DEVELOPMENT.

44 USC 3501 note.

(a) PURPOSE.—The purpose of this section is to improve the skills of the Federal workforce in using information technology to deliver Government information and services.

(b) WORKFORCE DEVELOPMENT.—

(1) IN GENERAL.—In consultation with the Director of the Office of Management and Budget, the Chief Information Officers Council, and the Administrator of General Services, the Director of the Office of Personnel Management shall—

(A) analyze, on an ongoing basis, the personnel needs of the Federal Government related to information technology and information resource management;

(B) identify where current information technology and information resource management training do not satisfy the personnel needs described in subparagraph (A);

(C) oversee the development of curricula, training methods, and training priorities that correspond to the projected personnel needs of the Federal Government related to information technology and information resource management; and

(D) assess the training of Federal employees in information technology disciplines in order to ensure that the information resource management needs of the Federal Government are addressed.

(2) INFORMATION TECHNOLOGY TRAINING PROGRAMS.—The head of each Executive agency, after consultation with the Director of the Office of Personnel Management, the Chief

Information Officers Council, and the Administrator of General Services, shall establish and operate information technology training programs consistent with the requirements of this subsection. Such programs shall—

(A) have curricula covering a broad range of information technology disciplines corresponding to the specific information technology and information resource management needs of the agency involved;

(B) be developed and applied according to rigorous standards; and

(C) be designed to maximize efficiency, through the use of self-paced courses, online courses, on-the-job training, and the use of remote instructors, wherever such features can be applied without reducing the effectiveness of the training or negatively impacting academic standards.

(3) GOVERNMENTWIDE POLICIES AND EVALUATION.—The Director of the Office of Personnel Management, in coordination with the Director of the Office of Management and Budget, shall issue policies to promote the development of performance standards for training and uniform implementation of this subsection by Executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. The Director of the Office of Personnel Management shall evaluate the implementation of the provisions of this subsection by Executive agencies.

(4) CHIEF INFORMATION OFFICER AUTHORITIES AND RESPONSIBILITIES.—Subject to the authority, direction, and control of the head of an Executive agency, the chief information officer of such agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this subsection. The chief information officer shall ensure that the policies of the agency head established in accordance with this subsection are implemented throughout the agency.

Records.

(5) INFORMATION TECHNOLOGY TRAINING REPORTING.—The Director of the Office of Management and Budget shall ensure that the heads of Executive agencies collect and maintain standardized information on the information technology and information resources management workforce related to the implementation of this subsection.

Regulations.

(6) AUTHORITY TO DETAIL EMPLOYEES TO NON-FEDERAL EMPLOYERS.—In carrying out the preceding provisions of this subsection, the Director of the Office of Personnel Management may provide for a program under which a Federal employee may be detailed to a non-Federal employer. The Director of the Office of Personnel Management shall prescribe regulations for such program, including the conditions for service and duties as the Director considers necessary.

(7) COORDINATION PROVISION.—An assignment described in section 3703 of title 5, United States Code, may not be made unless a program under paragraph (6) is established, and the assignment is made in accordance with the requirements of such program.

(8) EMPLOYEE PARTICIPATION.—Subject to information resource management needs and the limitations imposed by resource needs in other occupational areas, and consistent with their overall workforce development strategies, agencies shall

encourage employees to participate in occupational information technology training.

(9) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Office of Personnel Management for the implementation of this subsection, \$15,000,000 in fiscal year 2003, and such sums as are necessary for each fiscal year thereafter.

(10) **EXECUTIVE AGENCY DEFINED.**—For purposes of this subsection, the term “Executive agency” has the meaning given the term “agency” under section 3701 of title 5, United States Code (as added by subsection (c)).

(c) **INFORMATION TECHNOLOGY EXCHANGE PROGRAM.**—

(1) **IN GENERAL.**—Subpart B of part III of title 5, United States Code, is amended by adding at the end the following:

“CHAPTER 37—INFORMATION TECHNOLOGY EXCHANGE PROGRAM

“Sec.

“3701. Definitions.

“3702. General provisions.

“3703. Assignment of employees to private sector organizations.

“3704. Assignment of employees from private sector organizations.

“3705. Application to Office of the Chief Technology Officer of the District of Columbia.

“3706. Reporting requirement.

“3707. Regulations.

“§ 3701. Definitions

“For purposes of this chapter—

“(1) the term ‘agency’ means an Executive agency, but does not include the General Accounting Office; and

“(2) the term ‘detail’ means—

“(A) the assignment or loan of an employee of an agency to a private sector organization without a change of position from the agency that employs the individual, or

“(B) the assignment or loan of an employee of a private sector organization to an agency without a change of position from the private sector organization that employs the individual,

whichever is appropriate in the context in which such term is used.

“§ 3702. General provisions

“(a) **ASSIGNMENT AUTHORITY.**—On request from or with the agreement of a private sector organization, and with the consent of the employee concerned, the head of an agency may arrange for the assignment of an employee of the agency to a private sector organization or an employee of a private sector organization to the agency. An eligible employee is an individual who—

“(1) works in the field of information technology management;

“(2) is considered an exceptional performer by the individual’s current employer; and

“(3) is expected to assume increased information technology management responsibilities in the future.

An employee of an agency shall be eligible to participate in this program only if the employee is employed at the GS-11 level

Eligibility.

or above (or equivalent) and is serving under a career or career-conditional appointment or an appointment of equivalent tenure in the excepted service, and applicable requirements of section 209(b) of the E-Government Act of 2002 are met with respect to the proposed assignment of such employee.

“(b) AGREEMENTS.—Each agency that exercises its authority under this chapter shall provide for a written agreement between the agency and the employee concerned regarding the terms and conditions of the employee’s assignment. In the case of an employee of the agency, the agreement shall—

“(1) require the employee to serve in the civil service, upon completion of the assignment, for a period equal to the length of the assignment; and

“(2) provide that, in the event the employee fails to carry out the agreement (except for good and sufficient reason, as determined by the head of the agency from which assigned) the employee shall be liable to the United States for payment of all expenses of the assignment.

An amount under paragraph (2) shall be treated as a debt due the United States.

“(c) TERMINATION.—Assignments may be terminated by the agency or private sector organization concerned for any reason at any time.

“(d) DURATION.—Assignments under this chapter shall be for a period of between 3 months and 1 year, and may be extended in 3-month increments for a total of not more than 1 additional year, except that no assignment under this chapter may commence after the end of the 5-year period beginning on the date of the enactment of this chapter.

“(e) ASSISTANCE.—The Chief Information Officers Council, by agreement with the Office of Personnel Management, may assist in the administration of this chapter, including by maintaining lists of potential candidates for assignment under this chapter, establishing mentoring relationships for the benefit of individuals who are given assignments under this chapter, and publicizing the program.

“(f) CONSIDERATIONS.—In exercising any authority under this chapter, an agency shall take into consideration—

“(1) the need to ensure that small business concerns are appropriately represented with respect to the assignments described in sections 3703 and 3704, respectively; and

“(2) how assignments described in section 3703 might best be used to help meet the needs of the agency for the training of employees in information technology management.

“§ 3703. Assignment of employees to private sector organizations

“(a) IN GENERAL.—An employee of an agency assigned to a private sector organization under this chapter is deemed, during the period of the assignment, to be on detail to a regular work assignment in his agency.

“(b) COORDINATION WITH CHAPTER 81.—Notwithstanding any other provision of law, an employee of an agency assigned to a private sector organization under this chapter is entitled to retain coverage, rights, and benefits under subchapter I of chapter 81, and employment during the assignment is deemed employment by the United States, except that, if the employee or the employee’s

dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

“(c) REIMBURSEMENTS.—The assignment of an employee to a private sector organization under this chapter may be made with or without reimbursement by the private sector organization for the travel and transportation expenses to or from the place of assignment, subject to the same terms and conditions as apply with respect to an employee of a Federal agency or a State or local government under section 3375, and for the pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the agency used for paying the travel and transportation expenses or pay.

“(d) TORT LIABILITY; SUPERVISION.—The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee of an agency assigned to a private sector organization under this chapter. The supervision of the duties of an employee of an agency so assigned to a private sector organization may be governed by an agreement between the agency and the organization.

“(e) SMALL BUSINESS CONCERNS.—

“(1) IN GENERAL.—The head of each agency shall take such actions as may be necessary to ensure that, of the assignments made under this chapter from such agency to private sector organizations in each year, at least 20 percent are to small business concerns.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘small business concern’ means a business concern that satisfies the definitions and standards specified by the Administrator of the Small Business Administration under section 3(a)(2) of the Small Business Act (as from time to time amended by the Administrator);

“(B) the term ‘year’ refers to the 12-month period beginning on the date of the enactment of this chapter, and each succeeding 12-month period in which any assignments under this chapter may be made; and

“(C) the assignments ‘made’ in a year are those commencing in such year.

“(3) REPORTING REQUIREMENT.—An agency which fails to comply with paragraph (1) in a year shall, within 90 days after the end of such year, submit a report to the Committees on Government Reform and Small Business of the House of Representatives and the Committees on Governmental Affairs and Small Business of the Senate. The report shall include—

Deadline.

“(A) the total number of assignments made under this chapter from such agency to private sector organizations in the year;

“(B) of that total number, the number (and percentage) made to small business concerns; and

“(C) the reasons for the agency’s noncompliance with paragraph (1).

“(4) EXCLUSION.—This subsection shall not apply to an agency in any year in which it makes fewer than 5 assignments under this chapter to private sector organizations.

“§ 3704. Assignment of employees from private sector organizations

“(a) IN GENERAL.—An employee of a private sector organization assigned to an agency under this chapter is deemed, during the period of the assignment, to be on detail to such agency.

“(b) TERMS AND CONDITIONS.—An employee of a private sector organization assigned to an agency under this chapter—

“(1) may continue to receive pay and benefits from the private sector organization from which he is assigned;

“(2) is deemed, notwithstanding subsection (a), to be an employee of the agency for the purposes of—

“(A) chapter 73;

“(B) sections 201, 203, 205, 207, 208, 209, 603, 606, 607, 643, 654, 1905, and 1913 of title 18;

“(C) sections 1343, 1344, and 1349(b) of title 31;

“(D) the Federal Tort Claims Act and any other Federal tort liability statute;

“(E) the Ethics in Government Act of 1978;

“(F) section 1043 of the Internal Revenue Code of 1986;

and

“(G) section 27 of the Office of Federal Procurement Policy Act;

“(3) may not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he is assigned; and

“(4) is subject to such regulations as the President may prescribe.

The supervision of an employee of a private sector organization assigned to an agency under this chapter may be governed by agreement between the agency and the private sector organization concerned. Such an assignment may be made with or without reimbursement by the agency for the pay, or a part thereof, of the employee during the period of assignment, or for any contribution of the private sector organization to employee benefit systems.

“(c) COORDINATION WITH CHAPTER 81.—An employee of a private sector organization assigned to an agency under this chapter who suffers disability or dies as a result of personal injury sustained while performing duties during the assignment shall be treated, for the purpose of subchapter I of chapter 81, as an employee as defined by section 8101 who had sustained the injury in the performance of duty, except that, if the employee or the employee’s dependents receive from the private sector organization any payment under an insurance policy for which the premium is wholly paid by the private sector organization, or other benefit of any kind on account of the same injury or death, then, the amount of such payment or benefit shall be credited against any compensation otherwise payable under subchapter I of chapter 81.

“(d) PROHIBITION AGAINST CHARGING CERTAIN COSTS TO THE FEDERAL GOVERNMENT.—A private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, the costs of pay or benefits paid by the organization to an employee assigned to an agency under this chapter for the period of the assignment.

“§ 3705. Application to Office of the Chief Technology Officer of the District of Columbia

“(a) IN GENERAL.—The Chief Technology Officer of the District of Columbia may arrange for the assignment of an employee of the Office of the Chief Technology Officer to a private sector organization, or an employee of a private sector organization to such Office, in the same manner as the head of an agency under this chapter.

“(b) TERMS AND CONDITIONS.—An assignment made pursuant to subsection (a) shall be subject to the same terms and conditions as an assignment made by the head of an agency under this chapter, except that in applying such terms and conditions to an assignment made pursuant to subsection (a), any reference in this chapter to a provision of law or regulation of the United States shall be deemed to be a reference to the applicable provision of law or regulation of the District of Columbia, including the applicable provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (sec. 1-601.01 et seq., D.C. Official Code) and section 601 of the District of Columbia Campaign Finance Reform and Conflict of Interest Act (sec. 1-1106.01, D.C. Official Code).

“(c) DEFINITION.—For purposes of this section, the term ‘Office of the Chief Technology Officer’ means the office established in the executive branch of the government of the District of Columbia under the Office of the Chief Technology Officer Establishment Act of 1998 (sec. 1-1401 et seq., D.C. Official Code).

“§ 3706. Reporting requirement

“(a) IN GENERAL.—The Office of Personnel Management shall, not later than April 30 and October 31 of each year, prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a semiannual report summarizing the operation of this chapter during the immediately preceding 6-month period ending on March 31 and September 30, respectively. Deadline.

“(b) CONTENT.—Each report shall include, with respect to the 6-month period to which such report relates—

“(1) the total number of individuals assigned to, and the total number of individuals assigned from, each agency during such period;

“(2) a brief description of each assignment included under paragraph (1), including—

“(A) the name of the assigned individual, as well as the private sector organization and the agency (including the specific bureau or other agency component) to or from which such individual was assigned;

“(B) the respective positions to and from which the individual was assigned, including the duties and responsibilities and the pay grade or level associated with each; and

“(C) the duration and objectives of the individual’s assignment; and

“(3) such other information as the Office considers appropriate.

“(c) PUBLICATION.—A copy of each report submitted under subsection (a)—

“(1) shall be published in the Federal Register; and

Federal Register,
publication.

Public
information.

“(2) shall be made publicly available on the Internet.

“(d) AGENCY COOPERATION.—On request of the Office, agencies shall furnish such information and reports as the Office may require in order to carry out this section.

“§ 3707. Regulations

“The Director of the Office of Personnel Management shall prescribe regulations for the administration of this chapter.”.

Deadline.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the General Accounting Office shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the operation of chapter 37 of title 5, United States Code (as added by this subsection). Such report shall include—

(A) an evaluation of the effectiveness of the program established by such chapter; and

(B) a recommendation as to whether such program should be continued (with or without modification) or allowed to lapse.

(3) CLERICAL AMENDMENT.—The analysis for part III of title 5, United States Code, is amended by inserting after the item relating to chapter 35 the following:

“37. Information Technology Exchange Program 3701”.

(d) ETHICS PROVISIONS.—

(1) ONE-YEAR RESTRICTION ON CERTAIN COMMUNICATIONS.—Section 207(c)(2)(A) of title 18, United States Code, is amended—

(A) by striking “or” at the end of clause (iii);

(B) by striking the period at the end of clause (iv) and inserting “; or”; and

(C) by adding at the end the following:

“(v) assigned from a private sector organization to an agency under chapter 37 of title 5.”.

(2) DISCLOSURE OF CONFIDENTIAL INFORMATION.—Section 1905 of title 18, United States Code, is amended by inserting “or being an employee of a private sector organization who is or was assigned to an agency under chapter 37 of title 5,” after “(15 U.S.C. 1311–1314).”.

(3) CONTRACT ADVICE.—Section 207 of title 18, United States Code, is amended by adding at the end the following:

“(1) CONTRACT ADVICE BY FORMER DETAILS.—Whoever, being an employee of a private sector organization assigned to an agency under chapter 37 of title 5, within one year after the end of that assignment, knowingly represents or aids, counsels, or assists in representing any other person (except the United States) in connection with any contract with that agency shall be punished as provided in section 216 of this title.”.

(4) RESTRICTION ON DISCLOSURE OF PROCUREMENT INFORMATION.—Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423) is amended in subsection (a)(1) by adding at the end the following new sentence: “In the case of an employee of a private sector organization assigned to an agency under chapter 37 of title 5, United States Code, in addition to the restriction in the preceding sentence, such employee shall not, other than as provided by law, knowingly disclose contractor bid or proposal information or source selection

information during the three-year period after the end of the assignment of such employee.”.

(e) REPORT ON EXISTING EXCHANGE PROGRAMS.—

(1) EXCHANGE PROGRAM DEFINED.—For purposes of this subsection, the term “exchange program” means an executive exchange program, the program under subchapter VI of chapter 33 of title 5, United States Code, and any other program which allows for—

(A) the assignment of employees of the Federal Government to non-Federal employers;

(B) the assignment of employees of non-Federal employers to the Federal Government; or

(C) both.

(2) REPORTING REQUIREMENT.—Not later than 1 year after the date of the enactment of this Act, the Office of Personnel Management shall prepare and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report identifying all existing exchange programs.

Deadline.

(3) SPECIFIC INFORMATION.—The report shall, for each such program, include—

(A) a brief description of the program, including its size, eligibility requirements, and terms or conditions for participation;

(B) specific citation to the law or other authority under which the program is established;

(C) the names of persons to contact for more information, and how they may be reached; and

(D) any other information which the Office considers appropriate.

(f) REPORT ON THE ESTABLISHMENT OF A GOVERNMENTWIDE INFORMATION TECHNOLOGY TRAINING PROGRAM.—

(1) IN GENERAL.—Not later January 1, 2003, the Office of Personnel Management, in consultation with the Chief Information Officers Council and the Administrator of General Services, shall review and submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a written report on the following:

Deadline.

(A) The adequacy of any existing information technology training programs available to Federal employees on a Governmentwide basis.

(B)(i) If one or more such programs already exist, recommendations as to how they might be improved.

(ii) If no such program yet exists, recommendations as to how such a program might be designed and established.

(C) With respect to any recommendations under subparagraph (B), how the program under chapter 37 of title 5, United States Code, might be used to help carry them out.

(2) COST ESTIMATE.—The report shall, for any recommended program (or improvements) under paragraph (1)(B), include the estimated costs associated with the implementation and operation of such program as so established (or estimated difference in costs of any such program as so improved).

(g) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Title 5, United States Code, is amended—

(A) in section 3111, by adding at the end the following:

“(d) Notwithstanding section 1342 of title 31, the head of an agency may accept voluntary service for the United States under chapter 37 of this title and regulations of the Office of Personnel Management.”;

(B) in section 4108, by striking subsection (d); and

(C) in section 7353(b), by adding at the end the following:

“(4) Nothing in this section precludes an employee of a private sector organization, while assigned to an agency under chapter 37, from continuing to receive pay and benefits from such organization in accordance with such chapter.”.

(2) AMENDMENT TO TITLE 18, UNITED STATES CODE.—Section 209 of title 18, United States Code, is amended by adding at the end the following:

“(g)(1) This section does not prohibit an employee of a private sector organization, while assigned to an agency under chapter 37 of title 5, from continuing to receive pay and benefits from such organization in accordance with such chapter.

“(2) For purposes of this subsection, the term ‘agency’ means an agency (as defined by section 3701 of title 5) and the Office of the Chief Technology Officer of the District of Columbia.”.

(3) OTHER AMENDMENTS.—Section 125(c)(1) of Public Law 100-238 (5 U.S.C. 8432 note) is amended—

(A) in subparagraph (B), by striking “or” at the end;

(B) in subparagraph (C), by striking “and” at the end and inserting “or”; and

(C) by adding at the end the following:

“(D) an individual assigned from a Federal agency to a private sector organization under chapter 37 of title 5, United States Code; and”.

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note.

SEC. 210. SHARE-IN-SAVINGS INITIATIVES.

(a) DEFENSE CONTRACTS.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 2332. Share-in-savings contracts

“(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

“(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

“(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

“(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology

competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

“(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

“(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

“(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

“(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

“(B) Amounts retained by the agency under this subsection shall—

“(i) without further appropriation, remain available until expended; and

“(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

“(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

“(A) appropriations available for the performance of the contract;

“(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

“(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

“(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

“(3)(A) Subject to subparagraph (B), the head of an agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions

are met regarding the funding of cancellation and termination liability:

“(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

“(I) 25 percent of the estimated costs of a cancellation or termination; or

“(II) \$5,000,000.

“(ii) Unfunded contingent liability in excess of \$1,000,000 has been approved by the Director of the Office of Management and Budget or the Director’s designee.

“(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘contractor’ means a private entity that enters into a contract with an agency.

“(2) The term ‘savings’ means—

“(A) monetary savings to an agency; or

“(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

“(3) The term ‘share-in-savings contract’ means a contract under which—

“(A) a contractor provides solutions for—

“(i) improving the agency’s mission-related or administrative processes; or

“(ii) accelerating the achievement of agency missions; and

“(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

“(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

“(ii) acceleration of achievement of agency missions.

“(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2005.”.

(2) The table of sections at the beginning of such chapter is amended by adding at the end of the following new item:

“2332. Share-in-savings contracts.”.

(b) OTHER CONTRACTS.—Title III of the Federal Property and Administrative Services Act of 1949 is amended by adding at the end the following:

“SEC. 317. SHARE-IN-SAVINGS CONTRACTS.

“(a) AUTHORITY TO ENTER INTO SHARE-IN-SAVINGS CONTRACTS.—(1) The head of an executive agency may enter into a share-in-savings contract for information technology (as defined in section 11101(6) of title 40, United States Code) in which the Government awards a contract to improve mission-related or administrative processes or to accelerate the achievement of its mission and share with the contractor in savings achieved through contract performance.

“(2)(A) Except as provided in subparagraph (B), a share-in-savings contract shall be awarded for a period of not more than five years.

“(B) A share-in-savings contract may be awarded for a period greater than five years, but not more than 10 years, if the head of the agency determines in writing prior to award of the contract that—

“(i) the level of risk to be assumed and the investment to be undertaken by the contractor is likely to inhibit the government from obtaining the needed information technology competitively at a fair and reasonable price if the contract is limited in duration to a period of five years or less; and

“(ii) usage of the information technology to be acquired is likely to continue for a period of time sufficient to generate reasonable benefit for the government.

“(3) Contracts awarded pursuant to the authority of this section shall, to the maximum extent practicable, be performance-based contracts that identify objective outcomes and contain performance standards that will be used to measure achievement and milestones that must be met before payment is made.

“(4) Contracts awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline that is to be the basis upon which a savings share ratio is established that governs the amount of payment a contractor is to receive under the contract. Before commencement of performance of such a contract, the senior procurement executive of the agency shall determine in writing that the terms of the provision are quantifiable and will likely yield value to the Government.

“(5)(A) The head of the agency may retain savings realized through the use of a share-in-savings contract under this section that are in excess of the total amount of savings paid to the contractor under the contract, but may not retain any portion of such savings that is attributable to a decrease in the number of civilian employees of the Federal Government performing the function. Except as provided in subparagraph (B), savings shall be credited to the appropriation or fund against which charges were made to carry out the contract and shall be used for information technology.

“(B) Amounts retained by the agency under this subsection shall—

“(i) without further appropriation, remain available until expended; and

“(ii) be applied first to fund any contingent liabilities associated with share-in-savings procurements that are not fully funded.

“(b) CANCELLATION AND TERMINATION.—(1) If funds are not made available for the continuation of a share-in-savings contract entered into under this section in a subsequent fiscal year, the contract shall be canceled or terminated. The costs of cancellation or termination may be paid out of—

“(A) appropriations available for the performance of the contract;

“(B) appropriations available for acquisition of the information technology procured under the contract, and not otherwise obligated; or

“(C) funds subsequently appropriated for payments of costs of cancellation or termination, subject to the limitations in paragraph (3).

“(2) The amount payable in the event of cancellation or termination of a share-in-savings contract shall be negotiated with the contractor at the time the contract is entered into.

“(3)(A) Subject to subparagraph (B), the head of an executive agency may enter into share-in-savings contracts under this section in any given fiscal year even if funds are not made specifically available for the full costs of cancellation or termination of the contract if funds are available and sufficient to make payments with respect to the first fiscal year of the contract and the following conditions are met regarding the funding of cancellation and termination liability:

“(i) The amount of unfunded contingent liability for the contract does not exceed the lesser of—

“(I) 25 percent of the estimated costs of a cancellation or termination; or

“(II) \$5,000,000.

“(ii) Unfunded contingent liability in excess of \$1,000,000 has been approved by the Director of the Office of Management and Budget or the Director’s designee.

“(B) The aggregate number of share-in-savings contracts that may be entered into under subparagraph (A) by all executive agencies to which this chapter applies in a fiscal year may not exceed 5 in each of fiscal years 2003, 2004, and 2005.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘contractor’ means a private entity that enters into a contract with an agency.

“(2) The term ‘savings’ means—

“(A) monetary savings to an agency; or

“(B) savings in time or other benefits realized by the agency, including enhanced revenues (other than enhanced revenues from the collection of fees, taxes, debts, claims, or other amounts owed the Federal Government).

“(3) The term ‘share-in-savings contract’ means a contract under which—

“(A) a contractor provides solutions for—

“(i) improving the agency’s mission-related or administrative processes; or

“(ii) accelerating the achievement of agency missions; and

“(B) the head of the agency pays the contractor an amount equal to a portion of the savings derived by the agency from—

“(i) any improvements in mission-related or administrative processes that result from implementation of the solution; or

“(ii) acceleration of achievement of agency missions.

“(d) TERMINATION.—No share-in-savings contracts may be entered into under this section after September 30, 2005.”.

(c) DEVELOPMENT OF INCENTIVES.—The Director of the Office of Management and Budget shall, in consultation with the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and executive agencies, develop techniques to permit an executive agency to retain

a portion of the savings (after payment of the contractor's share of the savings) derived from share-in-savings contracts as funds are appropriated to the agency in future fiscal years.

(d) REGULATIONS.—Not later than 270 days after the date of the enactment of this Act, the Federal Acquisition Regulation shall be revised to implement the provisions enacted by this section. Such revisions shall—

Deadline.

(1) provide for the use of competitive procedures in the selection and award of share-in-savings contracts to—

(A) ensure the contractor's share of savings reflects the risk involved and market conditions; and

(B) otherwise yield greatest value to the government; and

(2) allow appropriate regulatory flexibility to facilitate the use of share-in-savings contracts by executive agencies, including the use of innovative provisions for technology refreshment and nonstandard Federal Acquisition Regulation contract clauses.

(e) ADDITIONAL GUIDANCE.—The Administrator of General Services shall—

(1) identify potential opportunities for the use of share-in-savings contracts; and

(2) in consultation with the Director of the Office of Management and Budget, provide guidance to executive agencies for determining mutually beneficial savings share ratios and baselines from which savings may be measured.

(f) OMB REPORT TO CONGRESS.—In consultation with executive agencies, the Director of the Office of Management and Budget shall, not later than 2 years after the date of the enactment of this Act, submit to Congress a report containing—

Deadline.

(1) a description of the number of share-in-savings contracts entered into by each executive agency under by this section and the amendments made by this section, and, for each contract identified—

(A) the information technology acquired;

(B) the total amount of payments made to the contractor; and

(C) the total amount of savings or other measurable benefits realized;

(2) a description of the ability of agencies to determine the baseline costs of a project against which savings can be measured; and

(3) any recommendations, as the Director deems appropriate, regarding additional changes in law that may be necessary to ensure effective use of share-in-savings contracts by executive agencies.

(g) GAO REPORT TO CONGRESS.—The Comptroller General shall, not later than 6 months after the report required under subsection (f) is submitted to Congress, conduct a review of that report and submit to Congress a report containing—

Deadline.

(1) the results of the review;

(2) an independent assessment by the Comptroller General of the effectiveness of the use of share-in-savings contracts in improving the mission-related and administrative processes of the executive agencies and the achievement of agency missions; and

(3) a recommendation on whether the authority to enter into share-in-savings contracts should be continued.

(h) REPEAL OF SHARE-IN-SAVINGS PILOT PROGRAM.—

(1) REPEAL.—Section 11521 of title 40, United States Code, is repealed.

(2) CONFORMING AMENDMENTS TO PILOT PROGRAM AUTHORITY.—

(A) Section 11501 of title 40, United States Code, is amended—

(i) in the section heading, by striking “**PROGRAMS**” and inserting “**PROGRAM**”;

(ii) in subsection (a)(1), by striking “conduct pilot programs” and inserting “conduct a pilot program pursuant to the requirements of section 11521 of this title”;

(iii) in subsection (a)(2), by striking “each pilot program” and inserting “the pilot program”;

(iv) in subsection (b), by striking “LIMITATIONS.—” and all that follows through “\$750,000,000.” and inserting the following: “LIMITATION ON AMOUNT.—The total amount obligated for contracts entered into under the pilot program conducted under this chapter may not exceed \$375,000,000.”; and

(v) in subsection (c)(1), by striking “a pilot” and inserting “the pilot”.

(B) The following provisions of chapter 115 of such title are each amended by striking “a pilot” each place it appears and inserting “the pilot”:

(i) Section 11502(a).

(ii) Section 11502(b).

(iii) Section 11503(a).

(iv) Section 11504.

(C) Section 11505 of such chapter is amended by striking “programs” and inserting “program”.

(3) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Section 11522 of title 40, United States Code, is redesignated as section 11521.

(B) The chapter heading for chapter 115 of such title is amended by striking “**PROGRAMS**” and inserting “**PROGRAM**”.

(C) The subchapter heading for subchapter I and for subchapter II of such chapter are each amended by striking “PROGRAMS” and inserting “PROGRAM”.

(D) The item relating to subchapter I in the table of sections at the beginning of such chapter is amended to read as follows:

“SUBCHAPTER I—CONDUCT OF PILOT PROGRAM”.

(E) The item relating to subchapter II in the table of sections at the beginning of such chapter is amended to read as follows:

“SUBCHAPTER II—SPECIFIC PILOT PROGRAM”.

(F) The item relating to section 11501 in the table of sections at the beginning of such is amended by striking “programs” and inserting “program”.

(G) The table of sections at the beginning of such chapter is amended by striking the item relating to section 11521 and redesignating the item relating to section 11522 as section 11521.

(H) The item relating to chapter 115 in the table of chapters for subtitle III of title 40, United States Code, is amended to read as follows:

“115. INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAM11501”.

(i) DEFINITIONS.—In this section, the terms “contractor”, “savings”, and “share-in-savings contract” have the meanings given those terms in section 317 of the Federal Property and Administrative Services Act of 1949 (as added by subsection (b)).

SEC. 211. AUTHORIZATION FOR ACQUISITION OF INFORMATION TECHNOLOGY BY STATE AND LOCAL GOVERNMENTS THROUGH FEDERAL SUPPLY SCHEDULES.

44 USC 3501
note.

(a) AUTHORITY TO USE CERTAIN SUPPLY SCHEDULES.—Section 502 of title 40, United States Code, is amended by adding at the end the following new subsection:

“(c) USE OF CERTAIN SUPPLY SCHEDULES.—

“(1) IN GENERAL.—The Administrator may provide for the use by State or local governments of Federal supply schedules of the General Services Administration for automated data processing equipment (including firmware), software, supplies, support equipment, and services (as contained in Federal supply classification code group 70).

“(2) VOLUNTARY USE.—In any case of the use by a State or local government of a Federal supply schedule pursuant to paragraph (1), participation by a firm that sells to the Federal Government through the supply schedule shall be voluntary with respect to a sale to the State or local government through such supply schedule.

“(3) DEFINITIONS.—In this subsection:

“(A) The term ‘State or local government’ includes any State, local, regional, or tribal government, or any instrumentality thereof (including any local educational agency or institution of higher education).

“(B) The term ‘tribal government’ means—

“(i) the governing body of any Indian tribe, band, nation, or other organized group or community located in the continental United States (excluding the State of Alaska) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, and

“(ii) any Alaska Native regional or village corporation established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

“(C) The term ‘local educational agency’ has the meaning given that term in section 8013 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7713).

“(D) The term ‘institution of higher education’ has the meaning given that term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).”.

(b) PROCEDURES.—Not later than 30 days after the date of the enactment of this Act, the Administrator of General Services shall establish procedures to implement section 501(c) of title 40, United States Code (as added by subsection (a)).

Deadline.

Deadline.

(c) **REPORT.**—Not later than December 31, 2004, the Administrator shall submit to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate a report on the implementation and effects of the amendment made by subsection (a).

44 USC 3501
note.

SEC. 212. INTEGRATED REPORTING STUDY AND PILOT PROJECTS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) enhance the interoperability of Federal information systems;

(2) assist the public, including the regulated community, in electronically submitting information to agencies under Federal requirements, by reducing the burden of duplicate collection and ensuring the accuracy of submitted information; and

(3) enable any person to integrate and obtain similar information held by 1 or more agencies under 1 or more Federal requirements without violating the privacy rights of an individual.

(b) **DEFINITIONS.**—In this section, the term—

(1) “agency” means an Executive agency as defined under section 105 of title 5, United States Code; and

(2) “person” means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or agency or component of the Federal Government.

(c) **REPORT.**—

Deadline.

(1) **IN GENERAL.**—Not later than 3 years after the date of enactment of this Act, the Director shall oversee a study, in consultation with agencies, the regulated community, public interest organizations, and the public, and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on progress toward integrating Federal information systems across agencies.

(2) **CONTENTS.**—The report under this section shall—

(A) address the integration of data elements used in the electronic collection of information within databases established under Federal statute without reducing the quality, accessibility, scope, or utility of the information contained in each database;

(B) address the feasibility of developing, or enabling the development of, software, including Internet-based tools, for use by reporting persons in assembling, documenting, and validating the accuracy of information electronically submitted to agencies under nonvoluntary, statutory, and regulatory requirements;

(C) address the feasibility of developing a distributed information system involving, on a voluntary basis, at least 2 agencies, that—

(i) provides consistent, dependable, and timely public access to the information holdings of 1 or more agencies, or some portion of such holdings, without requiring public users to know which agency holds the information; and

(ii) allows the integration of public information held by the participating agencies;

(D) address the feasibility of incorporating other elements related to the purposes of this section at the discretion of the Director; and

(E) make any recommendations that the Director deems appropriate on the use of integrated reporting and information systems, to reduce the burden on reporting and strengthen public access to databases within and across agencies.

(d) **PILOT PROJECTS TO ENCOURAGE INTEGRATED COLLECTION AND MANAGEMENT OF DATA AND INTEROPERABILITY OF FEDERAL INFORMATION SYSTEMS.**—

(1) **IN GENERAL.**—In order to provide input to the study under subsection (c), the Director shall designate, in consultation with agencies, a series of no more than 5 pilot projects that integrate data elements. The Director shall consult with agencies, the regulated community, public interest organizations, and the public on the implementation of the pilot projects.

(2) **GOALS OF PILOT PROJECTS.**—

(A) **IN GENERAL.**—Each goal described under subparagraph (B) shall be addressed by at least 1 pilot project each.

(B) **GOALS.**—The goals under this paragraph are to—

(i) reduce information collection burdens by eliminating duplicative data elements within 2 or more reporting requirements;

(ii) create interoperability between or among public databases managed by 2 or more agencies using technologies and techniques that facilitate public access; and

(iii) develop, or enable the development of, software to reduce errors in electronically submitted information.

(3) **INPUT.**—Each pilot project shall seek input from users on the utility of the pilot project and areas for improvement. To the extent practicable, the Director shall consult with relevant agencies and State, tribal, and local governments in carrying out the report and pilot projects under this section.

(e) **PROTECTIONS.**—The activities authorized under this section shall afford protections for—

(1) confidential business information consistent with section 552(b)(4) of title 5, United States Code, and other relevant law;

(2) personal privacy information under sections 552(b) (6) and (7)(C) and 552a of title 5, United States Code, and other relevant law;

(3) other information consistent with section 552(b)(3) of title 5, United States Code, and other relevant law; and

(4) confidential statistical information collected under a confidentiality pledge, solely for statistical purposes, consistent with the Office of Management and Budget's Federal Statistical Confidentiality Order, and other relevant law.

SEC. 213. COMMUNITY TECHNOLOGY CENTERS.

(a) **PURPOSES.**—The purposes of this section are to—

(1) study and enhance the effectiveness of community technology centers, public libraries, and other institutions that provide computer and Internet access to the public; and

44 USC 3501
note.

(2) promote awareness of the availability of on-line government information and services, to users of community technology centers, public libraries, and other public facilities that provide access to computer technology and Internet access to the public.

Deadline.

(b) STUDY AND REPORT.—Not later than 2 years after the effective date of this title, the Administrator shall—

(1) ensure that a study is conducted to evaluate the best practices of community technology centers that have received Federal funds; and

(2) submit a report on the study to—

(A) the Committee on Governmental Affairs of the Senate;

(B) the Committee on Health, Education, Labor, and Pensions of the Senate;

(C) the Committee on Government Reform of the House of Representatives; and

(D) the Committee on Education and the Workforce of the House of Representatives.

(c) CONTENTS.—The report under subsection (b) may consider—

(1) an evaluation of the best practices being used by successful community technology centers;

(2) a strategy for—

(A) continuing the evaluation of best practices used by community technology centers; and

(B) establishing a network to share information and resources as community technology centers evolve;

(3) the identification of methods to expand the use of best practices to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public;

(4) a database of all community technology centers that have received Federal funds, including—

(A) each center's name, location, services provided, director, other points of contact, number of individuals served; and

(B) other relevant information;

(5) an analysis of whether community technology centers have been deployed effectively in urban and rural areas throughout the Nation; and

(6) recommendations of how to—

(A) enhance the development of community technology centers; and

(B) establish a network to share information and resources.

(d) COOPERATION.—All agencies that fund community technology centers shall provide to the Administrator any information and assistance necessary for the completion of the study and the report under this section.

(e) ASSISTANCE.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, shall work with other relevant Federal agencies, and other interested persons in the private and nonprofit sectors to—

(A) assist in the implementation of recommendations; and

(B) identify other ways to assist community technology centers, public libraries, and other institutions that provide computer and Internet access to the public.

(2) TYPES OF ASSISTANCE.—Assistance under this subsection may include—

(A) contribution of funds;

(B) donations of equipment, and training in the use and maintenance of the equipment; and

(C) the provision of basic instruction or training material in computer skills and Internet usage.

(f) ONLINE TUTORIAL.—

(1) IN GENERAL.—The Administrator, in consultation with the Secretary of Education, the Director of the Institute of Museum and Library Services, other relevant agencies, and the public, shall develop an online tutorial that—

(A) explains how to access Government information and services on the Internet; and

(B) provides a guide to available online resources.

(2) DISTRIBUTION.—The Administrator, with assistance from the Secretary of Education, shall distribute information on the tutorial to community technology centers, public libraries, and other institutions that afford Internet access to the public.

(g) PROMOTION OF COMMUNITY TECHNOLOGY CENTERS.—The Administrator, with assistance from the Department of Education and in consultation with other agencies and organizations, shall promote the availability of community technology centers to raise awareness within each community where such a center is located.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the study of best practices at community technology centers, for the development and dissemination of the online tutorial, and for the promotion of community technology centers under this section—

(1) \$2,000,000 in fiscal year 2003;

(2) \$2,000,000 in fiscal year 2004; and

(3) such sums as are necessary in fiscal years 2005 through 2007.

SEC. 214. ENHANCING CRISIS MANAGEMENT THROUGH ADVANCED INFORMATION TECHNOLOGY.

44 USC 3501
note.

(a) PURPOSE.—The purpose of this section is to improve how information technology is used in coordinating and facilitating information on disaster preparedness, response, and recovery, while ensuring the availability of such information across multiple access channels.

(b) IN GENERAL.—

(1) STUDY ON ENHANCEMENT OF CRISIS RESPONSE.—Not later than 90 days after the date of enactment of this Act, the Administrator, in consultation with the Federal Emergency Management Agency, shall ensure that a study is conducted on using information technology to enhance crisis preparedness, response, and consequence management of natural and man-made disasters.

Deadline.

(2) CONTENTS.—The study under this subsection shall address—

(A) a research and implementation strategy for effective use of information technology in crisis response and

consequence management, including the more effective use of technologies, management of information technology research initiatives, and incorporation of research advances into the information and communications systems of—

(i) the Federal Emergency Management Agency; and

(ii) other Federal, State, and local agencies responsible for crisis preparedness, response, and consequence management; and

(B) opportunities for research and development on enhanced technologies into areas of potential improvement as determined during the course of the study.

Deadline.

(3) REPORT.—Not later than 2 years after the date on which a contract is entered into under paragraph (1), the Administrator shall submit a report on the study, including findings and recommendations to—

(A) the Committee on Governmental Affairs of the Senate; and

(B) the Committee on Government Reform of the House of Representatives.

(4) INTERAGENCY COOPERATION.—Other Federal departments and agencies with responsibility for disaster relief and emergency assistance shall fully cooperate with the Administrator in carrying out this section.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for research under this subsection, such sums as are necessary for fiscal year 2003.

(c) PILOT PROJECTS.—Based on the results of the research conducted under subsection (b), the Administrator, in consultation with the Federal Emergency Management Agency, shall initiate pilot projects or report to Congress on other activities that further the goal of maximizing the utility of information technology in disaster management. The Administrator shall cooperate with other relevant agencies, and, if appropriate, State, local, and tribal governments, in initiating such pilot projects.

44 USC 3501
note.
Deadlines.

SEC. 215. DISPARITIES IN ACCESS TO THE INTERNET.

(a) STUDY AND REPORT.—

(1) STUDY.—Not later than 90 days after the date of enactment of this Act, the Administrator of General Services shall request that the National Academy of Sciences, acting through the National Research Council, enter into a contract to conduct a study on disparities in Internet access for online Government services.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Administrator of General Services shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives a final report of the study under this section, which shall set forth the findings, conclusions, and recommendations of the National Research Council.

(b) CONTENTS.—The report under subsection (a) shall include a study of—

(1) how disparities in Internet access influence the effectiveness of online Government services, including a review of—

(A) the nature of disparities in Internet access;

(B) the affordability of Internet service;

(C) the incidence of disparities among different groups within the population; and

(D) changes in the nature of personal and public Internet access that may alleviate or aggravate effective access to online Government services;

(2) how the increase in online Government services is influencing the disparities in Internet access and how technology development or diffusion trends may offset such adverse influences; and

(3) related societal effects arising from the interplay of disparities in Internet access and the increase in online Government services.

(c) RECOMMENDATIONS.—The report shall include recommendations on actions to ensure that online Government initiatives shall not have the unintended result of increasing any deficiency in public access to Government services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$950,000 in fiscal year 2003 to carry out this section.

SEC. 216. COMMON PROTOCOLS FOR GEOGRAPHIC INFORMATION SYSTEMS.

44 USC 3501
note.

(a) PURPOSES.—The purposes of this section are to—

(1) reduce redundant data collection and information; and

(2) promote collaboration and use of standards for government geographic information.

(b) DEFINITION.—In this section, the term “geographic information” means information systems that involve locational data, such as maps or other geospatial information resources.

(c) IN GENERAL.—

(1) COMMON PROTOCOLS.—The Administrator, in consultation with the Secretary of the Interior, working with the Director and through an interagency group, and working with private sector experts, State, local, and tribal governments, commercial and international standards groups, and other interested parties, shall facilitate the development of common protocols for the development, acquisition, maintenance, distribution, and application of geographic information. If practicable, the Administrator shall incorporate intergovernmental and public private geographic information partnerships into efforts under this subsection.

(2) INTERAGENCY GROUP.—The interagency group referred to under paragraph (1) shall include representatives of the National Institute of Standards and Technology and other agencies.

(d) DIRECTOR.—The Director shall oversee—

(1) the interagency initiative to develop common protocols;

(2) the coordination with State, local, and tribal governments, public private partnerships, and other interested persons on effective and efficient ways to align geographic information and develop common protocols; and

(3) the adoption of common standards relating to the protocols.

(e) COMMON PROTOCOLS.—The common protocols shall be designed to—

(1) maximize the degree to which unclassified geographic information from various sources can be made electronically compatible and accessible; and

(2) promote the development of interoperable geographic information systems technologies that shall—

(A) allow widespread, low-cost use and sharing of geographic data by Federal agencies, State, local, and tribal governments, and the public; and

(B) enable the enhancement of services using geographic data.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section, for each of the fiscal years 2003 through 2007.

Federal
Information
Security
Management
Act of 2002.

44 USC 101 note.

TITLE III—INFORMATION SECURITY

SEC. 301. INFORMATION SECURITY.

(a) SHORT TITLE.—This title may be cited as the “Federal Information Security Management Act of 2002”.

(b) INFORMATION SECURITY.—

(1) IN GENERAL.—Chapter 35 of title 44, United States Code, is amended by adding at the end the following new subchapter:

“SUBCHAPTER III—INFORMATION SECURITY

“§ 3541. Purposes

“The purposes of this subchapter are to—

“(1) provide a comprehensive framework for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets;

“(2) recognize the highly networked nature of the current Federal computing environment and provide effective governmentwide management and oversight of the related information security risks, including coordination of information security efforts throughout the civilian, national security, and law enforcement communities;

“(3) provide for development and maintenance of minimum controls required to protect Federal information and information systems;

“(4) provide a mechanism for improved oversight of Federal agency information security programs;

“(5) acknowledge that commercially developed information security products offer advanced, dynamic, robust, and effective information security solutions, reflecting market solutions for the protection of critical information infrastructures important to the national defense and economic security of the nation that are designed, built, and operated by the private sector; and

“(6) recognize that the selection of specific technical hardware and software information security solutions should be left to individual agencies from among commercially developed products.

“§ 3542. Definitions

“(a) IN GENERAL.—Except as provided under subsection (b), the definitions under section 3502 shall apply to this subchapter.

“(b) ADDITIONAL DEFINITIONS.—As used in this subchapter:

“(1) The term ‘information security’ means protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide—

“(A) integrity, which means guarding against improper information modification or destruction, and includes ensuring information nonrepudiation and authenticity;

“(B) confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and

“(C) availability, which means ensuring timely and reliable access to and use of information.

“(2)(A) The term ‘national security system’ means any information system (including any telecommunications system) used or operated by an agency or by a contractor of an agency, or other organization on behalf of an agency—

“(i) the function, operation, or use of which—

“(I) involves intelligence activities;

“(II) involves cryptologic activities related to national security;

“(III) involves command and control of military forces;

“(IV) involves equipment that is an integral part of a weapon or weapons system; or

“(V) subject to subparagraph (B), is critical to the direct fulfillment of military or intelligence missions; or

“(ii) is protected at all times by procedures established for information that have been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept classified in the interest of national defense or foreign policy.

“(B) Subparagraph (A)(i)(V) does not include a system that is to be used for routine administrative and business applications (including payroll, finance, logistics, and personnel management applications).

“(3) The term ‘information technology’ has the meaning given that term in section 11101 of title 40.

“§ 3543. Authority and functions of the Director

“(a) IN GENERAL.—The Director shall oversee agency information security policies and practices, including—

“(1) developing and overseeing the implementation of policies, principles, standards, and guidelines on information security, including through ensuring timely agency adoption of and compliance with standards promulgated under section 11331 of title 40;

“(2) requiring agencies, consistent with the standards promulgated under such section 11331 and the requirements of this subchapter, to identify and provide information security protections commensurate with the risk and magnitude of the

harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(A) information collected or maintained by or on behalf of an agency; or

“(B) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(3) coordinating the development of standards and guidelines under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) with agencies and offices operating or exercising control of national security systems (including the National Security Agency) to assure, to the maximum extent feasible, that such standards and guidelines are complementary with standards and guidelines developed for national security systems;

“(4) overseeing agency compliance with the requirements of this subchapter, including through any authorized action under section 11303 of title 40, to enforce accountability for compliance with such requirements;

“(5) reviewing at least annually, and approving or disapproving, agency information security programs required under section 3544(b);

“(6) coordinating information security policies and procedures with related information resources management policies and procedures;

“(7) overseeing the operation of the Federal information security incident center required under section 3546; and

“(8) reporting to Congress no later than March 1 of each year on agency compliance with the requirements of this subchapter, including—

“(A) a summary of the findings of evaluations required by section 3545;

“(B) an assessment of the development, promulgation, and adoption of, and compliance with, standards developed under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) and promulgated under section 11331 of title 40;

“(C) significant deficiencies in agency information security practices;

“(D) planned remedial action to address such deficiencies; and

“(E) a summary of, and the views of the Director on, the report prepared by the National Institute of Standards and Technology under section 20(d)(10) of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3).

“(b) NATIONAL SECURITY SYSTEMS.—Except for the authorities described in paragraphs (4) and (8) of subsection (a), the authorities of the Director under this section shall not apply to national security systems.

“(c) DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY SYSTEMS.—(1) The authorities of the Director described in paragraphs (1) and (2) of subsection (a) shall be delegated to the Secretary of Defense in the case of systems described in paragraph (2) and to the Director of Central Intelligence in the case of systems described in paragraph (3).

“(2) The systems described in this paragraph are systems that are operated by the Department of Defense, a contractor of the Department of Defense, or another entity on behalf of the Department of Defense that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Department of Defense.

“(3) The systems described in this paragraph are systems that are operated by the Central Intelligence Agency, a contractor of the Central Intelligence Agency, or another entity on behalf of the Central Intelligence Agency that processes any information the unauthorized access, use, disclosure, disruption, modification, or destruction of which would have a debilitating impact on the mission of the Central Intelligence Agency.

“§ 3544. Federal agency responsibilities

“(a) IN GENERAL.—The head of each agency shall—

“(1) be responsible for—

“(A) providing information security protections commensurate with the risk and magnitude of the harm resulting from unauthorized access, use, disclosure, disruption, modification, or destruction of—

“(i) information collected or maintained by or on behalf of the agency; and

“(ii) information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency;

“(B) complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines, including—

“(i) information security standards promulgated under section 11331 of title 40; and

“(ii) information security standards and guidelines for national security systems issued in accordance with law and as directed by the President; and

“(C) ensuring that information security management processes are integrated with agency strategic and operational planning processes;

“(2) ensure that senior agency officials provide information security for the information and information systems that support the operations and assets under their control, including through—

“(A) assessing the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of such information or information systems;

“(B) determining the levels of information security appropriate to protect such information and information systems in accordance with standards promulgated under section 11331 of title 40, for information security classifications and related requirements;

“(C) implementing policies and procedures to cost-effectively reduce risks to an acceptable level; and

“(D) periodically testing and evaluating information security controls and techniques to ensure that they are effectively implemented;

“(3) delegate to the agency Chief Information Officer established under section 3506 (or comparable official in an agency not covered by such section) the authority to ensure compliance with the requirements imposed on the agency under this subchapter, including—

“(A) designating a senior agency information security officer who shall—

“(i) carry out the Chief Information Officer’s responsibilities under this section;

“(ii) possess professional qualifications, including training and experience, required to administer the functions described under this section;

“(iii) have information security duties as that official’s primary duty; and

“(iv) head an office with the mission and resources to assist in ensuring agency compliance with this section;

“(B) developing and maintaining an agencywide information security program as required by subsection (b);

“(C) developing and maintaining information security policies, procedures, and control techniques to address all applicable requirements, including those issued under section 3543 of this title, and section 11331 of title 40;

“(D) training and overseeing personnel with significant responsibilities for information security with respect to such responsibilities; and

“(E) assisting senior agency officials concerning their responsibilities under paragraph (2);

“(4) ensure that the agency has trained personnel sufficient to assist the agency in complying with the requirements of this subchapter and related policies, procedures, standards, and guidelines; and

“(5) ensure that the agency Chief Information Officer, in coordination with other senior agency officials, reports annually to the agency head on the effectiveness of the agency information security program, including progress of remedial actions.

“(b) AGENCY PROGRAM.—Each agency shall develop, document, and implement an agencywide information security program, approved by the Director under section 3543(a)(5), to provide information security for the information and information systems that support the operations and assets of the agency, including those provided or managed by another agency, contractor, or other source, that includes—

“(1) periodic assessments of the risk and magnitude of the harm that could result from the unauthorized access, use, disclosure, disruption, modification, or destruction of information and information systems that support the operations and assets of the agency;

“(2) policies and procedures that—

“(A) are based on the risk assessments required by paragraph (1);

“(B) cost-effectively reduce information security risks to an acceptable level;

“(C) ensure that information security is addressed throughout the life cycle of each agency information system; and

“(D) ensure compliance with—

“(i) the requirements of this subchapter;

“(ii) policies and procedures as may be prescribed by the Director, and information security standards promulgated under section 11331 of title 40;

“(iii) minimally acceptable system configuration requirements, as determined by the agency; and

“(iv) any other applicable requirements, including standards and guidelines for national security systems issued in accordance with law and as directed by the President;

“(3) subordinate plans for providing adequate information security for networks, facilities, and systems or groups of information systems, as appropriate;

“(4) security awareness training to inform personnel, including contractors and other users of information systems that support the operations and assets of the agency, of—

“(A) information security risks associated with their activities; and

“(B) their responsibilities in complying with agency policies and procedures designed to reduce these risks;

“(5) periodic testing and evaluation of the effectiveness of information security policies, procedures, and practices, to be performed with a frequency depending on risk, but no less than annually, of which such testing—

“(A) shall include testing of management, operational, and technical controls of every information system identified in the inventory required under section 3505(c); and

“(B) may include testing relied on in a evaluation under section 3545;

“(6) a process for planning, implementing, evaluating, and documenting remedial action to address any deficiencies in the information security policies, procedures, and practices of the agency;

“(7) procedures for detecting, reporting, and responding to security incidents, consistent with standards and guidelines issued pursuant to section 3546(b), including—

“(A) mitigating risks associated with such incidents before substantial damage is done;

“(B) notifying and consulting with the Federal information security incident center referred to in section 3546; and

“(C) notifying and consulting with, as appropriate—

“(i) law enforcement agencies and relevant Offices of Inspector General;

“(ii) an office designated by the President for any incident involving a national security system; and

“(iii) any other agency or office, in accordance with law or as directed by the President; and

“(8) plans and procedures to ensure continuity of operations for information systems that support the operations and assets of the agency.

“(c) AGENCY REPORTING.—Each agency shall—

“(1) report annually to the Director, the Committees on Government Reform and Science of the House of Representatives, the Committees on Governmental Affairs and Commerce, Science, and Transportation of the Senate, the appropriate

authorization and appropriations committees of Congress, and the Comptroller General on the adequacy and effectiveness of information security policies, procedures, and practices, and compliance with the requirements of this subchapter, including compliance with each requirement of subsection (b);

“(2) address the adequacy and effectiveness of information security policies, procedures, and practices in plans and reports relating to—

“(A) annual agency budgets;

“(B) information resources management under subchapter 1 of this chapter;

“(C) information technology management under subtitle III of title 40;

“(D) program performance under sections 1105 and 1115 through 1119 of title 31, and sections 2801 and 2805 of title 39;

“(E) financial management under chapter 9 of title 31, and the Chief Financial Officers Act of 1990 (31 U.S.C. 501 note; Public Law 101-576) (and the amendments made by that Act);

“(F) financial management systems under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note); and

“(G) internal accounting and administrative controls under section 3512 of title 31, (known as the ‘Federal Managers Financial Integrity Act’); and

“(3) report any significant deficiency in a policy, procedure, or practice identified under paragraph (1) or (2)—

“(A) as a material weakness in reporting under section 3512 of title 31; and

“(B) if relating to financial management systems, as an instance of a lack of substantial compliance under the Federal Financial Management Improvement Act (31 U.S.C. 3512 note).

“(d) PERFORMANCE PLAN.—(1) In addition to the requirements of subsection (c), each agency, in consultation with the Director, shall include as part of the performance plan required under section 1115 of title 31 a description of—

“(A) the time periods, and

“(B) the resources, including budget, staffing, and training, that are necessary to implement the program required under subsection (b).

“(2) The description under paragraph (1) shall be based on the risk assessments required under subsection (b)(2)(1).

“(e) PUBLIC NOTICE AND COMMENT.—Each agency shall provide the public with timely notice and opportunities for comment on proposed information security policies and procedures to the extent that such policies and procedures affect communication with the public.

“§ 3545. Annual independent evaluation

“(a) IN GENERAL.—(1) Each year each agency shall have performed an independent evaluation of the information security program and practices of that agency to determine the effectiveness of such program and practices.

“(2) Each evaluation under this section shall include—

“(A) testing of the effectiveness of information security policies, procedures, and practices of a representative subset of the agency’s information systems;

“(B) an assessment (made on the basis of the results of the testing) of compliance with—

“(i) the requirements of this subchapter; and

“(ii) related information security policies, procedures, standards, and guidelines; and

“(C) separate presentations, as appropriate, regarding information security relating to national security systems.

“(b) INDEPENDENT AUDITOR.—Subject to subsection (c)—

“(1) for each agency with an Inspector General appointed under the Inspector General Act of 1978, the annual evaluation required by this section shall be performed by the Inspector General or by an independent external auditor, as determined by the Inspector General of the agency; and

“(2) for each agency to which paragraph (1) does not apply, the head of the agency shall engage an independent external auditor to perform the evaluation.

“(c) NATIONAL SECURITY SYSTEMS.—For each agency operating or exercising control of a national security system, that portion of the evaluation required by this section directly relating to a national security system shall be performed—

“(1) only by an entity designated by the agency head; and

“(2) in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(d) EXISTING EVALUATIONS.—The evaluation required by this section may be based in whole or in part on an audit, evaluation, or report relating to programs or practices of the applicable agency.

“(e) AGENCY REPORTING.—(1) Each year, not later than such date established by the Director, the head of each agency shall submit to the Director the results of the evaluation required under this section.

Deadline.

“(2) To the extent an evaluation required under this section directly relates to a national security system, the evaluation results submitted to the Director shall contain only a summary and assessment of that portion of the evaluation directly relating to a national security system.

“(f) PROTECTION OF INFORMATION.—Agencies and evaluators shall take appropriate steps to ensure the protection of information which, if disclosed, may adversely affect information security. Such protections shall be commensurate with the risk and comply with all applicable laws and regulations.

“(g) OMB REPORTS TO CONGRESS.—(1) The Director shall summarize the results of the evaluations conducted under this section in the report to Congress required under section 3543(a)(8).

“(2) The Director’s report to Congress under this subsection shall summarize information regarding information security relating to national security systems in such a manner as to ensure appropriate protection for information associated with any information security vulnerability in such system commensurate with the risk and in accordance with all applicable laws.

“(3) Evaluations and any other descriptions of information systems under the authority and control of the Director of Central

Reports.

Intelligence or of National Foreign Intelligence Programs systems under the authority and control of the Secretary of Defense shall be made available to Congress only through the appropriate oversight committees of Congress, in accordance with applicable laws.

“(h) COMPTROLLER GENERAL.—The Comptroller General shall periodically evaluate and report to Congress on—

“(1) the adequacy and effectiveness of agency information security policies and practices; and

“(2) implementation of the requirements of this subchapter.

“§ 3546. Federal information security incident center

“(a) IN GENERAL.—The Director shall ensure the operation of a central Federal information security incident center to—

“(1) provide timely technical assistance to operators of agency information systems regarding security incidents, including guidance on detecting and handling information security incidents;

“(2) compile and analyze information about incidents that threaten information security;

“(3) inform operators of agency information systems about current and potential information security threats, and vulnerabilities; and

“(4) consult with the National Institute of Standards and Technology, agencies or offices operating or exercising control of national security systems (including the National Security Agency), and such other agencies or offices in accordance with law and as directed by the President regarding information security incidents and related matters.

“(b) NATIONAL SECURITY SYSTEMS.—Each agency operating or exercising control of a national security system shall share information about information security incidents, threats, and vulnerabilities with the Federal information security incident center to the extent consistent with standards and guidelines for national security systems, issued in accordance with law and as directed by the President.

“§ 3547. National security systems

“The head of each agency operating or exercising control of a national security system shall be responsible for ensuring that the agency—

“(1) provides information security protections commensurate with the risk and magnitude of the harm resulting from the unauthorized access, use, disclosure, disruption, modification, or destruction of the information contained in such system;

“(2) implements information security policies and practices as required by standards and guidelines for national security systems, issued in accordance with law and as directed by the President; and

“(3) complies with the requirements of this subchapter.

“§ 3548. Authorization of appropriations

“There are authorized to be appropriated to carry out the provisions of this subchapter such sums as may be necessary for each of fiscal years 2003 through 2007.

“§ 3549. Effect on existing law

“Nothing in this subchapter, section 11331 of title 40, or section 20 of the National Standards and Technology Act (15 U.S.C. 278g-3) may be construed as affecting the authority of the President, the Office of Management and Budget or the Director thereof, the National Institute of Standards and Technology, or the head of any agency, with respect to the authorized use or disclosure of information, including with regard to the protection of personal privacy under section 552a of title 5, the disclosure of information under section 552 of title 5, the management and disposition of records under chapters 29, 31, or 33 of title 44, the management of information resources under subchapter I of chapter 35 of this title, or the disclosure of information to the Congress or the Comptroller General of the United States. While this subchapter is in effect, subchapter II of this chapter shall not apply.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter 35 is amended by adding at the end the following:

“SUBCHAPTER III—INFORMATION SECURITY

“Sec.

“3541. Purposes.

“3542. Definitions.

“3543. Authority and functions of the Director.

“3544. Federal agency responsibilities.

“3545. Annual independent evaluation.

“3546. Federal information security incident center.

“3547. National security systems.

“3548. Authorization of appropriations.

“3549. Effect on existing law.”.

(c) INFORMATION SECURITY RESPONSIBILITIES OF CERTAIN AGENCIES.—

(1) NATIONAL SECURITY RESPONSIBILITIES.—(A) Nothing in this Act (including any amendment made by this Act) shall supersede any authority of the Secretary of Defense, the Director of Central Intelligence, or other agency head, as authorized by law and as directed by the President, with regard to the operation, control, or management of national security systems, as defined by section 3542(b)(2) of title 44, United States Code.

44 USC 3501
note.

(B) Section 2224 of title 10, United States Code, is amended—

(i) in subsection (b), by striking “(b) OBJECTIVES AND MINIMUM REQUIREMENTS.—(1)” and inserting “(b) OBJECTIVES OF THE PROGRAM.—”;

(ii) in subsection (b), by striking paragraph (2); and

(iii) in subsection (c), in the matter preceding paragraph (1), by inserting “, including through compliance with subchapter III of chapter 35 of title 44” after “infrastructure”.

(2) ATOMIC ENERGY ACT OF 1954.—Nothing in this Act shall supersede any requirement made by or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Restricted data or formerly restricted data shall be handled, protected, classified, downgraded, and declassified in conformity with the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

44 USC 3501
note.

SEC. 302. MANAGEMENT OF INFORMATION TECHNOLOGY.

(a) **IN GENERAL.**—Section 11331 of title 40, United States Code, is amended to read as follows:

“§ 11331. Responsibilities for Federal information systems standards

“(a) **STANDARDS AND GUIDELINES.**—

“(1) **AUTHORITY TO PRESCRIBE.**—Except as provided under paragraph (2), the Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Institute of Standards and Technology pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(a)), prescribe standards and guidelines pertaining to Federal information systems.

“(2) **NATIONAL SECURITY SYSTEMS.**—Standards and guidelines for national security systems (as defined under this section) shall be developed, prescribed, enforced, and overseen as otherwise authorized by law and as directed by the President.

“(b) **MANDATORY REQUIREMENTS.**—

“(1) **AUTHORITY TO MAKE MANDATORY.**—Except as provided under paragraph (2), the Secretary shall make standards prescribed under subsection (a)(1) compulsory and binding to the extent determined necessary by the Secretary to improve the efficiency of operation or security of Federal information systems.

“(2) **REQUIRED MANDATORY STANDARDS.**—(A) Standards prescribed under subsection (a)(1) shall include information security standards that—

“(i) provide minimum information security requirements as determined under section 20(b) of the National Institute of Standards and Technology Act (15 U.S.C. 278g–3(b)); and

“(ii) are otherwise necessary to improve the security of Federal information and information systems.

“(B) Information security standards described in subparagraph (A) shall be compulsory and binding.

“(c) **AUTHORITY TO DISAPPROVE OR MODIFY.**—The President may disapprove or modify the standards and guidelines referred to in subsection (a)(1) if the President determines such action to be in the public interest. The President’s authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

“(d) **EXERCISE OF AUTHORITY.**—To ensure fiscal and policy consistency, the Secretary shall exercise the authority conferred by this section subject to direction by the President and in coordination with the Director of the Office of Management and Budget.

“(e) **APPLICATION OF MORE STRINGENT STANDARDS.**—The head of an executive agency may employ standards for the cost-effective information security for information systems within or under the supervision of that agency that are more stringent than the standards the Secretary prescribes under this section if the more stringent standards—

Federal Register,
publication.

“(1) contain at least the applicable standards made compulsory and binding by the Secretary; and

“(2) are otherwise consistent with policies and guidelines issued under section 3543 of title 44.

“(f) DECISIONS ON PROMULGATION OF STANDARDS.—The decision by the Secretary regarding the promulgation of any standard under this section shall occur not later than 6 months after the submission of the proposed standard to the Secretary by the National Institute of Standards and Technology, as provided under section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3). Deadline.

“(g) DEFINITIONS.—In this section:

“(1) FEDERAL INFORMATION SYSTEM.—The term ‘Federal information system’ means an information system used or operated by an executive agency, by a contractor of an executive agency, or by another organization on behalf of an executive agency.

“(2) INFORMATION SECURITY.—The term ‘information security’ has the meaning given that term in section 3542(b)(1) of title 44.

“(3) NATIONAL SECURITY SYSTEM.—The term ‘national security system’ has the meaning given that term in section 3542(b)(2) of title 44.”

(b) CLERICAL AMENDMENT.—The item relating to section 11331 in the table of sections at the beginning of chapter 113 of such title is amended to read as follows:

“11331. Responsibilities for Federal information systems standards.”

SEC. 303. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

Section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3), is amended by striking the text and inserting the following:

“(a) IN GENERAL.—The Institute shall—

“(1) have the mission of developing standards, guidelines, and associated methods and techniques for information systems;

“(2) develop standards and guidelines, including minimum requirements, for information systems used or operated by an agency or by a contractor of an agency or other organization on behalf of an agency, other than national security systems (as defined in section 3542(b)(2) of title 44, United States Code); and

“(3) develop standards and guidelines, including minimum requirements, for providing adequate information security for all agency operations and assets, but such standards and guidelines shall not apply to national security systems.

“(b) MINIMUM REQUIREMENTS FOR STANDARDS AND GUIDELINES.—The standards and guidelines required by subsection (a) shall include, at a minimum—

“(1)(A) standards to be used by all agencies to categorize all information and information systems collected or maintained by or on behalf of each agency based on the objectives of providing appropriate levels of information security according to a range of risk levels;

“(B) guidelines recommending the types of information and information systems to be included in each such category; and

“(C) minimum information security requirements for information and information systems in each such category;

“(2) a definition of and guidelines concerning detection and handling of information security incidents; and

“(3) guidelines developed in conjunction with the Department of Defense, including the National Security Agency, for identifying an information system as a national security system consistent with applicable requirements for national security systems, issued in accordance with law and as directed by the President.

“(c) DEVELOPMENT OF STANDARDS AND GUIDELINES.—In developing standards and guidelines required by subsections (a) and (b), the Institute shall—

“(1) consult with other agencies and offices and the private sector (including the Director of the Office of Management and Budget, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, and the Secretary of Homeland Security) to assure—

“(A) use of appropriate information security policies, procedures, and techniques, in order to improve information security and avoid unnecessary and costly duplication of effort; and

“(B) that such standards and guidelines are complementary with standards and guidelines employed for the protection of national security systems and information contained in such systems;

“(2) provide the public with an opportunity to comment on proposed standards and guidelines;

Deadlines.

“(3) submit to the Secretary of Commerce for promulgation under section 11331 of title 40, United States Code—

“(A) standards, as required under subsection (b)(1)(A), no later than 12 months after the date of the enactment of this section; and

“(B) minimum information security requirements for each category, as required under subsection (b)(1)(C), no later than 36 months after the date of the enactment of this section;

Deadline.

“(4) issue guidelines as required under subsection (b)(1)(B), no later than 18 months after the date of the enactment of this section;

“(5) to the maximum extent practicable, ensure that such standards and guidelines do not require the use or procurement of specific products, including any specific hardware or software;

“(6) to the maximum extent practicable, ensure that such standards and guidelines provide for sufficient flexibility to permit alternative solutions to provide equivalent levels of protection for identified information security risks; and

“(7) to the maximum extent practicable, use flexible, performance-based standards and guidelines that permit the use of off-the-shelf commercially developed information security products.

“(d) INFORMATION SECURITY FUNCTIONS.—The Institute shall—

“(1) submit standards developed pursuant to subsection (a), along with recommendations as to the extent to which these should be made compulsory and binding, to the Secretary of Commerce for promulgation under section 11331 of title 40, United States Code;

“(2) provide technical assistance to agencies, upon request, regarding—

“(A) compliance with the standards and guidelines developed under subsection (a);

“(B) detecting and handling information security incidents; and

“(C) information security policies, procedures, and practices;

“(3) conduct research, as needed, to determine the nature and extent of information security vulnerabilities and techniques for providing cost-effective information security;

“(4) develop and periodically revise performance indicators and measures for agency information security policies and practices;

“(5) evaluate private sector information security policies and practices and commercially available information technologies to assess potential application by agencies to strengthen information security;

“(6) assist the private sector, upon request, in using and applying the results of activities under this section;

“(7) evaluate security policies and practices developed for national security systems to assess potential application by agencies to strengthen information security;

“(8) periodically assess the effectiveness of standards and guidelines developed under this section and undertake revisions as appropriate;

“(9) solicit and consider the recommendations of the Information Security and Privacy Advisory Board, established by section 21, regarding standards and guidelines developed under subsection (a) and submit such recommendations to the Secretary of Commerce with such standards submitted to the Secretary; and

“(10) prepare an annual public report on activities undertaken in the previous year, and planned for the coming year, to carry out responsibilities under this section.

“(e) DEFINITIONS.—As used in this section—

“(1) the term ‘agency’ has the same meaning as provided in section 3502(1) of title 44, United States Code;

“(2) the term ‘information security’ has the same meaning as provided in section 3542(b)(1) of such title;

“(3) the term ‘information system’ has the same meaning as provided in section 3502(8) of such title;

“(4) the term ‘information technology’ has the same meaning as provided in section 11101 of title 40, United States Code; and

“(5) the term ‘national security system’ has the same meaning as provided in section 3542(b)(2) of title 44, United States Code.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce \$20,000,000 for each of fiscal years 2003, 2004, 2005, 2006, and 2007 to enable the National Institute of Standards and Technology to carry out the provisions of this section.”.

SEC. 304. INFORMATION SECURITY AND PRIVACY ADVISORY BOARD.

Section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4), is amended—

(1) in subsection (a), by striking “Computer System Security and Privacy Advisory Board” and inserting “Information Security and Privacy Advisory Board”;

(2) in subsection (a)(1), by striking “computer or telecommunications” and inserting “information technology”;

(3) in subsection (a)(2)—

(A) by striking “computer or telecommunications technology” and inserting “information technology”; and

(B) by striking “computer or telecommunications equipment” and inserting “information technology”;

(4) in subsection (a)(3)—

(A) by striking “computer systems” and inserting “information system”; and

(B) by striking “computer systems security” and inserting “information security”;

(5) in subsection (b)(1) by striking “computer systems security” and inserting “information security”;

(6) in subsection (b) by striking paragraph (2) and inserting the following:

“(2) to advise the Institute, the Secretary of Commerce, and the Director of the Office of Management and Budget on information security and privacy issues pertaining to Federal Government information systems, including through review of proposed standards and guidelines developed under section 20; and”;

(7) in subsection (b)(3) by inserting “annually” after “report”;

(8) by inserting after subsection (e) the following new subsection:

“(f) The Board shall hold meetings at such locations and at such time and place as determined by a majority of the Board.”;

(9) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(10) by striking subsection (h), as redesignated by paragraph (9), and inserting the following:

“(h) As used in this section, the terms ‘information system’ and ‘information technology’ have the meanings given in section 20.”.

SEC. 305. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **COMPUTER SECURITY ACT.**—Section 11332 of title 40, United States Code, and the item relating to that section in the table of sections for chapter 113 of such title, are repealed.

(b) **FLOYD D. SPENCE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001.**—The Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Public Law 106-398) is amended by striking section 1062 (44 U.S.C. 3531 note).

(c) **PAPERWORK REDUCTION ACT.**—(1) Section 3504(g) of title 44, United States Code, is amended—

(A) by adding “and” at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking “sections 11331 and 11332(b) and (c) of title 40” and inserting “section 11331 of title 40 and subchapter II of this chapter”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking paragraph (3).

(2) Section 3505 of such title is amended by adding at the end—

“(c) INVENTORY OF MAJOR INFORMATION SYSTEMS.—(1) The head of each agency shall develop and maintain an inventory of major information systems (including major national security systems) operated by or under the control of such agency.

“(2) The identification of information systems in an inventory under this subsection shall include an identification of the interfaces between each such system and all other systems or networks, including those not operated by or under the control of the agency.

“(3) Such inventory shall be—

“(A) updated at least annually;

“(B) made available to the Comptroller General; and

“(C) used to support information resources management, including—

“(i) preparation and maintenance of the inventory of information resources under section 3506(b)(4);

“(ii) information technology planning, budgeting, acquisition, and management under section 3506(h), subtitle III of title 40, and related laws and guidance;

“(iii) monitoring, testing, and evaluation of information security controls under subchapter II;

“(iv) preparation of the index of major information systems required under section 552(g) of title 5, United States Code; and

“(v) preparation of information system inventories required for records management under chapters 21, 29, 31, and 33.

“(4) The Director shall issue guidance for and oversee the implementation of the requirements of this subsection.”.

(3) Section 3506(g) of such title is amended—

(A) by adding “and” at the end of paragraph (1);

(B) in paragraph (2)—

(i) by striking “section 11332 of title 40” and inserting “subchapter II of this chapter”; and

(ii) by striking “; and” and inserting a period; and

(C) by striking paragraph (3).

TITLE IV—AUTHORIZATION OF APPROPRIATIONS AND EFFECTIVE DATES

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

Except for those purposes for which an authorization of appropriations is specifically provided in title I or II, including the amendments made by such titles, there are authorized to be appropriated such sums as are necessary to carry out titles I and II for each of fiscal years 2003 through 2007.

SEC. 402. EFFECTIVE DATES.

(a) TITLES I AND II.—

(1) IN GENERAL.—Except as provided under paragraph (2), titles I and II and the amendments made by such titles shall take effect 120 days after the date of enactment of this Act.

(2) IMMEDIATE ENACTMENT.—Sections 207, 214, and 215 shall take effect on the date of enactment of this Act.

44 USC 3601
note.

44 USC 3541
note.

(b) TITLES III AND IV.—Title III and this title shall take effect on the date of enactment of this Act.

Confidential
Information
Protection and
Statistical
Efficiency Act of
2002.

TITLE V—CONFIDENTIAL INFORMATION PROTECTION AND STATISTICAL EFFI- CIENCY

44 USC 3501
note.

SEC. 501. SHORT TITLE.

This title may be cited as the “Confidential Information Protection and Statistical Efficiency Act of 2002”.

44 USC 3501
note.

SEC. 502. DEFINITIONS.

As used in this title:

(1) The term “agency” means any entity that falls within the definition of the term “executive agency” as defined in section 102 of title 31, United States Code, or “agency”, as defined in section 3502 of title 44, United States Code.

(2) The term “agent” means an individual—

(A)(i) who is an employee of a private organization or a researcher affiliated with an institution of higher learning (including a person granted special sworn status by the Bureau of the Census under section 23(c) of title 13, United States Code), and with whom a contract or other agreement is executed, on a temporary basis, by an executive agency to perform exclusively statistical activities under the control and supervision of an officer or employee of that agency;

(ii) who is working under the authority of a government entity with which a contract or other agreement is executed by an executive agency to perform exclusively statistical activities under the control of an officer or employee of that agency;

(iii) who is a self-employed researcher, a consultant, a contractor, or an employee of a contractor, and with whom a contract or other agreement is executed by an executive agency to perform a statistical activity under the control of an officer or employee of that agency; or

(iv) who is a contractor or an employee of a contractor, and who is engaged by the agency to design or maintain the systems for handling or storage of data received under this title; and

(B) who agrees in writing to comply with all provisions of law that affect information acquired by that agency.

(3) The term “business data” means operating and financial data and information about businesses, tax-exempt organizations, and government entities.

(4) The term “identifiable form” means any representation of information that permits the identity of the respondent to whom the information applies to be reasonably inferred by either direct or indirect means.

(5) The term “nonstatistical purpose”—

(A) means the use of data in identifiable form for any purpose that is not a statistical purpose, including

any administrative, regulatory, law enforcement, adjudicatory, or other purpose that affects the rights, privileges, or benefits of a particular identifiable respondent; and

(B) includes the disclosure under section 552 of title 5, United States Code (popularly known as the Freedom of Information Act) of data that are acquired for exclusively statistical purposes under a pledge of confidentiality.

(6) The term “respondent” means a person who, or organization that, is requested or required to supply information to an agency, is the subject of information requested or required to be supplied to an agency, or provides that information to an agency.

(7) The term “statistical activities”—

(A) means the collection, compilation, processing, or analysis of data for the purpose of describing or making estimates concerning the whole, or relevant groups or components within, the economy, society, or the natural environment; and

(B) includes the development of methods or resources that support those activities, such as measurement methods, models, statistical classifications, or sampling frames.

(8) The term “statistical agency or unit” means an agency or organizational unit of the executive branch whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.

(9) The term “statistical purpose”—

(A) means the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups; and

(B) includes the development, implementation, or maintenance of methods, technical or administrative procedures, or information resources that support the purposes described in subparagraph (A).

SEC. 503. COORDINATION AND OVERSIGHT OF POLICIES.

44 USC 3501
note.

(a) **IN GENERAL.**—The Director of the Office of Management and Budget shall coordinate and oversee the confidentiality and disclosure policies established by this title. The Director may promulgate rules or provide other guidance to ensure consistent interpretation of this title by the affected agencies.

(b) **AGENCY RULES.**—Subject to subsection (c), agencies may promulgate rules to implement this title. Rules governing disclosures of information that are authorized by this title shall be promulgated by the agency that originally collected the information.

(c) **REVIEW AND APPROVAL OF RULES.**—The Director shall review any rules proposed by an agency pursuant to this title for consistency with the provisions of this title and chapter 35 of title 44, United States Code, and such rules shall be subject to the approval of the Director.

(d) **REPORTS.**—

(1) The head of each agency shall provide to the Director of the Office of Management and Budget such reports and other information as the Director requests.

(2) Each Designated Statistical Agency referred to in section 522 shall report annually to the Director of the Office

of Management and Budget, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate on the actions it has taken to implement sections 523 and 524. The report shall include copies of each written agreement entered into pursuant to section 524(a) for the applicable year.

(3) The Director of the Office of Management and Budget shall include a summary of reports submitted to the Director under paragraph (2) and actions taken by the Director to advance the purposes of this title in the annual report to the Congress on statistical programs prepared under section 3504(e)(2) of title 44, United States Code.

44 USC 3501
note.

SEC. 504. EFFECT ON OTHER LAWS.

(a) **TITLE 44, UNITED STATES CODE.**—This title, including amendments made by this title, does not diminish the authority under section 3510 of title 44, United States Code, of the Director of the Office of Management and Budget to direct, and of an agency to make, disclosures that are not inconsistent with any applicable law.

(b) **TITLE 13 AND TITLE 44, UNITED STATES CODE.**—This title, including amendments made by this title, does not diminish the authority of the Bureau of the Census to provide information in accordance with sections 8, 16, 301, and 401 of title 13, United States Code, and section 2108 of title 44, United States Code.

(c) **TITLE 13, UNITED STATES CODE.**—This title, including amendments made by this title, shall not be construed as authorizing the disclosure for nonstatistical purposes of demographic data or information collected by the Census Bureau pursuant to section 9 of title 13, United States Code.

(d) **VARIOUS ENERGY STATUTES.**—Data or information acquired by the Energy Information Administration under a pledge of confidentiality and designated by the Energy Information Administration to be used for exclusively statistical purposes shall not be disclosed in identifiable form for nonstatistical purposes under—

(1) section 12, 20, or 59 of the Federal Energy Administration Act of 1974 (15 U.S.C. 771, 779, 790h);

(2) section 11 of the Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 796); or

(3) section 205 or 407 of the Department of the Energy Organization Act of 1977 (42 U.S.C. 7135, 7177).

(e) **SECTION 201 OF CONGRESSIONAL BUDGET ACT OF 1974.**—This title, including amendments made by this title, shall not be construed to limit any authorities of the Congressional Budget Office to work (consistent with laws governing the confidentiality of information the disclosure of which would be a violation of law) with databases of Designated Statistical Agencies (as defined in section 522), either separately or, for data that may be shared pursuant to section 524 of this title or other authority, jointly in order to improve the general utility of these databases for the statistical purpose of analyzing pension and health care financing issues.

(f) **PREEMPTION OF STATE LAW.**—Nothing in this title shall preempt applicable State law regarding the confidentiality of data collected by the States.

(g) **STATUTES REGARDING FALSE STATEMENTS.**—Notwithstanding section 512, information collected by an agency for exclusively statistical purposes under a pledge of confidentiality may be provided by the collecting agency to a law enforcement agency for the prosecution of submissions to the collecting agency of false statistical information under statutes that authorize criminal penalties (such as section 221 of title 13, United States Code) or civil penalties for the provision of false statistical information, unless such disclosure or use would otherwise be prohibited under Federal law.

(h) **CONSTRUCTION.**—Nothing in this title shall be construed as restricting or diminishing any confidentiality protections or penalties for unauthorized disclosure that otherwise apply to data or information collected for statistical purposes or nonstatistical purposes, including, but not limited to, section 6103 of the Internal Revenue Code of 1986 (26 U.S.C. 6103).

(i) **AUTHORITY OF CONGRESS.**—Nothing in this title shall be construed to affect the authority of the Congress, including its committees, members, or agents, to obtain data or information for a statistical purpose, including for oversight of an agency's statistical activities.

Subtitle A—Confidential Information Protection

SEC. 511. FINDINGS AND PURPOSES.

44 USC 3501
note.

(a) **FINDINGS.**—The Congress finds the following:

(1) Individuals, businesses, and other organizations have varying degrees of legal protection when providing information to the agencies for strictly statistical purposes.

(2) Pledges of confidentiality by agencies provide assurances to the public that information about individuals or organizations or provided by individuals or organizations for exclusively statistical purposes will be held in confidence and will not be used against such individuals or organizations in any agency action.

(3) Protecting the confidentiality interests of individuals or organizations who provide information under a pledge of confidentiality for Federal statistical programs serves both the interests of the public and the needs of society.

(4) Declining trust of the public in the protection of information provided under a pledge of confidentiality to the agencies adversely affects both the accuracy and completeness of statistical analyses.

(5) Ensuring that information provided under a pledge of confidentiality for statistical purposes receives protection is essential in continuing public cooperation in statistical programs.

(b) **PURPOSES.**—The purposes of this subtitle are the following:

(1) To ensure that information supplied by individuals or organizations to an agency for statistical purposes under a pledge of confidentiality is used exclusively for statistical purposes.

(2) To ensure that individuals or organizations who supply information under a pledge of confidentiality to agencies for statistical purposes will neither have that information disclosed

in identifiable form to anyone not authorized by this title nor have that information used for any purpose other than a statistical purpose.

(3) To safeguard the confidentiality of individually identifiable information acquired under a pledge of confidentiality for statistical purposes by controlling access to, and uses made of, such information.

44 USC 3501
note.

SEC. 512. LIMITATIONS ON USE AND DISCLOSURE OF DATA AND INFORMATION.

(a) **USE OF STATISTICAL DATA OR INFORMATION.**—Data or information acquired by an agency under a pledge of confidentiality and for exclusively statistical purposes shall be used by officers, employees, or agents of the agency exclusively for statistical purposes.

(b) **DISCLOSURE OF STATISTICAL DATA OR INFORMATION.**—

(1) Data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.

(2) A disclosure pursuant to paragraph (1) is authorized only when the head of the agency approves such disclosure and the disclosure is not prohibited by any other law.

(3) This section does not restrict or diminish any confidentiality protections in law that otherwise apply to data or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes.

(c) **RULE FOR USE OF DATA OR INFORMATION FOR NONSTATISTICAL PURPOSES.**—A statistical agency or unit shall clearly distinguish any data or information it collects for nonstatistical purposes (as authorized by law) and provide notice to the public, before the data or information is collected, that the data or information could be used for nonstatistical purposes.

(d) **DESIGNATION OF AGENTS.**—A statistical agency or unit may designate agents, by contract or by entering into a special agreement containing the provisions required under section 502(2) for treatment as an agent under that section, who may perform exclusively statistical activities, subject to the limitations and penalties described in this title.

44 USC 3501
note.

SEC. 513. FINES AND PENALTIES.

Whoever, being an officer, employee, or agent of an agency acquiring information for exclusively statistical purposes, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by section 512, comes into possession of such information by reason of his or her being an officer, employee, or agent and, knowing that the disclosure of the specific information is prohibited under the provisions of this title, willfully discloses the information in any manner to a person or agency not entitled to receive it, shall be guilty of a class E felony and imprisoned for not more than 5 years, or fined not more than \$250,000, or both.

Subtitle B—Statistical Efficiency

SEC. 521. FINDINGS AND PURPOSES.

44 USC 3501
note.

(a) FINDINGS.—The Congress finds the following:

(1) Federal statistics are an important source of information for public and private decision-makers such as policymakers, consumers, businesses, investors, and workers.

(2) Federal statistical agencies should continuously seek to improve their efficiency. Statutory constraints limit the ability of these agencies to share data and thus to achieve higher efficiency for Federal statistical programs.

(3) The quality of Federal statistics depends on the willingness of businesses to respond to statistical surveys. Reducing reporting burdens will increase response rates, and therefore lead to more accurate characterizations of the economy.

(4) Enhanced sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes will improve their ability to track more accurately the large and rapidly changing nature of United States business. In particular, the statistical agencies will be able to better ensure that businesses are consistently classified in appropriate industries, resolve data anomalies, produce statistical samples that are consistently adjusted for the entry and exit of new businesses in a timely manner, and correct faulty reporting errors quickly and efficiently.

(5) The Congress enacted the International Investment and Trade in Services Act of 1990 that allowed the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to share data on foreign-owned companies. The Act not only expanded detailed industry coverage from 135 industries to over 800 industries with no increase in the data collected from respondents but also demonstrated how data sharing can result in the creation of valuable data products.

(6) With subtitle A of this title, the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics continues to ensure the highest level of confidentiality for respondents to statistical surveys.

(b) PURPOSES.—The purposes of this subtitle are the following:

(1) To authorize the sharing of business data among the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics for exclusively statistical purposes.

(2) To reduce the paperwork burdens imposed on businesses that provide requested information to the Federal Government.

(3) To improve the comparability and accuracy of Federal economic statistics by allowing the Bureau of the Census, the Bureau of Economic Analysis, and the Bureau of Labor Statistics to update sample frames, develop consistent classifications of establishments and companies into industries, improve coverage, and reconcile significant differences in data produced by the three agencies.

(4) To increase understanding of the United States economy, especially for key industry and regional statistics,

to develop more accurate measures of the impact of technology on productivity growth, and to enhance the reliability of the Nation's most important economic indicators, such as the National Income and Product Accounts.

44 USC 3501
note.

SEC. 522. DESIGNATION OF STATISTICAL AGENCIES.

For purposes of this subtitle, the term “Designated Statistical Agency” means each of the following:

- (1) The Bureau of the Census of the Department of Commerce.
- (2) The Bureau of Economic Analysis of the Department of Commerce.
- (3) The Bureau of Labor Statistics of the Department of Labor.

44 USC 3501
note.

SEC. 523. RESPONSIBILITIES OF DESIGNATED STATISTICAL AGENCIES.

The head of each of the Designated Statistical Agencies shall—

- (1) identify opportunities to eliminate duplication and otherwise reduce reporting burden and cost imposed on the public in providing information for statistical purposes;
- (2) enter into joint statistical projects to improve the quality and reduce the cost of statistical programs; and
- (3) protect the confidentiality of individually identifiable information acquired for statistical purposes by adhering to safeguard principles, including—
 - (A) emphasizing to their officers, employees, and agents the importance of protecting the confidentiality of information in cases where the identity of individual respondents can reasonably be inferred by either direct or indirect means;
 - (B) training their officers, employees, and agents in their legal obligations to protect the confidentiality of individually identifiable information and in the procedures that must be followed to provide access to such information;
 - (C) implementing appropriate measures to assure the physical and electronic security of confidential data;
 - (D) establishing a system of records that identifies individuals accessing confidential data and the project for which the data were required; and
 - (E) being prepared to document their compliance with safeguard principles to other agencies authorized by law to monitor such compliance.

44 USC 3501
note.

SEC. 524. SHARING OF BUSINESS DATA AMONG DESIGNATED STATISTICAL AGENCIES.

(a) **IN GENERAL.**—A Designated Statistical Agency may provide business data in an identifiable form to another Designated Statistical Agency under the terms of a written agreement among the agencies sharing the business data that specifies—

- (1) the business data to be shared;
- (2) the statistical purposes for which the business data are to be used;
- (3) the officers, employees, and agents authorized to examine the business data to be shared; and
- (4) appropriate security procedures to safeguard the confidentiality of the business data.

(b) **RESPONSIBILITIES OF AGENCIES UNDER OTHER LAWS.**—The provision of business data by an agency to a Designated Statistical

Agency under this subtitle shall in no way alter the responsibility of the agency providing the data under other statutes (including section 552 of title 5, United States Code (popularly known as the Freedom of Information Act), and section 552b of title 5, United States Code (popularly known as the Privacy Act of 1974)) with respect to the provision or withholding of such information by the agency providing the data.

(c) **RESPONSIBILITIES OF OFFICERS, EMPLOYEES, AND AGENTS.**—Examination of business data in identifiable form shall be limited to the officers, employees, and agents authorized to examine the individual reports in accordance with written agreements pursuant to this section. Officers, employees, and agents of a Designated Statistical Agency who receive data pursuant to this subtitle shall be subject to all provisions of law, including penalties, that relate—

(1) to the unlawful provision of the business data that would apply to the officers, employees, and agents of the agency that originally obtained the information; and

(2) to the unlawful disclosure of the business data that would apply to officers, employees, and agents of the agency that originally obtained the information.

(d) **NOTICE.**—Whenever a written agreement concerns data that respondents were required by law to report and the respondents were not informed that the data could be shared among the Designated Statistical Agencies, for exclusively statistical purposes, the terms of such agreement shall be described in a public notice issued by the agency that intends to provide the data. Such notice shall allow a minimum of 60 days for public comment.

Public
information.

SEC. 525. LIMITATIONS ON USE OF BUSINESS DATA PROVIDED BY DESIGNATED STATISTICAL AGENCIES.

44 USC 3501
note.

(a) **USE, GENERALLY.**—Business data provided by a Designated Statistical Agency pursuant to this subtitle shall be used exclusively for statistical purposes.

(b) **PUBLICATION.**—Publication of business data acquired by a Designated Statistical Agency shall occur in a manner whereby the data furnished by any particular respondent are not in identifiable form.

SEC. 526. CONFORMING AMENDMENTS.

44 USC 3501
note.

(a) **DEPARTMENT OF COMMERCE.**—Section 1 of the Act of January 27, 1938 (15 U.S.C. 176a) is amended by striking “The” and inserting “Except as provided in the Confidential Information Protection and Statistical Efficiency Act of 2002, the”.

(b) **TITLE 13.**—Chapter 10 of title 13, United States Code, is amended—

(1) by adding after section 401 the following:

“§ 402. Providing business data to Designated Statistical Agencies

“The Bureau of the Census may provide business data to the Bureau of Economic Analysis and the Bureau of Labor Statistics (‘Designated Statistical Agencies’) if such information is required for an authorized statistical purpose and the provision is the subject of a written agreement with that Designated Statistical Agency, or their successors, as defined in the Confidential Information Protection and Statistical Efficiency Act of 2002.”; and

(2) in the table of sections for the chapter by adding after the item relating to section 401 the following:

“402. Providing business data to Designated Statistical Agencies.”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2458 (S. 803):

HOUSE REPORTS: No. 107–787, Pt. 1 (Comm. on Government Reform).

SENATE REPORTS: No. 107–174 accompanying S. 803 (Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 15, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Dec. 17, Presidential statement.



Public Law 107–348
107th Congress

An Act

To direct the Secretary of the Interior to conduct a study of the suitability and feasibility of establishing the Muscle Shoals National Heritage Area in Alabama, and for other purposes.

Dec. 17, 2002
[H.R. 2628]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Muscle Shoals National Heritage Area Study Act of 2002”.

Muscle Shoals
National
Heritage Area
Study Act of
2002.

SEC. 2. STUDY.

The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the study area described in section 3 as the Muscle Shoals National Heritage Area. The study shall include analysis, documentation, and determination regarding whether the study area—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(3) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(4) provides outstanding recreational and educational opportunities;

(5) contains resources important to the identified theme or themes of the study area that retain a degree of integrity capable of supporting interpretation;

(6) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(7) has a potential management entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage

area consistent with continued local and State economic activity; and

(8) has a conceptual boundary map that is supported by the public.

SEC. 3. BOUNDARIES OF THE STUDY AREA.

The study area referred to in section 2 shall be comprised of the following:

(1) The part of the Tennessee River's watershed in northern Alabama.

(2) The cities of Florence, Sheffield, Tuscumbia, and Muscle Shoals City, Alabama.

(3) The towns of Anderson, Cherokee, Courtland, Leighton, Lexington, Littleville, Red Bay, Rogersville, Russellville, Town Creek, and Waterloo, Alabama, and their environs.

(4) Colbert, Lauderdale, Franklin, and Lawrence Counties, Alabama.

(5) Other areas that have heritage aspects that are similar to those aspects that are in the areas described in paragraphs (1) through (4) and which are adjacent to or in the vicinity of those areas.

Deadline.

SEC. 4. REPORT.

Not later than 3 fiscal years after the date on which funds are first made available for this Act, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2628:

HOUSE REPORTS: No. 107-398 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 30, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107-349
107th Congress

An Act

To authorize payments to certain Klamath Project water distribution entities for amounts assessed by the entities for operation and maintenance of the Project's transferred works for 2001, to authorize refunds to such entities of amounts collected by the Bureau of Reclamation for reserved works for 2001, and for other purposes.

Dec. 17, 2002
[H.R. 2828]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Klamath Basin Emergency Operation and Maintenance Refund Act of 2002”.

Klamath Basin
Emergency
Operation and
Maintenance
Refund Act of
2002.

SEC. 2. QUALIFIED KLAMATH PROJECT ENTITY DEFINED.

In this Act, the term “qualified Klamath Project entity” means an entity that—

- (1) has executed a water supply contract with the United States for water from the Upper Klamath Lake and the Klamath River of the Klamath Project pursuant to the reclamation laws, including the Act of June 17, 1902 (32 Stat. 388), and Acts amendatory thereof or supplementary thereto;
- (2) distributes water received under the contract;
- (3) received a severely limited irrigation supply from the Upper Klamath Lake and the Klamath River based on the Bureau of Reclamation 2001 annual operations plan dated April 6, 2001; and
- (4) was not reimbursed for its operation and maintenance expenses for 2001 pursuant to State law.

SEC. 3. REFUND AND WAIVER OF ASSESSMENTS AND CHARGES FOR OPERATION AND MAINTENANCE OF KLAMATH RECLAMATION PROJECT.

(a) IN GENERAL.—The Secretary of the Interior is authorized to pay to each qualified Klamath Project entity an amount equal to the amount assessed or charged to members of the qualified Klamath Project entity, or to other persons receiving water or drainage service from such an entity, for operation and maintenance of Klamath Project transferred and reserved works for 2001.

(b) CONDITIONS.—Payment under this section may be made to a qualified Klamath Project entity only after the entity has—

- (1) provided to the Secretary documentation satisfactory to the Bureau of Reclamation, demonstrating the total amount assessed or charged to members of the entity or to persons receiving service from the entity; and
- (2) executed a binding agreement under which the funds paid to the entity under this section shall be distributed to

each member of the entity or persons receiving service from the entity in an amount equal to the amount collected by the entity from the member or person for operation and maintenance for 2001.

(c) **WAIVER OF REMAINING AND ADDITIONAL CHARGES.**—The Secretary may waive any requirement that a qualified Klamath Project entity pay remaining or additional charges for operation and maintenance of Klamath Project reserved works for 2001.

(d) **PAYMENTS AND WAIVERS FOR INDIVIDUALS.**—The Secretary—

(1) may pay, to any individual within the Klamath Project who holds a contract entered into pursuant to the Act of February 21, 1911 (36 Stat. 925; 43 U.S.C. 523–525), popularly known as the “Warren Act”, and who is not within a district that receives a payment pursuant to subsection (a) and a waiver under subsection (c), an amount equal to the amount collected from such individual for operation and maintenance of Klamath Project reserved works for 2001; and

(2) may forego collection from such individual of charges for operation and maintenance of such works for the remainder of 2001.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Amounts not paid by a qualified Klamath Project entity to the Bureau of Reclamation for the operation and maintenance of the reserved works for 2001 shall be funded from the appropriations authorized by this Act. Costs incurred by the Bureau of Reclamation in carrying out this Act shall not be reimbursable.

SEC. 5. NO SUPPLEMENTAL OR ADDITIONAL BENEFIT.

Activities under this Act or funded pursuant to this Act shall not be considered a supplemental or additional benefit under the Act of June 17, 1902 (82 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2828:

HOUSE REPORTS: No. 107-284 (Comm. on Resources).

SENATE REPORTS: No. 107-289 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD:

Vol. 147 (2001): Nov. 13, considered and passed House.

Vol. 148 (2002): Nov. 19, considered and passed Senate.



Public Law 107–350
107th Congress

An Act

To provide for the conveyance of certain public land in Clark County, Nevada,
for use as a shooting range.

Dec. 17, 2002
[H.R. 2937]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. CONVEYANCE OF PROPERTY TO CLARK COUNTY, NEVADA.

(a) FINDINGS.—The Congress finds that—

(1) the Las Vegas area has experienced such rapid growth in the last few years that traditional locations for target shooting are now too close to populated areas for safety;

(2) there is a need to designate a centralized location in the Las Vegas Valley where target shooters can practice safely; and

(3) a central facility is also needed for persons training in the use of firearms, such as local law enforcement and security personnel.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide a suitable location for the establishment of a centralized shooting facility in the Las Vegas Valley; and

(2) to provide the public with—

(A) opportunities for education and recreation; and

(B) a location for competitive events and marksmanship training.

(c) CONVEYANCE.—As soon as practicable after the date of enactment of this Act, the Secretary of the Interior shall convey to Clark County, Nevada, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcels of land described in subsection (d).

(d) LAND DESCRIPTIONS.—The parcels of land to be conveyed under subsection (c) are the parcels of land that are described as follows:

(1) Approximately 320 acres of land in Clark County, Nevada, in S½, sec. 25, T. 18 S., R. 60 E., Mount Diablo Base and Meridian.

(2) Approximately 320 acres of land in Clark County, Nevada, in S½, sec. 26, T. 18 S., R. 60 E., Mount Diablo Base and Meridian.

(3) Approximately 320 acres of land in Clark County, Nevada, in S½, sec. 27, T. 18 S., R. 60 E., Mount Diablo Base and Meridian.

(4) Approximately 640 acres of land in Clark County, Nevada, in sec. 34, T. 18 S., R. 60 E., Mount Diablo Base and Meridian.

(5) Approximately 640 acres of land in Clark County, Nevada, in sec. 35, T. 18 S., R. 60 E., Mount Diablo Base and Meridian.

(6) Approximately 640 acres of land in Clark County, Nevada, in sec. 36, T. 18 S., R. 60 E., Mount Diablo Base and Meridian.

(e) USE OF LAND.—

(1) IN GENERAL.—The parcels of land conveyed under subsection (c)—

(A) shall be used by Clark County for the purposes described in subsection (b) only; and

(B) shall not be disposed of by the county.

(2) REVERSION.—If Clark County ceases to use any parcel for the purposes described in subsection (b)—

(A) title to the parcel shall revert to the United States, at the option of the United States; and

(B) Clark County, Nevada, shall be responsible for any reclamation necessary to revert the parcel to the United States.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary of the Interior may require such additional terms and conditions in connection with the conveyance as the Secretary considers appropriate to protect the interests of the United States.

(g) RELEASE OF LAND.—The Congress—

(1) finds that the parcels of land conveyed under subsection (c), comprising a portion of the Quail Springs Wilderness Study Area, NV-050-411, managed by the Bureau of Land Management and reported to the Congress in 1991, have been adequately studied for wilderness designation under section 603 of the Federal Land Management Policy Act of 1976 (43 U.S.C. 1782); and

(2) declares that those parcels are no longer subject to the requirements contained in subsection (c) of that section pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(h) ADMINISTRATIVE COSTS.—The Secretary shall require that Clark County, Nevada, pay all survey costs and other administrative

costs necessary for the preparation and completion of any patents of and transfer of title to property under this section.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2937 (S. 1451) (S. 1601):

HOUSE REPORTS: No. 107-387 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 9, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107-351
107th Congress

An Act

Dec. 17, 2002
[H.R. 2990]

To amend the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 to authorize additional projects under that Act, and for other purposes.

Lower Rio
Grande Valley
Water Resources
Conservation and
Improvement Act
of 2002.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2002”.

SEC. 2. AUTHORIZATION OF ADDITIONAL PROJECTS UNDER THE LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT ACT OF 2000.

Section 4(a) of the Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106-576; 114 Stat. 3067) is amended by adding at the end the following:

“(5) In the United Irrigation District of Hidalgo County, Texas, a pipeline and pumping system as identified in the Sigler, Winston, Greenwood, Associates, Incorporated, study dated January 2001.

“(6) In the Cameron County, Texas, Irrigation District No. 2, proposed improvements to Canal C, as identified in the February 8, 2001, engineering report by Martin, Brown, and Perez.

“(7) In the Cameron County, Texas, Irrigation District No. 2, a proposed Canal C and Canal 13 Inner Connect, as identified in the February 12, 2001, engineering report by Martin, Brown, and Perez.

“(8) In Delta Lake Irrigation District of Hidalgo and Willacy Counties, Texas, proposed water conservation projects, as identified by the AW Blair Engineering report of February 13, 2001.

“(9) In the Hidalgo and Cameron County, Texas, Irrigation District No. 9, a proposed project to salvage spill water using automatic control of canal gates as identified in the AW Blair Engineering report dated February 14, 2001.

“(10) In the Brownsville Irrigation District of Cameron County, Texas, a proposed main canal replacement as outlined in the Holdar-Garcia & Associates engineering report dated February 14, 2001.

“(11) In the Hidalgo County, Texas, Irrigation District No. 16, a proposed off-district pump station project as identified by the Melden & Hunt, Incorporated, engineering report dated February 14, 2001.

“(12) In the Hidalgo County, Texas, Irrigation District No. 1, a proposed canal replacement of the North Branch East Main, as outlined in the Melden & Hunt, Incorporated, engineering analysis dated February, 2001.

“(13) In the Donna (Texas) Irrigation District, a proposed improvement project as identified by the Melden & Hunt, Incorporated, engineering analysis dated February 13, 2001.

“(14) In the Hudspeth County, Texas, Conservation and Reclamation District No. 1, the Alamo Arroyo Pumping Plant water quality project as identified by the engineering report and drawings by Gebhard-Sarma and Associates dated July 1996 and the construction of a 1,000 acre-foot off-channel regulating reservoir for the capture and conservation of irrigation water, as identified in the engineering report by AW Blair Engineering dated June 2002.

“(15) In the El Paso County, Texas, Water Improvement District No. 1, the Riverside Canal Improvement Project Phase I Reach A, a canal lining and water conservation project as identified by the engineering report by AW Blair Engineering dated June 2002.

“(16) In the Maverick County, Texas, Water Improvement and Control District No. 1, the concrete lining project of 12 miles of the Maverick Main Canal, identified in the engineering report by AW Blair Engineering dated June 2002.

“(17) In the Hidalgo County, Texas, Irrigation District No. 6, rehabilitation of 10.2 miles of concrete lining in the main canal between Lift Stations Nos. 2 and 3 as identified in the engineering report by AW Blair Engineering dated June 2002.

“(18) In the Hidalgo County, Texas, Irrigation District No. 2, Wisconsin Canal Improvements as identified in the Sigler, Winston, Greenwood & Associates, Incorporated, engineering report dated February 2001.

“(19) In the Hidalgo County, Texas, Irrigation District No. 2, Lateral ‘A’ Canal Improvements as identified in the Sigler, Winston, Greenwood & Associates, Incorporated, engineering report dated July 25, 2001.”.

SEC. 3. AMENDMENTS TO THE LOWER RIO GRANDE VALLEY WATER RESOURCES CONSERVATION AND IMPROVEMENT ACT OF 2000.

The Lower Rio Grande Valley Water Resources Conservation and Improvement Act of 2000 (Public Law 106-576; 114 Stat. 3065 et seq.) is further amended as follows:

(1) Section 3(a) is amended in the first sentence by striking “The Secretary” and all that follows through “in cooperation” and inserting “The Secretary, acting through the Bureau of Reclamation, shall undertake a program under cooperative agreements”.

114 Stat. 3065.

(2) Section 3(b) is amended to read as follows:

“(b) PROJECT REVIEW.—Project proposals shall be reviewed and evaluated under the guidelines set forth in the document published by the Bureau of Reclamation entitled ‘Guidelines for Preparing and Reviewing Proposals for Water Conservation and Improvement Projects Under P.L. 106-576’, dated June 2001.”.

(3) Section 3(d) is amended by inserting before the period at the end the following: “, including operation, maintenance, repair, and replacement”.

114 Stat. 3065.

(4) Section 3(e) is amended by striking “the criteria established pursuant to this section” and inserting “the guidelines referred to in subsection (b)”.

(5) Subsection (f) of section 3 is amended by striking “to prepare” and all that follows through the end of the subsection and inserting “to have the Secretary prepare the reports required under this section. The Federal share of the cost of such preparation by the Secretary shall not exceed 50 percent of the total cost of such preparation.”.

(6) Section 3(g) is amended by striking “\$2,000,000” and inserting “\$8,000,000”.

114 Stat. 3067.

(7) Section 4(b) is amended—

(A) in the first sentence by striking “costs of any construction” and inserting “total project cost of any project”; and

(B) in the last sentence by inserting “the actual” before “funds”.

(8) Section 4(c) is amended by striking “\$10,000,000” and inserting “\$47,000,000 (2001 dollars)”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2990:

HOUSE REPORTS: No. 107-580 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 22, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–352
107th Congress

An Act

To consent to certain amendments to the New Hampshire-Vermont Interstate School Compact.

Dec. 17, 2002
[H.R. 3180]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amendment to the New Hampshire-Vermont Interstate School Compact which have been agreed to by such States that is substantially as follows: Article VII D of such compact is amended to read as follows:

“D. AUTHORIZATION PROCEEDINGS.—An interstate district shall authorize the incurring of debts to finance capital projects by a majority vote of the district passed at an annual or special district meeting. Such vote shall be taken by secret ballot after full opportunity for debate, and any such vote shall be subject to reconsideration and further action by the district at the same meeting or at an adjourned session thereof. As an alternative, an interstate district may provide in its articles of agreement that such a vote be conducted by Australian or official balloting under procedures as set forth in the articles of agreement, and that such vote be subject to any method of reconsideration, if any, which the interstate district sets forth in the articles of agreement.”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 3180:

HOUSE REPORTS: No. 107–478 (Comm. on the Judiciary).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 25, 26, considered and passed House.

Nov. 20, considered and passed Senate.



Public Law 107-353
107th Congress

An Act

Dec. 17, 2002
[H.R. 3401]

To provide for the conveyance of Forest Service facilities and lands comprising the Five Mile Regional Learning Center in the State of California to the Clovis Unified School District, to authorize a new special use permit regarding the continued use of unconveyed lands comprising the Center, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

California Five
Mile Regional
Learning Center
Transfer Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the “California Five Mile Regional Learning Center Transfer Act”.

SEC. 2. LAND CONVEYANCE AND SPECIAL USE AGREEMENT, FIVE MILE REGIONAL LEARNING CENTER, CALIFORNIA.

(a) CONVEYANCE.—The Secretary of Agriculture shall convey to the Clovis Unified School District of California all right, title, and interest of the United States in and to a parcel of National Forest System land consisting of 27.10 acres located within the southwest $\frac{1}{4}$ of section 2, township 2 north, range 15 east, Mount Diablo base and meridian, California, which has been utilized as the Five Mile Regional Learning Center by the school district since 1989 pursuant to a special use permit (Holder No. 2010-02) to provide natural resource conservation education to California youth. The conveyance shall include all structures, improvements, and personal property shown on original map #700602 and inventory dated February 1, 1989.

(b) SPECIAL USE AGREEMENT.—As soon as practicable after the date of the enactment of this Act, the Secretary shall enter into negotiations with the Clovis Unified School District to enter into a new special use permit for the approximately 100 acres of National Forest System land that, as of the date of the enactment of this Act, is being used by the school district pursuant to the permit described in subsection (a), but is not included in the conveyance under such subsection.

(c) REVERSION.—In the event that the Clovis Unified School District discontinues its operation of the Five Mile Regional Learning Center, title to the real property conveyed under subsection (a) shall revert back to the United States.

(d) COSTS AND MINERAL RIGHTS.—The conveyance under subsection (a) shall be for a nominal cost. Notwithstanding such subsection, the conveyance does not include the transfer of mineral rights.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 3401:

HOUSE REPORTS: No. 107-574 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 22, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–354
107th Congress

An Act

Dec. 17, 2002
[H.R. 3449]

To revise the boundaries of the George Washington Birthplace National Monument,
and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

16 USC 442 note. **SECTION 1. ADDITION TO NATIONAL MONUMENT.**

The boundaries of the George Washington Birthplace National Monument (hereinafter referred to as the “National Monument”) are hereby modified to include the area comprising approximately 115 acres, as generally depicted on the map entitled “George Washington Birthplace National Monument Boundary Map”, numbered 332/80,023 and dated October 2001, which shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

16 USC 442 note. **SEC. 2. ACQUISITION OF LANDS.**

Within the boundaries of the National Monument, the Secretary of the Interior (hereinafter referred to as the “Secretary”) is authorized to acquire lands, or interests therein, from willing owners by donation, purchase with donated money or appropriated funds, or exchange.

16 USC 442 note. **SEC. 3. ADMINISTRATION OF NATIONAL MONUMENT.**

In administering the National Monument, the Secretary shall take actions necessary to preserve and interpret the history and resources associated with George Washington, the generations of the Washington family who lived in the vicinity and their contemporaries, and 18th century plantation life and society.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 3449 (S. 1943):

HOUSE REPORTS: No. 107–631 (Comm. on Resources).

SENATE REPORTS: No. 107–267 accompanying S. 1943 (Comm. on Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 24, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–355
107th Congress

An Act

To amend title 49, United States Code, to enhance the security and safety of pipelines.

Dec. 17, 2002
[H.R. 3609]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pipeline Safety
Improvement Act
of 2002.

SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49, UNITED STATES CODE.

(a) **SHORT TITLE.**—This Act may be cited as the “Pipeline Safety Improvement Act of 2002”.

49 USC 60101
note.

(b) **AMENDMENT OF TITLE 49, UNITED STATES CODE.**—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

SEC. 2. ONE-CALL NOTIFICATION PROGRAMS.

(a) **MINIMUM STANDARDS.**—Section 6103 is amended—

(1) in subsection (a)—

(A) in paragraph (1) by inserting “, including all government operators” before the semicolon at the end; and

(B) in paragraph (2) by inserting “, including all government and contract excavators” before the semicolon at the end; and

(2) in subsection (c) by striking “provide for” and inserting “provide for and document”.

(b) **COMPLIANCE WITH MINIMUM STANDARDS.**—Section 6104(d) is amended by striking “Within 3 years after the date of the enactment of this chapter, the Secretary shall begin to” and inserting “The Secretary shall”.

(c) **IMPLEMENTATION OF BEST PRACTICES GUIDELINES.**—

(1) **IN GENERAL.**—Section 6105 is amended to read as follows:

“§ 6105. Implementation of best practices guidelines

“(a) **ADOPTION OF BEST PRACTICES.**—The Secretary of Transportation shall encourage States, operators of one-call notification programs, excavators (including all government and contract excavators), and underground facility operators to adopt and implement practices identified in the best practices report entitled ‘Common Ground’, as periodically updated.

“(b) **TECHNICAL ASSISTANCE.**—The Secretary shall provide technical assistance to and participate in programs sponsored by a

non-profit organization specifically established for the purpose of reducing construction-related damage to underground facilities.

“(c) GRANTS.—

“(1) IN GENERAL.—The Secretary may make grants to a non-profit organization described in subsection (b).

“(2) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts authorized under section 6107, there is authorized to be appropriated for making grants under this subsection \$500,000 for each of fiscal years 2003 through 2006. Such sums shall remain available until expended.

“(3) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301.”.

(2) CONFORMING AMENDMENT.—The analysis for chapter 61 is amended by striking the item relating to section 6105 and inserting the following:

“6105. Implementation of best practices guidelines.”.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) FOR GRANTS FOR STATES.—Section 6107(a) is amended by striking “\$1,000,000 for fiscal year 2000” and all that follows before the period at the end of the first sentence and inserting “\$1,000,000 for each of fiscal years 2003 through 2006”.

(2) FOR ADMINISTRATION.—Section 6107(b) is amended by striking “for fiscal years 1999, 2000, and 2001” and inserting “for fiscal years 2003 through 2006”.

SEC. 3. ONE-CALL NOTIFICATION OF PIPELINE OPERATORS.

(a) LIMITATION ON PREEMPTION.—Section 60104(c) is amended by adding at the end the following: “Notwithstanding the preceding sentence, a State authority may enforce a requirement of a one-call notification program of the State if the program meets the requirements for one-call notification programs under this chapter or chapter 61.”.

(b) MINIMUM REQUIREMENTS.—Section 60114(a)(2) is amended by inserting “, including a government employee or contractor,” after “person”.

(c) CRIMINAL PENALTIES.—Section 60123(d) is amended—

(1) in the matter preceding paragraph (1) by striking “knowingly and willfully”;

(2) in paragraph (1) by inserting “knowingly and willfully” before “engages”;

(3) by striking paragraph (2)(B) and inserting the following:

“(B) a pipeline facility, and knows or has reason to know of the damage, but does not report the damage promptly to the operator of the pipeline facility and to other appropriate authorities; or”; and

(4) by adding after paragraph (2) the following:

“Penalties under this subsection may be reduced in the case of a violation that is promptly reported by the violator.”.

SEC. 4. STATE OVERSIGHT ROLE.

(a) STATE AGREEMENTS WITH CERTIFICATION.—Section 60106 is amended—

(1) in subsection (a) by striking “GENERAL AUTHORITY.—” and inserting “AGREEMENTS WITHOUT CERTIFICATION.—”;

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively; and

(3) by inserting after subsection (a) the following:

“(b) AGREEMENTS WITH CERTIFICATION.—

“(1) IN GENERAL.—If the Secretary accepts a certification under section 60105 and makes the determination required under this subsection, the Secretary may make an agreement with a State authority authorizing it to participate in the oversight of interstate pipeline transportation. Each such agreement shall include a plan for the State authority to participate in special investigations involving incidents or new construction and allow the State authority to participate in other activities overseeing interstate pipeline transportation or to assume additional inspection or investigatory duties. Nothing in this section modifies section 60104(c) or authorizes the Secretary to delegate the enforcement of safety standards for interstate pipeline facilities prescribed under this chapter to a State authority.

“(2) DETERMINATIONS REQUIRED.—The Secretary may not enter into an agreement under this subsection, unless the Secretary determines in writing that—

“(A) the agreement allowing participation of the State authority is consistent with the Secretary’s program for inspection and consistent with the safety policies and provisions provided under this chapter;

“(B) the interstate participation agreement would not adversely affect the oversight responsibilities of intrastate pipeline transportation by the State authority;

“(C) the State is carrying out a program demonstrated to promote preparedness and risk prevention activities that enable communities to live safely with pipelines;

“(D) the State meets the minimum standards for State one-call notification set forth in chapter 61; and

“(E) the actions planned under the agreement would not impede interstate commerce or jeopardize public safety.

“(3) EXISTING AGREEMENTS.—If requested by the State authority, the Secretary shall authorize a State authority which had an interstate agreement in effect after January 31, 1999, to oversee interstate pipeline transportation pursuant to the terms of that agreement until the Secretary determines that the State meets the requirements of paragraph (2) and executes a new agreement, or until December 31, 2003, whichever is sooner. Nothing in this paragraph shall prevent the Secretary, after affording the State notice, hearing, and an opportunity to correct any alleged deficiencies, from terminating an agreement that was in effect before enactment of the Pipeline Safety Improvement Act of 2002 if—

“(A) the State authority fails to comply with the terms of the agreement;

“(B) implementation of the agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority; or

“(C) continued participation by the State authority in the oversight of interstate pipeline transportation has had an adverse impact on pipeline safety.”.

(b) ENDING AGREEMENTS.—Subsection (e) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended to read as follows:

“(e) ENDING AGREEMENTS.—

“(1) PERMISSIVE TERMINATION.—The Secretary may end an agreement under this section when the Secretary finds that the State authority has not complied with any provision of the agreement.

“(2) MANDATORY TERMINATION OF AGREEMENT.—The Secretary shall end an agreement for the oversight of interstate pipeline transportation if the Secretary finds that—

“(A) implementation of such agreement has resulted in a gap in the oversight responsibilities of intrastate pipeline transportation by the State authority;

“(B) the State actions under the agreement have failed to meet the requirements under subsection (b); or

“(C) continued participation by the State authority in the oversight of interstate pipeline transportation would not promote pipeline safety.

Notice.

“(3) PROCEDURAL REQUIREMENTS.—The Secretary shall give notice and an opportunity for a hearing to a State authority before ending an agreement under this section. The Secretary may provide a State an opportunity to correct any deficiencies before ending an agreement. The finding and decision to end the agreement shall be published in the Federal Register and may not become effective for at least 15 days after the date of publication unless the Secretary finds that continuation of an agreement poses an imminent hazard.”.

Federal Register,
publication.

(c) SECRETARY’S RESPONSE TO STATE NOTICES OF VIOLATIONS.—Subsection (c) of section 60106 (as redesignated by subsection (a)(2) of this section) is amended—

(1) by striking “Each agreement” and inserting the following:

“(1) IN GENERAL.—Each agreement”;

(2) by adding at the end the following:

Deadline.

“(2) RESPONSE BY SECRETARY.—If a State authority notifies the Secretary under paragraph (1) of a violation or probable violation of an applicable safety standard, the Secretary, not later than 60 days after the date of receipt of the notification, shall—

“(A) issue an order under section 60118(b) or take other appropriate enforcement actions to ensure compliance with this chapter; or

“(B) provide the State authority with a written explanation as to why the Secretary has determined not to take such actions.”; and

(3) by aligning the text of paragraph (1) (as designated by this subsection) with paragraph (2) (as added by this subsection).

SEC. 5. PUBLIC EDUCATION PROGRAMS.

Section 60116 is amended to read as follows:

“§ 60116. Public education programs

“(a) IN GENERAL.—Each owner or operator of a gas or hazardous liquid pipeline facility shall carry out a continuing program to educate the public on the use of a one-call notification system prior to excavation and other damage prevention activities, the possible hazards associated with unintended releases from the pipeline facility, the physical indications that such a release may have

occurred, what steps should be taken for public safety in the event of a pipeline release, and how to report such an event.

“(b) MODIFICATION OF EXISTING PROGRAMS.—Not later than 12 months after the date of enactment of the Pipeline Safety Improvement Act of 2002, each owner or operator of a gas or hazardous liquid pipeline facility shall review its existing public education program for effectiveness and modify the program as necessary. The completed program shall include activities to advise affected municipalities, school districts, businesses, and residents of pipeline facility locations. The completed program shall be submitted to the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency, and shall be periodically reviewed by the Secretary or, in the case of an intrastate pipeline facility operator, the appropriate State agency. Deadline.

“(c) STANDARDS.—The Secretary may issue standards prescribing the elements of an effective public education program. The Secretary may also develop material for use in the program.”.

SEC. 6. PROTECTION OF EMPLOYEES PROVIDING PIPELINE SAFETY INFORMATION.

(a) IN GENERAL.—Chapter 601 is amended by adding at the end the following:

“§ 60129. Protection of employees providing pipeline safety information

“(a) DISCRIMINATION AGAINST EMPLOYEE.—

“(1) IN GENERAL.—No employer may discharge any employee or otherwise discriminate against any employee with respect to his compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to a request of the employee)—

“(A) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to any violation or alleged violation of any order, regulation, or standard under this chapter or any other Federal law relating to pipeline safety;

“(B) refused to engage in any practice made unlawful by this chapter or any other Federal law relating to pipeline safety, if the employee has identified the alleged illegality to the employer;

“(C) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of this chapter or any other Federal law relating to pipeline safety;

“(D) commenced, caused to be commenced, or is about to commence or cause to be commenced a proceeding under this chapter or any other Federal law relating to pipeline safety, or a proceeding for the administration or enforcement of any requirement imposed under this chapter or any other Federal law relating to pipeline safety;

“(E) provided, caused to be provided, or is about to provide or cause to be provided, testimony in any proceeding described in subparagraph (D); or

“(F) assisted or participated or is about to assist or participate in any manner in such a proceeding or in any

other manner in such a proceeding or in any other action to carry out the purposes of this chapter or any other Federal law relating to pipeline safety.

“(2) EMPLOYER DEFINED.—In this section, the term ‘employer’ means—

“(A) a person owning or operating a pipeline facility;

or

“(B) a contractor or subcontractor of such a person.

Deadlines.

“(b) DEPARTMENT OF LABOR COMPLAINT PROCEDURE.—

“(1) FILING AND NOTIFICATION.—A person who believes that he or she has been discharged or otherwise discriminated against by any person in violation of subsection (a) may, not later than 180 days after the date on which such violation occurs, file (or have any person file on his or her behalf) a complaint with the Secretary of Labor alleging such discharge or discrimination. Upon receipt of such a complaint, the Secretary of Labor shall notify, in writing, the person or persons named in the complaint and the Secretary of Transportation of the filing of the complaint, of the allegations contained in the complaint, of the substance of evidence supporting the complaint, and of the opportunities that will be afforded to such person or persons under paragraph (2).

Notification.

“(2) INVESTIGATION; PRELIMINARY ORDER.—

“(A) IN GENERAL.—Not later than 60 days after the date of receipt of a complaint filed under paragraph (1) and after affording the person or persons named in the complaint an opportunity to submit to the Secretary of Labor a written response to the complaint and an opportunity to meet with a representative of the Secretary of Labor to present statements from witnesses, the Secretary of Labor shall conduct an investigation and determine whether there is reasonable cause to believe that the complaint has merit and notify in writing the complainant and the person or persons alleged to have committed a violation of subsection (a) of the Secretary of Labor’s findings. If the Secretary of Labor concludes that there is reasonable cause to believe that a violation of subsection (a) has occurred, the Secretary of Labor shall include with the Secretary of Labor’s findings with a preliminary order providing the relief prescribed by paragraph (3)(B). Not later than 60 days after the date of notification of findings under this subparagraph, any person alleged to have committed a violation or the complainant may file objections to the findings or preliminary order, or both, and request a hearing on the record. The filing of such objections shall not operate to stay any reinstatement remedy contained in the preliminary order. Such hearings shall be conducted expeditiously. If a hearing is not requested in such 60-day period, the preliminary order shall be deemed a final order that is not subject to judicial review.

“(B) REQUIREMENTS.—

“(i) REQUIRED SHOWING BY COMPLAINANT.—The Secretary of Labor shall dismiss a complaint filed under this subsection and shall not conduct an investigation otherwise required under subparagraph (A) unless the complainant makes a prima facie showing that any behavior described in subsection (a) was a

contributing factor in the unfavorable personnel action alleged in the complaint.

“(ii) SHOWING BY EMPLOYER.—Notwithstanding a finding by the Secretary of Labor that the complainant has made the showing required under clause (i), no investigation otherwise required under subparagraph (A) shall be conducted if the employer demonstrates, by clear and convincing evidence, that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(iii) CRITERIA FOR DETERMINATION BY SECRETARY.—The Secretary of Labor may determine that a violation of subsection (a) has occurred only if the complainant demonstrates that any behavior described in subsection (a) was a contributing factor in the unfavorable personnel action alleged in the complaint.

“(iv) PROHIBITION.—Relief may not be ordered under subparagraph (A) if the employer demonstrates by clear and convincing evidence that the employer would have taken the same unfavorable personnel action in the absence of that behavior.

“(3) FINAL ORDER.—

“(A) DEADLINE FOR ISSUANCE; SETTLEMENT AGREEMENTS.—Not later than 90 days after the date of conclusion of a hearing under paragraph (2), the Secretary of Labor shall issue a final order providing the relief prescribed by this paragraph or denying the complaint. At any time before issuance of a final order, a proceeding under this subsection may be terminated on the basis of a settlement agreement entered into by the Secretary of Labor, the complainant, and the person or persons alleged to have committed the violation.

“(B) REMEDY.—If, in response to a complaint filed under paragraph (1), the Secretary of Labor determines that a violation of subsection (a) has occurred, the Secretary of Labor shall order the person or persons who committed such violation to—

“(i) take affirmative action to abate the violation;

“(ii) reinstate the complainant to his or her former position together with the compensation (including back pay) and restore the terms, conditions, and privileges associated with his or her employment; and

“(iii) provide compensatory damages to the complainant.

If such an order is issued under this paragraph, the Secretary of Labor, at the request of the complainant, shall assess against the person or persons against whom the order is issued a sum equal to the aggregate amount of all costs and expenses (including attorney's and expert witness fees) reasonably incurred, as determined by the Secretary of Labor, by the complainant for, or in connection with, the bringing the complaint upon which the order was issued.

“(C) FRIVOLOUS COMPLAINTS.—If the Secretary of Labor finds that a complaint under paragraph (1) is frivolous or has been brought in bad faith, the Secretary of Labor

may award to the prevailing employer a reasonable attorney's fee not exceeding \$1,000.

“(4) REVIEW.—

“(A) APPEAL TO COURT OF APPEALS.—Any person adversely affected or aggrieved by an order issued under paragraph (3) may obtain review of the order in the United States Court of Appeals for the circuit in which the violation, with respect to which the order was issued, allegedly occurred or the circuit in which the complainant resided on the date of such violation. The petition for review must be filed not later than 60 days after the date of issuance of the final order of the Secretary of Labor. Review shall conform to chapter 7 of title 5, United States Code. The commencement of proceedings under this subparagraph shall not, unless ordered by the court, operate as a stay of the order.

“(B) LIMITATION ON COLLATERAL ATTACK.—An order of the Secretary of Labor with respect to which review could have been obtained under subparagraph (A) shall not be subject to judicial review in any criminal or other civil proceeding.

“(5) ENFORCEMENT OF ORDER BY SECRETARY OF LABOR.—

Whenever any person has failed to comply with an order issued under paragraph (3), the Secretary of Labor may file a civil action in the United States district court for the district in which the violation was found to occur to enforce such order. In actions brought under this paragraph, the district courts shall have jurisdiction to grant all appropriate relief, including, but not to be limited to, injunctive relief and compensatory damages.

“(6) ENFORCEMENT OF ORDER BY PARTIES.—

“(A) COMMENCEMENT OF ACTION.—A person on whose behalf an order was issued under paragraph (3) may commence a civil action against the person or persons to whom such order was issued to require compliance with such order. The appropriate United States district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce such order.

“(B) ATTORNEY FEES.—The court, in issuing any final order under this paragraph, may award costs of litigation (including reasonable attorney and expert witness fees) to any party whenever the court determines such award of costs is appropriate.

“(c) MANDAMUS.—Any nondiscretionary duty imposed by this section shall be enforceable in a mandamus proceeding brought under section 1361 of title 28, United States Code.

“(d) NONAPPLICABILITY TO DELIBERATE VIOLATIONS.—Subsection (a) shall not apply with respect to an action of an employee of an employer who, acting without direction from the employer (or such employer's agent), deliberately causes a violation of any requirement relating to pipeline safety under this chapter or any other law of the United States.”.

(b) CIVIL PENALTY.—Section 60122(a) is amended by adding at the end the following:

“(3) A person violating section 60129, or an order issued thereunder, is liable to the Government for a civil penalty of not more

than \$1,000 for each violation. The penalties provided by paragraph (1) do not apply to a violation of section 60129 or an order issued thereunder.”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

“60129. Protection of employees providing pipeline safety information.”.

SEC. 7. SAFETY ORDERS.

Section 60117 is amended by adding at the end the following:

“(1) SAFETY ORDERS.—If the Secretary decides that a pipeline facility has a potential safety-related condition, the Secretary may order the operator of the facility to take necessary corrective action, including physical inspection, testing, repair, replacement, or other appropriate action to remedy the safety-related condition.”.

SEC. 8. PENALTIES.

(a) PIPELINE FACILITIES HAZARDOUS TO LIFE, PROPERTY, OR THE ENVIRONMENT.—

(1) GENERAL AUTHORITY.—Section 60112(a) is amended to read as follows:

“(a) GENERAL AUTHORITY.—After notice and an opportunity for a hearing, the Secretary of Transportation may decide that a pipeline facility is hazardous if the Secretary decides that—

“(1) operation of the facility is or would be hazardous to life, property, or the environment; or

“(2) the facility is or would be constructed or operated, or a component of the facility is or would be constructed or operated, with equipment, material, or a technique that the Secretary decides is hazardous to life, property, or the environment.”.

(2) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended by striking “is hazardous” and inserting “is or would be hazardous”.

(b) ENFORCEMENT.—

(1) GENERAL PENALTIES.—Section 60122(a)(1) is amended—

(A) by striking “\$25,000” and inserting “\$100,000”; and

(B) by striking “\$500,000” and inserting “\$1,000,000”.

(2) PENALTY CONSIDERATIONS.—Section 60122(b) is amended by striking “under this section” and all that follows through paragraph (4) and inserting “under this section—

“(1) the Secretary shall consider—

“(A) the nature, circumstances, and gravity of the violation, including adverse impact on the environment;

“(B) with respect to the violator, the degree of culpability, any history of prior violations, the ability to pay, and any effect on ability to continue doing business; and

“(C) good faith in attempting to comply; and

“(2) the Secretary may consider—

“(A) the economic benefit gained from the violation without any reduction because of subsequent damages; and

“(B) other matters that justice requires.”.

(3) CIVIL ACTIONS.—Section 60120(a) is amended—

(A) by striking “(a) CIVIL ACTIONS.—(1)” and all that follows through “(2) At the request” and inserting the following:

“(a) CIVIL ACTIONS.—

“(1) CIVIL ACTIONS TO ENFORCE THIS CHAPTER.—At the request of the Secretary of Transportation, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this chapter, including section 60112, or a regulation prescribed or order issued under this chapter. The court may award appropriate relief, including a temporary or permanent injunction, punitive damages, and assessment of civil penalties, considering the same factors as prescribed for the Secretary in an administrative case under section 60122.

“(2) CIVIL ACTIONS TO REQUIRE COMPLIANCE WITH SUBPOENAS OR ALLOW FOR INSPECTIONS.—At the request”; and

(B) by aligning the remainder of the text of paragraph (2) with the text of paragraph (1).

(c) CRIMINAL PENALTIES FOR DAMAGING OR DESTROYING A FACILITY.—Section 60123(b) is amended—

(1) by striking “or” after “gas pipeline facility” and inserting “, an”; and

(2) by inserting after “liquid pipeline facility” the following: “, or either an intrastate gas pipeline facility or intrastate hazardous liquid pipeline facility that is used in interstate or foreign commerce or in any activity affecting interstate or foreign commerce”.

(d) COMPTROLLER GENERAL STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the actions, policies, and procedures of the Secretary of Transportation for assessing and collecting fines and penalties on operators of hazardous liquid and gas transmission pipelines.

(2) ANALYSIS.—In conducting the study, the Comptroller General shall examine, at a minimum, the following:

(A) The frequency with which the Secretary has substituted corrective orders for fines and penalties.

(B) Changes in the amounts of fines recommended by safety inspectors, assessed by the Secretary, and actually collected.

(C) An evaluation of the overall effectiveness of the Secretary’s enforcement strategy.

(D) The extent to which the Secretary has complied with the report of the Government Accounting Office entitled “Pipeline Safety: The Office of Pipeline Safety is Changing How it Oversees the Pipeline Industry”.

(3) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the results of the study.

SEC. 9. PIPELINE SAFETY INFORMATION GRANTS TO COMMUNITIES.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

“§ 60130. Pipeline safety information grants to communities

“(a) GRANT AUTHORITY.—

“(1) IN GENERAL.—The Secretary of Transportation may make grants for technical assistance to local communities and

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note.

Deadline.

groups of individuals (not including for-profit entities) relating to the safety of pipeline facilities in local communities, other than facilities regulated under Public Law 93-153 (43 U.S.C. 1651 et seq.). The Secretary shall establish competitive procedures for awarding grants under this section and criteria for selecting grant recipients. The amount of any grant under this section may not exceed \$50,000 for a single grant recipient. The Secretary shall establish appropriate procedures to ensure the proper use of funds provided under this section.

Procedures.

“(2) TECHNICAL ASSISTANCE DEFINED.—In this subsection, the term ‘technical assistance’ means engineering and other scientific analysis of pipeline safety issues, including the promotion of public participation in official proceedings conducted under this chapter.

“(b) PROHIBITED USES.—Funds provided under this section may not be used for lobbying or in direct support of litigation.

“(c) ANNUAL REPORT.—

“(1) IN GENERAL.—Not later than 90 days after the last day of each fiscal year for which grants are made by the Secretary under this section, the Secretary shall report to the Committees on Commerce, Science, and Transportation and Energy and Natural Resources of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives on grants made under this section in the preceding fiscal year.

Deadline.

“(2) CONTENTS.—The report shall include—

“(A) a listing of the identity and location of each recipient of a grant under this section in the preceding fiscal year and the amount received by the recipient;

“(B) a description of the purpose for which each grant was made; and

“(C) a description of how each grant was used by the recipient.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section \$1,000,000 for each of the fiscal years 2003 through 2006. Such amounts shall not be derived from user fees collected under section 60301.”.

(c) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

“60130. Pipeline safety information grants to communities.”.

SEC. 10. OPERATOR ASSISTANCE IN INVESTIGATIONS.

(a) IN GENERAL.—Section 60118 is amended by adding at the end the following:

“(e) OPERATOR ASSISTANCE IN INVESTIGATIONS.—If the Secretary or the National Transportation Safety Board investigate an accident involving a pipeline facility, the operator of the facility shall make available to the Secretary or the Board all records and information that in any way pertain to the accident (including integrity management plans and test results), and shall afford all reasonable assistance in the investigation of the accident.”.

(b) CORRECTIVE ACTION ORDERS.—Section 60112(d) is amended—

(1) by striking “If the Secretary” and inserting the following:

“(1) IN GENERAL.—If the Secretary”;

(2) by adding the end the following:

“(2) ACTIONS ATTRIBUTABLE TO AN EMPLOYEE.—If, in the case of a corrective action order issued following an accident, the Secretary determines that the actions of an employee carrying out an activity regulated under this chapter, including duties under section 60102(a), may have contributed substantially to the cause of the accident, the Secretary shall direct the operator to relieve the employee from performing those activities, reassign the employee, or place the employee on leave until the earlier of the date on which—

“(A) the Secretary, after notice and an opportunity for a hearing, determines that the employee’s actions did not contribute substantially to the cause of the accident; or

“(B) the Secretary determines the employee has been re-qualified or re-trained as provided for in section 60131 and can safely perform those activities.

“(3) EFFECT OF COLLECTIVE BARGAINING AGREEMENTS.—An action taken by an operator under paragraph (2) shall be in accordance with the terms and conditions of any applicable collective bargaining agreement.”; and

(3) by aligning the remainder of the text of paragraph (1) (as designated by paragraph (1) of this subsection) with paragraph (2) (as added by paragraph (2) of this subsection).

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Section 60118 is amended by adding at the end the following:

“(f) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed to infringe upon the constitutional rights of an operator or its employees.”.

SEC. 11. POPULATION ENCROACHMENT AND RIGHTS-OF-WAY.

(a) IN GENERAL.—Section 60127 is amended to read as follows:

“§ 60127. Population encroachment and rights-of-way

“(a) STUDY.—The Secretary of Transportation, in conjunction with the Federal Energy Regulatory Commission and in consultation with appropriate Federal agencies and State and local governments, shall undertake a study of land use practices, zoning ordinances, and preservation of environmental resources with regard to pipeline rights-of-way and their maintenance.

“(b) PURPOSE OF STUDY.—The purpose of the study shall be to gather information on land use practices, zoning ordinances, and preservation of environmental resources—

“(1) to determine effective practices to limit encroachment on existing pipeline rights-of-way;

“(2) to address and prevent the hazards and risks to the public, pipeline workers, and the environment associated with encroachment on pipeline rights-of-way;

“(3) to raise the awareness of the risks and hazards of encroachment on pipeline rights-of-way; and

“(4) to address how to best preserve environmental resources in conjunction with maintaining pipeline rights-of-way, recognizing pipeline operators’ regulatory obligations to maintain rights-of-way and to protect public safety.

“(c) CONSIDERATIONS.—In conducting the study, the Secretary shall consider, at a minimum, the following:

“(1) The legal authority of Federal agencies and State and local governments in controlling land use and the limitations on such authority.

“(2) The current practices of Federal agencies and State and local governments in addressing land use issues involving a pipeline easement.

“(3) The most effective way to encourage Federal agencies and State and local governments to monitor and reduce encroachment upon pipeline rights-of-way.

“(d) REPORT.—

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this subsection, the Secretary shall publish a report identifying practices, laws, and ordinances that are most successful in addressing issues of encroachment and maintenance on pipeline rights-of-way so as to more effectively protect public safety, pipeline workers, and the environment.

Deadline.
Publication.

“(2) DISTRIBUTION OF REPORT.—The Secretary shall provide a copy of the report to—

“(A) Congress and appropriate Federal agencies; and

“(B) States for further distribution to appropriate local authorities.

“(3) ADOPTION OF PRACTICES, LAWS, AND ORDINANCES.—The Secretary shall encourage Federal agencies and State and local governments to adopt and implement appropriate practices, laws, and ordinances, as identified in the report, to address the risks and hazards associated with encroachment upon pipeline rights-of-way and to address the potential methods of preserving environmental resources while maintaining pipeline rights-of-way, consistent with pipeline safety.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by striking the item relating to section 60127 and inserting the following:

“60127. Population encroachment and rights-of-way.”.

SEC. 12. PIPELINE INTEGRITY, SAFETY, AND RELIABILITY RESEARCH AND DEVELOPMENT.

49 USC 60101
note.

(a) IN GENERAL.—The heads of the participating agencies shall carry out a program of research, development, demonstration, and standardization to ensure the integrity of pipeline facilities.

(b) MEMORANDUM OF UNDERSTANDING.—

(1) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the heads of the participating agencies shall enter into a memorandum of understanding detailing their respective responsibilities in the program authorized by subsection (a).

Deadline.

(2) AREAS OF EXPERTISE.—Under the memorandum of understanding, each of the participating agencies shall have the primary responsibility for ensuring that the elements of the program within its expertise are implemented in accordance with this section. The Department of Transportation’s responsibilities shall reflect its lead role in pipeline safety and expertise in pipeline inspection, integrity management, and damage prevention. The Department of Energy’s responsibilities shall reflect its expertise in system reliability, low-volume gas leak detection, and surveillance technologies. The National Institute of Standards and Technology’s responsibilities shall reflect its

expertise in materials research and assisting in the development of consensus technical standards, as that term is used in section 12(d)(4) of Public Law 104-13 (15 U.S.C. 272 note).

(c) PROGRAM ELEMENTS.—The program authorized by subsection (a) shall include research, development, demonstration, and standardization activities related to—

- (1) materials inspection;
- (2) stress and fracture analysis, detection of cracks, corrosion, abrasion, and other abnormalities inside pipelines that lead to pipeline failure, and development of new equipment or technologies that are inserted into pipelines to detect anomalies;
- (3) internal inspection and leak detection technologies, including detection of leaks at very low volumes;
- (4) methods of analyzing content of pipeline throughput;
- (5) pipeline security, including improving the real-time surveillance of pipeline rights-of-way, developing tools for evaluating and enhancing pipeline security and infrastructure, reducing natural, technological, and terrorist threats, and protecting first response units and persons near an incident;
- (6) risk assessment methodology, including vulnerability assessment and reduction of third-party damage;
- (7) communication, control, and information systems surety;
- (8) fire safety of pipelines;
- (9) improved excavation, construction, and repair technologies; and
- (10) other appropriate elements.

(d) PROGRAM PLAN.—

Deadline.

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary of Transportation, in coordination with the Secretary of Energy and the Director of the National Institute of Standards and Technology, shall prepare and transmit to Congress a 5-year program plan to guide activities under this section. Such program plan shall be submitted to the Technical Pipeline Safety Standards Committee and the Technical Hazardous Liquid Pipeline Safety Standards Committee for review, and the report to Congress shall include the comments of the committees. The 5-year program plan shall be based on the memorandum of understanding under subsection (b) and take into account related activities of other Federal agencies.

(2) CONSULTATION.—In preparing the program plan and selecting and prioritizing appropriate project proposals, the Secretary of Transportation shall consult with or seek the advice of appropriate representatives of the natural gas, crude oil, and petroleum product pipeline industries, utilities, manufacturers, institutions of higher learning, Federal agencies, pipeline research institutions, national laboratories, State pipeline safety officials, labor organizations, environmental organizations, pipeline safety advocates, and professional and technical societies.

Deadline.

(e) REPORTS TO CONGRESS.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the heads of the participating agencies shall transmit jointly to Congress a report on the status and results to date of the implementation of the program plan prepared under subsection (d).

(f) AUTHORIZATION OF APPROPRIATIONS.—

(1) DEPARTMENT OF TRANSPORTATION.—There is authorized to be appropriated to the Secretary of Transportation for carrying out this section \$10,000,000 for each of the fiscal years 2003 through 2006.

(2) DEPARTMENT OF ENERGY.—There is authorized to be appropriated to the Secretary of Energy for carrying out this section \$10,000,000 for each of the fiscal years 2003 through 2006.

(3) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There is authorized to be appropriated to the Director of the National Institute of Standards and Technology for carrying out this section \$5,000,000 for each of the fiscal years 2003 through 2006.

(4) GENERAL REVENUE FUNDING.—Any sums appropriated under this subsection shall be derived from general revenues and may not be derived from amounts collected under section 60301 of title 49, United States Code.

(g) PIPELINE INTEGRITY PROGRAM.—Of the amounts available in the Oil Spill Liability Trust Fund established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), \$3,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs for detection, prevention, and mitigation of oil spills for each of the fiscal years 2003 through 2006.

(h) PARTICIPATING AGENCIES DEFINED.—In this section, the term “participating agencies” means the Department of Transportation, the Department of Energy, and the National Institute of Standards and Technology.

SEC. 13. PIPELINE QUALIFICATION PROGRAMS.

(a) VERIFICATION PROGRAM.—

(1) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

“§ 60131. Verification of pipeline qualification programs

“(a) IN GENERAL.—Subject to the requirements of this section, the Secretary of Transportation shall require the operator of a pipeline facility to develop and adopt a qualification program to ensure that the individuals who perform covered tasks are qualified to conduct such tasks.

“(b) STANDARDS AND CRITERIA.—

“(1) DEVELOPMENT.—Not later than 1 year after the date of enactment of this section, the Secretary shall ensure that the Department of Transportation has in place standards and criteria for qualification programs referred to in subsection (a).

Deadline.

“(2) CONTENTS.—The standards and criteria shall include the following:

“(A) The establishment of methods for evaluating the acceptability of the qualifications of individuals described in subsection (a).

“(B) A requirement that pipeline operators develop and implement written plans and procedures to qualify individuals described in subsection (a) to a level found acceptable using the methods established under subparagraph (A) and

evaluate the abilities of individuals described in subsection (a) according to such methods.

“(C) A requirement that the plans and procedures adopted by a pipeline operator under subparagraph (B) be reviewed and verified under subsection (e).

Deadline.

“(c) DEVELOPMENT OF QUALIFICATION PROGRAMS BY PIPELINE OPERATORS.—The Secretary shall require each pipeline operator to develop and adopt, not later than 2 years after the date of enactment of this section, a qualification program that complies with the standards and criteria described in subsection (b).

“(d) ELEMENTS OF QUALIFICATION PROGRAMS.—A qualification program adopted by an operator under subsection (a) shall include, at a minimum, the following elements:

“(1) A method for examining or testing the qualifications of individuals described in subsection (a). The method may include written examination, oral examination, observation during on-the-job performance, on-the-job training, simulations, and other forms of assessment. The method may not be limited to observation of on-the-job performance, except with respect to tasks for which the Secretary has determined that such observation is the best method of examining or testing qualifications. The Secretary shall ensure that the results of any such observations are documented in writing.

Records.

Deadline.

“(2) A requirement that the operator complete the qualification of all individuals described in subsection (a) not later than 18 months after the date of adoption of the qualification program.

“(3) A periodic requalification component that provides for examination or testing of individuals in accordance with paragraph (1).

“(4) A program to provide training, as appropriate, to ensure that individuals performing covered tasks have the necessary knowledge and skills to perform the tasks in a manner that ensures the safe operation of pipeline facilities.

“(e) REVIEW AND VERIFICATION OF PROGRAMS.—

“(1) IN GENERAL.—The Secretary shall review the qualification program of each pipeline operator and verify its compliance with the standards and criteria described in subsection (b) and that it includes the elements described in subsection (d). The Secretary shall record the results of that review for use in the next review of an operator’s program.

Records.

“(2) DEADLINE FOR COMPLETION.—Reviews and verifications under this subsection shall be completed not later than 3 years after the date of the enactment of this section.

“(3) INADEQUATE PROGRAMS.—If the Secretary decides that a qualification program is inadequate for the safe operation of a pipeline facility, the Secretary shall act as under section 60108(a)(2) to require the operator to revise the qualification program.

Notification.

“(4) PROGRAM MODIFICATIONS.—If the operator of a pipeline facility significantly modifies a program that has been verified under this subsection, the operator shall notify the Secretary of the modifications. The Secretary shall review and verify such modifications in accordance with paragraph (1).

“(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement of this section if the waiver or modification is not inconsistent with pipeline safety.

“(6) INACTION BY THE SECRETARY.—Notwithstanding any failure of the Secretary to prescribe standards and criteria as described in subsection (b), an operator of a pipeline facility shall develop and adopt a qualification program that complies with the requirement of subsection (b)(2)(B) and includes the elements described in subsection (d) not later than 2 years after the date of enactment of this section.

Deadline.

“(f) INTRASTATE PIPELINE FACILITIES.—In the case of an intrastate pipeline facility operator, the duties and powers of the Secretary under this section with respect to the qualification program of the operator shall be vested in the appropriate State regulatory agency, consistent with this chapter.

“(g) COVERED TASK DEFINED.—In this section, the term ‘covered task’—

“(1) with respect to a gas pipeline facility, has the meaning such term has under section 192.801 of title 49, Code of Federal Regulations, including any subsequent modifications; and

“(2) with respect to a hazardous liquid pipeline facility, has the meaning such term has under section 195.501 of such title, including any subsequent modifications.

“(h) REPORT.—Not later than 4 years after the date of enactment of this section, the Secretary shall transmit to Congress a report on the status and results to date of the personnel qualification regulations issued under this chapter.”.

Deadline.

(2) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at end the following:

“60131. Verification of pipeline qualification programs.”.

(b) PILOT PROGRAM FOR CERTIFICATION OF CERTAIN PIPELINE WORKERS.—

49 USC 60131 note.

(1) IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Secretary of Transportation shall—

Deadline.

(A) develop tests and other requirements for certifying the qualifications of individuals who operate computer-based systems for controlling the operations of pipelines; and

(B) establish and carry out a pilot program for 3 pipeline facilities under which the individuals operating computer-based systems for controlling the operations of pipelines at such facilities are required to be certified under the process established under subparagraph (A).

(2) REPORT.—The Secretary shall include in the report required under section 60131(h), as added by subsection (a) of this section, the results of the pilot program. The report shall include—

(A) a description of the pilot program and implementation of the pilot program at each of the 3 pipeline facilities;

(B) an evaluation of the pilot program, including the effectiveness of the process for certifying individuals who operate computer-based systems for controlling the operations of pipelines;

(C) any recommendations of the Secretary for requiring the certification of all individuals who operate computer-

based systems for controlling the operations of pipelines; and

(D) an assessment of the ramifications of requiring the certification of other individuals performing safety-sensitive functions for a pipeline facility.

(3) **COMPUTER-BASED SYSTEMS DEFINED.**—In this subsection, the term “computer-based systems” means supervisory control and data acquisition systems.

SEC. 14. RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS FOR GAS PIPELINES.

(a) **IN GENERAL.**—Section 60109 is amended by adding at the end the following:

“(c) **RISK ANALYSIS AND INTEGRITY MANAGEMENT PROGRAMS.**—

“(1) **REQUIREMENT.**—Each operator of a gas pipeline facility shall conduct an analysis of the risks to each facility of the operator located in an area identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, and shall adopt and implement a written integrity management program for such facility to reduce the risks.

“(2) **REGULATIONS.**—

Deadlines.

“(A) **IN GENERAL.**—Not later than 12 months after the date of enactment of this subsection, the Secretary shall issue regulations prescribing standards to direct an operator’s conduct of a risk analysis and adoption and implementation of an integrity management program under this subsection. The regulations shall require an operator to conduct a risk analysis and adopt an integrity management program within a time period prescribed by the Secretary, ending not later than 24 months after such date of enactment. Not later than 18 months after such date of enactment, each operator of a gas pipeline facility shall begin a baseline integrity assessment described in paragraph (3).

“(B) **AUTHORITY TO ISSUE REGULATIONS.**—The Secretary may satisfy the requirements of this paragraph through the issuance of regulations under this paragraph or under other authority of law.

“(3) **MINIMUM REQUIREMENTS OF INTEGRITY MANAGEMENT PROGRAMS.**—An integrity management program required under paragraph (1) shall include, at a minimum, the following requirements:

Deadlines.

“(A) A baseline integrity assessment of each of the operator’s facilities in areas identified pursuant to subsection (a)(1) and defined in chapter 192 of title 49, Code of Federal Regulations, including any subsequent modifications, by internal inspection device, pressure testing, direct assessment, or an alternative method that the Secretary determines would provide an equal or greater level of safety. The operator shall complete such assessment not later than 10 years after the date of enactment of this subsection. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks,

repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

“(B) Subject to paragraph (5), periodic reassessment of the facility, at a minimum of once every 7 years, using methods described in subparagraph (A).

“(C) Clearly defined criteria for evaluating the results of assessments conducted under subparagraphs (A) and (B) and for taking actions based on such results.

“(D) A method for conducting an analysis on a continuing basis that integrates all available information about the integrity of the facility and the consequences of releases from the facility.

“(E) A description of actions to be taken by the operator to promptly address any integrity issue raised by an evaluation conducted under subparagraph (C) or the analysis conducted under subparagraph (D).

“(F) A description of measures to prevent and mitigate the consequences of releases from the facility.

“(G) A method for monitoring cathodic protection systems throughout the pipeline system of the operator to the extent not addressed by other regulations.

“(H) If the Secretary raises a safety concern relating to the facility, a description of the actions to be taken by the operator to address the safety concern, including issues raised with the Secretary by States and local authorities under an agreement entered into under section 60106.

“(4) TREATMENT OF BASELINE INTEGRITY ASSESSMENTS.—

In the case of a baseline integrity assessment conducted by an operator in the period beginning on the date of enactment of this subsection and ending on the date of issuance of regulations under this subsection, the Secretary shall accept the assessment as complete, and shall not require the operator to repeat any portion of the assessment, if the Secretary determines that the assessment was conducted in accordance with the requirements of this subsection.

“(5) WAIVERS AND MODIFICATIONS.—In accordance with section 60118(c), the Secretary may waive or modify any requirement for reassessment of a facility under paragraph (3)(B) for reasons that may include the need to maintain local product supply or the lack of internal inspection devices if the Secretary determines that such waiver is not inconsistent with pipeline safety.

“(6) STANDARDS.—The standards prescribed by the Secretary under paragraph (2) shall address each of the following factors:

“(A) The minimum requirements described in paragraph (3).

“(B) The type or frequency of inspections or testing of pipeline facilities, in addition to the minimum requirements of paragraph (3)(B).

“(C) The manner in which the inspections or testing are conducted.

“(D) The criteria used in analyzing results of the inspections or testing.

“(E) The types of information sources that must be integrated in assessing the integrity of a pipeline facility as well as the manner of integration.

“(F) The nature and timing of actions selected to address the integrity of a pipeline facility.

“(G) Such other factors as the Secretary determines appropriate to ensure that the integrity of a pipeline facility is addressed and that appropriate mitigative measures are adopted to protect areas identified under subsection (a)(1). In prescribing those standards, the Secretary shall ensure that all inspections required are conducted in a manner that minimizes environmental and safety risks, and shall take into account the applicable level of protection established by national consensus standards organizations.

“(7) ADDITIONAL OPTIONAL STANDARDS.—The Secretary may also prescribe standards requiring an operator of a pipeline facility to include in an integrity management program under this subsection—

“(A) changes to valves or the establishment or modification of systems that monitor pressure and detect leaks based on the operator’s risk analysis; and

“(B) the use of emergency flow restricting devices.

Deadlines.

“(8) LACK OF REGULATIONS.—In the absence of regulations addressing the elements of an integrity management program described in this subsection, the operator of a pipeline facility shall conduct a risk analysis and adopt and implement an integrity management program described in this subsection not later than 24 months after the date of enactment of this subsection and shall complete the baseline integrity assessment described in this subsection not later than 10 years after such date of enactment. At least 50 percent of such facilities shall be assessed not later than 5 years after such date of enactment. The operator shall prioritize such facilities for assessment based on all risk factors, including any previously discovered defects or anomalies and any history of leaks, repairs, or failures. The operator shall ensure that assessments of facilities with the highest risks are given priority for completion and that such assessments will be completed not later than 5 years after such date of enactment.

“(9) REVIEW OF INTEGRITY MANAGEMENT PROGRAMS.—

“(A) REVIEW OF PROGRAMS.—

“(i) IN GENERAL.—The Secretary shall review a risk analysis and integrity management program under paragraph (1) and record the results of that review for use in the next review of an operator’s program.

“(ii) CONTEXT OF REVIEW.—The Secretary may conduct a review under clause (i) as an element of the Secretary’s inspection of an operator.

“(iii) INADEQUATE PROGRAMS.—If the Secretary determines that a risk analysis or integrity management program does not comply with the requirements of this subsection or regulations issued as described in paragraph (2), or is inadequate for the safe operation of a pipeline facility, the Secretary shall act under section 60108(a)(2) to require the operator to revise the risk analysis or integrity management program.

“(B) AMENDMENTS TO PROGRAMS.—In order to facilitate reviews under this paragraph, an operator of a pipeline facility shall notify the Secretary of any amendment made to the operator’s integrity management program not later than 30 days after the date of adoption of the amendment. The Secretary shall review any such amendment in accordance with this paragraph.

Notification.
Deadline.

“(C) TRANSMITTAL OF PROGRAMS TO STATE AUTHORITIES.—The Secretary shall provide a copy of each risk analysis and integrity management program reviewed by the Secretary under this paragraph to any appropriate State authority with which the Secretary has entered into an agreement under section 60106.

“(10) STATE REVIEW OF INTEGRITY MANAGEMENT PLANS.—A State authority that enters into an agreement pursuant to section 60106, permitting the State authority to review the risk analysis and integrity management program pursuant to paragraph (9), may provide the Secretary with a written assessment of the risk analysis and integrity management program, make recommendations, as appropriate, to address safety concerns not adequately addressed by the operator’s risk analysis or integrity management program, and submit documentation explaining the State-proposed revisions. The Secretary shall consider carefully the State’s proposals and work in consultation with the States and operators to address safety concerns.

“(11) APPLICATION OF STANDARDS.—Section 60104(b) shall not apply to this section.”

(b) INTEGRITY MANAGEMENT REGULATIONS.—Section 60109 is further amended by adding at the end the following:

“(d) EVALUATION OF INTEGRITY MANAGEMENT REGULATIONS.—Not later than 4 years after the date of enactment of this subsection, the Comptroller General shall complete an assessment and evaluation of the effects on public safety and the environment of the requirements for the implementation of integrity management programs contained in the standards prescribed as described in subsection (c)(2).”

Deadline.

(c) CONFORMING AMENDMENT.—Section 60118(a) is amended—

(1) by striking “and” at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting “; and”; and

(3) by adding at the end the following:

“(4) conduct a risk analysis, and adopt and implement an integrity management program, for pipeline facilities as required under section 60109(c).”

(d) STUDY OF REASSESSMENT INTERVALS.—

(1) STUDY.—The Comptroller General shall conduct a study to evaluate the 7-year reassessment interval required by section 60109(c)(3)(B) of title 49, United States Code, as added by subsection (a) of this section.

49 USC 60109
note.

(2) REPORT.—Not later than 4 years after the date of the enactment of this Act, the Comptroller General shall transmit to Congress a report on the results of the study conducted under paragraph (1).

Deadline.

SEC. 15. NATIONAL PIPELINE MAPPING SYSTEM.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

“§ 60132. National pipeline mapping system

Deadline.

“(a) INFORMATION TO BE PROVIDED.—Not later than 6 months after the date of enactment of this section, the operator of a pipeline facility (except distribution lines and gathering lines) shall provide to the Secretary of Transportation the following information with respect to the facility:

“(1) Geospatial data appropriate for use in the National Pipeline Mapping System or data in a format that can be readily converted to geospatial data.

“(2) The name and address of the person with primary operational control to be identified as its operator for purposes of this chapter.

“(3) A means for a member of the public to contact the operator for additional information about the pipeline facilities it operates.

“(b) UPDATES.—A person providing information under subsection (a) shall provide to the Secretary updates of the information to reflect changes in the pipeline facility owned or operated by the person and as otherwise required by the Secretary.

“(c) TECHNICAL ASSISTANCE TO IMPROVE LOCAL RESPONSE CAPABILITIES.—The Secretary may provide technical assistance to State and local officials to improve local response capabilities for pipeline emergencies by adapting information available through the National Pipeline Mapping System to software used by emergency response personnel responding to pipeline emergencies.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

“60132. National pipeline mapping system.”.

SEC. 16. COORDINATION OF ENVIRONMENTAL REVIEWS.

(a) IN GENERAL.—Chapter 601 is further amended by adding at the end the following:

“§ 60133. Coordination of environmental reviewsDeadline.
President.

“(a) INTERAGENCY COMMITTEE.—

“(1) ESTABLISHMENT AND PURPOSE.—Not later than 30 days after the date of enactment of this section, the President shall establish an Interagency Committee to develop and ensure implementation of a coordinated environmental review and permitting process in order to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary.

“(2) MEMBERSHIP.—The Chairman of the Council on Environmental Quality (or a designee of the Chairman) shall chair the Interagency Committee, which shall consist of representatives of Federal agencies with responsibilities relating to pipeline repair projects, including each of the following persons (or a designee thereof):

“(A) The Secretary of Transportation.

“(B) The Administrator of the Environmental Protection Agency.

“(C) The Director of the United States Fish and Wildlife Service.

“(D) The Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

“(E) The Director of the Bureau of Land Management.

“(F) The Director of the Minerals Management Service.

“(G) The Assistant Secretary of the Army for Civil Works.

“(H) The Chairman of the Federal Energy Regulatory Commission.

“(3) EVALUATION.—The Interagency Committee shall evaluate Federal permitting requirements to which access, excavation, and restoration activities in connection with pipeline repairs described in paragraph (1) may be subject. As part of its evaluation, the Interagency Committee shall examine the access, excavation, and restoration practices of the pipeline industry in connection with such pipeline repairs, and may develop a compendium of best practices used by the industry to access, excavate, and restore the site of a pipeline repair.

“(4) MEMORANDUM OF UNDERSTANDING.—Based upon the evaluation required under paragraph (3) and not later than 1 year after the date of enactment of this section, the members of the Interagency Committee shall enter into a memorandum of understanding to provide for a coordinated and expedited pipeline repair permit review process to carry out the purpose set forth in paragraph (1). The Interagency Committee shall include provisions in the memorandum of understanding identifying those repairs or categories of repairs described in paragraph (1) for which the best practices identified under paragraph (3), when properly employed by a pipeline operator, would result in no more than minimal adverse effects on the environment and for which discretionary administrative reviews may therefore be minimized or eliminated. With respect to pipeline repairs described in paragraph (1) to which the preceding sentence would not be applicable, the Interagency Committee shall include provisions to enable pipeline operators to commence and complete all activities necessary to carry out pipeline repairs within any time periods specified by rule by the Secretary. The Interagency Committee shall include in the memorandum of understanding criteria under which permits required for such pipeline repair activities should be prioritized over other less urgent agency permit application reviews. The Interagency Committee shall not enter into a memorandum of understanding under this paragraph except by unanimous agreement of the members of the Interagency Committee.

Deadline.

“(5) STATE AND LOCAL CONSULTATION.—In carrying out this subsection, the Interagency Committee shall consult with appropriate State and local environmental, pipeline safety, and emergency response officials, and such other officials as the Interagency Committee considers appropriate.

“(b) IMPLEMENTATION.—Not later than 180 days after the completion of the memorandum of understanding required under subsection (a)(4), each agency represented on the Interagency Committee shall revise its regulations as necessary to implement the provisions of the memorandum of understanding.

Deadline.

“(c) SAVINGS PROVISIONS; NO PREEMPTION.—Nothing in this section shall be construed—

“(1) to require a pipeline operator to obtain a Federal permit, if no Federal permit would otherwise have been required under Federal law; or

Deadline.
Regulations.

“(2) to preempt applicable Federal, State, or local environmental law.

“(d) INTERIM OPERATIONAL ALTERNATIVES.—

“(1) IN GENERAL.—Not later than 30 days after the date of enactment of this section, and subject to the limitations in paragraph (2), the Secretary of Transportation shall revise the regulations of the Department, to the extent necessary, to permit a pipeline operator subject to time periods for repair specified by rule by the Secretary to implement alternative mitigation measures until all applicable permits have been granted.

“(2) LIMITATIONS.—The regulations issued by the Secretary pursuant to this subsection shall not allow an operator to implement alternative mitigation measures pursuant to paragraph (1) unless—

“(A) allowing the operator to implement such measures would be consistent with the protection of human health, public safety, and the environment;

“(B) the operator, with respect to a particular repair project, has applied for and is pursuing diligently and in good faith all required Federal, State, and local permits to carry out the project; and

“(C) the proposed alternative mitigation measures are not incompatible with pipeline safety.

“(e) OMBUDSMAN.—The Secretary shall designate an ombudsman to assist in expediting pipeline repairs and resolving disagreements between Federal, State, and local permitting agencies and the pipeline operator during agency review of any pipeline repair activity, consistent with protection of human health, public safety, and the environment.

“(f) STATE AND LOCAL PERMITTING PROCESSES.—The Secretary shall encourage States and local governments to consolidate their respective permitting processes for pipeline repair projects subject to any time periods for repair specified by rule by the Secretary. The Secretary may request other relevant Federal agencies to provide technical assistance to States and local governments for the purpose of encouraging such consolidation.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 601 is amended by adding at the end the following:

“60133. Coordination of environmental reviews.”.

49 USC 60114
note.

SEC. 17. NATIONWIDE TOLL-FREE NUMBER SYSTEM.

Within 1 year after the date of the enactment of this Act, the Secretary of Transportation shall, in conjunction with the Federal Communications Commission, facility operators, excavators, and one-call notification system operators, provide for the establishment of a 3-digit nationwide toll-free telephone number system to be used by State one-call notification systems.

SEC. 18. IMPLEMENTATION OF INSPECTOR GENERAL RECOMMENDATIONS.

(a) IN GENERAL.—Except as otherwise required by this Act, the Secretary of Transportation shall implement the safety improvement recommendations provided for in the Department of Transportation Inspector General's Report (RT-2000-069).

Deadlines.

(b) REPORTS BY THE SECRETARY.—Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter

until each of the recommendations referred to in subsection (a) has been implemented, the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Energy and Commerce of the House of Representatives a report on the specific actions taken to implement such recommendations.

(c) **REPORTS BY THE INSPECTOR GENERAL.**—The Inspector General shall periodically transmit to the committees referred to in subsection (b) a report assessing the Secretary’s progress in implementing the recommendations referred to in subsection (a) and identifying options for the Secretary to consider in accelerating recommendation implementation.

SEC. 19. NTSB SAFETY RECOMMENDATIONS.

49 USC 1135
note.

(a) **IN GENERAL.**—The Secretary of Transportation, the Administrator of Research and Special Program Administration, and the Director of the Office of Pipeline Safety shall fully comply with section 1135 of title 49, United States Code, to ensure timely responsiveness to National Transportation Safety Board recommendations about pipeline safety.

(b) **PUBLIC AVAILABILITY.**—The Secretary, Administrator, or Director, respectively, shall make a copy of each recommendation on pipeline safety and response, as described in subsections (a) and (b) of section 1135, title 49, United States Code.

(c) **REPORTS TO CONGRESS.**—The Secretary, Administrator, or Director, respectively, shall submit to Congress by January 1 of each year a report containing each recommendation on pipeline safety made by the Board during the prior year and a copy of the response to each such recommendation.

Deadline.

SEC. 20. MISCELLANEOUS AMENDMENTS.

(a) **GENERAL AUTHORITY AND PURPOSE.**—

(1) **IN GENERAL.**—Section 60102(a) is amended—

(A) by redesignating paragraph (2) as paragraph (3);

(B) by striking “(a)(1)” and all that follows through “The Secretary of Transportation” and inserting the following:

“(a) **PURPOSE AND MINIMUM SAFETY STANDARDS.**—

“(1) **PURPOSE.**—The purpose of this chapter is to provide adequate protection against risks to life and property posed by pipeline transportation and pipeline facilities by improving the regulatory and enforcement authority of the Secretary of Transportation.

“(2) **MINIMUM SAFETY STANDARDS.**—The Secretary”;

(C) by moving the remainder of the text of paragraph (2) (as so redesignated), including subparagraphs (A) and (B) but excluding subparagraph (C), 2 ems to the right; and

(D) in paragraph (3) (as so redesignated) by inserting “**QUALIFICATIONS OF PIPELINE OPERATORS.**—” before “The qualifications”.

(2) **CONFORMING AMENDMENTS.**—Chapter 601 is amended—

(A) by striking the heading for section 60102 and inserting the following:

“§ 60102. Purpose and general authority”; and

(B) in the analysis for such chapter by striking the item relating to section 60102 and inserting the following:

“60102. Purpose and general authority.”.

(b) CONFLICTS OF INTEREST.—Section 60115(b)(4) is amended by adding at the end the following:

“(D) None of the individuals selected for a committee under paragraph (3)(C) may have a significant financial interest in the pipeline, petroleum, or gas industry.”.

SEC. 21. TECHNICAL AMENDMENTS.

Chapter 601 is amended—

(1) in section 60110(b) by striking “circumstances” and all that follows through “operator” and inserting the following: “circumstances, if any, under which an operator”;

(2) in section 60114 by redesignating subsection (d) as subsection (c);

(3) in section 60122(a)(1) by striking “section 60114(c)” and inserting “section 60114(b)”; and

(4) in section 60123(a) by striking “60114(c)” and inserting “60114(b)”.

SEC. 22. AUTHORIZATION OF APPROPRIATIONS.

(a) GAS AND HAZARDOUS LIQUID.—Section 60125(a) is amended to read as follows:

“(a) GAS AND HAZARDOUS LIQUID.—To carry out this chapter (except for section 60107) related to gas and hazardous liquid, the following amounts are authorized to be appropriated to the Department of Transportation:

“(1) \$45,800,000 for fiscal year 2003, of which \$31,900,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

“(2) \$46,800,000 for fiscal year 2004, of which \$35,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

“(3) \$47,100,000 for fiscal year 2005, of which \$41,100,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

“(4) \$50,000,000 for fiscal year 2006, of which \$45,000,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.”.

(b) STATE GRANTS.—Section 60125 is amended—

(1) by striking subsections (b), (d), and (f) and redesignating subsection (c) as subsection (b); and

(2) in subsection (b)(1) (as so redesignated) by striking subparagraphs (A) through (H) and inserting the following:

“(A) \$19,800,000 for fiscal year 2003, of which \$14,800,000 is to be derived from user fees for fiscal year 2003 collected under section 60301 of this title.

“(B) \$21,700,000 for fiscal year 2004, of which \$16,700,000 is to be derived from user fees for fiscal year 2004 collected under section 60301 of this title.

“(C) \$24,600,000 for fiscal year 2005, of which \$19,600,000 is to be derived from user fees for fiscal year 2005 collected under section 60301 of this title.

“(D) \$26,500,000 for fiscal year 2006, of which \$21,500,000 is to be derived from user fees for fiscal year 2006 collected under section 60301 of this title.”.

(c) OIL SPILLS; EMERGENCY RESPONSE GRANTS.—Section 60125 is amended by inserting after subsection (b) (as redesignated by subsection (b)(1) of this section) the following:

“(c) OIL SPILL LIABILITY TRUST FUND.—Of the amounts available in the Oil Spill Liability Trust Fund, \$8,000,000 shall be transferred to the Secretary of Transportation, as provided in appropriation Acts, to carry out programs authorized in this chapter for each of fiscal years 2003 through 2006.

“(d) EMERGENCY RESPONSE GRANTS.—

“(1) IN GENERAL.—The Secretary may establish a program for making grants to State, county, and local governments in high consequence areas, as defined by the Secretary, for emergency response management, training, and technical assistance.

“(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$6,000,000 for each of fiscal years 2003 through 2006 to carry out this subsection.”.

(d) CONFORMING AMENDMENT.—Section 60125(e) is amended by striking “or (b) of this section”.

SEC. 23. INSPECTIONS BY DIRECT ASSESSMENT.

Section 60102, as amended by this Act, is further amended by adding at the end the following:

“(m) INSPECTIONS BY DIRECT ASSESSMENT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall issue regulations prescribing standards for inspection of a pipeline facility by direct assessment.”.

Deadline.
Regulations.

SEC. 24. STATE PIPELINE SAFETY ADVISORY COMMITTEES.

Within 90 days after receiving recommendations for improvements to pipeline safety from an advisory committee appointed by the Governor of any State, the Secretary of Transportation shall respond in writing to the committee setting forth what action, if any, the Secretary will take on those recommendations and the Secretary's reasons for acting or not acting upon any of the recommendations.

49 USC 60102
note.
Deadline.

SEC. 25. PIPELINE BRIDGE RISK STUDY.

(a) IN GENERAL.—The Secretary of Transportation shall conduct a study to determine whether cable-suspension pipeline bridges pose structural or other risks warranting particularized attention in connection with pipeline operators risk assessment programs and whether particularized inspection standards need to be developed by the Department of Transportation to recognize the peculiar risks posed by such bridges.

(b) PUBLIC PARTICIPATION AND COMMENTS.—In conducting the study, the Secretary shall provide, to the maximum extent practicable, for public participation and comment and shall solicit views and comments from the public and interested persons, including participants in the pipeline industry with knowledge and experience in inspection of pipeline facilities.

(c) COMPLETION AND REPORT.—Within 2 years after the date of enactment of this Act, the Secretary shall complete the study and transmit to Congress a report detailing the results of the study.

49 USC 60108
note.

Deadline.

(d) **FUNDING.**—The Secretary may carry out this section using only amounts that are specifically appropriated to carry out this section.

15 USC 717m
note.

SEC. 26. STUDY AND REPORT ON NATURAL GAS PIPELINE AND STORAGE FACILITIES IN NEW ENGLAND.

(a) **STUDY.**—The Federal Energy Regulatory Commission, in consultation with the Department of Energy, shall conduct a study on the natural gas pipeline transmission network in New England and natural gas storage facilities associated with that network.

(b) **CONSIDERATION.**—In carrying out the study, the Commission shall consider the ability of natural gas pipeline and storage facilities in New England to meet current and projected demand by gas-fired power generation plants and other consumers.

Deadline.

(c) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Federal Energy Regulatory Commission shall prepare and submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives a report containing the results of the study conducted under subsection (a), including recommendations for addressing potential natural gas transmission and storage capacity problems in New England.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 3609 (S. 235):

HOUSE REPORTS: No. 107–605, Pt. 1 (Comm. on Transportation and Infrastructure) and Pt. 2 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 23, considered and passed House.

Nov. 13, considered and passed Senate, amended.

Nov. 14, House concurred in Senate amendment.



Public Law 107–356
107th Congress

An Act

To modify the boundaries of the New River Gorge National River, West Virginia.

Dec. 17, 2002

[H.R. 3858]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

New River Gorge
Boundary Act of
2002.
16 USC 460m–15
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “New River Gorge Boundary Act of 2002”.

SEC. 2. NEW RIVER GORGE NATIONAL RIVER BOUNDARY MODIFICATIONS.

(a) **BOUNDARY MODIFICATION.**—Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m–15) is amended by striking “NERI–80,028A, dated March 1996” and inserting “NERI 80,034, dated May 2001”.

(b) **LAND EXCHANGE.**—

16 USC 460m–15
note.

(1) **IN GENERAL.**—The Secretary of the Interior shall complete a fee simple land exchange in the vicinity of Beauty Mountain, Fayette County, West Virginia, to acquire a tract of land identified as NERI Tract Number 150–07 that lies adjacent to the boundary of the New River Gorge National River in exchange for a tract of land identified as NERI Tract Number 150–08 located within such boundary.

(2) **TREATMENT OF EXCHANGED LANDS.**—Upon the completion of such land exchange—

(A) the land acquired by the United States in the exchange shall be included in the boundaries, and administered as part, of the New River Gorge National River; and

(B) the land conveyed by the United States in the exchange shall be excluded from the boundaries, and shall not be administered as part, of the New River Gorge National River.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 3858:

HOUSE REPORTS: No. 107–509 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 24, considered and passed House.

Nov. 19, considered and passed Senate.

Public Law 107–357
107th Congress

An Act

Dec. 17, 2002
[H.R. 4692]

To amend the Act entitled “An Act to authorize the Establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes”, to provide for the addition of certain donated lands to the Andersonville National Historic Site.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADDITIONAL LANDS AUTHORIZED TO BE ADDED TO HISTORIC SITE.

The first section of the Act entitled “An Act to authorize the establishment of the Andersonville National Historic Site in the State of Georgia, and for other purposes”, approved October 16, 1970, is amended by striking “five hundred acres” and inserting “520 acres”.

16 USC 461 note.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 4692:

HOUSE REPORTS: No. 107–712 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Nov. 20, considered and passed Senate.



Public Law 107–358
107th Congress

An Act

To repeal the sunset of the Economic Growth and Tax Relief Reconciliation Act of 2001 with respect to the exclusion from Federal income tax for restitution received by victims of the Nazi Regime.

Dec. 17, 2002
[H.R. 4823]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Holocaust Restitution Tax Fairness Act of 2002”.

Holocaust
Restitution Tax
Fairness Act of
2002.
26 USC 1 note.

SEC. 2. REPEAL OF APPLICABILITY OF SUNSET OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 WITH RESPECT TO EXCLUSION FROM FEDERAL INCOME TAX FOR RESTITUTION RECEIVED BY VICTIMS OF NAZI REGIME.

Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new subsection:

26 USC 1 note.

“(c) EXCEPTION.—Subsection (a) shall not apply to section 803 (relating to no federal income tax on restitution received by victims of the Nazi regime or their heirs or estates).”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 4823 (S. 2577):

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 4, considered and passed House.

Nov. 20, considered and passed Senate.



Public Law 107–359
107th Congress

An Act

Dec. 17, 2002
[H.R. 5125]

Civil War
Battlefield
Preservation Act
of 2002.
16 USC 469k
note.

16 USC 469k
note.

To amend the American Battlefield Protection Act of 1996 to authorize the Secretary of the Interior to establish a battlefield acquisition grant program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Civil War Battlefield Preservation Act of 2002”.

SEC. 2. FINDINGS AND PURPOSES.

(a) **FINDINGS.**—Congress finds the following:

(1) Civil War battlefields provide a means for the people of the United States to understand a tragic period in the history of the United States.

(2) According to the Report on the Nation’s Civil War Battlefields, prepared by the Civil War Sites Advisory Commission, and dated July 1993, of the 384 principal Civil War battlefields—

(A) almost 20 percent are lost or fragmented;

(B) 17 percent are in poor condition; and

(C) 60 percent have been lost or are in imminent danger of being fragmented by development and lost as coherent historic sites.

(b) **PURPOSES.**—The purposes of this Act are—

(1) to act quickly and proactively to preserve and protect nationally significant Civil War battlefields through conservation easements and fee-simple purchases of those battlefields from willing sellers; and

(2) to create partnerships among State and local governments, regional entities, and the private sector to preserve, conserve, and enhance nationally significant Civil War battlefields.

SEC. 3. BATTLEFIELD ACQUISITION GRANT PROGRAM.

The American Battlefield Protection Act of 1996 (16 U.S.C. 469k) is amended—

(1) by redesignating subsection (d) as paragraph (3) of subsection (c), and indenting appropriately;

(2) in paragraph (3) of subsection (c) (as redesignated by paragraph (1))—

(A) by striking “APPROPRIATIONS” and inserting “APPROPRIATIONS”; and

(B) by striking “section” and inserting “subsection”;

(3) by inserting after subsection (c) the following:

“(d) BATTLEFIELD ACQUISITION GRANT PROGRAM.—

“(1) DEFINITIONS.—In this subsection:

“(A) BATTLEFIELD REPORT.—The term ‘Battlefield Report’ means the document entitled ‘Report on the Nation’s Civil War Battlefields’, prepared by the Civil War Sites Advisory Commission, and dated July 1993.

“(B) ELIGIBLE ENTITY.—The term ‘eligible entity’ means a State or local government.

“(C) ELIGIBLE SITE.—The term ‘eligible site’ means a site—

“(i) that is not within the exterior boundaries of a unit of the National Park System; and

“(ii) that is identified in the Battlefield Report.

“(D) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior, acting through the American Battlefield Protection Program.

“(2) ESTABLISHMENT.—The Secretary shall establish a battlefield acquisition grant program under which the Secretary may provide grants to eligible entities to pay the Federal share of the cost of acquiring interests in eligible sites for the preservation and protection of those eligible sites.

“(3) NONPROFIT PARTNERS.—An eligible entity may acquire an interest in an eligible site using a grant under this subsection in partnership with a nonprofit organization.

“(4) NON-FEDERAL SHARE.—The non-Federal share of the total cost of acquiring an interest in an eligible site under this subsection shall be not less than 50 percent.

“(5) LIMITATION ON LAND USE.—An interest in an eligible site acquired under this subsection shall be subject to section 6(f)(3) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l–8(f)(3)).

“(6) REPORTS.—

Deadlines.

“(A) IN GENERAL.—Not later than 5 years after the date of the enactment of this subparagraph, the Secretary shall submit to Congress a report on the activities carried out under this subsection.

“(B) UPDATE OF BATTLEFIELD REPORT.—Not later than 2 years after the date of the enactment of this subsection, the Secretary shall submit to Congress a report that updates the Battlefield Report to reflect—

“(i) preservation activities carried out at the 384 battlefields during the period between publication of the Battlefield Report and the update;

“(ii) changes in the condition of the battlefields during that period; and

“(iii) any other relevant developments relating to the battlefields during that period.

“(7) AUTHORIZATION OF APPROPRIATIONS.—

“(A) IN GENERAL.—There are authorized to be appropriated to the Secretary from the Land and Water Conservation Fund to provide grants under this subsection \$10,000,000 for each of fiscal years 2004 through 2008.

“(B) UPDATE OF BATTLEFIELD REPORT.—There are authorized to be appropriated to the Secretary to carry out paragraph (6)(B), \$500,000.”; and

(4) in subsection (e)—

(A) in paragraph (1), by striking “as of” and all that follows through the period and inserting “on September 30, 2008.”; and

(B) in paragraph (2), by inserting “and provide battle-field acquisition grants” after “studies”.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 5125:

HOUSE REPORTS: No. 107-710 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Nov. 20, considered and passed Senate.



Public Law 107-360
107th Congress

An Act

To amend the Public Health Service Act with respect to special diabetes programs for Type I diabetes and Indians.

Dec. 17, 2002
[H.R. 5738]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES AND INDIANS.

(a) SPECIAL DIABETES PROGRAMS FOR TYPE I DIABETES.—Section 330B(b)(2) of the Public Health Service Act (42 U.S.C. 254c-2(b)(2)) is amended—

- (1) in subparagraph (A), by striking “and” at the end;
- (2) in subparagraph (B), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following new subparagraph:
“(C) \$150,000,000 for each of fiscal years 2004 through 2008.”.

(b) SPECIAL DIABETES PROGRAMS FOR INDIANS.—Section 330C(c)(2) of the Public Health Service Act (42 U.S.C. 254c-3(c)(2)) is amended—

- (1) in subparagraph (A), by striking “and” at the end;
- (2) in subparagraph (B), by striking the period at the end and inserting “; and”; and
- (3) by adding at the end the following new subparagraph:
“(C) \$150,000,000 for each of fiscal years 2004 through 2008.”.

(c) EXTENSION OF FINAL REPORT ON GRANT PROGRAMS.—Section 4923(b)(2) of the Balanced Budget Act of 1997 (Public Law 105-33; 111 Stat. 251), as amended by section 931(c) of BIPA (114 Stat. 2763A-585), is amended by striking “2003” and inserting “2007”.

42 USC 254c-2
note.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 5738:

CONGRESSIONAL RECORD, Vol. 148 (2002):
Nov. 14, considered and passed House.
Nov. 19, considered and passed Senate.



Public Law 107–361
107th Congress

An Act

Dec. 17, 2002
[H.R. 2818]

To authorize the Secretary of the Interior to convey certain public land within the Sand Mountain Wilderness Study Area in the State of Idaho to resolve an occupancy encroachment dating back to 1971.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, SAND MOUNTAIN WILDERNESS STUDY AREA, IDAHO.

(a) CONVEYANCE AUTHORIZED.—Notwithstanding section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)), the Secretary of the Interior may convey to the owner of the Sand Hills Resort in the State of Idaho (in this section referred to as the “Sand Hills Resort”), all right, title, and interest of the United States in and to a parcel of land consisting of approximately 10.23 acres of public land in the Sand Mountain Wilderness Study Area (#ID 35–3) of the Bureau of Land Management in the State of Idaho, as more fully described in subsection (b).

(b) DESCRIPTION OF LAND.—The public land to be conveyed under subsection (a) is lot 8 in section 19, township 8 north, range 40 east, Boise meridian, Idaho.

(c) CONSIDERATION.—As consideration for the conveyance of the land under subsection (a), the Sand Hills Resort shall pay to the Secretary an amount equal to the fair market value of the land, as valued by qualified land appraisal.

(d) EXEMPTION FROM INTERIM MANAGEMENT POLICY.—To facilitate the conveyance authorized by subsection (a), the land to be conveyed is exempt from all requirements of the Interim Management Policy for Lands Under Wilderness Review of the Bureau of Land Management.

SEC. 2. ADDITIONAL TERMS AND CONDITIONS.

The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) of section 1 as the Secretary considers appropriate to protect the interests of the United States.

Approved December 17, 2002.

LEGISLATIVE HISTORY—H.R. 2818:

HOUSE REPORTS: No. 107–440 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 7, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–362
107th Congress

An Act

To resolve the claims of Cook Inlet Region, Inc., to lands adjacent to the Russian River in the State of Alaska.

Dec. 19, 2002
[H.R. 3048]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Russian River
Land Act.
Contracts.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Russian River Land Act”.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress makes the following findings:

(1) Certain lands adjacent to the Russian River in the area of its confluence with the Kenai River contain abundant archaeological resources of significance to the Native people of the Cook Inlet Region, the Kenaitze Indian Tribe, and the citizens of the United States.

(2) Those lands at the confluence of the Russian River and Kenai River contain abundant fisheries resources of great significance to the citizens of Alaska.

(3) Cook Inlet Region, Inc., an Alaska Native Regional Corporation formed under the provisions of the Alaska Native Claims Settlement Act of 1971 (43 U.S.C. 1601 et seq.) (hereinafter in this Act referred to as “ANCSA”), has selected lands in the area pursuant to section 14(h)(1) of such Act (43 U.S.C. 1613(h)(1)), for their values as historic and cemetery sites.

(4) The United States Bureau of Land Management, the Federal agency responsible for the adjudication of ANCSA selections has not finished adjudicating Cook Inlet Region, Inc.’s selections under section 14(h)(1) of that Act as of the date of the enactment of this Act.

(5) The Bureau of Indian Affairs has certified a portion of Cook Inlet Region, Inc.’s selections under section 14(h)(1) of ANCSA as containing prehistoric and historic cultural artifacts, and meeting the requirements of section 14(h)(1) of that Act.

(6) A portion of the selections under section 14(h)(1) of ANCSA made by Cook Inlet Region, Inc., and certified by the Bureau of Indian Affairs lies within the Chugach National Forest over which the United States Forest Service is the agency currently responsible for the administration of public activities, archaeological features, and natural resources.

(7) A portion of the selections under section 14(h)(1) of ANCSA and the lands certified by the Bureau of Indian Affairs lies within the Kenai National Wildlife Refuge over which the United States Fish and Wildlife Service is the land managing

agency currently responsible for the administration of public activities, archaeological features, and natural resources.

(8) The area addressed by this Act lies within the Sqilantnu Archaeological District which was determined eligible for the National Register of Historic Places on December 31, 1981.

(9) Both the Forest Service and the Fish and Wildlife Service dispute the validity and timeliness of Cook Inlet Region, Inc.'s selections under section 14(h)(1) of ANCSA.

(10) The Forest Service, Fish and Wildlife Service, and Cook Inlet Region, Inc., determined that it was in the interest of the United States and Cook Inlet Region, Inc., to—

(A) protect and preserve the outstanding historic, cultural, and natural resources of the area;

(B) resolve their disputes concerning the validity of Cook Inlet Region, Inc.'s selections under section 14(h)(1) of ANCSA without litigation; and

(C) provide for the management of public use of the area and protection of the cultural resources within the Sqilantnu Archaeological District, particularly the management of the area at the confluence of the Russian and Kenai Rivers.

(11) Legislation is required to enact the resolution reached by the Forest Service, the Fish and Wildlife Service, and Cook Inlet Region, Inc.

(b) PURPOSE.—It is the purpose of this Act to ratify an agreement between the Department of Agriculture, the Department of the Interior, and Cook Inlet Region, Inc.

SEC. 3. RATIFICATION OF AGREEMENT BETWEEN THE UNITED STATES FOREST SERVICE, UNITED STATES FISH AND WILDLIFE SERVICE, AND COOK INLET REGION, INC.

(a) RATIFICATION OF AGREEMENT.—

(1) IN GENERAL.—The terms, conditions, covenants, and procedures set forth in the document entitled “Russian River Section 14(h)(1) Selection Agreement”, which was executed by Cook Inlet Region, Inc., the United States Department of Agriculture, and the United States Department of the Interior on July 26, 2001, (hereinafter in this Act referred to as the “Agreement”), are hereby incorporated in this section, and are ratified, as to the duties and obligations of the United States and the Cook Inlet Region, Inc., as a matter of Federal law.

(2) SECTION 5.—The ratification of section 5 of the Agreement is subject to the following conditions:

(A) The Fish and Wildlife Service shall consult with interested parties when developing an exchange under section 5 of the Agreement.

(B) The Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a copy of the agreement implementing any exchange under section 5 of the Agreement not less than 30 days before the exchange becomes effective.

(3) AGREEMENT CONTROLS.—In the event any of the terms of the Agreement conflict with any other provision of law, the terms of the Agreement shall be controlling.

(b) **AUTHORIZATION OF ACTIONS.**—The Secretaries of Agriculture and the Interior are authorized to take all actions required under the terms of the Agreement.

SEC. 4. AUTHORIZATION OF APPROPRIATION.

(a) **IN GENERAL.**—There is authorized to be appropriated to the Department of Agriculture, Office of State and Private Forestry, \$13,800,000, to remain available until expended, for Cook Inlet Region, Inc., for the following:

(1) Costs for the planning and design of the Joint Visitor's Interpretive Center.

(2) Planning and design of the Sqilantnu Archaeological Research Center.

(3) Construction of these facilities to be established in accordance with and for the purposes set forth in the Agreement.

(b) **LIMITATION ON USE OF FUNDS.**—Of the amount appropriated under this section, not more than 1 percent may be used to reimburse the Forest Service, the Fish and Wildlife Service, and the Kenaitze Indian Tribe for the costs they incur in assisting Cook Inlet Region, Inc. in the planning and design of the Joint Visitor's Interpretive Center and the Sqilantnu Archaeological Research Center.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 3048:

HOUSE REPORTS: No. 107-573 (Comm. on Resources).

SENATE REPORTS: No. 107-275 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

July 22, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107-363
107th Congress

An Act

Dec. 19, 2002
[H.R. 3747]

Bainbridge
Island Japanese-
American
Memorial Study
Act of 2002.

To direct the Secretary of the Interior to conduct a study of the site commonly known as Eagledale Ferry Dock at Taylor Avenue in the State of Washington for potential inclusion in the National Park System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) **SHORT TITLE.**—This Act may be cited as the “Bainbridge Island Japanese-American Memorial Study Act of 2002”.

(b) **FINDINGS.**—The Congress finds the following:

(1) During World War II on February 19, 1942, President Franklin Delano Roosevelt signed Executive Order 9066, setting in motion the forced exile of more than 110,000 Japanese Americans.

(2) In Washington State, 12,892 men, women and children of Japanese ancestry experienced three years of incarceration, an incarceration violating the most basic freedoms of American citizens.

(3) On March 30, 1942, 227 Bainbridge Island residents were the first Japanese Americans in United States history to be forcibly removed from their homes by the U.S. Army and sent to internment camps. They boarded the ferry Kehloken from the former Eagledale Ferry Dock, located at the end of Taylor Avenue, in the city of Bainbridge Island, Washington State.

(4) The city of Bainbridge Island has adopted a resolution stating that this site should be a National Memorial, and similar resolutions have been introduced in the Washington State Legislature.

(5) Both the Minidoka National Monument and Manzanar National Historic Site can clearly tell the story of a time in our Nation’s history when constitutional rights were ignored. These camps by design were placed in very remote places and are not easily accessible. Bainbridge Island is a short ferry ride from Seattle and the site would be within easy reach of many more people.

(6) This is a unique opportunity to create a site that will honor those who suffered, cherish the friends and community who stood beside them and welcomed them home, and inspire all to stand firm in the event our nation again succumbs to similar fears.

(7) The site should be recognized by the National Park Service based on its high degree of national significance, association with significant events, and integrity of its location

and setting. This site is critical as an anchor for future efforts to identify, interpret, serve, and ultimately honor the Nikkei—persons of Japanese ancestry—influence on Bainbridge Island.

**SEC. 2. EAGLEDALE FERRY DOCK LOCATION AT TAYLOR AVENUE
STUDY AND REPORT.**

(a) **STUDY.**—The Secretary of the Interior shall carry out a special resource study regarding the national significance, suitability, and feasibility of designating as a unit of the National Park System the property commonly known as the Eagledale Ferry Dock at Taylor Avenue and the historical events associated with it, located in the town of Bainbridge Island, Kitsap County, Washington.

(b) **REPORT.**—Not later than 1 year after funds are first made available for the study under subsection (a), the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the findings, conclusions, and recommendations of the study. Deadline.

(c) **REQUIREMENTS FOR STUDY.**—Except as otherwise provided in this section, the study under subsection (a) shall be conducted in accordance with section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)).

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 3747: (S. 1894) (S. 1959)

HOUSE REPORTS: No. 107-690 (Comm. on Resources).

SENATE REPORTS: No. 107-196 accompanying S. 1894 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–364
107th Congress

An Act

Dec. 19, 2002
[H.R. 3909]

To designate certain Federal lands in the State of Utah as the Gunn McKay Nature Preserve, and for other purposes.

Gunn McKay
Nature Preserve
Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Gunn McKay Nature Preserve Act”.

SEC. 2. DEFINITIONS.

For the purposes of this Act:

(1) **PRESERVE.**—The term “Preserve” means the Gunn McKay Nature Preserve as so designated by section 3(a).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Agriculture.

SEC. 3. NATURE PRESERVE.

(a) **DESIGNATION.**—The approximately 15 acres of National Forest System land generally depicted on the map entitled “Proposed Gunn McKay Nature Preserve” and dated March 2002, are hereby designated as the “Gunn McKay Nature Preserve”.

(b) **MANAGEMENT.**—

(1) **MANAGEMENT PLAN.**—Not later than 120 days after the date of the enactment of this Act, the Secretary, in consultation with the City of Huntsville, Utah, and the Gunn McKay Nature Preserve Foundation, Inc., a nonprofit corporation, shall develop a management plan for the Preserve.

(2) **COOPERATIVE AGREEMENT.**—The Secretary is authorized to enter into a cooperative agreement with the Gunn McKay Nature Preserve Foundation, Inc. for the management of the Preserve.

(c) **WITHDRAWAL.**—Subject to valid existing rights, the Preserve is hereby withdrawn from all forms of location, entry, and patent under the public land laws, and the mining and mineral leasing laws of the United States, including geothermal.

Deadline.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 3909:

HOUSE REPORTS: No. 107–392 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Apr. 30, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–365
107th Congress

An Act

To designate certain waterways in the Caribbean National Forest in the Commonwealth of Puerto Rico as components of the National Wild and Scenic Rivers System, and for other purposes.

Dec. 19, 2002
[H.R. 3954]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Caribbean National Forest Wild and Scenic Rivers Act of 2002”.

Caribbean
National Forest
Wild and Scenic
Rivers Act of
2002.
16 USC 1271
note.

SEC. 2. WILD AND SCENIC RIVER DESIGNATIONS, CARIBBEAN NATIONAL FOREST, PUERTO RICO.

(a) FINDINGS.—The Congress finds the following:

(1) In the revised land and resource management plan for the Caribbean National Forest/Luquillo Experimental Forest, approved April 17, 1997, and the environmental impact statement prepared as part of the plan, the Secretary of Agriculture examined the suitability of rivers within the Caribbean National Forest/Luquillo Experimental Forest for inclusion in the National Wild and Scenic Rivers System.

(2) Based on such examination, the Rio Icacos, Rio Mameyes, and Rio de La Mina were found to be free flowing waterways and to possess outstandingly remarkable scenic, recreational, geological, hydrological, biological, historical, and cultural values, and, therefore, to qualify for addition to the National Wild and Scenic Rivers System.

(b) DESIGNATIONS.—Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding at the end the following new paragraph:

“(____) RIVERS OF CARIBBEAN NATIONAL FOREST, PUERTO RICO.—

“(A) RIO MAMEYES.—The segment of approximately 4.5 miles from its headwaters in the Baño de Oro Research Natural Area to the boundary of the Caribbean National Forest, to be administered by the Secretary of Agriculture as follows:

“(i) As a wild river from its headwaters in the Baño de Oro Research Natural Area to the crossing point of Trail No. 24/11 (approximately 500 feet upstream from the confluence with the Rio de La Mina), a total of approximately 2.1 miles.

“(ii) As a scenic river from the crossing point of Trail No. 24/11 to the access point of Trail No. 7, a total of approximately 1.4 miles.

“(iii) As a recreational river from the access point of Trail No. 7 to the national forest boundary, a total of approximately 1.0 miles.

“(B) RIO DE LA MINA.—The segment of approximately 2.1 miles from its headwaters to its confluence with the Rio Mameyes, to be administered by the Secretary of Agriculture as follows:

“(i) As a recreational river from its headwaters in the El Yunque Recreation Area downstream to La Mina Falls, a total of approximately 0.9 miles.

“(ii) As a scenic river from La Mina falls downstream to its confluence with the Rio Mameyes, a total of approximately 1.2 miles.

“(C) RIO ICACOS.—The segment of approximately 2.3 miles from its headwaters to the boundary of the Caribbean National Forest, to be administered by the Secretary of Agriculture as a scenic river.”.

(c) SPECIAL MANAGEMENT CONSIDERATIONS.—

(1) CERTAIN PERMITTED ACTIVITIES.—Subject to paragraph (2), the amendment made by the subsection (b) and the applicability of the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) to the river segments added to the National Wild and Scenic Rivers System by the amendment shall not be construed to prevent any of the following activities within the boundaries of the river segments:

(A) Installation and maintenance of hydrologic, meteorological, climatological, or atmospheric data collection and transmission facilities, or any combination of such facilities, when the Secretary of Agriculture determines that such facilities are essential to the scientific research purposes of the Luquillo Experimental Forest.

(B) Construction and maintenance of nesting structures, observation blinds, and population monitoring platforms for threatened and endangered species.

(C) Construction and maintenance of trails to such facilities as necessary for research purposes and for the recovery of threatened and endangered species.

(2) CONDITIONS.—The activities authorized by paragraph (1) shall be subject to such conditions as the Secretary considers desirable. The Secretary shall ensure that the scale and scope of such activities within the boundaries of a river segment added to the National Wild and Scenic Rivers System by the amendment made by the subsection (b) are not detrimental to the characteristics of the river segment that merited its designation as a wild, scenic, or recreational river.

(d) PRESERVATION OF COMMONWEALTH AUTHORITY.—Nothing in this section or the amendment made by this section shall be construed to limit the authority of the Commonwealth of Puerto

16 USC 1274
note.

16 USC 1274
note.

Rico over waters and natural channels of public domain pursuant to the laws of the Commonwealth of Puerto Rico.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 3954:

HOUSE REPORTS: No. 107-441 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

May 7, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–366
107th Congress

An Act

Dec. 19, 2002
[H.R. 4129]

To amend the Central Utah Project Completion Act to clarify the responsibilities of the Secretary of the Interior with respect to the Central Utah Project, to redirect unexpended budget authority for the Central Utah Project for wastewater treatment and reuse and other purposes, to provide for prepayment of repayment contracts for municipal and industrial water delivery facilities, and to eliminate a deadline for such prepayment.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO THE CENTRAL UTAH PROJECT COMPLETION ACT.

(a) **TREATMENT OF INVESTIGATION COSTS.**—Section 201(b) of the Central Utah Project Completion Act (106 Stat. 4607) is amended following paragraph (2) by inserting the following: “All amounts previously expended in planning and developing the projects and features described in this subsection including amounts previously expended for investigation of power features in the Bonneville Unit shall be considered non-reimbursable and non-returnable.”.

(b) **CLARIFICATION OF SECRETARIAL RESPONSIBILITIES.**—Section 201(e) of the Central Utah Project Completion Act (106 Stat. 4608) is amended—

(1) in the first sentence—

(A) by striking “identified in this Act” and inserting “identified in this title and the Act of April 11, 1956 (chapter 203; 70 Stat. 110 et seq.), popularly known as the Colorado River Storage Project Act,”;

(B) by inserting “relating to the Bonneville Unit of the Central Utah Project including oversight for all phases of the Bonneville Unit, the administration of all prior and future contracts, operation and maintenance of previously constructed facilities” before “and may not delegate”;

(C) by striking “his responsibilities under this Act” and inserting “such responsibilities”; and

(D) by striking the period after “Reclamation” and inserting: “, except through the pilot management program hereby authorized. The pilot management program will exist for a period not to exceed 5 years and shall provide a mechanism for the Secretary and the District to create a mutually acceptable organization within the Bureau of Reclamation to assist the Secretary in his responsibilities for the long-term management of the Bonneville Unit. Such pilot management program may be extended indefinitely

by mutual agreement between the Secretary and the District.”;

(2) in the second sentence—

(A) by inserting “technical” before “services”; and

(B) by inserting “for engineering and construction work” before “on any project features”; and

(3) by inserting at the end thereof the following new sentence: “These provisions shall not affect the responsibilities of the Bureau of Reclamation and the Western Area Power Administration regarding all matters relating to all Colorado River Storage Project power functions, including all matters affecting the use of power revenues, power rates and rate-making.”.

(c) MUNICIPAL AND INDUSTRIAL WATER.—Section 202(a)(1)(B) of the Central Utah Project Completion Act (106 Stat. 4608) is amended in the last sentence by inserting “and municipal and industrial water” after the word “basin”.

(d) USE OF UNEXPENDED BUDGET AUTHORITY.—Section 202(c) of the Central Utah Project Completion Act (106 Stat. 4611) is amended to read as follows: “The Secretary is authorized to utilize all unexpended budget authority for units of the Central Utah Project up to \$300,000,000 and the balance of such budget authority in excess of this amount is deauthorized. Such \$300,000,000 may be used to provide 65 percent Federal share pursuant to section 204, to acquire water and water rights for project purposes including instream flows, to complete project facilities authorized in this title and title III, to implement water conservation measures under section 207, including use of reverse osmosis membrane technologies, water recycling, and conjunctive use, to stabilize high mountain lakes and appurtenant facilities, to develop power, and for other purposes. In addition, funds may be provided by the Commission for fish and wildlife purposes. The District shall comply with the provisions of sections 202(a)(1), 205(b), and Title VI with respect to the features to be provided for in this subsection.”.

(e) PREPAYMENT OF REPAYMENT.—Section 210 of the Central Utah Project Completion Act (106 Stat. 4624) is amended—

(1) in the second sentence—

(A) by inserting “or any additional or supplemental repayment contract” after “1985,”; and

(B) by inserting “of the Central Utah Project” after “water delivery facilities”; and

(2) by striking “The District shall exercise” and all that follows through the end of that sentence.

SEC. 2. USE OF PROJECT FACILITIES FOR NONPROJECT WATER.

The Secretary of the Interior may enter into contracts with the Provo River Water Users Association or any of its member unit contractors for water from Provo River, Utah, under the Act of February 21, 1911 (43 U.S.C. 523), for—

(1) the impounding, storage, and carriage of nonproject water for domestic, municipal, industrial, and other beneficial purposes, using facilities associated with the Provo River Project, Utah; and

(2) the exchange of water among Provo River Project contractors, for the purposes set forth in paragraph (1), using facilities associated with the Provo River Project, Utah.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4129 (S. 2475):

HOUSE REPORTS: No. 107-554 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–367
107th Congress

An Act

To reauthorize the Mni Wiconi Rural Water Supply Project.

Dec. 19, 2002

[H.R. 4638]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

**SECTION 1. MNI WICONI RURAL WATER SUPPLY PROJECT, SOUTH
DAKOTA.**

Section 10(a) of the Mni Wiconi Project Act of 1988 (Public Law 100–516; 102 Stat. 2571), as amended by section 813 of the Mni Wiconi Act Amendments of 1994 (Public Law 103–434; 108 Stat. 4545), is amended—

(1) in the first sentence, by inserting “(based on October 1, 1992, price levels) and \$58,800,000 (based on October 1, 1997, price levels)” after “\$263,241,000”;

(2) in the second sentence, by striking “2003” and inserting “2008”; and

(3) in the last sentence, by inserting “(with respect to the \$263,241,000), and October 1, 1997 (with respect to the \$58,800,000)” after “1992”.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4638 (S. 1999):

HOUSE REPORTS: No. 107–633 (Comm. on Resources).

SENATE REPORTS: No. 107–268 accompanying S. 1999 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 24, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–368
107th Congress

An Act

Dec. 19, 2002
[H.R. 4664]

To authorize appropriations for fiscal years 2003, 2004, 2005, 2006, and 2007
for the National Science Foundation, and for other purposes.

National Science
Foundation
Authorization
Act of 2002.
42 USC 1861
note.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “National Science Foundation
Authorization Act of 2002”.

42 USC 1862n
note.

SEC. 2. FINDINGS.

Congress finds the following:

(1) The National Science Foundation has made major contributions for more than 50 years to strengthen and sustain the Nation’s academic research enterprise that is the envy of the world.

(2) The economic strength and national security of the United States and the quality of life of all Americans are grounded in the Nation’s scientific and technological capabilities.

(3) The National Science Foundation carries out important functions in supporting basic research in all science and engineering disciplines and in supporting science, mathematics, engineering, and technology education at all levels.

(4) The research and education activities of the National Science Foundation promote the discovery, integration, dissemination, and application of new knowledge in service to society and prepare future generations of scientists, mathematicians, and engineers who will be necessary to ensure America’s leadership in the global marketplace.

(5) The National Science Foundation must be provided with sufficient resources to enable it to carry out its responsibilities to develop intellectual capital, strengthen the scientific infrastructure, integrate research and education, enhance the delivery of mathematics and science education in the United States, and improve the technological literacy of all people in the United States.

(6) The emerging global economic, scientific, and technical environment challenges long-standing assumptions about domestic and international policy, requiring the National Science Foundation to play a more proactive role in sustaining the competitive advantage of the United States through superior research capabilities.

(7) Commercial application of the results of Federal investment in basic and computing science is consistent with long-standing United States technology transfer policy and is a critical national priority, particularly with regard to cybersecurity and other homeland security applications, because of the urgent needs of commercial, academic, and individual users as well as the Federal and State Governments.

SEC. 3. POLICY OBJECTIVES.

In allocating resources made available under section 5, the Foundation shall have the following policy objectives:

(1) To strengthen the Nation's lead in science and technology by—

(A) increasing the national investment in general scientific research and increasing investment in strategic areas;

(B) balancing the Nation's research portfolio among the life sciences, mathematics, the physical sciences, computer and information science, geoscience, engineering, and social, behavioral, and economic sciences, all of which are important for the continued development of enabling technologies necessary for sustained international competitiveness;

(C) expanding the pool of scientists and engineers in the United States;

(D) modernizing the Nation's research infrastructure; and

(E) establishing and maintaining cooperative international relationships with premier research institutions, with the goal of such relationships being the exchange of personnel, data, and information in an effort to alleviate problems common to the global community.

(2) To increase overall workforce skills by—

(A) improving the quality of mathematics and science education, particularly in kindergarten through grade 12;

(B) promoting access to information technology for all students;

(C) raising postsecondary enrollment rates in science, mathematics, engineering, and technology disciplines for individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b);

(D) increasing access to higher education in science, mathematics, engineering, and technology fields for students from low-income households; and

(E) expanding science, mathematics, engineering, and technology training opportunities at institutions of higher education.

(3) To strengthen innovation by expanding the focus of competitiveness and innovation policy at the regional and local level.

SEC. 4. DEFINITIONS.

In this Act:

(1) **ACADEMIC UNIT.**—The term “academic unit” means a department, division, institute, school, college, or other sub-component of an institution of higher education.

42 USC 1862n
note.

(2) BOARD.—The term “Board” means the National Science Board established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(3) COMMUNITY COLLEGE.—The term “community college” has the meaning given such term in section 3301(3) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7011(3)).

(4) DIRECTOR.—The term “Director” means the Director of the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(5) ELEMENTARY SCHOOL.—The term “elementary school” has the meaning given that term by section 9101(18) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(18)).

(6) ELIGIBLE NONPROFIT ORGANIZATION.—The term “eligible nonprofit organization” means a nonprofit research institute, or a nonprofit professional association, with demonstrated experience and effectiveness in mathematics or science education as determined by the Director.

(7) FOUNDATION.—The term “Foundation” means the National Science Foundation established under section 2 of the National Science Foundation Act of 1950 (42 U.S.C. 1861).

(8) HIGH-NEED LOCAL EDUCATIONAL AGENCY.—The term “high-need local educational agency” means a local educational agency that meets one or more of the following criteria:

(A) It has at least one school in which 50 percent or more of the enrolled students are eligible for participation in the free and reduced price lunch program established by the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.).

(B) It has at least one school in which—

(i) more than 34 percent of the academic classroom teachers at the secondary level (across all academic subjects) do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes; or

(ii) more than 34 percent of the teachers in two of the academic departments do not have an undergraduate degree with a major or minor in, or a graduate degree in, the academic field in which they teach the largest percentage of their classes.

(C) It has at least one school whose teacher attrition rate has been 15 percent or more over the last three school years.

(9) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)).

(10) LOCAL EDUCATIONAL AGENCY.—The term “local educational agency” has the meaning given such term by section 9101(26) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(26)).

(11) MASTER TEACHER.—The term “master teacher” means a mathematics or science teacher who works to improve the

instruction of mathematics or science in kindergarten through grade 12 through—

(A) participating in the development or revision of science, mathematics, engineering, or technology curricula;

(B) serving as a mentor to mathematics or science teachers;

(C) coordinating and assisting teachers in the use of hands-on inquiry materials, equipment, and supplies, and when appropriate, supervising acquisition and repair of such materials;

(D) providing in-classroom teaching assistance to mathematics or science teachers; and

(E) providing professional development, including for the purposes of training other master teachers, to mathematics and science teachers.

(12) NATIONAL RESEARCH FACILITY.—The term “national research facility” means a research facility funded by the Foundation which is available, subject to appropriate policies allocating access, for use by all scientists and engineers affiliated with research institutions located in the United States.

(13) SECONDARY SCHOOL.—The term “secondary school” has the meaning given that term by section 9101(38) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(38)).

(14) STATE.—Except with respect to the Experimental Program to Stimulate Competitive Research, the term “State” means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

(15) STATE EDUCATIONAL AGENCY.—The term “State educational agency” has the meaning given such term by section 9101(41) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801(41)).

(16) UNITED STATES.—The term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) FISCAL YEAR 2003.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$5,536,390,000 for fiscal year 2003.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$4,155,690,000 shall be made available to carry out research and related activities, of which \$704,000,000 shall be for information technology research described in paragraph (1) of section 8 and \$301,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) \$1,006,250,000 shall be made available for education and human resources, of which—

(i) \$200,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) \$20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) \$25,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) \$172,050,000 shall be made available for major research equipment and facilities construction;

(D) \$191,200,000 shall be made available for salaries and expenses;

(E) \$3,500,000 shall be made available for the Office of the National Science Board, including salaries and compensation for members of the Board and staff appointed under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863), travel and training costs for members of the Board and such staff, general and Board operating expenses, representational expenses for the Board, honorary awards made by the Board, Board reports (other than the report entitled "Science and Engineering Indicators"), and contracts; and

(F) \$7,700,000 shall be made available for the Office of Inspector General.

(b) FISCAL YEAR 2004.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$6,390,832,000 for fiscal year 2004.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$4,799,822,000 shall be made available to carry out research and related activities, of which \$774,000,000 shall be for information technology research described in paragraph (1) of section 8 and \$350,000,000 shall be for nanoscale science and engineering described in paragraph (2) of section 8;

(B) \$1,157,188,000 shall be made available for education and human resources, of which—

(i) \$300,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) \$20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) \$30,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) \$211,182,000 shall be made available for major research equipment and facilities construction;

(D) \$210,320,000 shall be made available for salaries and expenses;

(E) \$3,850,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) \$8,470,000 shall be made available for the Office of Inspector General.

(c) FISCAL YEAR 2005.—

(1) IN GENERAL.—There are authorized to be appropriated to the Foundation \$7,378,343,000 for fiscal year 2005.

(2) SPECIFIC ALLOCATIONS.—Of the amount authorized under paragraph (1)—

(A) \$5,543,794,000 shall be made available to carry out research and related activities;

(B) \$1,330,766,000 shall be made available to carry out education and human resources, of which—

(i) \$400,000,000 shall be for mathematics and science education partnerships described in section 9;

(ii) \$20,000,000 shall be for the Robert Noyce Scholarship Program described in section 10; and

(iii) \$35,000,000 shall be for the science, mathematics, engineering, and technology talent expansion program described in paragraph (7) of section 8;

(C) \$258,879,000 shall be made available for major research equipment and facilities construction;

(D) \$231,337,000 shall be made available for salaries and expenses;

(E) \$4,250,000 shall be made available for the Office of the National Science Board for the purposes described in subsection (a)(2)(E); and

(F) \$9,317,000 shall be made available for the Office of Inspector General.

(d) FISCAL YEAR 2006.—There are authorized to be appropriated to the Foundation \$8,519,776,000 for fiscal year 2006.

(e) FISCAL YEAR 2007.—There are authorized to be appropriated to the Foundation \$9,839,262,000 for fiscal year 2007.

(f) CONTINGENT AUTHORIZATION.—

(1) IN GENERAL.—Funds are authorized to be appropriated under subsections (d) and (e), contingent on a determination by Congress that the Foundation has made successful progress toward meeting management goals consisting of—

(A) strategic management of human capital;

(B) competitive sourcing;

(C) improved financial performance;

(D) expanded electronic government; and

(E) budget and performance integration.

(2) CONSIDERATION.—In making that determination, Congress shall take into consideration whether or not the Director of the Office of Management and Budget has certified that the Foundation has, overall, made successful progress toward meeting those goals.

SEC. 6. OBLIGATION OF MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION FUNDS.

(a) FISCAL YEAR 2003.—None of the funds authorized under section 5(a)(2)(C) may be obligated until 30 days after the first report required under section 14(a)(2) is transmitted to the Congress.

(b) FISCAL YEAR 2004.—None of the funds authorized under section 5(b)(2)(C) may be obligated until 30 days after the report required by June 15, 2003, under section 14(a)(2) is transmitted to the Congress.

(c) FISCAL YEAR 2005.—None of the funds authorized under section 5(c)(2)(C) may be obligated until 30 days after the report required by June 15, 2004, under section 14(a)(2) is transmitted to the Congress.

(d) FISCAL YEAR 2006.—None of the funds authorized under section 5(d) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2005, under section 14(a)(2) is transmitted to the Congress.

(e) FISCAL YEAR 2007.—None of the funds authorized under section 5(e) may be obligated for major research equipment and facilities construction until 30 days after the report required by June 15, 2006, under section 14(a)(2) is transmitted to the Congress.

Deadline.

SEC. 7. ANNUAL PLAN FOR ALLOCATION OF FUNDING.

Not later than 60 days after the date of enactment of legislation providing for the annual appropriation of funds for the Foundation, the Director shall submit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, a plan for the allocation of funds authorized by this Act for the corresponding fiscal year. The portion of the plan pertaining to Research and Related Activities shall include a description of how the allocation of funding—

(1) will affect the average size and duration of research grants supported by the Foundation by field of science, mathematics, and engineering;

(2) will affect trends in research support for major fields and subfields of science, mathematics, and engineering, including for emerging multidisciplinary research areas; and

(3) is designed to achieve an appropriate balance among major fields and subfields of science, mathematics, and engineering.

SEC. 8. SPECIFIC PROGRAM AUTHORIZATIONS.

From amounts authorized to be appropriated under section 5, the Director shall carry out the Foundation's research and education programs, including the following initiatives in accordance with this section:

(1) INFORMATION TECHNOLOGY.—An information technology research program to support competitive, merit-reviewed proposals for research, education, and infrastructure support in areas related to cybersecurity, terascale computing systems, software, networking, scalability, communications, data management, and remote sensing and geospatial information technologies.

(2) NANOSCALE SCIENCE AND ENGINEERING.—A nanoscale science and engineering research and education program to support competitive, merit-reviewed proposals that emphasize—

(A) research aimed at discovering novel phenomena, processes, materials, and tools that address grand challenges in materials, electronics, optoelectronics and magnetics, manufacturing, the environment, and health care; and

(B) supporting new research and interdisciplinary centers and networks of excellence, including shared national user facilities, infrastructure, research, and education activities on the societal implications of advances in nanoscale science and engineering.

(3) PLANT GENOME RESEARCH.—(A) A plant genome research program to support competitive, merit-reviewed proposals—

(i) that advance the understanding of the structure, organization, and function of plant genomes; and

(ii) that accelerate the use of new knowledge and innovative technologies toward a more complete understanding of basic biological processes in plants, especially in economically important plants such as corn and soybeans.

(B) Regional plant genome and gene expression research centers to conduct research and dissemination activities that may include—

(i) basic plant genomics research and genomics applications, including those related to cultivation of crops in extreme environments and to cultivation of crops with reduced reliance on fertilizer, herbicides, and pesticides;

(ii) basic research that will contribute to the development or use of innovative plant-derived products;

(iii) basic research on alternative uses for plants and plant materials, including the use of plants as renewable feedstock for alternative energy production and nonpetroleum-based industrial chemicals and precursors; and

(iv) basic research and dissemination of information on the ecological and other consequences of genetically engineered plants.

Competitive, merit-based awards for centers under this subparagraph shall be to consortia of institutions of higher education or nonprofit organizations. The Director shall, to the extent practicable, ensure that research centers established under this subparagraph collectively examine as many different agricultural environments as possible, enhance the excellence of existing Foundation programs, and focus on plants of economic importance.

(C) Research partnerships to focus on—

(i) basic genomic research on crops grown in the developing world;

(ii) basic plant genome research that will advance and expedite the development of improved cultivars, including those that are pest-resistant, produce increased yield, reduce the need for fertilizers, herbicides, or pesticides, or have increased tolerance to stress;

(iii) basic research that could lead to the development of technologies to produce pharmaceutical compounds such as vaccines and medications in plants that can be grown in the developing world; and

(iv) research on the impact of plant biotechnology on the social, political, economic, health, and environmental conditions in countries in the developing world.

Competitive, merit-based awards for partnerships under this subparagraph shall be to institutions of higher education, nonprofit organizations, or consortia of such entities that enter into a partnership that shall include one or more research institutions in one or more developing nations, and that may also include for-profit companies involved in plant biotechnology. The Director, by means of outreach, shall encourage inclusion of historically Black colleges and universities, Hispanic-serving institutions, tribally controlled colleges and universities, Alaska Native-serving institutions, and Native Hawaiian-serving institutions in consortia that enter into such partnerships.

(4) INNOVATION PARTNERSHIPS.—An innovation partnerships program to support competitive, merit-reviewed proposals that seek to stimulate innovation at the regional level through new partnerships involving States, regional governmental entities, local governmental entities, industry, academic institutions, and other related organizations in strategically important fields of science and technology.

(5) MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.—The mathematics and science education partnerships program described in section 9.

(6) ROBERT NOYCE SCHOLARSHIP PROGRAM.—The Robert Noyce Scholarship Program described in section 10.

(7) SCIENCE, MATHEMATICS, ENGINEERING, AND TECHNOLOGY TALENT EXPANSION PROGRAM.—(A) A program of competitive, merit-based, multi-year grants for eligible applicants to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, and technology, particularly in fields that have faced declining enrollment in recent years.

(B) In selecting projects under this paragraph, the Director shall strive to increase the number of students studying toward and completing baccalaureate degrees, concentrations, or certificates in science, mathematics, engineering, or technology who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(C) The types of projects the Foundation may support under this paragraph include those that promote high quality—

- (i) interdisciplinary teaching;
- (ii) undergraduate-conducted research;
- (iii) mentor relationships for students;
- (iv) bridge programs that enable students at community colleges to matriculate directly into baccalaureate science, mathematics, engineering, or technology programs;
- (v) internships carried out in partnership with industry; and
- (vi) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(D)(i) In order to receive a grant under this paragraph, an eligible applicant shall establish targets to increase the number of students studying toward and completing associate's or bachelor's degrees in science, mathematics, engineering, or technology.

(ii) A grant under this paragraph shall be awarded for a period of 5 years, with the final 2 years of funding contingent on the Director's determination that satisfactory progress has been made by the grantee toward meeting the targets established under clause (i).

(iii) In the case of community colleges, a student who transfers to a baccalaureate program, or receives a certificate under an established certificate program, in science, mathematics, engineering, or technology shall be counted toward meeting a target established under clause (i).

(E) For each grant awarded under this paragraph to an institution of higher education, at least 1 principal investigator

shall be in a position of administrative leadership at the institution of higher education, and at least 1 principal investigator shall be a faculty member from an academic department included in the work of the project. For each grant awarded to a consortium or partnership, at each institution of higher education participating in the consortium or partnership, at least 1 of the individuals responsible for carrying out activities authorized under this paragraph at that institution shall be in a position of administrative leadership at the institution, and at least 1 shall be a faculty member from an academic department included in the work of the project at that institution.

- (F) In this paragraph, the term “eligible applicant” means—
 (i) an institution of higher education;
 (ii) a consortium of institutions of higher education;

or

- (iii) a partnership between—
 (I) an institution of higher education or a consortium of such institutions; and
 (II) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in science, mathematics, engineering, or technology education.

(8) SECONDARY SCHOOL SYSTEMIC INITIATIVE.—A program of competitive, merit-based grants for State educational agencies or local educational agencies that supports the planning and implementation of agency-wide secondary school reform initiatives designed to promote scientific and technological literacy, meet the mathematics and science education needs of students at risk of not achieving State student academic achievement standards, reduce the need for basic skill training by employers, and heighten college completion rates through activities, such as—

- (A) systemic alignment of secondary school curricula and higher education freshman placement requirements;
 (B) development of materials and curricula that support small, theme-oriented schools and learning communities;
 (C) implementation of enriched mathematics and science curricula for all secondary school students;
 (D) strengthened teacher training in mathematics, science, and reading as it relates to technical and specialized texts;
 (E) laboratory improvement and provision of instrumentation as part of a comprehensive program to enhance the quality of mathematics, science, engineering, and technology instruction; or
 (F) other secondary school systemic initiatives that enable grantees to leverage private sector funding for mathematics, science, engineering, and technology scholarships.

In awarding grants under this paragraph, the Director shall give priority to agencies that serve high poverty communities.

(9) EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH.—The Experimental Program to Stimulate Competitive Research, established under section 113 of the National

Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g), that is designed to enhance—

(A) research in mathematics, science, and engineering throughout the States eligible to participate in the program and the Commonwealth of Puerto Rico;

(B) research infrastructure in the States eligible to participate in the program and the Commonwealth of Puerto Rico; and

(C) the geographic distribution of Federal research and development support.

(10) **THE SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT.**—A comprehensive program designed to advance the goals of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885 et seq.), including programs to—

(A) provide support to minority-serving institutions; and

(B) ensure that reports required under sections 36 and 37 of such Act are submitted to the—

(i) Committee on Science of the House of Representatives;

(ii) Committee on Health, Education, Labor, and Pensions of the Senate; and

(iii) Committee on Commerce, Science, and Transportation of the Senate.

(11) **ASTRONOMICAL RESEARCH AND INSTRUMENTATION.**—An astronomical research program to support competitive, merit-reviewed proposals that—

(A) will advance understanding of—

(i) the origins and characteristics of planets, the Sun, other stars, the Milky Way Galaxy, and extragalactic objects (such as clusters of galaxies and quasars); and

(ii) the structure and origin of the universe; and

(B) support related activities such as developing advanced technologies and instrumentation, funding undergraduate and graduate students, and satisfying other instrumentation and research needs.

42 USC 1862n.

SEC. 9. MATHEMATICS AND SCIENCE EDUCATION PARTNERSHIPS.

(a) **PROGRAM AUTHORIZED.**—

(1) **IN GENERAL.**—(A) The Director shall carry out a program to award grants to institutions of higher education or eligible nonprofit organizations (or consortia of such institutions or organizations) to establish mathematics and science education partnership programs to improve elementary and secondary mathematics and science instruction.

(B) Grants shall be awarded under this subsection on a competitive, merit-reviewed basis.

(2) **PARTNERSHIPS.**—(A) In order to be eligible to receive a grant under this subsection, an institution of higher education or eligible nonprofit organization (or consortium of such institutions or organizations) shall enter into a partnership with one or more local educational agencies that may also include a State educational agency or one or more businesses.

(B) A participating institution of higher education shall include mathematics, science, or engineering departments in

the programs carried out through a partnership under this paragraph.

(3) **USES OF FUNDS.**—Grants awarded under this subsection shall be used for activities that draw upon the expertise of the partners to improve elementary or secondary education in mathematics or science and that are consistent with State mathematics and science student academic achievement standards, including—

(A) recruiting and preparing students for careers in elementary or secondary mathematics or science education;

(B) offering professional development programs, including summer or academic year institutes or workshops, designed to strengthen the capabilities of mathematics and science teachers;

(C) offering innovative preservice and inservice programs that instruct teachers on using technology more effectively in teaching mathematics and science, including programs that recruit and train undergraduate and graduate students to provide technical support to teachers;

(D) developing distance learning programs for teachers or students, including developing courses, curricular materials, and other resources for the in-service professional development of teachers that are made available to teachers through the Internet;

(E) developing a cadre of master teachers who will promote reform and improvement in schools;

(F) offering teacher preparation and certification programs for professional mathematicians, scientists, and engineers who wish to begin a career in teaching;

(G) developing tools to evaluate activities conducted under this subsection;

(H) developing or adapting elementary school and secondary school mathematics and science curricular materials that incorporate contemporary research on the science of learning;

(I) developing initiatives to increase and sustain the number, quality, and diversity of prekindergarten through grade 12 teachers of mathematics and science, especially in underserved areas;

(J) using mathematicians, scientists, and engineers employed by private businesses to help recruit and train mathematics and science teachers;

(K) developing and offering mathematics or science enrichment programs for students, including after-school and summer programs;

(L) providing research opportunities in business or academia for students and teachers;

(M) bringing mathematicians, scientists, and engineers from business and academia into elementary school and secondary school classrooms; and

(N) any other activities the Director determines will accomplish the goals of this subsection.

(4) **MASTER TEACHERS.**—Activities carried out in accordance with paragraph (3)(E) shall—

(A) emphasize the training of master teachers who will improve the instruction of mathematics or science in kindergarten through grade 12;

(B) include training in both content and pedagogy; and

(C) provide training only to teachers who will be granted sufficient nonclassroom time to serve as master teachers, as demonstrated by assurances their employing school has provided to the Director, in such time and such manner as the Director may require.

(5) SCIENCE ENRICHMENT PROGRAMS FOR GIRLS.—Activities carried out in accordance with paragraph (3)(K) and (L) shall include elementary school and secondary school programs to encourage the ongoing interest of girls in science, mathematics, engineering, and technology and to prepare girls to pursue undergraduate and graduate degrees and careers in science, mathematics, engineering, or technology. Funds made available through awards to partnerships for the purposes of this paragraph may support programs for—

(A) encouraging girls to pursue studies in science, mathematics, engineering, and technology and to major in such fields in postsecondary education;

(B) tutoring girls in science, mathematics, engineering, and technology;

(C) providing mentors for girls in person and through the Internet to support such girls in pursuing studies in science, mathematics, engineering, and technology;

(D) educating the parents of girls about the difficulties faced by girls to maintain an interest and desire to achieve in science, mathematics, engineering, and technology, and enlisting the help of parents in overcoming these difficulties; and

(E) acquainting girls with careers in science, mathematics, engineering, and technology and encouraging girls to plan for careers in such fields.

(6) RESEARCH IN SECONDARY SCHOOLS.—Activities carried out in accordance with paragraph (3)(K) may include support for research projects performed by students at secondary schools. Uses of funds made available through awards to partnerships for purposes of this paragraph may include—

(A) training secondary school mathematics and science teachers in the design of research projects for students;

(B) establishing a system for students and teachers involved in research projects funded under this subsection to exchange information about their projects and research results; and

(C) assessing the educational value of the student research projects by such means as tracking the academic performance and choice of academic majors of students conducting research.

(7) STIPENDS.—Grants awarded under this subsection may be used to provide stipends for teachers or students participating in training or research activities that would not be part of their typical classroom activities.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education or an eligible nonprofit organization (or a consortium of such institutions or organizations) seeking funding under subsection (a) shall submit an application to the Director at such time, in such manner, and containing such information as the

Director may require. The application shall include, at a minimum—

(A) a description of the partnership and the role that each member will play in implementing the proposal;

(B) a description of each of the activities to be carried out, including—

(i) how such activities will be aligned with State mathematics and science student academic achievement standards and with other activities that promote student achievement in mathematics and science;

(ii) how such activities will be based on a review of relevant research;

(iii) why such activities are expected to improve student performance and strengthen the quality of mathematics and science instruction; and

(iv) any activities that will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields;

(C) a description of the number, size, and nature of any stipends that will be provided to students or teachers and the reasons such stipends are needed;

(D) a description of how the partnership will serve as a catalyst for reform of mathematics and science education programs;

(E) a description of how the partnership will assess its success;

(F) a description of how the partnership will collaborate with the State educational agency to ensure that successful partnership activities may be replicated throughout the State; and

(G) a description of the manner in which the partnership will be continued after assistance under this section ends.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the partnership to carry out effectively the proposed programs;

(B) the extent to which the members of the partnership are committed to making the partnership a central organizational focus;

(C) the degree to which activities carried out by the partnership are based on relevant research and are likely to result in increased student achievement;

(D) the degree to which such activities are aligned with State mathematics and science student academic achievement standards;

(E) the likelihood that the partnership will demonstrate activities that can be widely implemented as part of larger scale reform efforts; and

(F) the extent to which the activities will encourage the interest of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act

(42 U.S.C. 1885a or 1885b) in mathematics, science, engineering, and technology and will help prepare such individuals to pursue postsecondary studies in these fields.

(3) AWARDS.—In awarding grants under this section, the Director shall—

(A) give priority to applications in which the partnership includes a high-need local educational agency or a high-need local educational agency in which at least one school does not make adequate yearly progress, as determined pursuant to part A of title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6311 et seq.); and

(B) ensure that, to the extent practicable, a substantial number of the partnerships funded under this section include businesses.

(c) ACCOUNTABILITY AND DISSEMINATION.—

(1) ASSESSMENT REQUIRED.—The Director shall evaluate the program established under subsection (a). At a minimum, such evaluation shall—

(A) use a common set of benchmarks and assessment tools to identify best practices and materials developed and demonstrated by the partnerships; and

(B) to the extent practicable, compare the effectiveness of practices and materials developed and demonstrated by the partnerships authorized under this section with those of partnerships funded by other State or Federal agencies.

(2) DISSEMINATION OF RESULTS.—(A) The results of the evaluation required under paragraph (1) shall be made available to the public and shall be provided to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(B) Materials developed under the program established under subsection (a) that are demonstrated to be effective shall be made widely available to the public.

(3) ANNUAL MEETING.—The Director, in consultation with the Secretary of Education, shall convene an annual meeting of the partnerships participating under this section to foster greater national collaboration.

(4) REPORT ON COORDINATION.—The Director, in consultation with the Secretary of Education, shall provide an annual report to the Committee on Science of the House of Representatives, the Committee on Education and the Workforce of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate describing how the program authorized under this section has been and will be coordinated with the program authorized under part B of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6601 et seq.). The report under this paragraph shall be submitted along with the President's annual budget request.

(5) TECHNICAL ASSISTANCE.—At the request of an eligible partnership or a State educational agency, the Director shall provide the partnership or agency with technical assistance

Public
information.

in meeting any requirements of this section, including providing advice from experts on how to develop—

(A) a quality application for a grant; and

(B) quality activities from funds received from a grant under this section.

SEC. 10. ROBERT NOYCE SCHOLARSHIP PROGRAM.

42 USC 1862n-1.

(a) SCHOLARSHIP PROGRAM.—

(1) IN GENERAL.—The Director shall carry out a program to award grants to institutions of higher education (or consortia of such institutions) to provide scholarships, stipends, and programming designed to recruit and train mathematics and science teachers. Such program shall be known as the “Robert Noyce Scholarship Program”.

(2) MERIT REVIEW.—Grants shall be provided under this subsection on a competitive, merit-reviewed basis.

(3) USE OF GRANTS.—Grants provided under this section shall be used by institutions of higher education or consortia—

(A) to develop and implement a program to encourage top college juniors and seniors majoring in mathematics, science, and engineering at the grantee’s institution to become mathematics and science teachers, through—

(i) administering scholarships in accordance with subsection (c);

(ii) offering programs to help scholarship recipients to teach in elementary schools and secondary schools, including programs that will result in teacher certification or licensing; and

(iii) offering programs to scholarship recipients, both before and after they receive their baccalaureate degree, to enable the recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields; or

(B) to develop and implement a program to encourage science, mathematics, or engineering professionals to become mathematics and science teachers, through—

(i) administering stipends in accordance with subsection (d);

(ii) offering programs to help stipend recipients obtain teacher certification or licensing; and

(iii) offering programs to stipend recipients, both during and after matriculation in the program for which the stipend is received, to enable recipients to become better mathematics and science teachers, to fulfill the service requirements of this section, and to exchange ideas with others in their fields.

(b) SELECTION PROCESS.—

(1) APPLICATION.—An institution of higher education or consortium seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the scholarship or stipend program that the applicant intends to operate, including the number of scholarships or the size and number of stipends the

applicant intends to award, and the selection process that will be used in awarding the scholarships or stipends;

(B) evidence that the applicant has the capability to administer the scholarship or stipend program in accordance with the provisions of this section; and

(C) a description of the programming that will be offered to scholarship or stipend recipients during and after their matriculation in the program for which the scholarship or stipend is received.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the program;

(B) the extent to which the applicant is committed to making the program a central organizational focus;

(C) the degree to which the proposed programming will enable scholarship or stipend recipients to become successful mathematics and science teachers;

(D) the number and quality of the students that will be served by the program; and

(E) the ability of the applicant to recruit students who would otherwise not pursue a career in teaching.

(c) SCHOLARSHIP REQUIREMENTS.—

(1) IN GENERAL.—Scholarships under this section shall be available only to students who are—

(A) majoring in science, mathematics, or engineering; and

(B) in the last 2 years of a baccalaureate degree program.

(2) SELECTION.—Individuals shall be selected to receive scholarships primarily on the basis of academic merit, with consideration given to financial need and to the goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) AMOUNT.—The Director shall establish for each year the amount to be awarded for scholarships under this section for that year, which shall be not less than \$7,500 per year, except that no individual shall receive for any year more than the cost of attendance at that individual's institution. Individuals may receive a maximum of 2 years of scholarship support.

(4) SERVICE OBLIGATION.—If an individual receives a scholarship, that individual shall be required to complete, within 6 years after graduation from the baccalaureate degree program for which the scholarship was awarded, 2 years of service as a mathematics or science teacher for each year a scholarship was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(d) STIPENDS.—

(1) IN GENERAL.—Stipends under this section shall be available only to mathematics, science, and engineering professionals who, while receiving the stipend, are enrolled in a program to receive certification or licensing to teach.

(2) SELECTION.—Individuals shall be selected to receive stipends under this section primarily on the basis of academic merit, with consideration given to financial need and to the

goal of promoting the participation of individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(3) DURATION.—Individuals may receive a maximum of 1 year of stipend support.

(4) SERVICE OBLIGATION.—If an individual receives a stipend under this section, that individual shall be required to complete, within 6 years after graduation from the program for which the stipend was awarded, 2 years of service as a mathematics or science teacher for each year a stipend was received. Service required under this paragraph shall be performed in a high-need local educational agency.

(e) CONDITIONS OF SUPPORT.—As a condition of acceptance of a scholarship or stipend under this section, a recipient shall enter into an agreement with the institution of higher education—

(1) accepting the terms of the scholarship or stipend pursuant to subsections (c) and (g), or subsection (d);

(2) agreeing to provide the awarding institution of higher education with annual certification of employment and up-to-date contact information and to participate in surveys provided by the institution of higher education as part of an ongoing assessment program; and

(3) establishing that any scholarship recipient shall be liable to the United States for any amount that is required to be repaid in accordance with the provisions of subsection (g).

(f) COLLECTION FOR NONCOMPLIANCE.—

(1) MONITORING COMPLIANCE.—An institution of higher education (or consortium thereof) receiving a grant under this section shall, as a condition of participating in the program, enter into an agreement with the Director to monitor the compliance of scholarship and stipend recipients with their respective service requirements.

(2) COLLECTION OF REPAYMENT.—(A) In the event that a scholarship recipient is required to repay the scholarship under subsection (g), the institution shall be responsible for collecting the repayment amounts.

(B) Except as provided in subparagraph (C), any such repayment shall be returned to the Treasury of the United States.

(C) A grantee may retain a percentage of any repayment it collects to defray administrative costs associated with the collection. The Director shall establish a single, fixed percentage that will apply to all grantees.

(g) FAILURE TO COMPLETE SERVICE OBLIGATION.—

(1) GENERAL RULE.—If an individual who has received a scholarship under this section—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which the individual is enrolled, as determined by the Director;

(B) is dismissed from such educational institution for disciplinary reasons;

(C) withdraws from the baccalaureate degree program for which the award was made before the completion of such program;

(D) declares that the individual does not intend to fulfill the service obligation under this section; or

(E) fails to fulfill the service obligation of the individual under this section, such individual shall be liable to the United States as provided in paragraph (2).

(2) AMOUNT OF REPAYMENT.—(A) If a circumstance described in paragraph (1) occurs before the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to—

(i) the total amount of awards received by such individual under this section; plus

(ii) the interest on the amounts of such awards which would be payable if at the time the awards were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States,

multiplied by 2.

(B) If a circumstance described in paragraph (1)(D) or (E) occurs after the completion of one year of a service obligation under this section, the United States shall be entitled to recover from the individual, within one year after the date of the occurrence of such circumstance, an amount equal to the total amount of awards received by such individual under this section minus $\frac{1}{2}$ of the amount of the award received per year for each full year of service completed, plus the interest on such amounts which would be payable if at the time the amounts were received they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

(3) EXCEPTIONS.—The Director may provide for the partial or total waiver or suspension of any service or payment obligation by an individual under this section whenever compliance by the individual with the obligation is impossible or would involve extreme hardship to the individual, or if enforcement of such obligation with respect to the individual would be unconscionable.

(h) DATA COLLECTION.—Institutions or consortia receiving grants under this section shall supply to the Director any relevant statistical and demographic data on scholarship recipients and stipend recipients the Director may request, including information on employment required by subsection (e).

(i) DEFINITIONS.—In this section—

(1) the term “cost of attendance” has the meaning given such term in section 472 of the Higher Education Act of 1965 (20 U.S.C. 10871l);

(2) the term “mathematics and science teacher” means a mathematics, science, or technology teacher at the elementary school or secondary school level;

(3) the term “mathematics, science, or engineering professional” means a person who holds a baccalaureate, masters, or doctoral degree in science, mathematics, or engineering and is working in that field or a related area;

(4) the term “scholarship” means an award under subsection (c); and

(5) the term “stipend” means an award under subsection (d).

SEC. 11. ESTABLISHMENT OF CENTERS FOR RESEARCH ON MATHEMATICS AND SCIENCE LEARNING AND EDUCATION IMPROVEMENT.

42 USC 1862n-2.

(a) ESTABLISHMENT.—

Grants.

(1) **IN GENERAL.**—(A) The Director shall award grants to institutions of higher education (or consortia thereof) to establish multidisciplinary Centers for Research on Learning and Education Improvement.

(B) Grants shall be awarded under this paragraph on a competitive, merit-reviewed basis.

(2) **PURPOSE.**—The purpose of the Centers shall be to conduct and evaluate research in cognitive science, education, and related fields and to develop ways in which the results of such research can be applied in elementary school and secondary school classrooms to improve the teaching of mathematics and science.

(3) **FOCUS.**—(A) Each Center shall be focused on a different challenge faced by elementary school or secondary school teachers of mathematics and science. In determining the research focus of the Centers, the Director shall consult with the National Academy of Sciences and the Secretary of Education and take into account the extent to which other Federal programs support research on similar questions.

(B) The proposal solicitation issued by the Director shall state the focus of each Center and applicants shall apply for designation as a specific Center.

(C) At least one Center shall focus on developing ways in which the results of research described in paragraph (2) can be applied, duplicated, and scaled up for use in low-performing elementary schools and secondary schools to improve the teaching and student achievement levels in mathematics and science.

(D) To the extent practicable and relevant to its focus, every Center shall include, as part of its research, work designed to quantitatively assess and improve the ways that information technology is used in the teaching of mathematics and science.

(b) SELECTION PROCESS.—

(1) **APPLICATION.**—An institution of higher education (or a consortium of such institutions) seeking funding under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum, a description of—

(A) the initial research projects that will be undertaken by the Center and the process by which new projects will be identified;

(B) how the Center will work with other research institutions and schools to broaden the national research agenda on learning and teaching;

(C) how the Center will promote active collaboration among physical, biological, and social science researchers;

(D) how the Center will promote active participation by elementary and secondary mathematics and science teachers and administrators; and

(E) how the results of the Center's research can be incorporated into educational practices, and how the Center will assess the success of those practices.

(2) REVIEW OF APPLICATIONS.—In evaluating the applications submitted under paragraph (1), the Director shall consider, at a minimum—

(A) the ability of the applicant to effectively carry out the research program, including the activities described in paragraph (1)(E);

(B) the experience of the applicant in conducting research on the science of teaching and learning and the capacity of the applicant to foster new multidisciplinary collaborations;

(C) the capacity of the applicant to attract elementary school and secondary school teachers from a diverse array of schools, and with diverse professional experiences, for participation in Center activities; and

(D) the capacity of the applicant to attract and provide adequate support for graduate students to pursue research at the intersection of educational practice and basic research on human cognition and learning.

(3) AWARDS.—The Director shall ensure, to the extent practicable, that the Centers funded under this section conduct research and develop educational practices designed to improve the educational performance of a broad range of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) ANNUAL CONFERENCE.—The Director shall convene an annual meeting of the Centers to foster collaboration among the Centers and to further disseminate the results of the Centers' activities.

(d) COORDINATION.—The Director shall coordinate with the Secretary of Education in—

(1) disseminating the results of the research conducted pursuant to grants awarded under this section to elementary school teachers and secondary school teachers; and

(2) providing programming, guidance, and support to ensure that such teachers—

(A) understand the implications of the research disseminated under paragraph (1) for classroom practice; and

(B) can use the research to improve such teachers' performance in the classroom.

42 USC 1862n-3. **SEC. 12. DUPLICATION OF PROGRAMS.**

(a) IN GENERAL.—The Director shall review the education programs of the Foundation that are in operation as of the date of enactment of this Act to determine whether any of such programs duplicate the programs authorized under this Act.

(b) IMPLEMENTATION.—As programs authorized under this Act are implemented, the Director shall—

(1) terminate any duplicative program being carried out by the Foundation or merge the duplicative program into a program authorized under this Act; and

(2) not establish any new program that duplicates a program that has been implemented pursuant to this Act.

(c) REPORT.—

(1) REVIEW.—The Director of the Office of Science and Technology Policy shall review the education programs of the Foundation to ensure compliance with the provisions of this section.

(2) SUBMISSION.—Not later than 1 year after the date of enactment of this Act, and annually thereafter as part of the annual Office of Science and Technology Policy's budget submission to Congress, the Director of the Office of Science and Technology Policy shall complete a report on the review carried out under this subsection and shall submit the report to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate.

Deadline.

SEC. 13. MAJOR RESEARCH INSTRUMENTATION.

(a) REVIEW AND ASSESSMENT.—The Director shall conduct a review and assessment of the major research instrumentation program and, not later than 1 year after the date of enactment of this Act, submit a report of findings and recommendations to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate. The report shall include—

42 USC 1862b
note.
Deadline.
Reports.

(1) estimates of the needs, by major field of science and engineering and by types of institutions of higher education, for the types of research instrumentation that are eligible for acquisition under the guidelines of the major research instrumentation program;

(2) a description of the distribution of awards and funding levels by year, by major field of science and engineering, and by type of institution of higher education for the program, since the inception of the major research instrumentation program; and

(3) an analysis of the impact of the major research instrumentation program on the research instrumentation needs that were documented in the Foundation's 1994 survey of academic research instrumentation needs.

(b) NATIONAL ACADEMY OF SCIENCES ASSESSMENT ON INTERDISCIPLINARY RESEARCH AND ADVANCED INSTRUMENTATION CENTERS.—

Deadlines.

(1) ASSESSMENT.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess the need for an interagency program to establish and support fully equipped, state-of-the-art university-based centers for interdisciplinary research and advanced instrumentation development.

Contracts.

(2) TRANSMITTAL TO CONGRESS.—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the assessment conducted by the National Academy of Sciences together with

the Foundation's reaction to the assessment authorized under paragraph (1).

42 USC 1862n-4. **SEC. 14. MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION PLAN.**

(a) **PRIORITIZATION OF PROPOSED MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION.**—

(1) **DEVELOPMENT OF PRIORITIES.**—(A) The Director shall—

(i) develop a list indicating by number the relative priority for funding under the major research equipment and facilities construction account that the Director assigns to each project the Board has approved for inclusion in a future budget request; and

(ii) submit the list described in clause (i) to the Board for approval.

(B) The Director shall update the list prepared under subparagraph (A) each time the Board approves a new project that would receive funding under the major research equipment and facilities construction account, as necessary to prepare reports under paragraph (2), and, from time to time, submit any updated list to the Board for approval.

Deadlines.

(2) **ANNUAL REPORT.**—Not later than 90 days after the date of enactment of this Act, and not later than each June 15 thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing—

(A) the most recent Board-approved priority list developed under paragraph (1)(A);

(B) a description of the criteria used to develop such list; and

(C) a description of the major factors for each project that determined the ranking of such project on the list, based on the application of the criteria described pursuant to subparagraph (B).

(3) **CRITERIA.**—The criteria described pursuant to paragraph (2)(B) shall include, at a minimum—

(A) scientific merit;

(B) broad societal need and probable impact;

(C) consideration of the results of formal prioritization efforts by the scientific community;

(D) readiness of plans for construction and operation;

(E) the applicant's management and administrative capacity of large research facilities;

(F) international and interagency commitments; and

(G) the order in which projects were approved by the Board for inclusion in a future budget request.

(b) **FACILITIES PLAN.**—

(1) **IN GENERAL.**—Section 201(a)(1) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862l(a)(1)) is amended to read as follows:

“(1) **IN GENERAL.**—The Director shall prepare, and include as part of the Foundation's annual budget request to Congress, a plan for the proposed construction of, and repair and upgrades to, national research facilities, including full life-cycle cost information.”.

(2) CONTENTS OF PLAN.—Section 201(a)(2) of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862l(a)(2)) is amended—

(A) in subparagraph (A), by striking “(1);” and inserting “(1), including costs for instrumentation development;”;

(B) in subparagraph (B), by striking “and” after the semicolon;

(C) in subparagraph (C), by striking “construction.” and inserting “construction;”;

(D) by adding at the end the following:

“(D) for each project funded under the major research equipment and facilities construction account—

“(i) estimates of the total project cost (from planning to commissioning); and

“(ii) the source of funds, including Federal funding identified by appropriations category and non-Federal funding;

“(E) estimates of the full life-cycle cost of each national research facility;

“(F) information on any plans to retire national research facilities; and

“(G) estimates of funding levels for grants supporting research that will be conducted using each national research facility.”.

(3) DEFINITION.—Section 2 of the National Science Foundation Authorization Act of 1998 (42 U.S.C. 1862k note) is amended—

(A) by redesignating paragraphs (3) through (5) as paragraphs (4) through (6), respectively; and

(B) by inserting after paragraph (2) the following:

“(3) FULL LIFE-CYCLE COST.—The term ‘full life-cycle cost’ means all costs of planning, development, procurement, construction, operations and support, and shut-down costs, without regard to funding source and without regard to what entity manages the project or facility involved.”.

(c) PROJECT MANAGEMENT.—No national research facility project funded under the major research equipment and facilities construction account shall be managed by an individual whose appointment to the Foundation is temporary.

(d) BOARD APPROVAL OF MAJOR RESEARCH EQUIPMENT AND FACILITIES PROJECTS.—

(1) IN GENERAL.—The Board shall explicitly approve any project to be funded out of the major research equipment and facilities construction account before any funds may be obligated from such account for such project.

(2) REPORT.—Not later than September 15 of each fiscal year, the Board shall report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, and the Committee on Science of the House of Representatives on the conditions of any delegation of authority under section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) that relates to funds appropriated for any project in the major research equipment and facilities construction account.

Deadline.

(e) NATIONAL ACADEMY OF SCIENCES STUDY ON MAJOR RESEARCH EQUIPMENT AND FACILITIES CONSTRUCTION.—

Deadlines.

(1) **STUDY.**—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to perform a study on setting priorities for a diverse array of disciplinary and interdisciplinary Foundation-sponsored large research facility projects.

(2) **TRANSMITTAL TO CONGRESS.**—Not later than 15 months after the date of the enactment of this Act, the Director shall transmit to the Committee on Science and the Committee on Appropriations of the House of Representatives, and to the Committee on Commerce, Science, and Transportation, the Committee on Health, Education, Labor, and Pensions, and the Committee on Appropriations of the Senate, the study conducted by the National Academy of Sciences together with the Foundation's reaction to the study authorized under paragraph (1).

42 USC 1862n-5. **SEC. 15. ADMINISTRATIVE AMENDMENTS.**

(a) **BOARD MEETINGS.**—

(1) **IN GENERAL.**—Section 4(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(e)) is amended by striking the second and third sentences and inserting “The Board shall adopt procedures governing the conduct of its meetings, including delivery of notice and a definition of a quorum, which in no case shall be less than one-half plus one of the confirmed members of the Board.”.

(2) **OPEN MEETINGS.**—The Board and all of its committees, subcommittees, and task forces (and any other entity consisting of members of the Board and reporting to the Board) shall be subject to section 552b of title 5, United States Code.

(3) **COMPLIANCE AUDIT.**—The Inspector General of the Foundation shall conduct an annual audit of the compliance by the Board with the requirements described in paragraph (2). The audit shall examine the proposed and actual content of closed meetings and determine whether the closure of the meetings was consistent with section 552b of title 5, United States Code.

Deadline.

(4) **REPORT.**—Not later than February 15 of each year, the Inspector General of the Foundation shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate the audit required under paragraph (3) along with recommendations for corrective actions that need to be taken to achieve fuller compliance with the requirements described in paragraph (2), and recommendations on how to ensure public access to the Board's deliberations.

(b) **CONFIDENTIALITY OF CERTAIN INFORMATION.**—Section 14(i) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(i)) is amended to read as follows:

“(i)(1)(A) Information supplied to the Foundation or a contractor of the Foundation in survey forms, questionnaires, or similar instruments for purposes of section 3(a)(5) or (6) by an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution when the institution has received a pledge of confidentiality from the Foundation, shall not

be disclosed to the public unless the information has been transformed into statistical or abstract formats that do not allow for the identification of the supplier.

“(B) Information that has not been transformed into formats described in subparagraph (A) may be used only for statistical or research purposes.

“(C) The identities of individuals, organizations, and institutions supplying information described in subparagraph (A) may not be disclosed to the public.

“(2) In support of functions authorized by section 3(a)(5) or (6), the Foundation may designate, at its discretion, authorized persons, including employees of Federal, State, or local agencies or instrumentalities (including local educational agencies) and employees of private organizations, to have access, for statistical or research purposes only, to information collected pursuant to section 3(a)(5) or (6) that allows for the identification of the supplier. No such person may—

“(A) publish information collected pursuant to section 3(a)(5) or (6) in such a manner that either an individual, an industrial or commercial organization, or an educational, academic, or other nonprofit institution that has received a pledge of confidentiality from the Foundation can be specifically identified;

“(B) permit anyone other than individuals authorized by the Foundation to examine data that allows for such identification relating to an individual, an industrial or commercial organization, or an academic, educational, or other nonprofit institution that has received a pledge of confidentiality from the Foundation; or

“(C) knowingly and willfully request or obtain any nondisclosable information described in paragraph (1) from the Foundation under false pretenses.

“(3) Violation of this subsection is punishable by a fine of not more than \$10,000, imprisonment for not more than 5 years, or both.”.

(c) APPOINTMENT.—Section 4(g) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(g)) is amended by striking the second sentence and inserting “Such staff shall be appointed by the Chairman and assigned at the direction of the Board.”.

(d) SCHOLARSHIP ELIGIBILITY.—The Director shall not exclude part-time students from eligibility for scholarships under the Computer Science, Engineering, and Mathematics Scholarship program.

SEC. 16. SCIENCE AND ENGINEERING EQUAL OPPORTUNITIES ACT AMENDMENTS.

Section 32 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885) is amended—

(1) in subsection (a), by striking “backgrounds.” and inserting “backgrounds, including persons with disabilities.”; and

(2) in subsection (b)—

(A) by inserting “, including persons with disabilities,” after “backgrounds”; and

(B) by striking “and minorities” each place the term appears and inserting “, minorities, and persons with disabilities”.

42 USC 1862n-6. **SEC. 17. UNDERGRADUATE EDUCATION REFORM.**

Grants.

(a) **IN GENERAL.**—The Director shall award grants, on a competitive, merit-reviewed basis, to institutions of higher education to expand previously implemented reforms of undergraduate science, mathematics, engineering, or technology education that have been demonstrated to have been successful in increasing the number and quality of students studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) **USES OF FUNDS.**—Activities supported by grants under this section may include—

(1) expansion of successful reform efforts beyond a single course or group of courses to achieve reform within an entire academic unit;

(2) expansion of successful reform efforts beyond a single academic unit to other science, mathematics, engineering, or technology academic units within an institution;

(3) creation of multidisciplinary courses or programs that formalize collaborations for the purpose of improved student instruction and research in science, mathematics, engineering, and technology;

(4) expansion of undergraduate research opportunities beyond a particular laboratory, course, or academic unit to engage multiple academic units in providing multidisciplinary research opportunities for undergraduate students;

(5) expansion of innovative tutoring or mentoring programs proven to enhance student recruitment or persistence to degree completion in science, mathematics, engineering, or technology;

(6) improvement of undergraduate science, mathematics, engineering, and technology education for nonmajors, including education majors; and

(7) implementation of technology-driven reform efforts, including the installation of technology to facilitate such reform, that directly impact undergraduate science, mathematics, engineering, or technology instruction or research experiences.

(c) **SELECTION PROCESS.**—

(1) **APPLICATIONS.**—An institution of higher education seeking a grant under this section shall submit an application to the Director at such time, in such manner, and containing such information as the Director may require. The application shall include, at a minimum—

(A) a description of the proposed reform effort;

(B) a description of the previously implemented reform effort that will serve as the basis for the proposed reform effort and evidence of success of that previous effort, including data on student recruitment, persistence to degree completion, and academic achievement;

(C) evidence of active participation in the proposed project by individuals who were central to the success of the previously implemented reform effort; and

(D) evidence of institutional support for, and commitment to, the proposed reform effort, including a description of existing or planned institutional policies and practices regarding faculty hiring, promotion, tenure, and teaching assignment that reward faculty contributions to undergraduate education equal to, or greater than, scholarly scientific research.

(2) REVIEW OF APPLICATIONS.—In evaluating applications submitted under paragraph (1), the Director shall consider at a minimum—

(A) the evidence of past success in implementing undergraduate education reform and the likelihood of success in undertaking the proposed expanded effort;

(B) the extent to which the faculty, staff, and administrators of the institution are committed to making the proposed institutional reform a priority of the participating academic unit;

(C) the degree to which the proposed reform will contribute to change in institutional culture and policy such that a greater value is placed on faculty engagement in undergraduate education, as evidenced through promotion and tenure policies; and

(D) the likelihood that the institution will sustain or expand the reform beyond the period of the grant.

(3) GRANT DISTRIBUTION.—The Director shall ensure, to the extent practicable, that grants awarded under this section are made to a variety of types of institutions of higher education.

SEC. 18. REPORTS.

Deadlines.
42 USC 1862n-7.

(a) GRANT SIZE AND DURATION.—Not later than 6 months after the date of enactment of this Act, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report describing the impact that increasing the average grant size and duration would have on minority-serving institutions and on institutions located in States where the Foundation's Experimental Program to Stimulate Competitive Research (established under section 113 of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1862g)) is carrying out activities.

(b) FACULTY.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an arrangement with the National Academy of Sciences to assess gender differences in the careers of science and engineering faculty. This study shall build on the Academy's work on gender differences in the careers of doctoral scientists and engineers and examine issues such as faculty hiring, promotion, tenure, and allocation of resources including laboratory space. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

Contracts.

(c) GRANT FUNDING.—Not later than 3 months after the date of enactment of this Act, the Director shall enter into an agreement with an appropriate party to assess gender differences in the distribution of external Federal research and development funding. This study shall examine differences in amounts requested and awarded, by gender, in major Federal external grant programs. Upon completion, the results of this study shall be transmitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the

Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate.

(d) STUDY OF BROADBAND NETWORK ACCESS FOR SCHOOLS AND LIBRARIES.—

(1) REPORT TO CONGRESS.—The Director shall conduct a study of the issues described in paragraph (3), and not later than 1 year after the date of the enactment of this Act, transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report including recommendations to address those issues. Such report shall be updated annually for 4 additional years.

(2) CONSULTATION.—In preparing the reports under paragraph (1), the Director shall consult with Federal agencies and educational entities as the Director considers appropriate.

(3) ISSUES TO BE ADDRESSED.—The reports shall—

(A) identify the availability of high-speed, large bandwidth capacity access to different demographic groups served by elementary schools, secondary schools, and libraries in the United States;

(B) identify how the provision of high-speed, large bandwidth capacity access to the Internet to such schools and libraries can be effectively utilized within each school and library;

(C) consider the effect that specific or regional circumstances may have on the ability of such institutions to acquire high-speed, large bandwidth capacity access to achieve universal connectivity as an effective tool in the education process; and

(D) include options and recommendations to address the challenges and issues identified in the reports.

(e) MINORITY-SERVING INSTITUTION FUNDING.—

(1) ANNUAL REPORTING REQUIRED.—The Director shall submit an annual report, along with the President's annual budget request, to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the amount of funding awarded by the Foundation to minority-serving institutions, including funding received as members of consortia. The report shall include information on such funding to minority-serving institutions—

(A) expressed as a percentage of funding to all institutions of higher education for each appropriations account within the Foundation's budget; and

(B) for the preceding 10 years.

(2) REPORT ON WAYS TO IMPROVE FUNDING.—Within one year after the date of enactment of this Act, the Director shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report on recommendations on how the Foundation can improve funding to minority-serving institutions.

SEC. 19. EVALUATIONS.

42 USC 1862n-8.

(a) EDUCATION.—

(1) **IN GENERAL.**—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall evaluate the effectiveness of all undergraduate science, mathematics, engineering, or technology education activities supported by the Foundation in increasing the number and quality of students, including individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b) studying toward and completing associate's or baccalaureate degrees in science, mathematics, engineering, and technology. In conducting the evaluation, the Director shall consider information on—

(A) the number of students enrolled in undergraduate science, mathematics, engineering, and technology programs;

(B) student academic achievement, including quantifiable measurements of students' mastery of content and skills;

(C) persistence to degree completion, including students who transfer from science, mathematics, engineering, and technology programs to programs in other academic disciplines; and

(D) placement during the first year after degree completion in post-graduate education or career pathways.

(2) **ASSESSMENT BENCHMARKS AND TOOLS.**—The Director, through the Research, Evaluation and Communication Division of the Education and Human Resources Directorate of the Foundation, shall establish a common set of assessment benchmarks and tools, and shall enable every Foundation-sponsored project to incorporate the use of these benchmarks and tools in their project-based assessment activities.

(3) **REPORTS TO CONGRESS.**—Not later than 3 years after the date of the enactment of this Act, and once every 3 years thereafter, the Director shall transmit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a report containing the results of evaluations under paragraph (1).

Deadlines.

(b) **AWARDS.**—Notwithstanding any other provision of this Act, the Director shall annually evaluate a random sample of grants, contracts, or other awards made pursuant to this Act.

(c) DISSEMINATION.—The Director shall—

(1) provide for the dissemination of the results of the evaluations conducted pursuant to this section to the public; and

(2) provide notice to the public that such evaluations are available.

SEC. 20. REPORT BY COMMITTEE ON EQUAL OPPORTUNITIES IN SCIENCE AND ENGINEERING.

42 USC 1885c note.

As part of the first report required by section 36(e) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885c(e)) transmitted to Congress after the date of enactment of

this Act, the Committee on Equal Opportunities in Science and Engineering shall include—

- (1) a summary of its findings over the previous 10 years;
- (2) a description of past and present policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities in science, mathematics, and engineering fields, including activities in support of minority-serving institutions; and
- (3) an assessment of the trends in participation in Foundation activities, and an assessment of the success of Foundation policies and activities, along with proposals for new strategies or the broadening of existing successful strategies toward facilitating the goals of that Act.

SEC. 21. ADVANCED TECHNOLOGICAL EDUCATION PROGRAM.

(a) **CORE SCIENCE AND MATHEMATICS COURSES.**—Section 3(a) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(a)) is amended—

- (1) by inserting “, and to improve the quality of their core education courses in science and mathematics” after “education in advanced-technology fields”;
- (2) in paragraph (1) by inserting “and in core science and mathematics courses” after “advanced-technology fields”; and
- (3) in paragraph (2) by striking “in advanced-technology fields” and inserting “who provide instruction in science, mathematics, and advanced-technology fields”.

(b) **ARTICULATION PARTNERSHIPS.**—Section 3(c)(1)(B) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(c)(1)(B)) is amended—

- (1) by striking “and” at the end of clause (i);
- (2) by striking the period at the end of clause (ii) and inserting a semicolon; and
- (3) by adding after clause (ii) the following new clauses:
 - “(iii) provide students with research experiences at bachelor’s-degree-granting institutions participating in the partnership, including stipend support for students participating in summer programs; and
 - “(iv) provide faculty mentors for students participating in activities under clause (iii), including summer salary support for faculty mentors.”.

Deadline.

(c) **NATIONAL SCIENCE FOUNDATION REPORT.**—Within 6 months after the date of the enactment of this Act, the Director shall transmit a report to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on—

- (1) efforts by the Foundation and awardees under the program carried out under section 3 of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i) to disseminate information about the results of projects;
- (2) the effectiveness of national centers of scientific and technical education established under section 3(b) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(b)) in serving as national and regional clearinghouses of information and models for best practices in undergraduate science, mathematics, and technology education; and

(3) efforts to satisfy the requirement of section 3(f)(4) of the Scientific and Advanced-Technology Act of 1992 (42 U.S.C. 1862i(f)(4)).

SEC. 22. REPORT ON FOUNDATION BUDGETARY AND PROGRAMMATIC EXPANSION.

42 USC 1862n
note.

The Board shall prepare a report to address and examine the Foundation's budgetary and programmatic growth provided for by this Act. The report shall be submitted to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of the enactment of this Act and shall include—

Deadline.

(1) recommendations on how the increased funding should be utilized;

(2) an examination of the projected impact that the budgetary increases will have on the Nation's scientific and technological workforce;

(3) a description of new or expanded programs that will enable institutions of higher education to expand their participation in Foundation-funded activities;

(4) an estimate of the national scientific and technological research infrastructure needed to adequately support the Foundation's increased funding and additional programs; and

(5) a description of the impact the budgetary increases provided under this Act will have on the size and duration of grants awarded by the Foundation.

SEC. 23. ASTRONOMY AND ASTROPHYSICS ADVISORY COMMITTEE.

42 USC 1862n–9.

(a) **ESTABLISHMENT.**—The Foundation and the National Aeronautics and Space Administration shall jointly establish an Astronomy and Astrophysics Advisory Committee (in this section referred to as the “Advisory Committee”).

(b) **DUTIES.**—The Advisory Committee shall—

(1) assess, and make recommendations regarding, the coordination of astronomy and astrophysics programs of the Foundation and the National Aeronautics and Space Administration;

(2) assess, and make recommendations regarding, the status of the activities of the Foundation and the National Aeronautics and Space Administration as they relate to the recommendations contained in the National Research Council's 2001 report entitled “Astronomy and Astrophysics in the New Millennium”, and the recommendations contained in subsequent National Research Council reports of a similar nature; and

(3) not later than March 15 of each year, transmit a report to the Director, the Administrator of the National Aeronautics and Space Administration, and the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate on the Advisory Committee's findings and recommendations under paragraphs (1) and (2).

Deadline.
Report.

(c) **MEMBERSHIP.**—The Advisory Committee shall consist of 13 members, none of whom shall be a Federal employee, including—

(1) 5 members selected by the Director;

Deadline.

(2) 5 members selected by the Administrator of the National Aeronautics and Space Administration; and

(3) 3 members selected by the Director of the Office of Science and Technology Policy.

(d) SELECTION PROCESS.—Initial selections under subsection (c) shall be made within 3 months after the date of the enactment of this Act. Vacancies shall be filled in the same manner as provided in subsection (c).

(e) CHAIRPERSON.—The Advisory Committee shall select a chairperson from among its members.

(f) COORDINATION.—The Advisory Committee shall coordinate with the advisory bodies of other Federal agencies, such as the Department of Energy, which may engage in related research activities.

(g) COMPENSATION.—The members of the Advisory Committee shall serve without compensation, but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(h) MEETINGS.—The Advisory Committee shall convene, in person or by electronic means, at least 4 times a year.

(i) QUORUM.—A majority of the members serving on the Advisory Committee shall constitute a quorum for purposes of conducting the business of the Advisory Committee.

(j) DURATION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee.

42 USC 1862n-10.

SEC. 24. MINORITY-SERVING INSTITUTIONS UNDERGRADUATE PROGRAM.

(a) IN GENERAL.—The Director is authorized to establish a new program to award grants on a competitive, merit-reviewed basis to Hispanic-serving institutions, Alaska Native-serving institutions, Native Hawaiian-serving institutions, and other institutions of higher education serving a substantial number of minority students to enhance the quality of undergraduate science, mathematics, and engineering education at such institutions and to increase the retention and graduation rates of students pursuing associate's or baccalaureate degrees in science, mathematics, engineering, or technology.

(b) PROGRAM COMPONENTS.—Grants awarded under this section shall support—

(1) activities to improve courses and curriculum in science, mathematics, and engineering;

(2) faculty development;

(3) stipends for undergraduate students participating in research; and

(4) other activities consistent with subsection (a), as determined by the Director.

(c) PROGRAM COORDINATION.—This program shall be coordinated with and in addition to the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

(d) INSTRUMENTATION.—Funding for instrumentation is an allowed use of grants awarded under this section and under the ongoing Historically Black Colleges and Universities Undergraduate Program and the Tribal Colleges and Universities Program.

SEC. 25. STUDY ON RESEARCH AND DEVELOPMENT FUNDING DATA DISCREPANCIES.42 USC 1864
note.

(a) **STUDY.**—The Director, in consultation with the Director of the Office of Management and Budget and the heads of other Federal agencies, shall enter into agreement with the National Academy of Sciences to conduct a comprehensive study to determine the source of discrepancies in Federal reports on obligations and actual expenditures of Federal research and development funding.

Contracts.

(b) **CONTENTS.**—The study shall—

(1) examine the relevance and accuracy of reporting classifications and definitions used in the reports described in subsection (a);

(2) examine whether the classifications and definitions are used consistently across Federal agencies for data gathering;

(3) examine whether and how Federal agencies use reports described in subsection (a), and describe any other sources of similar data used by those agencies;

(4) recommend alternatives for modifications to the current reporting process and system that would—

(A) accommodate emerging fields of science and changing practices in the conduct of research and development;

(B) minimize, to the extent possible, the burden imposed on the reporters of these data;

(C) increase the consistency of application of the system across the Federal agencies including the Office of Management and Budget and the Foundation;

(D) encourage the use of new technologies to increase accuracy, timeliness, and consistency of the reported data between the agencies and the research performers; and

(E) overcome systemic shortfalls; and

(5) recommend an implementation timeline for the modifications recommended under paragraph (4), and recommend specific responsibilities for the program and budget offices in the agencies, taking into consideration required changes to the current computer systems and processes used by the agencies.

(c) **SUBMISSION.**—The Director shall submit a report on the results of the study to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate within one year after the date of enactment of this Act.

Reports.
Deadline.

(d) **IMPLEMENTATION.**—Within 6 months after the completion of the study required by subsection (a), the Director of the Office of Science and Technology Policy shall submit to the Committee on Science of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Health, Education, Labor, and Pensions of the Senate a plan for implementation of the recommendations of the study.

Deadline.

SEC. 26. PLANNING GRANTS.42 USC 1862q
note.

The Director is authorized to accept planning proposals from applicants who are within .075 percentage points of the current eligibility level for the Experimental Program to Stimulate Competitive Research. Such proposals shall be reviewed by the Foundation

to determine their merit for support under the Experimental Program to Stimulate Competitive Research or any other appropriate program.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4664 (S. 2817):

HOUSE REPORTS: No. 107–488 (Comm. on Science).

SENATE REPORTS: Nos. 107–291 accompanying S. 2817 (Comm. on Health, Education, Labor, and Pension) and 107–317 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 148 (2002):

June 5, considered and passed House.

Nov. 14, considered and passed Senate, amended. House concurred in Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Dec. 19, Presidential statement.



Public Law 107–369
107th Congress

An Act

To revise the boundary of the Allegheny Portage Railroad National Historic Site,
and for other purposes.

Dec. 19, 2002
[H.R. 4682]

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

SECTION 1. SHORT TITLE.

This Act may be cited as the “Allegheny Portage Railroad
National Historic Site Boundary Revision Act”.

Allegheny
Portage Railroad
National Historic
Site Boundary
Revision Act.
Pennsylvania.
16 USC 461 note.

SEC. 2. DEFINITIONS.

In this Act:

(1) **HISTORIC SITE.**—The term “historic site” means the Allegheny Portage Railroad National Historic Site in Blair and Cambria Counties, Pennsylvania, established pursuant to Public Law 88–546 (78 Stat. 752; 16 U.S.C. 461 note).

(2) **MAP.**—The term “Map” means the map entitled “Allegheny Portage Railroad National Historic Site, Blair and Cambria Counties, Pennsylvania”, numbered NERO 423/80,014 and dated May 01.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 3. REVISION OF HISTORIC SITE BOUNDARIES.

(a) **LANDS EXCLUDED FROM AND ADDED TO HISTORIC SITE.**—
The boundary of the historic site is hereby revised—

(1) by deleting—

(A) the approximately 3.09 acres depicted on the Map as tracts 105–21 and 105–15; and

(B) the approximately 7.26 acres depicted on the Map as tract 102–42; and

(2) by adding—

(A) the approximately 42.42 acres depicted on the map as tract 101–09; and

(B) the approximately 15 acres depicted on the map as tract 104–07.

(b) **AUTHORIZATION FOR ACQUISITIONS.**—

(1) **ACQUISITION 1.**—

(A) **IN GENERAL.**—The Secretary is authorized to acquire, from willing owners only, the approximately 98 acres depicted on the Map as tract 103–07 in exchange for the approximately 108 acres depicted on the Map as tracts 102–38 and 103–04.

(B) **EQUALIZATION OF VALUES.**—If the values of the tracts to be exchanged under subparagraph (A) are not equal, the difference may be equalized by donation, payment using donated or appropriated funds, or the conveyance of additional land.

(2) **ACQUISITION 2.**—The Secretary is authorized to acquire by exchange or donation, from willing owners only, the lands included within the boundary of the tract described in subsection (a)(2)(B).

(c) **REVISION OF BOUNDARIES AFTER ACQUISITIONS.**—Upon completion of the exchange under subsection (b)(1), the boundaries of the historic site shall be revised, as appropriate—

(1) by adding the land acquired by the United States; and

(2) by deleting the land that is no longer owned by the United States.

SEC. 4. AVAILABILITY OF MAP.

A copy of the Map shall be on file and available for inspection in the appropriate offices of the National Park Service, Department of the Interior.

SEC. 5. ADMINISTRATION OF ACQUIRED LANDS.

Lands and interests in lands added to the historic site under this Act shall be administered by the Secretary as part of the historic site in accordance with applicable laws and regulations.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4682:

HOUSE REPORTS: No. 107-634 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 24, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–370
107th Congress

An Act

To designate certain lands in the State of California as components of the National Wilderness Preservation System, and for other purposes.

Dec. 19, 2002
[H.R. 4750]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Big Sur
Wilderness and
Conservation Act
of 2002.

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) **SHORT TITLE.**—This Act may be cited as the “Big Sur Wilderness and Conservation Act of 2002”.

(b) **DEFINITIONS.**—As used in this Act, the term “Secretary” means the Secretary of the Interior or the Secretary of Agriculture, as appropriate.

SEC. 2. ADDITIONS TO THE WILDERNESS PRESERVATION SYSTEM.

(a) **ADDITIONS TO VENTANA WILDERNESS.**—

16 USC 1132
note.

(1) **IN GENERAL.**—The areas described in paragraph (2)—
(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Ventana Wilderness designated by Public Law 91–58.

(2) **AREAS DESCRIBED.**—The areas referred to in paragraph (1) are the following lands in the State of California administered by the Bureau of Land Management or the United States Forest Service:

(A) Certain lands which comprise approximately 995 acres, as generally depicted on a map entitled “Anastasia Canyon Proposed Wilderness Additions to the Ventana Wilderness” and dated March 22, 2002.

(B) Certain lands which comprise approximately 3,530 acres, as generally depicted on a map entitled “Arroyo Seco Corridor Proposed Wilderness Addition to the Ventana Wilderness” and dated March 22, 2002.

(C) Certain lands which comprise approximately 14,550 acres, as generally depicted on a map entitled “Bear Canyon Proposed Wilderness Addition to the Ventana Wilderness” and dated March 22, 2002.

(D) Certain lands which comprise approximately 855 acres, as generally depicted on a map entitled “Black Rock Proposed Wilderness Additions to the Ventana Wilderness” and dated March 22, 2002.

(E) Certain lands which comprise approximately 6,550 acres, as generally depicted on a map entitled “Chalk Peak

Proposed Wilderness Addition to the Ventana Wilderness” and dated March 22, 2002.

(F) Certain lands which comprise approximately 1,345 acres, as generally depicted on a map entitled “Chews Ridge Proposed Wilderness Addition to the Ventana Wilderness” and dated March 22, 2002.

(G) Certain lands which comprise approximately 2,130 acres, as generally depicted on a map entitled “Coast Ridge Proposed Wilderness Additions to the Ventana Wilderness” and dated March 22, 2002.

(H) Certain lands which comprise approximately 2,270 acres, as generally depicted on a map entitled “Horse Canyon Proposed Wilderness Addition to the Ventana Wilderness” and dated March 22, 2002.

(I) Certain lands which comprise approximately 755 acres, as generally depicted on a map entitled “Little Sur Proposed Wilderness Addition to the Ventana Wilderness” and dated March 22, 2002.

(J) Certain lands which comprise approximately 4,130 acres, as generally depicted on a map entitled “San Antonio Proposed Wilderness Addition to the Ventana Wilderness” and dated March 22, 2002.

16 USC 1132
note.

(b) ADDITIONS TO SILVER PEAK WILDERNESS.—

(1) IN GENERAL.—The areas described in paragraph (2)—

(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Silver Peak Wilderness designated by Public Law 102-301.

(2) AREAS DESCRIBED.—The areas referred to in paragraph (1) are the following lands in the State of California administered by the United States Forest Service:

(A) Certain lands which comprise approximately 8,235 acres, as generally depicted on a map entitled “San Carpofo Proposed Wilderness Addition to the Silver Peak Wilderness” and dated March 22, 2002.

(B) Certain lands which comprise approximately 8,820 acres, as generally depicted on a map entitled “Willow Creek Proposed Wilderness Addition to the Silver Peak Wilderness” and dated March 22, 2002.

16 USC 1132
note.

(c) ADDITIONS TO PINNACLES WILDERNESS.—

(1) IN GENERAL.—The areas described in paragraph (2)—

(A) are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System; and

(B) are hereby incorporated in and shall be deemed to be a part of the Pinnacles Wilderness designated by Public Law 94-567.

(2) AREAS DESCRIBED.—The areas referred to in paragraph (1) are the lands in the State of California administered by the National Park Service which comprise approximately 2,715 acres, as generally depicted on a map entitled “Pinnacles Proposed Wilderness Additions” and dated October 30, 2001.

(d) MAPS AND DESCRIPTIONS.—

(1) FILING.—As soon as practicable after the date of enactment of this Act, the appropriate Secretary shall file a map

and a boundary description of each area designated as wilderness by this Act with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—Each map and description shall have the same force and effect as if included in this Act, except that the appropriate Secretary is authorized to correct clerical and typographical errors in such boundary descriptions and maps.

(3) AVAILABILITY.—Such maps and boundary descriptions shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management and in the Office of the Chief of the Forest Service, as appropriate.

(e) STATE AND PRIVATE LANDS.—Lands within the exterior boundaries of any area added to a wilderness area under this section that are owned by the State or by a private entity shall be included within such wilderness area if such lands are acquired by the United States. Such lands may be acquired by the United States only as provided in the Wilderness Act (16 U.S.C. 1131 and following).

SEC. 3. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Subject to valid existing rights, lands designated as wilderness by this Act shall be managed by the Secretary of Agriculture or the Secretary of the Interior, as appropriate, in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this Act, except that, with respect to any wilderness areas designated by this Act, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of enactment of this Act.

(b) GRAZING.—Grazing of livestock in wilderness areas designated by this Act shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), as further interpreted by section 108 of Public Law 96-560, and, the guidelines set forth in Appendix A of House Report 101-405 of the 101st Congress.

(c) STATE JURISDICTION.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of California with respect to wildlife and fish in California.

(d) WATER.—

(1) RESERVATION OF WATER.—With respect to each wilderness area designated by this Act, Congress hereby reserves a quantity of water sufficient to fulfill the purposes of this Act. The priority date of such reserved rights shall be the date of enactment of this Act.

(2) REQUIREMENT TO PROTECT RIGHTS.—The appropriate Secretary and all other officers of the United States shall take steps necessary to protect the rights reserved by paragraph (1), including the filing by the Secretary of a claim for the quantification of such rights in any present or future appropriate stream adjudication in the courts of the State of California in which the United States is or may be joined and which is conducted in accordance with the McCarran Amendment (43 U.S.C. 666).

(3) NO REDUCTION OR RELINQUISHMENT.—Nothing in this Act shall be construed as a relinquishment or reduction of any water rights reserved or appropriated by the United States

in the State of California on or before the date of enactment of this Act.

(4) **LIMITATION ON EFFECT.**—The Federal water rights reserved by this Act are specific to the wilderness areas located in the State of California designated by this Act. Nothing in this Act related to reserved Federal water rights shall be construed as establishing a precedent with regard to any future designations, nor shall it constitute an interpretation of any other Act or any designation made pursuant thereto.

SEC. 4. WILDERNESS FIRE MANAGEMENT.

Deadline.

(a) **REVISION OF MANAGEMENT PLANS.**—The Secretary of Agriculture shall, by not later than 1 year after the date of the enactment of this Act, amend the management plans that apply to each of the Ventana Wilderness and the Silver Peak Wilderness, respectively, to authorize the Forest Supervisor of the Los Padres National Forest to take whatever appropriate actions in such wilderness areas are necessary for fire prevention and watershed protection consistent with wilderness values, including best management practices for fire presuppression and fire suppression measures and techniques.

(b) **INCORPORATION INTO FOREST PLANNING.**—Any special provisions contained in the management plan for the Ventana Wilderness and Silver Peak Wilderness pursuant to subsection (a) shall be incorporated into the management plan for the Los Padres National Forest.

SEC. 5. MILITARY TRAINING AT FORT HUNTER-LIGGETT.

(a) **OVERFLIGHTS.**—Nothing in this Act shall preclude low level overflights of military aircraft, the designation of new units of special airspace, or the use or establishment of military flight training routes over wilderness areas designated by this Act.

(b) **MILITARY ACCESS.**—Nonmotorized access to and use of the wilderness areas designated by this Act for military training shall be authorized to continue in wilderness areas designated by this Act in the same manner and degree as authorized prior to enactment of this Act.

SEC. 6. BIG SUR INVASIVE SPECIES ERADICATION.

(a) **IN GENERAL.**—The Secretary of Agriculture may conduct a 5-year pilot program to target the eradication of invasive plant and animal species in the Monterey District of the Los Padres National Forest.

(b) **APPLICATION TO OTHER PROPERTY.**—Activities under the program may include actions to address invasive species problems on nearby private land or other land that is not Forest Service property, if—

(1) the land owner, or the head of the governmental agency having administrative jurisdiction over the land in the case of State, local, or Federal government-owned land, seeks to participate in the program; and

(2) the invasive species concerned occurs on the land and poses a threat to national forest lands.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—To carry out this section there is authorized to be appropriated \$1,000,000 for each of 5 fiscal years.

SEC. 8. SILVER PEAK WILDERNESS WATER SYSTEM SPLIT.

The Secretary of Agriculture may authorize the construction and maintenance of a new water line and corresponding spring box improvements adjacent to an existing domestic water service in the Silver Peak Wilderness.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4750:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–371
107th Congress

An Act

Dec. 19, 2002
[H.R. 4874]

To direct the Secretary of the Interior to disclaim any Federal interest in lands adjacent to Spirit Lake and Twin Lakes in the State of Idaho resulting from possible omission of lands from an 1880 survey.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds the following:

(1) The meander lines in the original surveys by John B. David, deputy surveyor, of two lakes in the State of Idaho, Spirit Lake, formerly known as Lake Tesemini, located in T. 53 N., R. 4 W., Boise Meridian, and Twin Lakes, formerly known as Fish Lake, located in T. 52 N. and T. 53 N., R. 4 W., Boise Meridian, do not reflect the current line of ordinary high water conditions.

(2) All lands adjacent to the original meander lines have been patented.

(b) **PURPOSE.**—The purpose of this Act is to direct the Secretary of the Interior to issue a recordable disclaimer of interest by the United States to any omitted lands or lands lying outside the record meander lines in the vicinity of the lakes referred to in subsection (a).

SEC. 2. DEFINITIONS.

In this Act:

(1) **RECORDABLE DISCLAIMER OF INTEREST.**—The term “recordable disclaimer of interest” means a document recorded in the county clerk’s office or other such local office where real property documents are recorded, in which the United States disclaims any right, title, or interest to those lands found lying outside the recorded meander lines of the lakes referred to in section 1(a)(1), including omitted lands, if any.

(2) **OMITTED LANDS.**—The term “omitted lands” means those lands that were in place on the date of the original surveys referred to in section 1(a)(1) but were not included in the survey of the township and the meander lines of the water body due to gross error or fraud by the original surveyor.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

SEC. 3. SURVEYS.

The Secretary shall—

(1) conduct a survey investigation of the conditions along the lakeshores of Spirit Lake and Twin Lakes in the townships referenced in section 1(a); and

(2) after the completion of the survey investigation, resurvey the original meander lines along the lakeshores, using the results of the survey investigation.

SEC. 4. DISCLAIMER OF INTEREST IN LANDS ADJACENT TO SPIRIT LAKE AND TWIN LAKES, IDAHO. Records.

Upon acceptance and approval of the surveys under section 3 by the Secretary, the Secretary shall—

(1) prepare a recordable disclaimer of interest with land descriptions, using the lot or tract numbers of the omitted lands, if any, and lands lying outside the record meander lines, as shown on the survey plats; and

(2) record such recordable disclaimer of interest simultaneously with the filing of the surveys.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary \$400,000 to carry out this Act. Funds appropriated to carry out the purposes of this Act may be available without fiscal year limitation.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4874 (S. 2585):

HOUSE REPORTS: No. 107-676 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–372
107th Congress

An Act

Dec. 19, 2002
[H.R. 4883]

To reauthorize the Hydrographic Services Improvement Act of 1998, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.

TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

- Sec. 101. Short title; references.
- Sec. 102. Definitions.
- Sec. 103. Functions of Administrator.
- Sec. 104. Quality assurance program.
- Sec. 105. Hydrographic Services Review Panel.
- Sec. 106. Authorization of appropriations.

**TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
COMMISSIONED OFFICER CORPS**

Sec. 201. Short title.

SUBTITLE A—GENERAL PROVISIONS

- Sec. 211. Commissioned officer corps.
- Sec. 212. Definitions.
- Sec. 213. Authorized number on the active list.
- Sec. 214. Strength and distribution in grade.
- Sec. 215. Authorized number for fiscal years 2003 through 2005.

SUBTITLE B—APPOINTMENT AND PROMOTION OF OFFICERS

- Sec. 221. Original appointments.
- Sec. 222. Personnel boards.
- Sec. 223. Promotion of ensigns to grade of lieutenant (junior grade).
- Sec. 224. Promotion by selection to permanent grades above lieutenant (junior grade).
- Sec. 225. Length of service for promotion purposes.
- Sec. 226. Appointments and promotions to permanent grades.
- Sec. 227. General qualification of officers for promotion to higher permanent grade.
- Sec. 228. Positions of importance and responsibility.
- Sec. 229. Temporary appointments and promotions generally.
- Sec. 230. Temporary appointment or advancement of commissioned officers in time of war or national emergency.
- Sec. 231. Pay and allowances; date of acceptance of promotion.
- Sec. 232. Service credit as deck officer or junior engineer for promotion purposes.
- Sec. 233. Suspension during war or emergency.

SUBTITLE C—SEPARATION AND RETIREMENT OF OFFICERS

- Sec. 241. Involuntary retirement or separation.
- Sec. 242. Separation pay.
- Sec. 243. Mandatory retirement for age.
- Sec. 244. Retirement for length of service.
- Sec. 245. Computation of retired pay.

- Sec. 246. Retired grade and retired pay.
- Sec. 247. Retired rank and pay held pursuant to other laws unaffected.
- Sec. 248. Continuation on active duty; deferral of retirement.
- Sec. 249. Recall to active duty.

SUBTITLE D—SERVICE OF OFFICERS WITH THE MILITARY DEPARTMENTS

- Sec. 251. Cooperation with and transfer to military departments.
- Sec. 252. Relative rank of officers when serving with Army, Navy, or Air Force.
- Sec. 253. Rules and regulations when cooperating with military departments.

SUBTITLE E—RIGHTS AND BENEFITS

- Sec. 261. Applicability of certain provisions of title 10, United States Code.
- Sec. 262. Eligibility for veterans benefits and other rights, privileges, immunities, and benefits under certain provisions of law.
- Sec. 263. Medical and dental care.
- Sec. 264. Commissary privileges.
- Sec. 265. Authority to use appropriated funds for transportation and reimbursement of certain items.
- Sec. 266. Presentation of United States flag upon retirement.

SUBTITLE F—REPEALS AND CONFORMING AMENDMENTS

- Sec. 271. Repeals.
- Sec. 272. Conforming amendments.

TITLE III—VARIOUS FISHERIES CONSERVATION REAUTHORIZATIONS

- Sec. 301. Short title.
- Sec. 302. Reauthorization and amendment of the Interjurisdictional Fisheries Act of 1986.
- Sec. 303. Reauthorization and amendment of the Anadromous Fish Conservation Act.
- Sec. 304. Reauthorization of the Atlantic Tunas Convention Act of 1975.
- Sec. 305. Reauthorization of the Northwest Atlantic Fisheries Convention Act of 1995.
- Sec. 306. Extension of deadline.

TITLE IV—MISCELLANEOUS

- Sec. 401. Chesapeake Bay Office.
- Sec. 402. Conveyance of NOAA laboratory in Tiburon, California.
- Sec. 403. Emergency assistance for subsistence whale hunters.

TITLE I—NOAA HYDROGRAPHIC SERVICES IMPROVEMENT

Hydrographic
Services
Improvement Act
Amendments of
2002.

SEC. 101. SHORT TITLE; REFERENCES.

(a) **SHORT TITLE.**—This title may be cited as the “Hydrographic Services Improvement Act Amendments of 2002”. 33 USC 851 note.

(b) **REFERENCES.**—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Hydrographic Services Improvement Act of 1998 (33 U.S.C. 892 et seq.).

SEC. 102. DEFINITIONS.

Section 302 (33 U.S.C. 892) is amended—

(1) in paragraph (3) by inserting “, geospatial, or geomagnetic” after “geodetic”; and

(2) in paragraph (4) by inserting “geospatial, geomagnetic,” after “geodetic,”.

SEC. 103. FUNCTIONS OF ADMINISTRATOR.

(a) **HYDROGRAPHIC MONITORING SYSTEMS.**—Section 303(b)(4) (33 U.S.C. 892a(b)(4)) is amended to read as follows:

“(4) shall, subject to the availability of appropriations, design, install, maintain, and operate real-time hydrographic monitoring systems to enhance navigation safety and efficiency.”.

(b) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Section 303 (33 U.S.C. 892a) is further amended by adding at the end the following:

“(c) CONSERVATION AND MANAGEMENT OF COASTAL AND OCEAN RESOURCES.—Where appropriate and to the extent that it does not detract from the promotion of safe and efficient navigation, the Secretary may use hydrographic data and services to support the conservation and management of coastal and ocean resources.”.

SEC. 104. QUALITY ASSURANCE PROGRAM.

(a) IN GENERAL.—Section 304(b)(1) (33 U.S.C. 892b(b)(1)) is amended to read as follows:

Deadline.

“(1) IN GENERAL.—The Administrator—

“(A) by not later than 2 years after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, shall, subject to the availability of appropriations, develop and implement a quality assurance program that is equally available to all applicants, under which the Administrator may certify hydrographic products that satisfy the standards promulgated by the Administrator under section 303(a)(3) of this Act;

“(B) may authorize the use of the emblem or any trademark of the Administration on a hydrographic product certified under subparagraph (A); and

“(C) may charge a fee for such certification and use.”.

SEC. 105. HYDROGRAPHIC SERVICES REVIEW PANEL.

Section 305 (33 U.S.C. 892c) is amended to read as follows:

“SEC. 305. HYDROGRAPHIC SERVICES REVIEW PANEL.

Deadline.

“(a) ESTABLISHMENT.—No later than 1 year after the date of enactment of the Hydrographic Services Improvement Act Amendments of 2002, the Secretary shall establish the Hydrographic Services Review Panel.

“(b) DUTIES.—

“(1) IN GENERAL.—The panel shall advise the Administrator on matters related to the responsibilities and authorities set forth in section 303 of this Act and such other appropriate matters as the Administrator refers to the panel for review and advice.

“(2) ADMINISTRATIVE RESOURCES.—The Administrator shall make available to the panel such information, personnel, and administrative services and assistance as it may reasonably require to carry out its duties.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—

“(A) The panel shall consist of 15 voting members who shall be appointed by the Administrator. The Director of the Joint Hydrographic Institute and no more than 2 employees of the National Oceanic and Atmospheric Administration appointed by the Administrator shall serve as nonvoting members of the panel. The voting members of the panel shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in

one or more of the disciplines and fields relating to hydrographic surveying, tide, current geodetic and geospatial measurement, marine transportation, port administration, vessel pilotage, and coastal and fishery management.

“(B) An individual may not be appointed as a voting member of the panel if the individual is a full-time officer or employee of the United States.

“(C) Any voting member of the panel who is an applicant for, or beneficiary (as determined by the Secretary) of, any assistance under this Act shall disclose to the panel that relationship, and may not vote on any matter pertaining to that assistance.

“(2) TERMS.—

“(A) The term of office of a voting member of the panel shall be 4 years, except that of the original appointees, five shall be appointed for a term of 2 years, five shall be appointed for a term of 3 years, and five shall be appointed for a term of 4 years, as specified by the Administrator at the time of appointment.

“(B) Any individual appointed to a partial or full term may be reappointed for one additional full term. A voting member may serve after the date of the expiration of the term of office for which appointed until his or her successor has taken office.

“(3) NOMINATIONS.—At least once each year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the panel.

“(4) CHAIRMAN AND VICE CHAIRMAN.—

“(A) The panel shall select one voting member to serve as the Chairman and another voting member to serve as the Vice Chairman.

“(B) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

“(d) COMPENSATION.—Voting members of the panel shall—

“(1) receive compensation at a rate established by the Secretary, not to exceed the maximum daily rate payable under section 5376 of title 5, United States Code, when actually engaged in the performance of duties for such panel; and

“(2) be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

“(e) MEETINGS.—The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Secretary.

“(f) POWERS.—The panel may exercise such powers as are reasonably necessary in order to carry out its duties under subsection (b).”.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

Section 306 (33 U.S.C. 892d) is amended to read as follows:

“SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

“There are authorized to be appropriated to the Administrator the following:

“(1) To carry out nautical mapping and charting functions under sections 303 and 304 of this Act, except for conducting hydrographic surveys—

“(A) \$50,000,000 for fiscal year 2003;

“(B) \$55,000,000 for fiscal year 2004;

- “(C) \$60,000,000 for fiscal year 2005;
- “(D) \$65,000,000 for fiscal year 2006; and
- “(E) \$70,000,000 for fiscal year 2007.
- “(2) To contract for hydrographic surveys under section 303(b)(1), including the leasing or time chartering of vessels—
 - “(A) \$40,000,000 for fiscal year 2003;
 - “(B) \$42,500,000 for fiscal year 2004;
 - “(C) \$45,000,000 for fiscal year 2005;
 - “(D) \$47,500,000 for fiscal year 2006; and
 - “(E) \$50,000,000 for fiscal year 2007.
- “(3) To operate hydrographic survey vessels owned by the United States and operated by the Administration—
 - “(A) \$14,000,000 for fiscal year 2003;
 - “(B) \$18,000,000 for fiscal year 2004; and
 - “(C) \$21,000,000 for fiscal years 2005 through 2007.
- “(4) To carry out geodetic functions under this title—
 - “(A) \$27,500,000 for fiscal year 2003;
 - “(B) \$30,000,000 for fiscal year 2004;
 - “(C) \$32,500,000 for fiscal year 2005;
 - “(D) \$35,000,000 for fiscal year 2006; and
 - “(E) \$35,500,000 for fiscal year 2007.
- “(5) To carry out tide and current measurement functions under this title—
 - “(A) \$25,000,000 for fiscal year 2003;
 - “(B) \$27,500,000 for fiscal year 2004;
 - “(C) \$30,000,000 for fiscal year 2005;
 - “(D) \$32,500,000 for fiscal year 2006; and
 - “(E) \$35,000,000 for fiscal year 2007.
- “(6) To carry out activities authorized under this title that enhance homeland security, including electronic navigation charts, hydrographic surveys, real time tide and current measurements, and geodetic functions, in addition to other amounts authorized by this section, \$20,000,000.”.

National Oceanic
and Atmospheric
Administration
Commissioned
Officer Corps Act
of 2002.

33 USC 3001
note.

TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS

SEC. 201. SHORT TITLE.

This title may be cited as the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002”.

Subtitle A—General Provisions

33 USC 3001.

SEC. 211. COMMISSIONED OFFICER CORPS.

There shall be in the National Oceanic and Atmospheric Administration a commissioned officer corps.

33 USC 3002.

SEC. 212. DEFINITIONS.

(a) **APPLICABILITY OF DEFINITIONS IN TITLE 10, UNITED STATES CODE.**—Except as provided in subsection (b), the definitions provided in section 101 of title 10, United States Code, apply to the provisions of this title.

(b) **ADDITIONAL DEFINITIONS.**—In this title:

(1) **ACTIVE DUTY.**—The term “active duty” means full-time duty in the active service of a uniformed service.

(2) **GRADE.**—The term “grade” means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(3) **OFFICER.**—The term “officer” means an officer of the commissioned corps.

(4) **FLAG OFFICER.**—The term “flag officer” means an officer serving in, or having the grade of, vice admiral, rear admiral, or rear admiral (lower half).

(5) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

(6) **ADMINISTRATION.**—The term “Administration” means the National Oceanic and Atmospheric Administration.

SEC. 213. AUTHORIZED NUMBER ON THE ACTIVE LIST.

33 USC 3003.

(a) **ANNUAL STRENGTH ON ACTIVE LIST.**—The annual strength of the commissioned corps in officers on the lineal list of active duty officers of the corps shall be prescribed by law.

(b) **LINEAL LIST.**—The Secretary shall maintain a list, known as the “lineal list”, of officers on active duty. Officers shall be carried on the lineal list by grade and, within grade, by seniority in grade.

SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.

33 USC 3004.

(a) **RELATIVE RANK; PROPORTION.**—Of the total authorized number of officers on the lineal list of the commissioned corps, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in proportions as follows:

(1) 8 in the grade of captain.

(2) 14 in the grade of commander.

(3) 19 in the grade of lieutenant commander.

(4) 23 in the grade of lieutenant.

(5) 18 in the grade of lieutenant (junior grade).

(6) 18 in the grade of ensign.

(b) **COMPUTATION OF NUMBER IN GRADE.**—

(1) **IN GENERAL.**—Subject to paragraph (2), whenever a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken, and if the fraction is one-half the next higher whole number shall be taken.

(2) **LIMITATION ON INCREASE IN TOTAL NUMBER.**—The total number of officers on the lineal list authorized by law may not be increased as the result of the computations prescribed in this section, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

(c) **PRESERVATION OF GRADE AND PAY, ETC.**—No officer may be reduced in grade or pay or separated from the commissioned corps as the result of a computation made to determine the authorized number of officers in the various grades.

(d) **FILLING OF VACANCIES; ADDITIONAL NUMBERS.**—Nothing in this section may be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

(e) **TEMPORARY INCREASE IN NUMBERS.**—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded so long as the average number

on that list during that fiscal year does not exceed the authorized number.

33 USC 3005.

SEC. 215. AUTHORIZED NUMBER FOR FISCAL YEARS 2003 THROUGH 2005.

There are authorized to be on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration—

- (1) 270 officers for fiscal year 2003;
- (2) 285 officers for fiscal year 2004; and
- (3) 299 officers for fiscal year 2005.

Subtitle B—Appointment and Promotion of Officers

33 USC 3021.

SEC. 221. ORIGINAL APPOINTMENTS.

(a) **IN GENERAL.**—

(1) **GRADES.**—Original appointments may be made in the grades of ensign, lieutenant (junior grade), and lieutenant.

(2) **QUALIFICATIONS.**—Under regulations prescribed by the Secretary, such an appointment may be given only to a person who—

(A) meets the qualification requirements specified in paragraphs (1) through (4) of section 532(a) of title 10, United States Code; and

(B) has such other special qualifications as the Secretary may prescribe by regulation.

(3) **EXAMINATION.**—A person may be given such an appointment only after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary.

(4) **REVOCATION OF COMMISSION OF OFFICERS FOUND NOT QUALIFIED.**—The President may revoke the commission of any officer appointed under this section during the officer's first three years of service if the officer is found not qualified for the service. Any such revocation shall be made under regulations prescribed by the President.

(b) **LINEAL LIST.**—Each person appointed under this section shall be placed on the lineal list in a position commensurate with that person's age, education, and experience, in accordance with regulations prescribed by the Secretary.

(c) **SERVICE CREDIT UPON ORIGINAL APPOINTMENT IN GRADE ABOVE ENSIGN.**—

(1) **IN GENERAL.**—For the purposes of basic pay, a person appointed under this section in the grade of lieutenant shall be credited as having, on the date of that appointment, three years of service, and a person appointed under this section in the grade of lieutenant (junior grade) shall be credited as having, as of the date of that appointment, 1½ years of service.

(2) **HIGHER CREDIT UNDER OTHER LAW.**—If a person appointed under this section is entitled to credit for the purpose of basic pay under any other provision of law that would exceed the amount of credit authorized by paragraph (1), that person shall be credited with that amount of service in lieu of the credit authorized by paragraph (1).

SEC. 222. PERSONNEL BOARDS.

33 USC 3022.

(a) **CONVENING.**—At least once a year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board. A personnel board shall consist of not less than five officers on the lineal list in the permanent grade of commander or above.

(b) **DUTIES.**—Each personnel board shall—

(1) recommend to the Secretary such changes in the lineal list as the board may determine; and

(2) make selections and recommendations to the Secretary and President for the appointment, promotion, separation, continuation, and retirement of officers as prescribed in this subtitle and subtitle C.

(c) **ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.**—In a case in which any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as are acceptable.

SEC. 223. PROMOTION OF ENSIGNS TO GRADE OF LIEUTENANT (JUNIOR GRADE).

33 USC 3023.

(a) **IN GENERAL.**—An officer in the permanent grade of ensign shall be promoted to and appointed in the grade of lieutenant (junior grade) upon completion of three years of service. The authorized number of officers in the grade of lieutenant (junior grade) shall be temporarily increased as necessary to authorize such appointment.

(b) **SEPARATION OF ENSIGNS FOUND NOT FULLY QUALIFIED.**—If an officer in the permanent grade of ensign is at any time found not fully qualified, the officer's commission shall be revoked and the officer shall be separated from the commissioned service.

SEC. 224. PROMOTION BY SELECTION TO PERMANENT GRADES ABOVE LIEUTENANT (JUNIOR GRADE).

33 USC 3024.

Promotion to fill vacancies in each permanent grade above the grade of lieutenant (junior grade) shall be made by selection from the next lower grade upon recommendation of the personnel board.

SEC. 225. LENGTH OF SERVICE FOR PROMOTION PURPOSES.

33 USC 3025.

(a) **GENERAL RULE.**—Each officer shall be assumed to have, for promotion purposes, at least the same length of service as any other officer below that officer on the lineal list.

(b) **EXCEPTION.**—Notwithstanding subsection (a), an officer who has lost numbers shall be assumed to have, for promotion purposes, no greater service than the officer next above such officer in such officer's new position on the lineal list.

SEC. 226. APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.

33 USC 3026.

Appointments in and promotions to all permanent grades shall be made by the President, by and with the advice and consent of the Senate.

SEC. 227. GENERAL QUALIFICATION OF OFFICERS FOR PROMOTION TO HIGHER PERMANENT GRADE.

33 USC 3027.

No officer may be promoted to a higher permanent grade on the active list until the officer has passed a satisfactory mental and physical examination in accordance with regulations prescribed by the Secretary.

33 USC 3028.

SEC. 228. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.

(a) **DESIGNATION OF POSITIONS.**—The Secretary may designate positions in the Administration as being positions of importance and responsibility for which it is appropriate that officers of the Administration, if serving in those positions, serve in the grade of vice admiral, rear admiral, or rear admiral (lower half), as designated by the Secretary for each position.

(b) **ASSIGNMENT OF OFFICERS TO DESIGNATED POSITIONS.**—The Secretary may assign officers to positions designated under subsection (a).

(c) **DIRECTOR OF NOAA CORPS AND OFFICE OF MARINE AND AVIATION OPERATIONS.**—The Secretary shall designate one position under this section as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. That position shall be filled by an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of Director of the Office of Marine and Aviation Operations.

(d) **GRADE.**—

(1) **TEMPORARY APPOINTMENT TO GRADE DESIGNATED FOR POSITION.**—An officer assigned to a position under this section while so serving has the grade designated for that position, if appointed to that grade by the President, by and with the advice and consent of the Senate.

(2) **REVERSION TO PERMANENT GRADE.**—An officer who has served in a grade above captain, upon termination of the officer's assignment to the position for which that appointment was made, shall, unless appointed or assigned to another position for which a higher grade is designated, revert to the grade and number the officer would have occupied but for serving in a grade above that of captain. In such a case, the officer shall be an extra number in that grade.

(e) **NUMBER OF OFFICERS APPOINTED.**—

(1) **OVERALL LIMIT.**—The total number of officers serving on active duty at any one time in the grade of rear admiral (lower half) or above may not exceed four.

(2) **LIMIT BY GRADE.**—The number of officers serving on active duty under appointments under this section may not exceed—

(A) one in the grade of vice admiral;

(B) two in the grade of rear admiral; and

(C) two in the grade of rear admiral (lower half).

(f) **PAY AND ALLOWANCES.**—An officer appointed to a grade under this section, while serving in that grade, shall have the pay and allowances of the grade to which appointed.

(g) **EFFECT OF APPOINTMENT.**—An appointment of an officer under this section—

(1) does not vacate the permanent grade held by the officer; and

(2) creates a vacancy on the active list.

SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY. 33 USC 3029.

(a) **ENSIGN.**—Temporary appointments in the grade of ensign may be made by the President alone. Each such temporary appointment terminates at the close of the next regular session of the Congress unless the Senate sooner gives its advice and consent to the appointment.

(b) **LIEUTENANT (JUNIOR GRADE).**—Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant (junior grade) by the President alone whenever vacancies exist in higher grades.

(c) **ANY ONE GRADE.**—When determined by the Secretary to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President alone. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

SEC. 230. TEMPORARY APPOINTMENT OR ADVANCEMENT OF COMMISSIONED OFFICERS IN TIME OF WAR OR NATIONAL EMERGENCY. 33 USC 3030.

(a) **IN GENERAL.**—Officers of the Administration shall be subject in like manner and to the same extent as personnel of the Navy to all laws authorizing temporary appointment or advancement of commissioned officers in time of war or national emergency.

(b) **LIMITATIONS.**—Subsection (a) shall be applied subject to the following limitations: Applicability.

(1) A commissioned officer in the service of a military department under section 251 may, upon the recommendation of the Secretary of the military department concerned, be temporarily promoted to a higher rank or grade.

(2) A commissioned officer in the service of the Administration may be temporarily promoted to fill vacancies in ranks and grades caused by the transfer of commissioned officers to the service and jurisdiction of a military department under section 251.

(3) Temporary appointments may be made in all grades to which original appointments in the Administration are authorized, except that the number of officers holding temporary appointments may not exceed the number of officers transferred to a military department under section 251.

SEC. 231. PAY AND ALLOWANCES; DATE OF ACCEPTANCE OF PROMOTION. 33 USC 3031.

(a) **ACCEPTANCE AND DATE OF PROMOTION.**—An officer of the commissioned corps who is promoted to a higher grade—

(1) is deemed for all purposes to have accepted the promotion upon the date the promotion is made by the President, unless the officer expressly declines the promotion; and

(2) shall receive the pay and allowances of the higher grade from that date unless the officer is entitled under another provision of law to receive the pay and allowances of the higher grade from an earlier date.

(b) **OATH OF OFFICE.**—An officer who subscribed to the oath of office required by section 3331 of title 5, United States Code, shall not be required to renew such oath or to take a new oath upon promotion to a higher grade, if the service of the officer after the taking of such oath is continuous.

33 USC 3032. **SEC. 232. SERVICE CREDIT AS DECK OFFICER OR JUNIOR ENGINEER FOR PROMOTION PURPOSES.**

For purposes of promotion, there shall be counted in addition to active commissioned service, service as deck officer or junior engineer.

33 USC 3033. **SEC. 233. SUSPENSION DURING WAR OR EMERGENCY.**

In time of emergency declared by the President or by the Congress, and in time of war, the President is authorized, in the President's discretion, to suspend the operation of all or any part of the provisions of law pertaining to promotion of commissioned officers of the Administration.

Subtitle C—Separation and Retirement of Officers

33 USC 3041. **SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.**

(a) TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.—As recommended by a personnel board convened under section 222—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

(b) COMPUTATIONS.—In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

(c) EFFECTIVE DATE OF RETIREMENTS AND SEPARATIONS.—A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

33 USC 3042. **SEC. 242. SEPARATION PAY.**

(a) AUTHORIZATION OF PAYMENT.—An officer who is separated under section 241(a)(2) and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) AMOUNT OF SEPARATION PAY.—

(1) SIX OR MORE YEARS.—In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) **THREE TO SIX YEARS.**—In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) **OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS.**—The provisions of subsections (f), (g), and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section. Applicability.

SEC. 243. MANDATORY RETIREMENT FOR AGE.

33 USC 3043.

(a) **OFFICERS BELOW GRADE OF REAR ADMIRAL (LOWER HALF).**—Unless retired or separated earlier, each officer on the lineal list of the commissioned corps who is serving in a grade below the grade of rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

(b) **FLAG OFFICERS.**—Notwithstanding subsection (a), the President may defer the retirement of an officer serving in a position that carries a grade above captain for such period as the President considers advisable, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 64 years of age.

SEC. 244. RETIREMENT FOR LENGTH OF SERVICE.

33 USC 3044.

An officer who has completed 20 years of service, of which at least 10 years was service as a commissioned officer, may at any time thereafter, upon application by such officer and in the discretion of the President, be placed on the retired list.

SEC. 245. COMPUTATION OF RETIRED PAY.

33 USC 3045.

(a) **OFFICERS FIRST BECOMING MEMBERS BEFORE SEPTEMBER 8, 1980.**—Each officer on the retired list who first became a member of a uniformed service before September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1406(g) of title 10, United States Code; by

(2) $2\frac{1}{2}$ percent of the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

The retired pay so computed may not exceed 75 percent of the retired pay base.

(b) **OFFICERS FIRST BECOMING MEMBERS ON OR AFTER SEPTEMBER 8, 1980.**—Each officer on the retired list who first became a member of a uniformed service on or after September 8, 1980, shall receive retired pay at the rate determined by multiplying—

(1) the retired pay base determined under section 1407 of title 10, United States Code; by

(2) the retired pay multiplier determined under section 1409 of such title for the number of years of service that may be credited to the officer under section 1405 of such title as if the officer's service were service as a member of the Armed Forces.

(c) **TREATMENT OF FULL AND FRACTIONAL PARTS OF MONTHS IN COMPUTING YEARS OF SERVICE.**—

(1) **IN GENERAL.**—In computing the number of years of service of an officer for the purposes of subsection (a)—

(A) each full month of service that is in addition to the number of full years of service creditable to the officer shall be credited as $\frac{1}{12}$ of a year; and

(B) any remaining fractional part of a month shall be disregarded.

(2) **ROUNDING.**—Retired pay computed under this section, if not a multiple of \$1, shall be rounded to the next lower multiple of \$1.

33 USC 3046.

SEC. 246. RETIRED GRADE AND RETIRED PAY.

Each officer retired pursuant to law shall be placed on the retired list with the highest grade satisfactorily held by that officer while on active duty including active duty pursuant to recall, under permanent or temporary appointment, and shall receive retired pay based on such highest grade, if—

(1) the officer's performance of duty in such highest grade has been satisfactory, as determined by the Secretary of the department or departments under whose jurisdiction the officer served; and

(2) unless retired for disability, the officer's length of service in such highest grade is no less than that required by the Secretary of officers retiring under permanent appointment in that grade.

33 USC 3047.

SEC. 247. RETIRED RANK AND PAY HELD PURSUANT TO OTHER LAWS UNAFFECTED.

Nothing in this subtitle shall prevent an officer from being placed on the retired list with the highest rank and with the highest retired pay to which the officer is entitled under any other provision of law.

33 USC 3048.

SEC. 248. CONTINUATION ON ACTIVE DUTY; DEFERRAL OF RETIREMENT.

The provisions of subchapter IV of chapter 36 of title 10, United States Code, relating to continuation on active duty and deferral of retirement shall apply to commissioned officers of the Administration.

33 USC 3049.

SEC. 249. RECALL TO ACTIVE DUTY.

The provisions of chapter 39 of title 10, United States Code, relating to recall of retired officers to active duty, including the limitations on such recalls, shall apply to commissioned officers of the Administration.

Subtitle D—Service of Officers With the Military Departments

33 USC 3061.

SEC. 251. COOPERATION WITH AND TRANSFER TO MILITARY DEPARTMENTS.

(a) **TRANSFERS OF RESOURCES AND OFFICERS DURING NATIONAL EMERGENCY.**—

(1) **TRANSFERS AUTHORIZED.**—The President may, whenever in the judgment of the President a sufficient national emergency exists, transfer to the service and jurisdiction of a military department such vessels, equipment, stations, and officers of

the Administration as the President considers to be in the best interest of the country.

(2) RESPONSIBILITY FOR FUNDING OF TRANSFERRED RESOURCES AND OFFICERS.—After any such transfer all expenses connected therewith shall be defrayed out of the appropriations for the department to which the transfer is made.

(3) RETURN OF TRANSFERRED RESOURCES AND OFFICERS.—Such transferred vessels, equipment, stations, and officers shall be returned to the Administration when the national emergency ceases, in the opinion of the President.

(4) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as transferring the Administration or any of its functions from the Department of Commerce except in time of national emergency and to the extent provided in this section.

(b) LIMITATION ON TRANSFER OF OFFICERS.—This section does not authorize the transfer of an officer of the Administration to a military department if the accession or retention of that officer in that military department is otherwise not authorized by law.

(c) STATUS OF TRANSFERRED OFFICERS.—An officer of the Administration transferred under this section, shall, while under the jurisdiction of a military department, have proper military status and shall be subject to the laws, regulations, and orders for the government of the Army, Navy, or Air Force, as the case may be, insofar as the same may be applicable to persons whose retention permanently in the military service of the United States is not contemplated by law.

SEC. 252. RELATIVE RANK OF OFFICERS WHEN SERVING WITH ARMY, NAVY, OR AIR FORCE. 33 USC 3062.

When serving with the Army, Navy, or Air Force, an officer of the Administration shall rank with and after officers of corresponding grade in the Army, Navy, or Air Force of the same length of service in grade. Nothing in this subtitle shall be construed to affect or alter an officer's rates of pay and allowances when not assigned to military duty.

SEC. 253. RULES AND REGULATIONS WHEN COOPERATING WITH MILITARY DEPARTMENTS. 33 USC 3063.

(a) JOINT REGULATIONS.—The Secretary of Defense and the Secretary of Commerce shall jointly prescribe regulations—

(1) governing the duties to be performed by the Administration in time of war; and

(2) providing for the cooperation of the Administration with the military departments in time of peace in preparation for its duties in time of war.

(b) APPROVAL.—Regulations under subsection (a) shall not be effective unless approved by each of those Secretaries.

(c) COMMUNICATIONS.—Regulations under subsection (a) may provide procedures for making reports and communications between a military department and the Administration.

Subtitle E—Rights and Benefits

SEC. 261. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE. 33 USC 3071.

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions

of title 10, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

- (1) Chapter 40, relating to leave.
- (2) Section 533(b), relating to constructive service.
- (3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.
- (4) Section 1035, relating to deposits of savings.
- (5) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.
- (6) Section 1052, relating to reimbursement for adoption expenses.
- (7) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).
- (8) Chapter 61, relating to retirement or separation for physical disability.
- (9) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.
- (10) Chapter 71, relating to computation of retired pay.
- (11) Chapter 73, relating to annuities based on retired or retainer pay.
- (12) Subchapter II of chapter 75, relating to death benefits.
- (13) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.
- (14) Sections 2731 and 2735, relating to property loss incident to service.
- (15) Section 2771, relating to final settlement of accounts of deceased members.
- (16) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee.

33 USC 3072.

SEC. 262. ELIGIBILITY FOR VETERANS BENEFITS AND OTHER RIGHTS, PRIVILEGES, IMMUNITIES, AND BENEFITS UNDER CERTAIN PROVISIONS OF LAW.

(a) IN GENERAL.—Active service of officers of the Administration shall be deemed to be active military service for the purposes of all rights, privileges, immunities, and benefits under the following:

- (1) Laws administered by the Secretary of Veterans Affairs.
- (2) The Soldiers’ and Sailors’ Civil Relief Act of 1940 (50 App. U.S.C. 501 et seq.).
- (3) Section 210 of the Social Security Act (42 U.S.C. 410), as in effect before September 1, 1950.

(b) EXERCISE OF AUTHORITY.—In the administration of the laws and regulations referred to in subsection (a), with respect to the

Administration, the authority vested in the Secretary of Defense and the Secretaries of the military departments and their respective departments shall be exercised by the Secretary of Commerce.

SEC. 263. MEDICAL AND DENTAL CARE.

33 USC 3073.

The Secretary may provide medical and dental care, including care in private facilities, for personnel of the Administration entitled to that care by law or regulation.

SEC. 264. COMMISSARY PRIVILEGES.

33 USC 3074.

(a) **EXTENSION OF PRIVILEGE.**—Commissioned officers, ships' officers, and members of crews of vessels of the Administration shall be permitted to purchase commissary and quartermaster supplies as far as available from the Armed Forces at the prices charged officers and enlisted members of the Armed Forces.

(b) **SALES OF RATIONS, STORES, UNIFORMS, AND RELATED EQUIPMENT.**—The Secretary may purchase ration supplies for messes, stores, uniforms, accouterments, and related equipment for sale aboard ship and shore stations of the Administration to members of the uniformed services and to personnel assigned to such ships or shore stations. Sales shall be in accordance with regulations prescribed by the Secretary, and proceeds therefrom shall, as far as is practicable, fully reimburse the appropriations charged without regard to fiscal year.

(c) **SURVIVING SPOUSES' RIGHTS.**—Rights extended to members of the uniformed services in this section are extended to their surviving spouses and to such others as are designated by the Secretary concerned.

SEC. 265. AUTHORITY TO USE APPROPRIATED FUNDS FOR TRANSPORTATION AND REIMBURSEMENT OF CERTAIN ITEMS.

33 USC 3075.

(a) **TRANSPORTATION OF EFFECTS OF DECEASED OFFICERS.**—In the case of an officer who dies on active duty, the Secretary may provide, from appropriations made available to the Administration, transportation (including packing, unpacking, crating, and uncrating) of personal and household effects of that officer to the official residence of record of that officer. However, upon application by the dependents of such an officer, such transportation may be provided to such other location as may be determined by the Secretary.

(b) **REIMBURSEMENT FOR SUPPLIES FURNISHED BY OFFICERS TO DISTRESSED AND SHIPWRECKED PERSONS.**—Under regulations prescribed by the Secretary, appropriations made available to the Administration may be used to reimburse an officer for food, clothing, medicines, and other supplies furnished by the officer—

(1) for the temporary relief of distressed persons in remote localities; or

(2) to shipwrecked persons who are temporarily provided for by the officer.

SEC. 266. PRESENTATION OF UNITED STATES FLAG UPON RETIREMENT.

33 USC 3076.

(a) **PRESENTATION OF FLAG UPON RETIREMENT.**—Upon the release of a commissioned officer from active commissioned service for retirement, the Secretary shall present a United States flag to the officer.

(b) **MULTIPLE PRESENTATIONS NOT AUTHORIZED.**—An officer is not eligible for presentation of a flag under subsection (a) if the

officer has previously been presented a flag under this section or any other provision of law providing for the presentation of a United States flag incident to release from active service for retirement.

(c) NO COST TO RECIPIENT.—The presentation of a flag under this section shall be at no cost to the recipient.

Subtitle F—Repeals and Conforming Amendments

SEC. 271. REPEALS.

The following provisions of law are repealed:

(1) The Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853a et seq.).

(2) Section 3 of the Act of August 10, 1956 (33 U.S.C. 857a).

(3) Public Law 91-621 (33 U.S.C. 857-1 et seq.).

(4) Section 16 of the Act of May 22, 1917 (33 U.S.C. 854, 855, 856, 857, and 858).

(5) Section 1 of the Act of July 22, 1947 (33 U.S.C. 874).

(6) Section 11 of the Act entitled "An Act to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service", enacted May 18, 1920 (33 U.S.C. 864).

(7) Section 636(a)(17) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(a)(17)).

SEC. 272. CONFORMING AMENDMENTS.

(a) TITLE 10, UNITED STATES CODE.—Section 1406(g) of title 10, United States Code, is amended by striking "section 16 of the Coast and Geodetic Survey Commissioned Officers' Act of 1948 (33 U.S.C. 853o)" and inserting "section 305 of the National Oceanic and Atmospheric Administration Commissioned Officers Act of 2002".

(b) PUBLIC LAW 104-106.—Section 566(c) of the National Defense Authorization Act for Fiscal Year 1996 (Public Law 104-106; 110 Stat. 328; 10 U.S.C. 1293 note) is amended by striking "the Coast and Geodetic Survey Commissioned Officers' Act of 1948" and inserting "the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002".

Fisheries
Conservation Act
of 2002.

16 USC 757a
note.

TITLE III—VARIOUS FISHERIES CONSERVATION REAUTHORIZATIONS

SEC. 301. SHORT TITLE.

This title may be cited as the "Fisheries Conservation Act of 2002".

SEC. 302. REAUTHORIZATION AND AMENDMENT OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.

(a) REAUTHORIZATION.—Section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is amended—

(1) by amending subsection (a) to read as follows:

“(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce for apportionment to carry out the purposes of this title—

“(1) \$5,400,000 for each of fiscal years 2003 and 2004;

and

“(2) \$5,900,000 for each of fiscal years 2005 and 2006.”;

and

(2) in subsection (c) by striking “\$700,000 for fiscal year 1997, and \$750,000 for each of the fiscal years 1998, 1999, and 2000” and inserting “\$850,000 for each of fiscal years 2003 and 2004, and \$900,000 for each of fiscal years 2005 and 2006”.

(b) PURPOSES OF THE INTERJURISDICTIONAL FISHERIES ACT OF 1986.—Section 302 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4101) is amended by striking “and” after the semicolon at the end of paragraph (1), striking the period at the end of paragraph (2) and inserting “; and”, and adding at the end the following:

“(3) to promote and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of interjurisdictional fishery resources throughout their range.”.

SEC. 303. REAUTHORIZATION AND AMENDMENT OF THE ANADROMOUS FISH CONSERVATION ACT.

(a) REAUTHORIZATION.—Section 4 of the Anadromous Fish Conservation Act (16 U.S.C. 757d) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 4. (a)(1) There are authorized to be appropriated to carry out the purposes of this Act not to exceed the following sums:

“(A) \$4,750,000 for each of fiscal years 2003 and 2004;

and

“(B) \$5,000,000 for each of fiscal years 2005 and 2006.

“(2) Sums appropriated under this subsection are authorized to remain available until expended.

“(b) Not more than \$625,000 of the funds appropriated under this section in any one fiscal year shall be obligated in any one State.”.

(b) RESEARCH ON AND USE OF ECOSYSTEMS AND INTERSPECIES APPROACHES TO CONSERVATION AND MANAGEMENT.—The first section of the Anadromous Fish Conservation Act (16 U.S.C. 757a) is amended in subsection (b) by inserting “(1)” after “(b)”, and by adding at the end the following:

“(2) In carrying out responsibilities under this section, the Secretary shall conduct, promote, and encourage research in preparation for the implementation of the use of ecosystems and interspecies approaches to the conservation and management of anadromous and Great Lakes fishery resources.”.

SEC. 304. REAUTHORIZATION OF THE ATLANTIC TUNAS CONVENTION ACT OF 1975.

Section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 10. (a) IN GENERAL.—There are authorized to be appropriated to carry out this Act, including use for payment of the United States share of the joint expenses of the Commission as provided in Article X of the Convention, the following sums:

“(1) For each of fiscal years 2003 and 2004, \$5,480,000.

“(2) For each of fiscal years 2005 and 2006, \$5,495,000.

“(b) ALLOCATION.—Of amounts available under this section for each fiscal year—

“(1) \$150,000 are authorized for the advisory committee established under section 4 and the species working groups established under section 4A; and

“(2) \$4,240,000 are authorized for research activities under this Act and the Act of September 4, 1980 (16 U.S.C. 971i).”.

SEC. 305. REAUTHORIZATION OF THE NORTHWEST ATLANTIC FISHERIES CONVENTION ACT OF 1995.

Section 211 of the Northwest Atlantic Fisheries Convention Act of 1995 (16 U.S.C. 5610) is amended by striking “2001” and inserting “2006”.

SEC. 306. EXTENSION OF DEADLINE.

(a) EXTENSION OF DEADLINE.—The Oceans Act of 2000 (Public Law 106-256) is amended—

33 USC 857-19
note.

(1) in section 3(i) (114 Stat. 648) by striking “30 days” and inserting “90 days”; and

(2) in section 4(a) (114 Stat. 648; 33 U.S.C. 857-19 note) by striking “120 days” and inserting “90 days”.

33 USC 857-19
note.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(j) of such Act (114 Stat. 648) is amended by striking “\$6,000,000” and inserting “\$8,500,000”.

33 USC 857-19
note.

(c) TECHNICAL CORRECTIONS.—Section 3(e) of such Act (114 Stat. 646) is amended—

(1) in paragraph (1) by striking the colon in the third sentence and inserting a period;

(2) by inserting immediately after such period the following: “(2) NOTICE; MINUTES; PUBLIC AVAILABILITY OF DOCUMENTS.—”; and

(3) by redesignating the subsequent paragraphs in order as paragraphs (3) and (4), respectively.

TITLE IV—MISCELLANEOUS

SEC. 401. CHESAPEAKE BAY OFFICE.

(a) REAUTHORIZATION OF OFFICE.—Section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) is amended to read as follows:

“SEC. 307. CHESAPEAKE BAY OFFICE.

“(a) ESTABLISHMENT.—(1) The Secretary of Commerce shall establish, within the National Oceanic and Atmospheric Administration, an office to be known as the Chesapeake Bay Office (in this section referred to as the ‘Office’).

“(2) The Office shall be headed by a Director who shall be appointed by the Secretary of Commerce, in consultation with the Chesapeake Executive Council. Any individual appointed as

Director shall have knowledge and experience in research or resource management efforts in the Chesapeake Bay.

“(3) The Director may appoint such additional personnel for the Office as the Director determines necessary to carry out this section.

“(b) FUNCTIONS.—The Office, in consultation with the Chesapeake Executive Council, shall—

“(1) provide technical assistance to the Administrator, to other Federal departments and agencies, and to State and local government agencies in—

“(A) assessing the processes that shape the Chesapeake Bay system and affect its living resources;

“(B) identifying technical and management alternatives for the restoration and protection of living resources and the habitats they depend upon; and

“(C) monitoring the implementation and effectiveness of management plans;

“(2) develop and implement a strategy for the National Oceanic and Atmospheric Administration that integrates the science, research, monitoring, data collection, regulatory, and management responsibilities of the Secretary of Commerce in such a manner as to assist the cooperative, intergovernmental Chesapeake Bay Program to meet the commitments of the Chesapeake Bay Agreement;

“(3) coordinate the programs and activities of the various organizations within the National Oceanic and Atmospheric Administration, the Chesapeake Bay Regional Sea Grant Programs, and the Chesapeake Bay units of the National Estuarine Research Reserve System, including—

“(A) programs and activities in—

“(i) coastal and estuarine research, monitoring, and assessment;

“(ii) fisheries research and stock assessments;

“(iii) data management;

“(iv) remote sensing;

“(v) coastal management;

“(vi) habitat conservation and restoration; and

“(vii) atmospheric deposition; and

“(B) programs and activities of the Cooperative Oxford Laboratory of the National Ocean Service with respect to—

“(i) nonindigenous species;

“(ii) estuarine and marine species pathology;

“(iii) human pathogens in estuarine and marine environments; and

“(iv) ecosystem health;

“(4) coordinate the activities of the National Oceanic and Atmospheric Administration with the activities of the Environmental Protection Agency and other Federal, State, and local agencies;

“(5) establish an effective mechanism which shall ensure that projects have undergone appropriate peer review and provide other appropriate means to determine that projects have acceptable scientific and technical merit for the purpose of achieving maximum utilization of available funds and resources to benefit the Chesapeake Bay area;

Reports.

“(6) remain cognizant of ongoing research, monitoring, and management projects and assist in the dissemination of the results and findings of those projects; and

“(7) submit a biennial report to the Congress and the Secretary of Commerce with respect to the activities of the Office and on the progress made in protecting and restoring the living resources and habitat of the Chesapeake Bay, which report shall include an action plan consisting of—

“(A) a list of recommended research, monitoring, and data collection activities necessary to continue implementation of the strategy described in paragraph (2); and

“(B) proposals for—

“(i) continuing any new National Oceanic and Atmospheric Administration activities in the Chesapeake Bay; and

“(ii) the integration of those activities with the activities of the partners in the Chesapeake Bay Program to meet the commitments of the Chesapeake 2000 agreement and subsequent agreements.

“(c) CHESAPEAKE BAY FISHERY AND HABITAT RESTORATION SMALL WATERSHED GRANTS PROGRAM.—

“(1) IN GENERAL.—The Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration (in this section referred to as the ‘Director’), in cooperation with the Chesapeake Executive Council, shall carry out a community-based fishery and habitat restoration small grants and technical assistance program in the Chesapeake Bay watershed.

“(2) PROJECTS.—

“(A) SUPPORT.—The Director shall make grants under this subsection to pay the Federal share of the cost of projects that are carried out by entities eligible under paragraph (3) for the restoration of fisheries and habitats in the Chesapeake Bay.

“(B) FEDERAL SHARE.—The Federal share under subparagraph (A) shall not exceed 75 percent.

“(C) TYPES OF PROJECTS.—Projects for which grants may be made under this subsection include—

“(i) the improvement of fish passageways;

“(ii) the creation of natural or artificial reefs or substrata for habitats;

“(iii) the restoration of wetland or sea grass;

“(iv) the production of oysters for restoration projects; and

“(v) the prevention, identification, and control of nonindigenous species.

“(3) ELIGIBLE ENTITIES.—The following entities are eligible to receive grants under this subsection:

“(A) The government of a political subdivision of a State in the Chesapeake Bay watershed, and the government of the District of Columbia.

“(B) An organization in the Chesapeake Bay watershed (such as an educational institution or a community organization)—

“(i) that is described in section 501(c) of the Internal Revenue Code of 1986 and is exempt from taxation under section 501(a) of that Code; and

“(ii) that will administer such grants in coordination with a government referred to in subparagraph (A).

“(4) ADDITIONAL REQUIREMENTS.—The Director may prescribe any additional requirements, including procedures, that the Director considers necessary to carry out the program under this subsection.

“(d) CHESAPEAKE EXECUTIVE COUNCIL.—For purposes of this section, ‘Chesapeake Executive Council’ means the representatives from the Commonwealth of Virginia, the State of Maryland, the Commonwealth of Pennsylvania, the Environmental Protection Agency, the District of Columbia, and the Chesapeake Bay Commission, who are signatories to the Chesapeake Bay Agreement, and any future signatories to that Agreement.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Commerce for the Chesapeake Bay Office \$6,000,000 for each of fiscal years 2002 through 2006.”.

(b) CONFORMING AMENDMENT.—Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended by striking subsection (e).

(c) MULTIPLE SPECIES MANAGEMENT STRATEGY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Chesapeake Bay Office of the National Oceanic and Atmospheric Administration shall begin a 5-year study, in cooperation with the scientific community of the Chesapeake Bay, appropriate State and interstate resource management entities, and appropriate Federal agencies—

(A) to determine and expand the understanding of the role and response of living resources in the Chesapeake Bay ecosystem; and

(B) to develop a multiple species management strategy for the Chesapeake Bay.

(2) REQUIRED ELEMENTS OF STUDY.—In order to improve the understanding necessary for the development of the strategy under paragraph (1)(B), the study shall—

(A) determine the current status and trends of fish and shellfish that live in the Chesapeake Bay and its tributaries and are selected for study;

(B) evaluate and assess interactions among the fish and shellfish referred to in subparagraph (A) and other living resources, with particular attention to the impact of changes within and among trophic levels; and

(C) recommend management actions to optimize the return of a healthy and balanced ecosystem for the Chesapeake Bay.

15 USC 1511d
note.
Deadline.

SEC. 402. CONVEYANCE OF NOAA LABORATORY IN TIBURON, CALIFORNIA.

(a) IN GENERAL.—Except as provided in subsection (c), the Secretary of Commerce shall convey to the Board of Trustees of the California State University, by suitable instrument, in accordance with this section, by as soon as practicable, but not later than 180 days after the date of the enactment of this Act, and without consideration, all right, title, and interest of the United

States in the balance of the National Oceanic and Atmospheric Administration property known as the Tiburon Laboratory, located in Tiburon, California, as described in Exhibit A of the notarized, revocable license between the Administration and Romberg Tiburon Center for Environmental Studies at San Francisco State University dated November 5, 2001 (license number 01ABF779-N).

(b) CONDITIONS.—As a condition of any conveyance by the Secretary under this section the Secretary shall require the following:

(1) The property conveyed shall be administered by the Romberg Tiburon Center for Environmental Studies at San Francisco State University and used only for the following purposes:

(A) To enhance estuarine scientific research and estuary restoration activities within San Francisco Bay.

(B) To administer and coordinate management activities at the San Francisco Bay National Estuarine Research Reserve.

(C) To conduct education and interpretation and outreach activities to enhance public awareness and appreciation of estuary resources, and for other purposes.

(2) The Board shall—

(A) take title to the property as is;

(B) assume full responsibility for all facility maintenance and repair, security, fire prevention, utilities, signs, and grounds maintenance;

(C) allow the Secretary to have all necessary ingress and egress over the property of the Board to access Department of Commerce building and related facilities, equipment, improvements, modifications, and alterations; and

(D) not erect or allow to be erected any structure or structures or obstruction of whatever kind that will interfere with the access to or operation of property retained for the United States under subsection (c)(1), unless prior written consent has been provided by the Secretary to the Board.

(c) RETAINED INTERESTS.—The Secretary shall retain for the United States—

(1) all right, title, and interest in and to the portion of the property referred to in subsection (a) comprising Building 86, identified as Parcel C on Exhibit A of the license referred to in subsection (a), including all facilities, equipment, fixtures, improvements, modifications, or alterations made by the Secretary;

(2) rights-of-way and easements that are determined by the Secretary to be reasonable and convenient to ensure all necessary ingress, egress, utilities, drainage, and sewage disposal for the property retained under paragraph (1), including access to the existing boat launch ramp (or equivalent) and parking that is suitable to the Secretary;

(3) the exclusive right to install, maintain, repair, replace, and remove its facilities, fixtures, and equipment on the retained property, and to authorize other persons to take any such action;

(4) the right to grade, condition, and install drainage facilities, and to seed soil on the retained property, if necessary; and

(5) the right to remove all obstructions from the retained property that may constitute a hindrance to the establishment and maintenance of the retained property.

(d) EQUIVALENT ALTERNATIVE.—

(1) IN GENERAL.—At any time, either the Secretary or the Board may request of each other to enter into negotiations pursuant to which the Board may convey if appropriate to the United States, in exchange for property conveyed by the United States under subsection (a), another building that is equivalent in function to the property retained under subsection (c) that is acceptable to the Secretary.

(2) LOCATION.—Property conveyed by the Board under this subsection is not required to be located on the property referred to in subsection (a).

(3) COSTS.—If the Secretary and the Board engage in a property exchange under this subsection, all costs for repair, removal, and moving of facilities, equipment, fixtures, improvements, modifications, or alterations, including power, control, and utilities, that are necessary for the exchange—

(A) shall be the responsibility of the Secretary, if the action to seek an equivalent alternative was requested by the Secretary in response to factors unrelated to the activities of the Board or its operatives in the operation of its facilities; or

(B) shall be the responsibility of the Board, if the Secretary's request for an equivalent alternative was in response to changes or modifications made by the Board or its operatives that adversely affected the Secretary's interest in the property retained under subsection (c).

(e) ADDITIONAL CONDITIONS.—As conditions of any conveyance under subsection (a)—

(1) the Secretary shall require that—

(A) the Board remediate, or have remediated, at its sole cost, all hazardous or toxic substance contamination found on the property conveyed under subsection (a), whether known or unknown at the time of the conveyance or later discovered; and

(B) the Board of Trustees hold harmless the Secretary for any and all costs, liabilities, or claims by third parties that arise out of any hazardous or toxic substance contamination found on the property conveyed under subsection (a) that are not directly attributable to the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alterations;

(2) the Secretary shall remediate, at the sole cost of the United States, all hazardous or toxic substance contamination on the property retained under subsection (c) that is found to have occurred as a direct result of the installation, operation, or maintenance of the Secretary's facilities, equipment, fixtures, improvements, modifications, or alterations; and

(3) if the Secretary decides to terminate future occupancy and interest of the property retained under subsection (c), the Secretary shall—

(A) provide written notice to the Board at least 60 days prior to the scheduled date when the property will be vacated;

(B) remove facilities, equipment, fixtures, improvements, modifications, or alterations and restore the property to as good a condition as existed at the time the property was retained under subsection (c), taking into account ordinary wear and tear and exposure to natural elements or phenomena; or

(C) surrender all facilities, equipment, fixtures, improvements, modifications, or alterations to the Board in lieu of restoration, whereupon title shall vest in the Board of Trustees, and whereby all obligations of restoration under this subsection shall be waived, and all interests retained under subsection (c) shall be revoked.

(f) REVERSIONARY INTEREST.—

(1) IN GENERAL.—All right, title, and interest in and to all property and interests conveyed by the United States under this section shall revert to the United States on the date on which the Board uses any of the property for any purpose other than the purposes described in subsection (b)(1).

(2) ADMINISTRATION OF REVERTED PROPERTY.—Any property that reverts to the United States under this subsection shall be under the administrative jurisdiction of the Administrator of General Services.

(3) ANNUAL CERTIFICATION.—One year after the date of a conveyance made pursuant to subsection (a), and annually thereafter, the Board shall certify to the Administrator of General Services or his or her designee that the Board and its designees are in compliance with the conditions of conveyance under subsections (b) and (e).

(g) DEFINITIONS.—In this section:

(1) BOARD.—The term “Board” means the Board of Trustees of the California State University.

(2) CENTER.—The term “Center” means the Romberg Tiburon Center for Environmental Studies at San Francisco State University.

(3) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

16 USC 916c
note.

SEC. 403. EMERGENCY ASSISTANCE FOR SUBSISTENCE WHALE HUNTERS.

Notwithstanding any provision of law, the use of a vessel to tow a whale taken in a traditional subsistence whale hunt permitted by Federal law and conducted in waters off the coast of Alaska is authorized, if such towing is performed upon a request for emergency assistance made by a subsistence whale hunting organization formally recognized by an agency of the United States Government,

or made by a member of such an organization, to prevent the loss of a whale.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4883:

HOUSE REPORTS: No. 107-621 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 20, considered and passed Senate.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 38 (2002):

Dec. 19, Presidential statement.



Public Law 107–373
107th Congress

An Act

Dec. 19, 2002
[H.R. 4944]

To designate the Cedar Creek and Belle Grove National Historical Park as a unit of the National Park System, and for other purposes.

Cedar Creek and
Belle Grove
National
Historical Park
Act.
Virginia.
16 USC 410iii
note.
USC 410iii.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Cedar Creek and Belle Grove National Historical Park Act”.

SEC. 2. PURPOSE.

The purpose of this Act is to establish the Cedar Creek and Belle Grove National Historical Park in order to—

(1) help preserve, protect, and interpret a nationally significant Civil War landscape and antebellum plantation for the education, inspiration, and benefit of present and future generations;

(2) tell the rich story of Shenandoah Valley history from early settlement through the Civil War and beyond, and the Battle of Cedar Creek and its significance in the conduct of the war in the Shenandoah Valley;

(3) preserve the significant historic, natural, cultural, military, and scenic resources found in the Cedar Creek Battlefield and Belle Grove Plantation areas through partnerships with local landowners and the community; and

(4) serve as a focal point to recognize and interpret important events and geographic locations within the Shenandoah Valley Battlefields National Historic District representing key Civil War battles in the Shenandoah Valley, including those battlefields associated with the Thomas J. (Stonewall) Jackson campaign of 1862 and the decisive campaigns of 1864.

16 USC 410iii–1.

SEC. 3. FINDINGS.

Congress finds the following:

(1) The Battle of Cedar Creek, also known as the battle of Belle Grove, was a major event of the Civil War and the history of this country. It represented the end of the Civil War’s Shenandoah Valley campaign of 1864 and contributed to the reelection of President Abraham Lincoln and the eventual outcome of the war.

(2) 2,500 acres of the Cedar Creek Battlefield and Belle Grove Plantation were designated a national historic landmark in 1969 because of their ability to illustrate and interpret important eras and events in the history of the United States. The Cedar Creek Battlefield, Belle Grove Manor House, the

Heater House, and Harmony Hall (a National Historic Landmark) are also listed on the Virginia Landmarks Register.

(3) The Secretary of the Interior has approved the Shenandoah Valley Battlefields National Historic District Management Plan and the National Park Service Special Resource Study, both of which recognized Cedar Creek Battlefield as the most significant Civil War resource within the historic district. The management plan, which was developed with extensive public participation over a 3-year period and is administered by the Shenandoah Valley Battlefields Foundation, recommends that Cedar Creek Battlefield be established as a new unit of the National Park System.

(4) The Cedar Creek Battlefield Foundation, organized in 1988 to preserve and interpret the Cedar Creek Battlefield and the 1864 Valley Campaign, has acquired 308 acres of land within the boundaries of the National Historic Landmark. The foundation annually hosts a major reenactment and living history event on the Cedar Creek Battlefield.

(5) Belle Grove Plantation is a Historic Site of the National Trust for Historic Preservation that occupies 383 acres within the National Historic Landmark. The Belle Grove Manor House was built by Isaac Hite, a Revolutionary War patriot married to the sister of President James Madison, who was a frequent visitor at Belle Grove. President Thomas Jefferson assisted with the design of the house. During the Civil War Belle Grove was at the center of the decisive battle of Cedar Creek. Belle Grove is managed locally by Belle Grove, Incorporated, and has been open to the public since 1967. The house has remained virtually unchanged since it was built in 1797, offering visitors an experience of the life and times of the people who lived there in the 18th and 19th centuries.

(6) The panoramic views of the mountains, natural areas, and waterways provide visitors with an inspiring setting of great natural beauty. The historic, natural, cultural, military, and scenic resources found in the Cedar Creek Battlefield and Belle Grove Plantation areas are nationally and regionally significant.

(7) The existing, independent, not-for-profit organizations dedicated to the protection and interpretation of the resources described above provide the foundation for public-private partnerships to further the success of protecting, preserving, and interpreting these resources.

(8) None of these resources, sites, or stories of the Shenandoah Valley are protected by or interpreted within the National Park System.

SEC. 4. DEFINITIONS.

16 USC 410iii-2.

In this Act:

(1) COMMISSION.—The term “Commission” means the Cedar Creek and Belle Grove National Historical Park Advisory Commission established by section 9.

(2) MAP.—The term “Map” means the map entitled “Boundary Map Cedar Creek and Belle Grove National Historical Park”, numbered CEBE-80,001, and dated September 2002.

(3) PARK.—The term “Park” means the Cedar Creek and Belle Grove National Historical Park established under section 5 and depicted on the Map.

(4) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

16 USC 410iii-3. **SEC. 5. ESTABLISHMENT OF CEDAR CREEK AND BELLE GROVE NATIONAL HISTORICAL PARK.**

(a) ESTABLISHMENT.—There is established the Cedar Creek and Belle Grove National Historical Park, consisting of approximately 3,000 acres, as generally depicted on the Map.

(b) AVAILABILITY OF MAP.—The Map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

16 USC 410iii-4. **SEC. 6. ACQUISITION OF PROPERTY.**

(a) REAL PROPERTY.—The Secretary may acquire land or interests in land within the boundaries of the Park, from willing sellers only, by donation, purchase with donated or appropriated funds, or exchange.

(b) BOUNDARY REVISION.—After acquiring land for the Park, the Secretary shall—

(1) revise the boundary of the Park to include newly acquired land within the boundary; and

(2) administer newly acquired land subject to applicable laws (including regulations).

(c) PERSONAL PROPERTY.—The Secretary may acquire personal property associated with, and appropriate for, interpretation of the Park.

(d) CONSERVATION EASEMENTS AND COVENANTS.—The Secretary is authorized to acquire conservation easements and enter into covenants regarding lands in or adjacent to the Park from willing sellers only. Such conservation easements and covenants shall have the effect of protecting the scenic, natural, and historic resources on adjacent lands and preserving the natural or historic setting of the Park when viewed from within or outside the Park.

(e) SUPPORT FACILITIES.—The National Park Service is authorized to acquire from willing sellers, land outside the Park boundary but in close proximity to the Park, for the development of visitor, administrative, museum, curatorial, and maintenance facilities.

16 USC 410iii-5. **SEC. 7. ADMINISTRATION.**

The Secretary shall administer the Park in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including—

(1) the Act entitled “An Act to establish a National Park Service, and for other purposes”, approved August 25, 1916 (16 U.S.C. 1 et seq.); and

(2) the Act entitled “An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes”, approved August 21, 1935 (16 U.S.C. 461 et seq.).

16 USC 410iii-6. **SEC. 8. MANAGEMENT OF PARK.**

(a) MANAGEMENT PLAN.—The Secretary, in consultation with the Commission, shall prepare a management plan for the Park. In particular, the management plan shall contain provisions to address the needs of owners of non-Federal land, including independent nonprofit organizations within the boundaries of the Park.

Deadline.

(b) SUBMISSION OF PLAN TO CONGRESS.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall

submit the management plan for the Park to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

SEC. 9. CEDAR CREEK AND BELLE GROVE NATIONAL HISTORICAL PARK ADVISORY COMMISSION. 16 USC 410iii-7.

(a) **ESTABLISHMENT.**—There is established the Cedar Creek and Belle Grove National Historical Park Advisory Commission.

(b) **DUTIES.**—The Commission shall—

(1) advise the Secretary in the preparation and implementation of a general management plan described in section 8; and

(2) advise the Secretary with respect to the identification of sites of significance outside the Park boundary deemed necessary to fulfill the purposes of this Act.

(c) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Commission shall be composed of 15 members appointed by the Secretary so as to include the following:

(A) 1 representative from the Commonwealth of Virginia.

(B) 1 representative each from the local governments of Strasburg, Middletown, Frederick County, Shenandoah County, and Warren County.

(C) 2 representatives of private landowners within the Park.

(D) 1 representative from a citizen interest group.

(E) 1 representative from the Cedar Creek Battlefield Foundation.

(F) 1 representative from Belle Grove, Incorporated.

(G) 1 representative from the National Trust for Historic Preservation.

(H) 1 representative from the Shenandoah Valley Battlefields Foundation.

(I) 1 ex-officio representative from the National Park Service.

(J) 1 ex-officio representative from the United States Forest Service.

(2) **CHAIRPERSON.**—The Chairperson of the Commission shall be elected by the members to serve a term of one year renewable for one additional year.

(3) **VACANCIES.**—A vacancy on the Commission shall be filled in the same manner in which the original appointment was made.

(4) **TERMS OF SERVICE.**—

(A) **IN GENERAL.**—Each member shall be appointed for a term of 3 years and may be reappointed for not more than 2 successive terms.

(B) **INITIAL MEMBERS.**—Of the members first appointed under paragraph (1), the Secretary shall appoint—

(i) 4 members for a term of 1 year;

(ii) 5 members for a term of 2 years; and

(iii) 6 members for a term of 3 years.

(5) **EXTENDED SERVICE.**—A member may serve after the expiration of that member's term until a successor has taken office.

(6) MAJORITY RULE.—The Commission shall act and advise by affirmative vote of a majority of its members.

(7) MEETINGS.—The Commission shall meet at least quarterly at the call of the chairperson or a majority of the members of the Commission.

(8) QUORUM.—8 members shall constitute a quorum.

(d) COMPENSATION.—Members shall serve without pay. Members who are full-time officers or employees of the United States, the Commonwealth of Virginia, or any political subdivision thereof shall receive no additional pay on account of their service on the Commission.

(e) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of service for the Commission, members shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(f) HEARINGS; PUBLIC INVOLVEMENT.—The Commission may, for purposes of carrying out this Act, hold such hearings, sit and act at such times and places, take such public testimony, and receive such evidence, as the Commission considers appropriate. The Commission may not issue subpoenas or exercise any subpoena authority.

16 USC 410iii–8.

SEC. 10. CONSERVATION OF CEDAR CREEK AND BELLE GROVE NATIONAL HISTORICAL PARK.

(a) ENCOURAGEMENT OF CONSERVATION.—The Secretary and the Commission shall encourage conservation of the historic and natural resources within and in proximity of the Park by landowners, local governments, organizations, and businesses.

(b) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary may provide technical assistance to local governments, in cooperative efforts which complement the values of the Park.

(c) COOPERATION BY FEDERAL AGENCIES.—Any Federal entity conducting or supporting activities directly affecting the Park shall consult, cooperate, and, to the maximum extent practicable, coordinate its activities with the Secretary in a manner that—

(1) is consistent with the purposes of this Act and the standards and criteria established pursuant to the general management plan developed pursuant to section 8;

(2) is not likely to have an adverse effect on the resources of the Park; and

(3) is likely to provide for full public participation in order to consider the views of all interested parties.

16 USC 410iii–9.

SEC. 11. ENDOWMENT.

(a) IN GENERAL.—In accordance with the provisions of subsection (b), the Secretary is authorized to receive and expend funds from an endowment to be established with the National Park Foundation, or its successors and assigns.

(b) CONDITIONS.—Funds from the endowment referred to in subsection (a) shall be expended exclusively as the Secretary, in consultation with the Commission, may designate for the interpretation, preservation, and maintenance of the Park resources and public access areas. No expenditure shall be made pursuant to this section unless the Secretary determines that such expenditure is consistent with the purposes of this Act.

SEC. 12. COOPERATIVE AGREEMENTS.16 USC
410iii-10.

(a) **IN GENERAL.**—In order to further the purposes of this Act, the Secretary is authorized to enter into cooperative agreements with interested public and private entities and individuals (including the National Trust for Historic Preservation, Belle Grove, Inc., the Cedar Creek Battlefield Foundation, the Shenandoah Valley Battlefields Foundation, and the Counties of Frederick, Shenandoah, and Warren), through technical and financial assistance, including encouraging the conservation of historic and natural resources of the Park.

(b) **TECHNICAL AND FINANCIAL ASSISTANCE.**—The Secretary may provide to any person, organization, or governmental entity technical and financial assistance for the purposes of this Act, including the following:

- (1) Preserving historic structures within the Park.
- (2) Maintaining the natural or cultural landscape of the Park.
- (3) Local preservation planning, interpretation, and management of public visitation for the Park.
- (4) Furthering the goals of the Shenandoah Valley Battlefields Foundation related to the Park.

SEC. 13. ROLES OF KEY PARTNER ORGANIZATIONS.16 USC
410iii-11.

(a) **IN GENERAL.**—In recognition that central portions of the Park are presently owned and operated for the benefit of the public by key partner organizations, the Secretary shall acknowledge and support the continued participation of these partner organizations in the management of the Park.

(b) **PARK PARTNERS.**—Roles of the current key partners include the following:

(1) **CEDAR CREEK BATTLEFIELD FOUNDATION.**—The Cedar Creek Battlefield Foundation may—

- (A) continue to own, operate, and manage the lands acquired by the Foundation within the Park;
- (B) continue to conduct reenactments and other events within the Park; and
- (C) transfer ownership interest in portions of their land to the National Park Service by donation, sale, or other means that meet the legal requirements of National Park Service land acquisitions.

(2) **NATIONAL TRUST FOR HISTORIC PRESERVATION AND BELLE GROVE INCORPORATED.**—The National Trust for Historic Preservation and Belle Grove Incorporated may continue to own, operate, and manage Belle Grove Plantation and its structures and grounds within the Park boundary. Belle Grove Incorporated may continue to own the house and grounds known as Bowman's Fort or Harmony Hall for the purpose of permanent preservation, with a long-term goal of opening the property to the public.

(3) **SHENANDOAH COUNTY.**—Shenandoah County may continue to own, operate, and manage the Keister park site within the Park for the benefit of the public.

(4) **PARK COMMUNITY PARTNERS.**—The Secretary shall cooperate with the Park's adjacent historic towns of Strasburg and Middletown, Virginia, as well as Frederick, Shenandoah, and Warren counties in furthering the purposes of the Park.

(5) SHENANDOAH VALLEY BATTLEFIELDS FOUNDATION.—The Shenandoah Valley Battlefields Foundation may continue to administer and manage the Shenandoah Valley Battlefields National Historic District in partnership with the National Park Service and in accordance with the Management Plan for the District in which the Park is located.

16 USC
410iii–12.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as are necessary to carry out this Act.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4944 (S. 2623):

HOUSE REPORTS: No. 107–713 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107-374
107th Congress

An Act

To direct the Secretary of the Interior to grant to Deschutes and Crook Counties in the State of Oregon a right-of-way to West Butte Road.

Dec. 19, 2002
[H.R. 4953]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COUNTY RIGHT-OF-WAY TO WEST BUTTE ROAD IN THE STATE OF OREGON.

(a) **DEFINITIONS.**—In this Act:

(1) **WEST BUTTE ROAD.**—The term “West Butte Road” means the unpaved Bureau of Land Management road in the State of Oregon identified on the map as BLM Road 6520.

(2) **COUNTY.**—The term “County” means each of Crook County and Deschutes County in the State of Oregon.

(3) **MAP.**—The term “map” means the map entitled “West Butte Road Right of Way” dated July 17, 2002.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

(b) **GRANT TO COUNTIES.**—Notwithstanding any other Act, and subject to subsection (d), the Secretary shall grant to each County a right-of-way to the West Butte Road.

(c) **BOUNDARIES.**—

(1) **IN GENERAL.**—Subject to paragraph (2), the rights-of-way granted under subsection (b) shall—

(A) extend in length from Reservoir Road in Crook County to United States Route 20 in Deschutes County, Oregon; and

(B) shall extend in width 100 feet on each side of the centerline of West Butte Road.

(2) **MODIFICATIONS.**—

(A) **STATE ROADS.**—

(i) **IN GENERAL.**—The Secretary shall amend the existing rights-of-way of each of the Counties as contained in their respective road case files to include the rights-of-way granted under subsection (b).

(ii) **EFFECT.**—The rights-of-way amended under clause (i) shall be subject to the common terms, conditions, and stipulations identified in the Counties’ rights-of-way grants that apply on the date of enactment of this Act.

(iii) **CONSIDERATION OF ENVIRONMENTAL CONCERNS.**—Environmental concerns associated with any development of the West Butte Road shall be addressed by the County in meeting compliance requirements

associated with State and Federal highway projects and the National Environmental Policy Act of 1969 as administered by the Federal Highway Administration.

(B) WEST BUTTE ROAD.—Notwithstanding any other Act, the Secretary shall provide for adjustment to the right-of-way width and alignment granted under subsection (b) in portions of the West Butte Road necessary for the road to meet applicable State and Federal highway standards.

SEC. 2. RELINQUISHMENT OF RIGHT-OF-WAY.

The right-of-way granted to each County under subsection (b) of section 1 shall be contingent upon the Counties relinquishing any right, title, or interest in and to any RS 2477 right-of-way claim held by the Counties to the portion of the road known as George Millican Road that is located in the area described in subsection (c)(1) of section 1.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 4953 (S. 2482):

HOUSE REPORTS: No. 107-637 (Comm. on Resources).

SENATE REPORTS: No. 107-277 accompanying S. 2482 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 24, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–375
107th Congress

An Act

To extend the periods of authorization for the Secretary of the Interior to implement capital construction projects associated with the endangered fish recovery implementation programs for the Upper Colorado and San Juan River Basins.

Dec. 19, 2002
[H.R. 5099]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO EXISTING PROVISIONS.

Public Law 106–392 (114 Stat. 1602) is amended as follows:

(1) Section 2(1) is amended by inserting “and extended by the Extension of the Cooperative Agreement dated December 6, 2001,” after “September 29, 1987,”. 114 Stat. 1602.

(2) Section 3(a)(2) is amended by striking “fiscal year 2005” and inserting “fiscal year 2008”. 114 Stat. 1603.

(3) Section 3(a)(3) is amended by striking “fiscal year 2007” and inserting “fiscal year 2008”.

(4) Section 3(b) is amended—

(A) in paragraph (1) by striking “fiscal year 2005” and inserting “fiscal year 2008”; and

(B) in paragraph (2) by striking “fiscal year 2007” and inserting “fiscal year 2008”.

(5) Section 3(c)(1) is amended by striking “with” and inserting “within”.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 5099:

HOUSE REPORTS: No. 107–672 (Comm. on Resources).

CONGRESSIONAL RECORD, Vol. 148 (2002):

Sept. 24, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107-376
107th Congress

An Act

Dec. 19, 2002
[H.R. 5436]

To extend the deadline for commencement of construction of a hydroelectric project in the State of Oregon.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TIME FOR FEDERAL ENERGY REGULATORY COMMISSION PROJECT.

(a) IN GENERAL.—Notwithstanding the time period specified in section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to the Federal Energy Regulatory Commission project number 11509, the Commission shall, at the request of the licensee for the project, and after reasonable notice, extend the time period during which the licensee is required to commence the construction of the project for 3 consecutive 2-year periods.

(b) EFFECTIVE DATE.—Subsection (a) takes effect on the date of the expiration of the extension issued by the Commission under section 13 of the Federal Power Act (16 U.S.C. 806) for Federal Energy Regulatory Commission project number 11509.

SEC. 2. REINSTATEMENT OF EXPIRED LICENSE.

If the period required for commencement of construction of the project described in subsection (a) of section 1 has expired prior to the date of the enactment of this act, the commission shall reinstate the license effective as of the date of its expiration and the first extension authorized under subsection (a) of section 1 shall take effect on the date of such expiration.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 5436 (S. 2927):

CONGRESSIONAL RECORD, Vol. 148 (2002):

Nov. 14, considered and passed House.

Nov. 19, considered and passed Senate.



Public Law 107–377
107th Congress

An Act

To extend for 6 months the period for which chapter 12 of title 11 of the United States Code is reenacted.

Dec. 19, 2002
[H.R. 5472]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protection of Family Farmers Act of 2002”.

Protection of
Family Farmers
Act of 2002.
11 USC 101 note.

**SEC. 2. SIX-MONTH EXTENSION OF PERIOD FOR WHICH CHAPTER 12
OF TITLE 11 OF THE UNITED STATES CODE IS
REENACTED.**

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105–277 is amended—

(1) by striking “January 1, 2003” each place it appears and inserting “July 1, 2003”; and

(2) in subsection (a)—

(A) by striking “May 31, 2002” and inserting “December 31, 2002”; and

(B) by striking “June 1, 2002” and inserting “January 1, 2003”.

11 USC 1201
note, 1201–1208,
1221–1231.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on January 1, 2003.

11 USC 1201
note.

Approved December 19, 2002.

LEGISLATIVE HISTORY—H.R. 5472:

CONGRESSIONAL RECORD, Vol. 148 (2002):

Oct. 1, considered and passed House.

Nov. 20 considered and passed Senate.

